



BHARATIYA NYAYA SANHITA

BNS



BNS



Bharatiya Nyaya Sanhita (BNS) is the main criminal code of India, enacted in 2023 and came into effect on July 1, 2024. It lays down the laws and sets out the punishment for crimes committed in India.

Uniformity: The BNS is applicable to the whole of India, including Jammu and Kashmir.

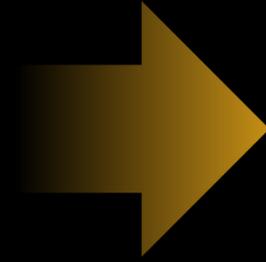
Gender-neutral: The BNS is gender-neutral, which means that it applies to men and women equally. It provides protection to all citizens regardless of their gender.

Accountability: The BNS ensures that those who commit crimes are held accountable for their actions.

Prevention of Crimes: The BNS also includes provisions to prevent crimes from being committed. It aims to deter individuals from committing crimes by imposing strict punishments



IPC



BNS



Role of Lord Macaulay

- Led the committee that drafted the Indian Penal Code (IPC)
- Aimed to standardize criminal law in India
- Replaced the mix of Hindu, Islamic, and customary laws

Nature of India's Criminal Justice System

- Based on retribution (punishing crimes as offenses against the state)
- Focuses more on the offender than the victim

Evolving Understanding of Justice

- Growing awareness of victims' rights and needs
- Emphasis on both offender and victim in a crime
- Push for reformatory punishment to achieve real nyaya (justice)



KEY FACTS ABOUT BHARATIYA NYAYA SANHITA, 2023

Act no. 45 of 2023

**Assent Date:-
25th Dec 2023**

**Came into force on :-
1st July 2024**

**Total:-
20 Ch, 358 Sec**

**Concurrent list :-
Entry 1**



MAJOR CHANGES IN BNS



- 1. Community Service as a Punishment**
- 2. Punishment for Mob Lynching**
- 3. New Offence: Organized Crime**
- 4. New Offence: Petty Organized Crime**
- 5. New Offence: Terrorist Act**
- 6. Stricter Punishment for Hit and Run Cases**
- 7. Sedition Removed; Treason Added as New Offence**
- 8. Possession of Fake Currency No Longer Punishable**
- 9. Expanded Definition of Theft (Includes Data Theft)**
- 10. New Offence: Snatching**



BHARATIYA NYAYA SANHITA (BNS) RANGE

CHAPTER NO.	Sec No.	TOPIC
<i>Chapter I</i>	1-3	<i>Preliminary</i>
<i>Chapter II</i>	4-13	<i>Of punishments</i>
<i>Chapter III</i>	14-44	<i>General Exceptions</i>
<i>Chapter IV</i>	45-62	<i>Abetment, Criminal Conspiracy & Attempt</i>
<i>Chapter V</i>	63-99	<i>Offences against Woman & Child</i> <i>1.Of Sexual Offences(63 to73)</i> <i>2.Of Criminal Force and Assault against Women (74 to 79)</i> <i>3.Of Offences relating to Marriage (80 to 87}</i> <i>4.Of the Causing of Miscarriage, etc. (88 to 92)</i> <i>5.Of offences against child (93-99)</i>



BHARATIYA NYAYA SANHITA (BNS) RANGE

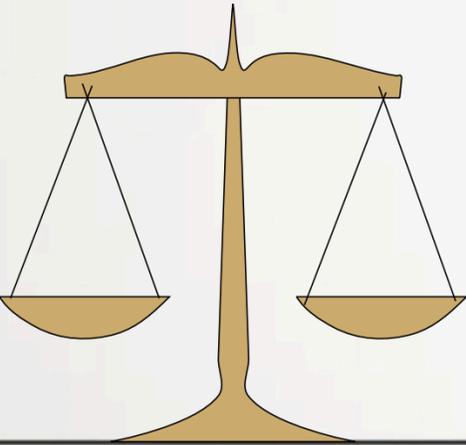
CHAPTER NO.	Sec No.	TOPIC
<i>Chapter VI</i> 	100-146	<i>Offences against Human Body</i> 1.Of Offences Affecting Life (100 to 113) 2.Of Hurt (114 to 125) 3.Wrongful restraint & Wrongful confinement (126-127) 4.Of Criminal Force and Assault (128 to 136) 5.Of Kidnapping, Abduction, Slavery and Forced Labour (137to 146)
<i>Chapter VII</i>	147-158	<i>Offences against State</i>
<i>Chapter VIII</i>	159-168	<i>Offences relating to Army, Navy, Air force</i>
<i>Chapter IX</i>	169-177	<i>Offences relating to Election</i>

BHARATIYA NYAYA SANHITA (BNS) RANGE

CHAPTER NO.	Sec No.	TOPIC
Chapter X	178-188	Offences relating to coins, currency-notes, bank-notes, & Government stamps
Chapter XI	189-197	Offences against the public tranquillity
Chapter XII	198-205	Offences relating to public servants
Chapter XIII	206-226	Contempt of lawful authority of public servants
Chapter XIV	227-269	False evidence & offences against public justice
Chapter XV	270-297	Offences affecting the Public Health, Safety, Convenience, Decency and Morals
Chapter XVI	298-302	Offences relating to religion

BHARATIYA NYAYA SANHITA (BNS) RANGE

CHAPTER NO.	Sec No.	TOPIC
Chapter XVII	303-334	Offences relating to property 1. Of Theft (303 to 307) 2. Of Extortion (308) 3. Of Robbery and Dacoity (309 to 313) 4. Of Criminal Misappropriation of Property (314 and 315) 5. Of Criminal Breach of Trust (316) 6. Of the Receiving of Stolen Property (317) 7. Of Cheating (318 and 319) 8. Of Fundamental Deeds and Disposition of Property (320 to 323) 9. Of Mischief (324 to 328) 10. Of Criminal Trespass (329 to 334)

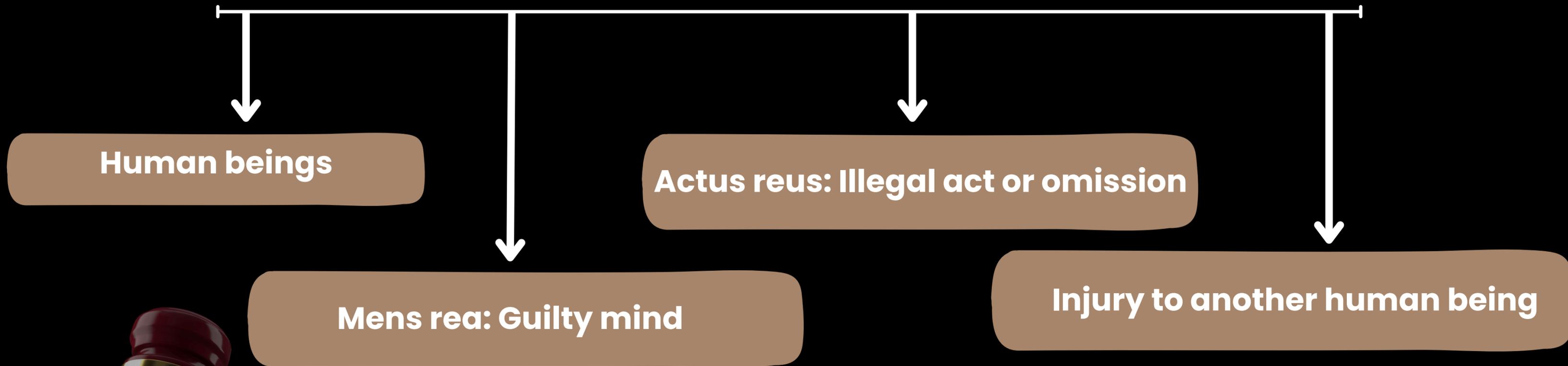


BHARATIYA NYAYA SANHITA (BNS) RANGE



CHAPTER NO.	Sec No.	TOPIC
Chapter XVIII	335-350	Offences relating to Documents and Property Marks
Chapter XIX	351-357	Of Criminal intimidation, Insult, Annoyance, Defamation
Chapter XX	358	Repeal & Savings

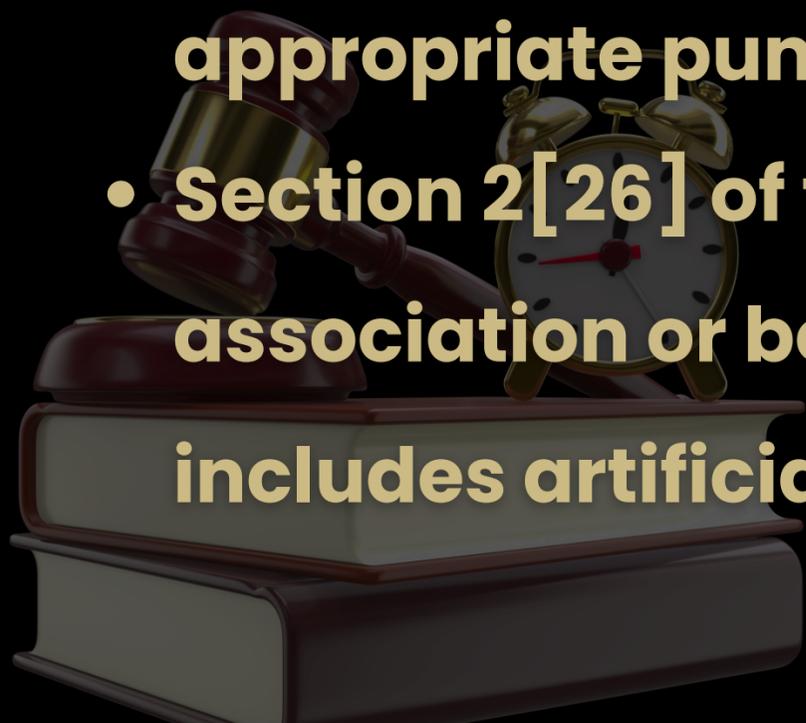
Fundamental Elements of Crime

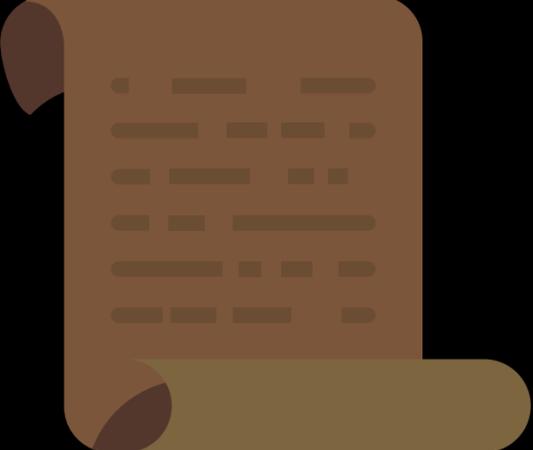


A crime can be defined as the commission of an act that is prohibited by law, or an omission of an act that is obligated by the law.

Human being

- **The first element of crime is a human being who- must be under the legal obligation to act in a particular manner and should be a fit subject for awarding appropriate punishment.**
- **Section 2[26] of the BNS provides that word 'person' includes a company or association or body of persons whether incorporated or not. The word 'person' includes artificial or juridical persons.**





Mens Rea

- **It is the guilty mind required for the commission of an offence.**
- **There is a well-known maxim in this regard, i.e., “actus non facit reum nisi mens sit rea” which means that, the guilty intention and guilty act together constitute a crime.**

It comes from the maxim that no person can be punished in a proceeding of criminal nature unless it can be showed that he had a guilty mind.



Actus reus

Some overt act or illegal omission must take place in pursuance of the guilty intention

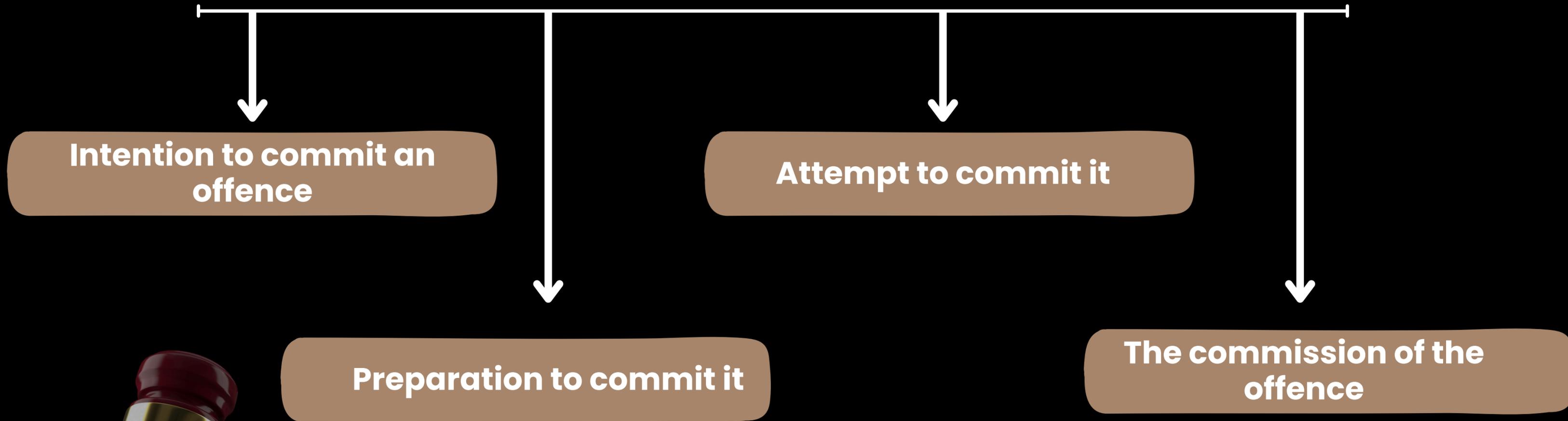
Injury.

There can be no crime if no person faces some kind of an injury. According to Section 2[14] of BNS, "injury" means any harm caused to a person illegally either in mind, body, reputation or property.

However, there can be some crimes which might not require injuries to anybody. For example, driving without a driving license is a crime even if it may not harm anybody.



There are four stages of crime





Intention (1st Stage of crime).

Law does not take notice of an intention, mere intention to commit an offence not followed by any act, cannot constitute an offence.

Preparation (2nd Stage of crime).

Preparation refers to arranging all the essential steps to carry out the intended criminal act. Preparation is not unlawful in itself since it is difficult to prove that the essential preparations were made for the commission of the crime. However, in some exceptional circumstances, mere preparation is also punished.

Preparation when punishable :

- **Collecting arms, etc., with intention of waging war against the Government of India (Section 122 of IPC).**
- **Preparing coins or government stamps for counterfeiting (Sections 233 to 235, 255, and 257 of IPC).**
- **Having counterfeit money, fraudulent documents, or fake weights and measurements (Sections 242, 243, 259, 266).**
- **Making plans to commit dacoity (Section 399 of IPC).**

Attempt (3rd Stage of crime)

The term attempt means direct movement towards the commission of a crime after necessary preparations made to carry out an offence.

Commission of Crime or Accomplishment (4th Stage of Crime)

Committing the crime is the final step in the process. If the accused succeeds in his attempt, he commits a crime and will be guilty of it.

If he fails, he will only be charged with attempting.

Case Laws

- **R v. Prince (1875):**
 - **Prince took away a girl below 16 years of age from the position of father and against the will of her father. Prince argued that the girl told him that she was 18 years, and the intention was bonafide as she was looking like 18 years or above.**
 - **In this case, the English Court has held that he cannot be given the benefit of the doctrine of mens rea because this is the case of mistake of law, taking away a girl below 16 years is unlawful hence he was held guilty.**



Punishment and Theories of Punishment

Meaning of Punishment

Punishment refers to the legal consequence imposed on a person who committed a crime. It involves the deprivation of certain rights or freedom as a response to unlawful behavior. The primary aim is to uphold law and order and to provide justice to the aggrieved party.

Objectives of Punishment

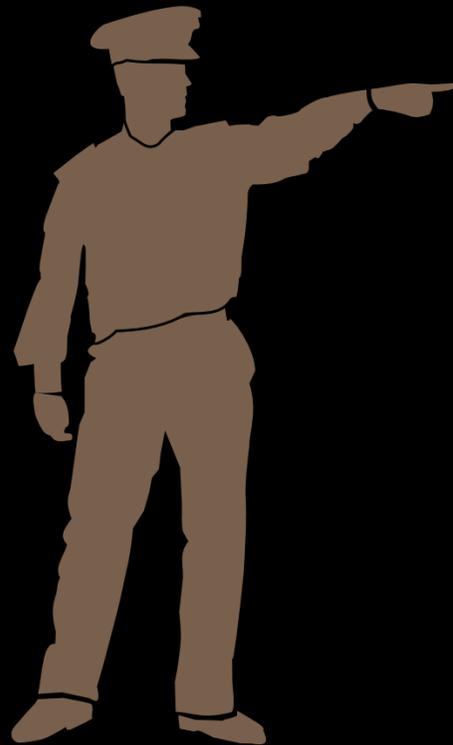
- **To protect society by deterring potential offenders.**
- **To prevent repeat offences by punishing the guilty.**
- **To reform criminals and turn them into responsible, law-abiding citizens.**
- **To ensure justice by discouraging crime through penalties and encouraging rehabilitation.**
- **To uphold law and order by enforcing rules and discouraging violations.**



Theories of Punishment

1. Deterrent Theory

- **Meaning:** 'Deter' means to prevent.
- **Aim:** To prevent crime by instilling fear of punishment.
- **Focus:** Harsh punishments discourage both the offender and others from committing crimes.
- **Example:** Long prison sentences or capital punishment to serve as a warning to society.



2. Retributive Theory

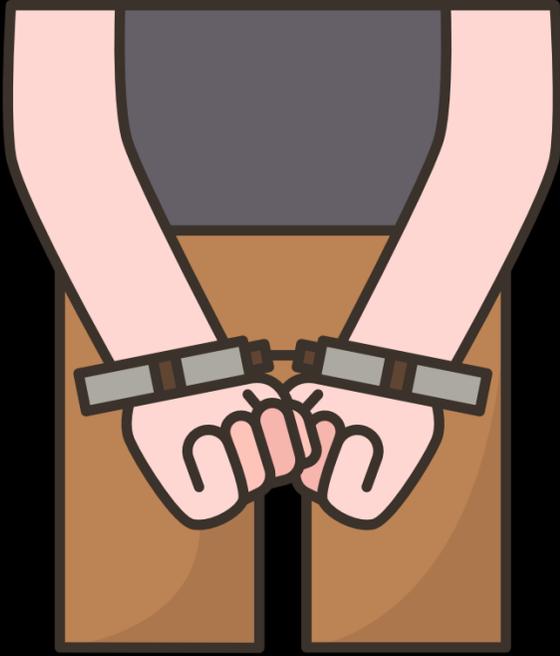
- **Meaning:** 'Retribute' means to give back what is deserved — "tit for tat".
- **Aim:** To seek revenge or retribution for the wrongdoing.
- **Focus:** The punishment should match the severity of the crime.
- **Criticism:** Goes against Gandhian principles; focuses more on revenge than reform.
- **Example:** An eye for an eye, a tooth for a tooth.



3. Preventive Theory

- **Aim:** To prevent further crimes by removing the offender from society.
- **Focus:** Imprisonment or capital punishment disables the offender from repeating the crime.
- **Supporter:** Legal scholar Paton.
- **Examples:** Life imprisonment, death penalty, forfeiture of property.

Theories of Punishment



4. Reformative Theory

- **Aim:** To change the mindset of the offender and reintegrate them into society.
- **Focus:** Rehabilitation rather than punishment.
- **Philosophy:** "Hate the sin, not the sinner" – Mahatma Gandhi.
- **Example:** A prisoner learns a skill (like pottery) in jail and uses it to earn a living after release.

5. Expiatory or Compensatory Theory

- **Aim:** To achieve justice through compensation and self-realization.
- **Focus:** If the offender feels guilt and makes amends, forgiveness is possible.
- **Compensation:** Offender may compensate the victim directly.
- **Example:** A convict works in jail and the money earned is used to pay the victim for medical treatment.



6. Incapacitation Theory

- **Aim:** To physically prevent the offender from committing further crimes.
- **Focus:** Depriving the offender of the ability to offend again.
- **Effect:** Creates fear among others, preventing future crimes.
- **Meaning of Incapacitation:** Being made powerless or unable to act.





Theories of Punishment

Theories of Punishment

Theory	Key Idea	Aim	Example / Features
1. Deterrent Theory	To create fear of punishment to discourage crime.	Prevent future crimes by setting an example.	Harsh punishments like long imprisonment or death penalty.
2. Retributive Theory	"Tit for tat" – offender should suffer in proportion to the crime committed.	Seek revenge or justice by inflicting equal harm.	Eye for an eye; tooth for a tooth.
3. Preventive Theory	Prevent offender from committing more crimes by restricting freedom.	Physically stop offenders from repeating offences.	Life imprisonment, capital punishment, property seizure.
4. Reformatory Theory	Focuses on changing the mindset and behavior of the offender.	Rehabilitate the offender and reintegrate into society.	Teaching skills (e.g., pottery) in prison for post-release livelihood.
5. Expiatory / Compensatory Theory	Offender realizes guilt and compensates the victim.	Provide relief to victims; promote self-realization.	Offender works in prison and earnings are given to victim for treatment.
6. Incapacitation Theory	Remove offender's ability to commit further crimes.	Protect society by disabling the criminal.	Imprisonment or execution to eliminate threat to society.



Mens Rea when Not Essential: Strict Liability.

1. **Public nuisance**
2. **Contempt of court**
3. **Abduction/Kidnapping**
4. **Bigamy**
5. **Waging war**
6. **Sexual harassment**
7. **Rape**
8. **Selling of obscene books**
9. **Defamation**



Jurisdiction

Application of BNS 2023

Sec 1(1) Title & extent of operation of Code

This Act shall be called the Bharatiya Nyaya Sanhita, 2023.

Sec 1(5) Extension of Code to extra-territorial offences

The provisions of this Code apply also to any offence committed by—

- (1) any citizen of India in any place without and beyond India;
 - (2) any person on any S/Ar C registered in India wherever it may be.
 - (3) any person in any place without and beyond India committing offence targeting a computer resource located in India.
- 2(1)k of IT Act 2000

Sec 1(6) Certain laws not affected by BNS –SAVING

1. Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the GOI
2. special Law or
3. Local_Law



Punishment for offences

Sec
1(3)

Committed within
INDIA

Every person shall be liable to punishment under this Sanhita and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India.

Sec
1(4)

Committed outside
INDIA

Any person liable, by any Indian law to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Code for any act committed beyond India in the

SAME MANNER as if such act had been committed within India.



Topic: Sec 1. Short title, commencement and application.

(1) This Act may be called the Bharatiya Nyaya Sanhita, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Sanhita.

(3) Every person shall be liable to punishment under this Sanhita and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India.

Topic: Sec 1. Short title, commencement and application.

4) Any person liable, by any law for the time being in force in India, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Sanhita for any act committed beyond India in the same manner as if such act had been committed within India.

(5) The provisions of this Sanhita shall also apply to any offence committed by—

(a) any citizen of India in any place without and beyond India;

(b) any person on any ship or aircraft registered in India wherever it may be;

(c) any person in any place without and beyond India committing offence targeting a computer resource located in India.

Explanation.— In this section, the word “offence” includes

every act committed outside India which, if committed in India, would be punishable under this Sanhita

Topic: Sec 1. Short title, commencement and application.

Illustration

A, who is a citizen of India, commits a murder in any place without and beyond India. He can be tried and convicted of murder in any place in India in which he may be found.

(6) Nothing in this Sanhita shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law



Section 2

Definitions

In this Sanhita, unless the context otherwise requires~

(1) "ACT"

denotes as well a series of acts as a single act;

(2) "ANIMAL"

means any living creature, other than a human being;

(3) "CHILD"

means any person below the age of eighteen years;

Section 2 Definitions

(4) "COUNTERFEIT"

A person is said to "counterfeit" who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

Explanation 1~

It is not essential to counterfeiting that the imitation should be exact..

Explanation 2~

When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised;

Section 2 Definitions

(5) "COURT"~

means a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially;

(6) "DEATH"~

means the death of a human being unless the contrary appears from the context;

(7) "DISHONESTLY"~

means doing anything with the intention of causing wrongful gain to one person or wrongful loss to another person;



Section 2 Definitions

8) "DOCUMENT"~

means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, and includes electronic and digital record, intended to be used, or which may be used, as evidence of that matter.

Explanation 1~

It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in a Court or not.

(a) A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document..

(b) A cheque upon a banker is a document.

(c) A power-of-attorney is a document.

(d) A map or plan which is intended to be used or which may be used as evidence, is a document.

(e) A writing containing directions or instructions is a document.



Section 2 Definitions

(9) "FRAUDULENTLY"

means doing anything with the intention to defraud but not otherwise;

(10) "GENDER"

The pronoun "he" and its derivatives are used of any person, whether male, female or transgender.

Explanation

"transgender" shall have the meaning assigned to it in clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019 (40 of 2019);

(11) "GOOD FAITH"

Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention;

(12) "GOVERNMENT"

means the Central Government or a State Government;

Section 2 Definitions

13) "HARBOUR"

includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this clause or not, to evade apprehension;

(14) "INJURY"

means any harm whatever illegally caused to any person, in body, mind, reputation or property;

(15) "ILLEGAL" AND "LEGALLY BOUND TO DO"

The word "illegal" is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit;

Section 2 Definitions

(16) "JUDGE"

means a person who is officially designated as a Judge and includes a person~

(i) who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or
(ii) who is one of a body or persons, which body of persons is empowered by law to give such a judgment.

ILLUSTRATION

A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge;



Section 2 Definitions

(17) "LIFE"

means the life of a human being, unless the contrary appears from the context;

(18) "LOCAL LAW"

means a law applicable only to a particular part of India;

(19) "MAN"

means male human being of any age;

(20) "MONTH" AND "YEAR"

Wherever the word "month" or the word "year" is used, it is to be understood that the month or the year is to be reckoned according to the Gregorian calendar;

(21) "MOVABLE PROPERTY"

includes property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth;



Section 2 Definitions



(22) "NUMBER"~

Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number;

(23) "OATH"~

includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court or not;



(24) "OFFENCE"~

Except in the Chapters and sections mentioned in sub-clauses (a) and (b), the word "offence" means a thing made punishable by this Sanhita, but~

(A) in Chapter III and in the following sections, namely, sub-sections (2), (3), (4) and (5) of section 8, sections 9, 49, 50, 52, 54, 55, 56, 57, 58, 59, 60, 61, 119, 120, 123, sub-sections (7) and (8) of section 127, 222, 230, 231, 240, 248, 250, 251, 259, 260, 261, 262, 263, sub-sections (6) and (7) of section 308 and sub-section (2) of section 330, the word offence means a thing punishable under this Sanhita, or under any special law or local law

AND

(B) in sub-section (1) of section 189, sections 211, 212, 238, 239, 249, 253 and sub-section (1) of section 329, the word "offence" shall have the same meaning when the act punishable under the special law or local law is punishable under such law with imprisonment for a term of six months or more, whether with or without fine;



(25) "OMISSION"~

denotes as well as a series of omissions as a single omission;

(26) "PERSON"~

includes any company or association or body of persons, whether incorporated or not;

(27) "PUBLIC"~

includes any class of the public or any community;

(28) "PUBLIC SERVANT"~

means a person falling under any of the descriptions, namely:---

(A) every commissioned officer in the Army, Navy or Air Force;

(B) every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

(C) every officer of a Court including a liquidator, receiver or commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court to perform any of such duties;

- (d) every assessor or member of a panchayat assisting a Court or public servant;**
- (e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court, or by any other competent public authority;**
- (f) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;**
- (g) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;**
- (h) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;**





(i) every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the people of any village, town or district;

(j) every person who holds any office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

(k) every person~

(i) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government.

(ii) in the service or pay of a local authority as defined in clause (31) of section 3 of the General Clauses Act, 1897 (10 of 1897), a corporation established by or under a Central or State Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013)

EXPLANATION~

(a) persons falling under any of the descriptions made in this clause are public servants, whether appointed by the Government or not.

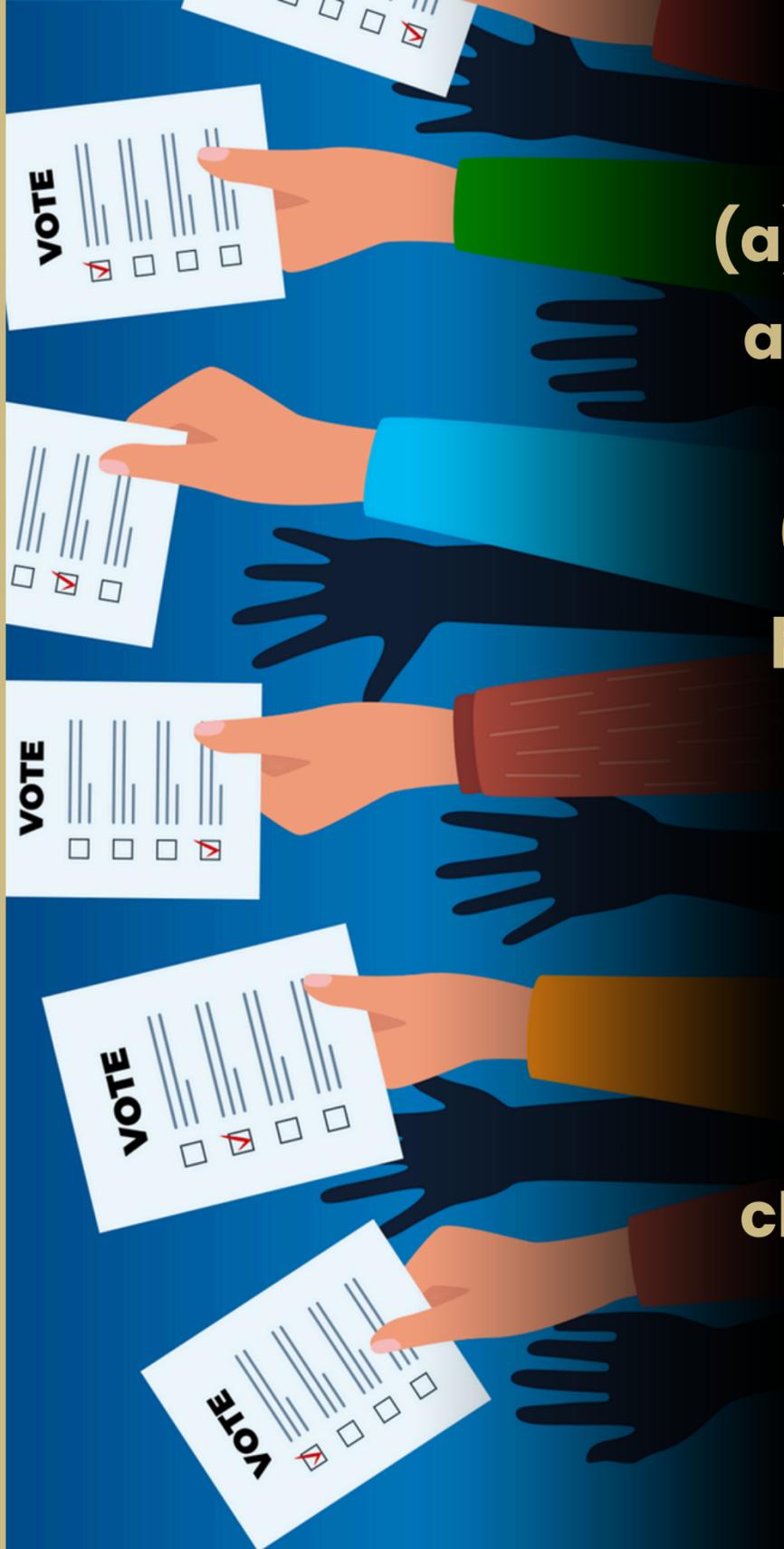
(b) every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation is a public servant.

(c) "ELECTION"

means an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under any law for the time being in force.

ILLUSTRATION

A Municipal Commissioner is a public servant;



(29) "REASON TO BELIEVE"~

A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing but not otherwise;

(30) "SPECIAL LAW"~

means a law applicable to a particular subject;

(31) "VALUABLE SECURITY"~

means a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

ILLUSTRATION.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a "valuable security";



(32) "VESSEL"

means anything made for the conveyance by water of human beings or of property;

(33) "VOLUNTARILY"

A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

ILLUSTRATION

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily;.

(34) "WILL"

means any testamentary document;



(35) "WOMAN"

means a female human being of any age;

(36) "WRONGFUL GAIN"

means gain by unlawful means of property to which the person gaining is not legally entitled;

(37) "WRONGFUL LOSS"

means the loss by unlawful means of property to which the person losing it is legally entitled;

(38) "GAINING WRONGFULLY" AND "LOSING WRONGFULLY"

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property; and

(39) WORDS AND EXPRESSIONS

used but not defined in this Sanhita but defined in the Information Technology Act, 2000 (21 of 2000) and the Bharatiya Nagarik Suraksha Sanhita, 2023 shall have the meanings respectively assigned to them in that Act and Sanhita.

