



NACIN

2024

National Academy of Customs, Indirect Taxes & Narcotics,
Zonal Campus, Lucknow



राष्ट्रीय अकादमी सीमा शुल्क, अप्रत्यक्ष कर एवं नारकोटेक्स,
आंचलिक परिसर, लखनऊ

SALAAM CHRONICLE

A QUARTERLY NEWSLETTER

(For Departmental Officers)



JULY, 2024

VOLUME: 03, ISSUE: 02

NACIN, ZC, LUCKNOW



2024

GST Audit for CGST & SGST Officers



***GST Audit for
CGST Officers***

***GST Audit for
SGST Officers***





2024

DIRECTOR GENERAL, PALASAMUDRAM VISIT AT NACIN LUCKNOW



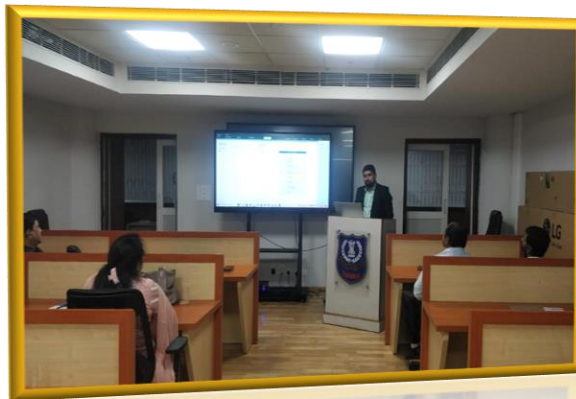
NACIN, ZC, LUCKNOW



2024



GENDER SENSITIZATION

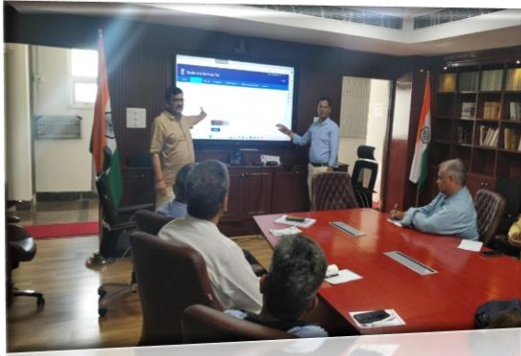


GST UPDATE





2024



GSTN B.O. TRAINING



VIGILANCE TRAINING



NACIN, ZC, LUCKNOW

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TRAINING PERFORMANCE (Upto 30.06.2024)

Training on	No. of Courses	Total No. of Participants	Total Man-Days
GST	16	519	831
CUSTOMS	7	116	116
ADMINISTRATION	4	76	1235
VIGILANCE	0	0	0
INFORMATION TECHNOLOGY	2	98	98
NARCOTICS	4	37	37
OTHERS	3	58	58
TOTAL	36	904	2375

UP-COMING PROGRAMMES

JUL-AUG-SEP

JULY-2024				
1	OFFLINE	Mandatory Course for LDCs and Head Havaldars for promotion to the grade of Tax Assistant	01-07-2024	19-07-2024
2	ONLINE	Investigation Tools & Data Analysis	03-07-2024	03-07-2024
3	ONLINE	Investigation Tools & Data Analysis	09-07-2024	09-07-2024
4	ONLINE	E-Way Bills	11-07-2024	11-07-2024
5	ONSITE	Workshop on GST Audit	15-07-2024	16-07-2024
6	ONLINE	Investigation Tools & Data Analysis	18-07-2024	18-07-2024
7	OFFLINE	Capacity Building of Audit, CGST & SGST formations – Provisions of PMLA	19-07-2027	19-07-2024
8	OFFLINE	Induction Training of Newly Recruited Inspectors	Start from 22-07-2024	
9	ONLINE	GST Update (GSTR-1/2A/3B)	24-07-2024	24-07-2024
10	ONLINE	Investigation Tools & Data Analysis	26-07-2024	26-07-2024
11	ONLINE	GST Sector-wise (Banking & Hotel/Restaurant Sector)	29-07-2024	29-07-2024
12	ONLINE	Health Awareness	30-07-2024	30-07-2024
AUGUST-2024				
1	OFFLINE	Induction Training of Newly Recruited Inspectors	Continued from 22-07-24	
2	OFFLINE	Bhartiya Nyay Sanhita/Bhartiya Sakshya Adhinyam/Bhartiya Nagrik Suraksha Sanhita	02-08-2024	02-08-2024
3	OFFLINE	Induction Training of Newly Recruited Tax Assistants / Executive Assistants	05-08-2024	23-08-2024
2	ONLINE	GST Update (Recent Circulars)	07-08-2024	07-08-2024
3	OFFLINE	Health Awareness (Health and Wellness - Alternative medicine methods)	13-08-2024	13-08-2024
6	ONLINE	GST Sector-wise (GST Compliance by Govt. Organizations)	21-08-2024	21-08-2024
7	ONSITE	Hands on Training on APIS (At CCSI Airport Lucknow)	28-08-2024	28-08-2024
SEPTEMBER-2024				
1	OFFLINE	Narcotics Training	02-09-2024	06-09-2024
2	ONLINE	GST Update	05-09-2024	05-09-2024
3	OFFLINE	Gender Sensitization	09-09-2024	09-09-2024
4	ONLINE	Bhartiya Nyaay Samhita	10-09-2024	10-09-2024
5	ONLINE	GST Sector-wise	12-09-2024	12-09-2024
6	OFFLINE	Hindi Official Language Workshop	13-09-2024	13-09-2024
7	ONSITE	Workshop on GST Audit	18-09-2024	19-09-2024
8	ONLINE	Bhartiya Nagrik Suraksha Samhita	18-09-2024	18-09-2024
9	ONLINE	Health Awareness	19-09-2024	19-09-2024
10	OFFLINE	Computer Training-Excel & Data Sheet	24-09-2024	25-09-2024
11	ONLINE	Bhartiya Saakshy Adhinyam	24-09-2024	24-09-2024
12	ONLINE	Digital Forensics	26-09-2024	26-09-2024

Bhartiya Nagrik Suraksha Sanhita 2023

Changes with respect to Search [Sec. 103, 105, 185, 186]

BNSS has introduced major changes regarding the search proceedings as compared to CrPC. It has mandated audio-video recording of the entire process of search. The following procedure has to be followed while conducting search:

**Action before proceeding for search in person
&
deputing subordinate Police Officer for search**

- a) **Recording of reasons for search in Case diary:** The Officer in-charge of Police Station or IO is required to record the grounds of his belief for conducting search and also record the reason for not conducting search in person in the **case-diary**. [Sec 185 (1) BNSS]
- b) **Conducting search in person:** The Officer in-charge of Police Station or IO shall, if practicable, conduct the search in person. [Sec. 185 (2) BNSS]
- c) **Deputing subordinate Police officer for conducting search:** If the Officer in-charge of Police Station or IO is unable to conduct search in person, he may after recording the reasons, depute any subordinate Police officer for conducting the search. [Sec. 185 (3) BNSS]

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Procedure during Search

Recording of search and seizure through audio-video electronic means [Sec. 105 and Proviso to Sec. 185 (2) BNSS]

The Officer Incharge of Police Station or IO shall record the whole process of search by any audio-video electronic means preferably by mobile phone.

Search to be conducted in the presence of two independent witnesses [Sec.103 (4) BNSS]

As per Sec. 103 (4) of BNSS, before making search, Police officer is required to call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situated.

Refusal to become witness for search amounts to an offence [Sec.103(8) BNSS]

Any person who, without reasonable cause refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 222 of Bharatiya Nyaya Sanhita, 2023

Action after search

Audio-video recording of search to be sent to DM, SDM or JMJC [Sec. 105 BNSS]

The police officer shall without delay forward audio-video recording to the DM, SDM or JMJC.

IO to send record regarding search to Magistrate within 48 hours [Sec.185 (5) BNSS]

The IO shall send the copies of the following record within 48 hours to the competent Magistrate:

- a) Reasons for conducting search
- b) Reason for not conducting search in person and deputing subordinate police officer in case someone else is deputed by IO to conduct search
- c) The details of search proceedings

Contd.../-

Ready Reckoner on Handcuffs

Securing the presence of the accused in the trial is inevitability for a fair trial. To ensure such presence, the police officer may use all means necessary to arrest such person. However, the police officer cannot resort to methods which result in deprivation of dignity of the accused. The act of deprivation of liberty cannot be cruel, inhuman or degrading and it must be in conformity with the fundamental rights enshrined in the Constitution of India.

2. Almost four decades ago, the Supreme Court of India in the case of Prem Shankar Shukla v. Delhi Administration, on 29th April, 1980 (3) SCC 526, Equivalent citations: 1980 AIR 1535, 1980 SCR (3) 855, AIR 1980 SUPREME COURT 1535, 1980 SCC(CRI) 815 **had declared the use of handcuffs unconstitutional under article 21.** However, the court has carved out certain exceptions to the general practice of use of handcuffs,
3. It is clear that a general restriction cannot be imposed on the use of handcuffs due to various unforeseeable, compelling circumstances. There may be situations which leave the police officer with no other option but to use handcuffs to prevent the accused from escaping. Various instances have come to light where the accused has either escaped or got injured (died) while escaping.
4. These situations may be averted, if use of handcuffs is permitted in limited circumstances. In light of these facts and court rulings, the BNS has incorporated the use of handcuffs under Sec 43(3), which introduces powers for the police to use handcuffs, keeping in mind the **'nature and gravity of offence upon arrest,'** if the offender falls under following crimes :

Section under BNS	Nature of Offence	Defined in BNS
Section 71	repeat offender	Punishment for repeat offenders.
Section 145	habitual offender	Habitual dealing in slaves.
Section 253,	escaped from custody	Harbouring offender who has escaped from custody or whose apprehension has been
Section 111 (1) to (7)	Offender of organised crime	Organised crime.
Section 113 (1), to (7)	offender of terrorist acts	Terrorist act.
Section 111, 123, 276, 277 & 278	Offender of drug related crime	Organised crime. Causing hurt by means of poison, etc., with intent to commit an offence. Adulteration of drugs. Sale of adulterated drugs. Sale of drug as a different drug or preparation.
Section 63, 67, 68, 69, 70	Offender of sexual offences,	offences against woman and child of sexual offences like: - Rape, Sexual intercourse by husband upon his wife during separation. Sexual intercourse by a person in authority. Sexual intercourse by employing deceitful means, etc. Gang rape.

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Ready Reckoner on Handcuffs

Section 101, 109 & 110	offender of murder,	Murder. Attempt to murder Attempt to commit culpable homicide.
Section 36(g),124(1) & (2)	offender of acid attack,	When right of private defence of body extends to causing death. Voluntarily causing grievous hurt by use of acid, etc
Section 111 (1)	Offender of human trafficking	Organised crime.
Section 147-157	offender of offences against the State	<p>Waging, or attempting to wage war, or abetting waging of war, against Government of India. Conspiracy to commit offences punishable by section 147.</p> <p>Collecting arms, etc., with intention of waging war against Government of India. Assaulting President, Governor, etc., with intent to compel or restrain exercise of any lawful power.</p> <p>Act endangering sovereignty, unity and integrity of India.</p> <p>Waging war against Government of any foreign State at peace with Government of India.</p> <p>Committing depredation on territories of foreign State at peace with Government of India.</p> <p>Receiving property taken by war or depredation mentioned in sections 153 and 154.</p> <p>Public servant voluntarily allowing prisoner of State or war to escape.</p> <p>Public servant negligently suffering such prisoner to escape.</p> <p>Aiding escape of, rescuing or harbouring such prisoner.</p>
Section 149	offender of illegal possession of arms and ammunition	Collecting arms, etc., with intention of waging war against Government of India.
Section 111 (1)	Offender of economic offences amongst others	

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READY RECKONER ON OFFENCES BY OR RELATING TO PUBLIC SERVANTS

Under the BNS Offences by or Relating to Public Servants have been defined under Chapter- XII from Sections 198 to 205. The provisions under Section 202 (unlawfully engaging in trade), Section 204 (Personating a public servant), Section 205 (Wearing garb or carrying a token used by a public servant with fraudulent intent). Changes are related to the quantum of punishments or the addition of new words in the existing IPC provisions (fine or Imprisonment).

202. (Section-168) Public servant unlawfully engaging in trade.

A completely new category of punishment namely community service is introduced for the offender. The rest of the provisions are the same of IPC.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

204. (Section-170) Personating a public servant.

Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 of new act establishes a minimum term of imprisonment of not less than six month but which may extend to three years, in addition to a fine.

Classification of offence:

Cognizable | Non-bailable | Any Magistrate | Non-compoundable

205. (Section-171) Wearing garb or carrying token used by public servant with fraudulent intent.

In IPC, fine was two hundred rupees which is now increased to five thousand rupees.

Classification of offence:

Cognizable | Bailable | Any Magistrate | Non-compoundable

Contd.../-

READY RECKONER ON OFFENCES BY OR RELATING TO PUBLIC SERVANTS

Section	Offence	Punishment	Cognizable / Bailable / Trial Court / Compoundable	Remark
198 IPC 166	Public servant disobeying direction of the law with intent to cause injury to any person.	Simple imprisonment for one year, or fine, or both.	Non-cognizable/ Bailable/ Magistrate of the first class/Non compoundable	Term (Court of Justice) is replaced by Court in illustration. Other provisions are similar to IPC.
199 IPC 166A	Public servant disobeying direction under law.	Rigorous imprisonment for not less than six months which may extend to two years and fine.	Cognizable/ Bailable/ Magistrate of the first class/Non compoundable	No change
200 IPC 166B	Non-treatment of victim by hospital.	Imprisonment for one year, or fine, or both.	Non-cognizable / Bailable / Magistrate of the first class / Non-compoundable	No change
201 IPC 167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for three years, or fine, or both	Cognizable / Bailable / Magistrate of the first class / Non-compoundable	No change
202 IPC 168	Public servant unlawfully engaging in trade.	Simple imprisonment for one year, or fine, or both, or community service.	Non-cognizable/ Bailable /Magistrate of the first class/Non-compoundable	A completely new category of punishment namely community Service is introduced.
203 IPC 169	Public servant unlawfully buying or bidding for property.	Simple imprisonment for two years, or fine, or both and confiscation of property, if purchased.	Non-cognizable/ Bailable /Magistrate of the first class/Non-compoundable	No change
204 IPC 170	Personating a public servant.	Imprisonment for not less than six months but which may extend to three years and fine.	Cognizable/ Non-bailable/ Any Magistrate/ Non compoundable	Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 BNS establishes a minimum term of Imprisonment of not less than six month but which may extend to three years, in addition to a fine.
205 IPC 171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for three months, or fine of (two hundred rupees) five thousand rupees, or both.	Cognizable/Bailable/ Any Magistrate/Non compoundable	In IPC, fine was two Hundred rupees which is now increased to five thousand rupees.

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BHARATIYA NYAYA SANHITA, 2023

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
(CHAPTER- XI)	CHAPTER- XII	In IPC- Sections-166 to 171 In BNS -Sections-198-205

Public servant disobeying law, with intent to cause injury to any person.

198. (Section-166) Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court (of Justice), knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this Section.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non compoundable

Comparative Analysis/Comments:

Term (Court of Justice) is replaced by Court in illustration. Other provisions are similar to IPC.

Public servant disobeying direction under law.

199. (Section-166A) Whoever, being a public servant, —

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter; or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation; or

(c) fails to record any information given to him under sub-Section (1) of [Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023](#) (sub-section (1) of [section 154 of the Code of Criminal Procedure, 1973](#)), in relation to cognizable offence punishable under [Section 64](#), [Section 65](#), [Section 66](#), [Section 67](#), [Section 68](#), [Section 70](#), [Section 71](#), [Section 74](#), [Section 76](#), [Section 77](#), [Section 79](#), [Section 124](#), [Section 143](#) or [Section 144](#), (under [section 326A](#), [section 326B](#), [section 354](#), [section 354B](#), [section 370](#), [section 370A](#), [section 376](#), [section 376A](#), [section 376B](#), [section 376C](#), [section 376D](#), [section 376E](#) or [section 509](#)), shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

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CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
<u>(CHAPTER- XI)</u>	<u>CHAPTER- XII</u>	In IPC- Sections-166 to 171 In BNS -Sections-198-205

Classification of offence:

Cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Cross Reference:

BNSS Section 173 Information in cognizable cases—(1) Every information relating to the commission of a cognizable offence, if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the State Government may prescribe in this behalf: 1 [Provided that if the information is given by the woman against whom an offence under section 124(1), section 124(2), section 74, section 75, section 76, section 77, section 78, section 64, 65(1) [section 66, section 65(2), section 67, section 68, section 70(1), section 70(2)], section 71 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer: Provided further that— (a) in the event that the person against whom an offence under section 74, section 75, section 76, section 77, section 78, section 64 [section 66, section 65(2), section 67, section 68, section 70(1), section 70(2), section section 71 or section 79 of the Bharatiya Nyaya Sanhita, 2023 is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person's choice, in the presence of an interpreter or a special educator, as the case may be; (b) the recording of such information shall be video graphed; (c) the police officer shall get the statement of the person recorded by a Judicial Magistrate under clause (a) section 183(6) as soon as possible.]

Punishment for non-treatment of victim.

200. (Section-166B) Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of Section 397 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (Section 357C of the Code of Criminal Procedure, 1973,) shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Contd.../-

CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
<u>(CHAPTER- XI)</u>	<u>CHAPTER- XII</u>	In IPC- Sections-166 to 171 In BNS -Sections-198-205

Cross Reference:

BNS Section 397 Treatment of victims.—All hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under, 64, 65, 66, 67, 68, 70 or section 71 or section 124(1) of the Bharatiya Nyaya Sanhita, 2023, and shall immediately inform the police of such incident.]

Public servant framing an incorrect document with intent to cause injury.

201.(Section-167) Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Classification of offence:

Cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Public servant unlawfully engaging in trade.

202. (Section-168) Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both or with community service.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

A completely new category of punishment namely community service is introduced.

Contd.../-

CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
<u>(CHAPTER- XI)</u>	<u>CHAPTER- XII</u>	In IPC- Sections-166 to 171 In BNS -Sections-198-205

Public servant unlawfully buying or bidding for property.

203. (Section-169) Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Classification of offence:

Non-cognizable | Bailable | Magistrate of the first class | Non-compoundable

Comparative Analysis/Comments:

There is no change from corresponding provisions of IPC.

Personating a public servant.

204. (Section-170) Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to three years (two years, or with fine, or with both.) and with fine.

Classification of offence:

Cognizable | Non-bailable | Any Magistrate | Non-compoundable

Comparative Analysis/Comments:

Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 BNS establishes a minimum term of imprisonment of not less than six month but which may extend to three years, in addition to a fine.

Wearing garb or carrying token used by public servant with fraudulent intent.

205.(Section-171) Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to (two hundred rupees) five thousand rupees, or with both.

Classification of offence:

Cognizable | Bailable | Any Magistrate | Non-compoundable

Comparative Analysis/Comments:

In IPC, fine was two hundred rupees which is now increased to five thousand rupees.

Contd.../-

CHAPTER- XII

Previous Law : IPC	New Law : BNS	Change in Sections
<u>(CHAPTER- XI)</u>	<u>CHAPTER- XII</u>	In IPC- Sections-166 to 171 In BNS -Sections-198-205

Cross Reference:

There are some other penal provisions in BNS which are related to public servants. Brief description is as under:

Section	Offence	Punishment	Cognizable/ Bailable/ Trial Court/Compoundable
156 (128 IPC)	Public servant voluntarily allowing prisoner of state or war in his custody to escape.	Imprisonment for life, or imprisonment for 10 years and fine.	Cognizable Non-bailable Court of Session Non-compoundable
157 (129 IPC)	Public servant negligently suffering prisoner of State or war in his custody to escape.	Simple imprisonment for 3 years and fine.	Cognizable Bailable Magistrate of the first class Non-compoundable

Section 218 Bharatiya Nagarik Suraksha Sanhita stipulates the procedure for prosecution of judges and public servants. Corresponding section of **CrPC was Section 197**. This provision stipulates that when public servants being accused of any offence alleged to have been committed by him while acting for purporting to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction save as otherwise provided in the Lokpal and Lokayuktas Act, 2013 (1 of 2014).

READY RECKONER

Section	Offence	Punishment	Cognizable / Bailable / Trial Court / Compoundable	Remark
198 IPC 166	Public servant disobeying direction of the law with intent to cause injury to any person.	Simple imprisonment for one year, or fine, or both.	Non-cognizable/ Bailable/ Magistrate of the first class/Non compoundable	Term (Court of Justice) is replaced by Court in illustration. Other provisions are similar to IPC.

Contd.../-

READY RECKONER

Section	Offence	Punishment	Cognizable / Bailable / Trial Court / Compoundable	Remark
199 IPC 166A	Public servant disobeying direction under law.	Rigorous imprisonment for not less than six months which may extend to two years and fine.	Cognizable/ Bailable/ Magistrate of the first class/Non compoundable	No change
200 IPC 166B	Non-treatment of victim by hospital.	Imprisonment for one year, or fine, or both.	Non-cognizable / Bailable / Magistrate of the first class / Non-compoundable	No change
201 IPC 167	Public servant framing an incorrect document with intent to cause injury.	Imprisonment for three years, or fine, or both	Cognizable/ Bailable / Magistrate of the first class/Non-compoundable	No change
202 IPC 168	Public servant unlawfully engaging in trade.	Simple imprisonment for one year, or fine, or both, or community service.	Non-cognizable/ Bailable/Magistrate of the first class/Non-compoundable	A completely new category of punishment namely community service is introduced.
203 IPC 169	Public servant unlawfully buying or bidding for property.	Simple imprisonment for two years, or fine, or both and confiscation of property, if purchased	Non-cognizable/ Bailable/Magistrate of the first class/Non-compoundable	No change
204 IPC 170	Personating a public servant.	Imprisonment for not less than six months but which may extend to three years and fine.	Cognizable/ Non-bailable/ Any Magistrate/ Non compoundable	Under Section 170 of IPC, there was no specified minimum term, and the maximum term was two years. Sec 204 BNS establishes a minimum term of imprisonment of not less than six month but which may extend to three years, in addition to a fine.
205 IPC 171	Wearing garb or carrying token used by public servant with fraudulent intent.	Imprisonment for three months, or fine of (two hundred rupees) five thousand rupees, or both.	Cognizable/ Bailable/ Any Magistrate/Non compoundable	In IPC, fine was two hundred rupees which is now increased to five thousand rupees.

Contd.../-

READY RECKONER OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Recent developments to the legal framework governing false evidence and offenses against public justice in India involve modifications to specific sections of the Indian Penal Code (IPC). Key changes include an enhanced penalty amount in Section 193, a shift in terminology from "court of justice" to "court," and the addition of a fine up to fifty thousand rupees in Section 230 for giving or fabricating false evidence with the intent to procure conviction. Sections 232 to 234 remain unchanged, addressing threatening, using known false evidence, and issuing false certificates. Sections 239 and 241 introduce fines of up to five thousand rupees and an increased imprisonment duration of three years, respectively, for intentional omissions and destruction of evidence. Sections 242 to 244 remain unaltered, covering false personation, fraudulent removal or concealment of property, and fraudulent claims. In Sections 245 to 248, focusing on fraudulent decrees, false charges, and fraudulent claims, Section 248 experiences an imprisonment duration increase to five years and a specified fine of up to two lakh rupees.

Punishment for false evidence.

229.(Section 193) There is no change with respect to the corresponding IPC section except for the enhancement of the penalty amount. Additionally, the words "court of justice" are being replaced with "court."

Giving or fabricating false evidence with intent to procure conviction of Capital offence

230.(Section 194): There are no substantial changes, except that a fine, which may extend to fifty thousand rupees, has been added, and there is a minor change in phraseology in the second subsection.

Intentional omission to give information of offence by person bound to inform.

239. (Section 202) In the corresponding provisions, there are no changes except that a fine, which may extend to five thousand rupees or both, is added.

Giving false information respecting an offence committed.

241. (Section 204) There are no changes except for the following: *The duration of imprisonment is increased to three years from two years, and a fine is specified, which may extend to five thousand rupees."*

False charge of offence made with intent to injure

248.(Section 211) There are no changes except for the following: *Imprisonment is increased to five years from two years, and a fine is specified, which may extend to two lakh rupees. Additionally, imprisonment is increased to ten years from seven years, respectively."*

Contd.../-

READY RECKONER OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

Recent developments to the legal framework governing false evidence and offenses against public justice in India involve modifications to specific sections of the Indian Penal Code (IPC). Key changes include an enhanced penalty amount in Section 193, a shift in terminology from "court of justice" to "court," and the addition of a fine up to fifty thousand rupees in Section 230 for giving or fabricating false evidence with the intent to procure conviction. Sections 232 to 234 remain unchanged, addressing threatening, using known false evidence, and issuing false certificates. Sections 239 and 241 introduce fines of up to five thousand rupees and an increased imprisonment duration of three years, respectively, for intentional omissions and destruction of evidence. Sections 242 to 244 remain unaltered, covering false personation, fraudulent removal or concealment of property, and fraudulent claims. In Sections 245 to 248, focusing on fraudulent decrees, false charges, and fraudulent claims, Section 248 experiences an imprisonment duration increase to five years and a specified fine of up to two lakh rupees.

Harbouring Offender

249.(Section 212) The term 'spouse' is used in substitution for husband or wife in the Indian Penal Code (IPC). Additionally, the following should be added to the explanation clause: 'Offence' in this section includes any act committed at any place outside of India, which, if committed in India, would be punishable under any of the following sections, namely:"

Harbouring offender who has escaped from custody or whose apprehension has been ordered

253.(Section 216): Phrase spouse is used in substitution of husband or wife in IPC

Penalty for harbouring robbers or dacoits

254. (Section 216A): Phrase spouse is used in substitution of husband or wife in IPC.

Intentional insult or interruption to public servant sitting in judicial proceeding

267.(Section 228) Fine is enhanced from one thousand rupees to five thousand rupees.

Personation of assessor (juror or assessor)

268. (Section 229) There are no major changes except for the following: The phrases 'juryman' or 'assessor' and 'jury' or 'assessor' are replaced by a single term, 'assessor'."

Contd.../-

READY RECKONER

SECTION	OFFENCE DESCRIPTION	PUNISHMENT	COGNIZABLE/ BAILABLE /TRIAL COURT/ COMPOUNDABLE	REMARK
229(1) (193)	Intentionally giving or fabricating false evidence in a judicial proceeding.	Imprisonment for seven years and fine ten thousand rupees.	Non-cognizable/Bailable/Magistrate of the first class.	Fine amount is added i.e. ten thousand rupees.
229 (2)	Giving or fabricating false evidence in any other case	Imprisonment for three years and fine five thousand rupees.	Non-cognizable/Bailable/Any Magistrate	Fine amount is added i.e. five thousand rupees
230(a) (194)	Giving or fabricating false evidence with intent to cause any person to be convicted of capital offence	Imprisonment for life, or rigorous imprisonment for ten years and fifty thousand rupees.	Non-cognizable, Non-bailable, Court of Session	Fine which may extend to fifty thousand rupees is added.
239 (202)	Intentional omission to give information of offence by person bound to inform.	Imprisonment for six months, or fine of five thousand rupees, or both.	Non-cognizable/Bailable/Any Magistrate.	Fine which may extend to five thousand rupees or with both is added.
241 (204)	Destruction of document or electronic record to prevent its production as evidence.	Imprisonment for three years, or fine of five thousand rupees, or both.	Non-cognizable/Bailable/ Magistrate of the first class.	Duration of imprisonment is increased to Three Years from (two years), and fine is Specified which may extend to five thousand rupees.
248(a) (211)	False charge of offence made with intent to injure	Imprisonment for five years or fine of two lakh rupees, or both.	Non-cognizable/ Bailable/ Magistrate of the first class.	Imprisonment is increased to five years (two years), and fine is specified which may extend to two lakh rupees,
248(b)	Criminal proceeding instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for ten years or upwards.	Imprisonment for ten years and fine.	Non-cognizable/ Bailable/ Court of Session.	Imprisonment is increased to ten years (seven years),

Contd.../-

READY RECKONER

SECTION	OFFENCE DESCRIPTION	PUNISHMENT	COGNIZABLE/ BAILABLE /TRIAL COURT/ COMPOUNDABLE	REMARK
249 (a) (212)	Harbouring offender, if the offence is punishable with death.	Imprisonment for five years and fine	Cognizable/ Bailable/ Magistrate of the first class.	Spouse (husband or wife)
253 (a) (216)	Harbouring offender who has escaped from custody, or whose apprehension has been ordered, if the offence is punishable with death.	Imprisonment for seven years and fine.	Cognizable/ Bailable/ Magistrate of the first class.	Spouse (husband or wife)
254 (216A)	Penalty for harbouring robbers or dacoits	Rigorous imprisonment for seven years and fine	Cognizable/ Bailable/ Magistrate of the first class.	spouse (husband or wife)
267 (228)	Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.	Simple imprisonment for six months, or fine of five thousand rupees, or both.	Non-cognizable/ Bailable/ The Court in which the offence is committed, subject to the provisions of Chapter XXVIII; or, if not committed, in a Court, any Magistrate.	five thousand rupees (one thousand),
268 (229)	Personation of assessor (juror or assessor)	Imprisonment for two years, or fine, or both.	Non-cognizable/ Bailable/ Magistrate of the first class	Word 'Personation of assessor' replaces (juror or assessor)

Contd.../-

READY RECKONER

Highlighting the Use of Technology in New Criminal Act

Use of Technology is now envisaged in all stages (from e - FIR to investigation to submission of documents to trials). Further, Compulsory Forensic examination in all cases where offence attracts punishment of seven or more years has been envisaged. It has been provided that in offences prescribing imprisonment for 7 years or more, police officer shall cause forensics expert to visit the crime scene to collect forensic evidence. States may from such date, as may be notified by them, as early as possible but not later than 5 years, shall make it compulsory.

Some of the other highlights are as under:

- a) A new definition of electronic communication 'for use of technology in investigation, trial and court proceedings and service of summons, notices, etc. has been introduced.
- b) The definition of 'Documents' has been expanded to include an electronic or digital record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, cloud locational evidence and voice mail messages stored on digital devices.
- c) The definition of 'evidence' has been expanded to any information given electronically. This will permit appearance of witnesses, accused, experts and victims through electronic means. This will ease the process of trial, prevent delays in transporting accused from prisons to courts, and also help in preserving the trial process for future reference that may be necessitated during challenge in higher courts.
- d) In the definition of primary document (Sec 57, BSA), new explanations have been added to cover:
 - (i) If an electronic or digital record which is created or stored, and if such storage occurs simultaneously or sequentially in multiple files, each such file is an original.
 - (ii) If an electronic or digital record is produced from proper custody, it is sufficient to prove its contents unless it is disputed.
 - (iii) If a video recording is simultaneously stored in electronic form and transmitted or broadcast to another, each of the stored recordings is an original.
 - (iv) If an electronic or digital record is stored in multiple in storage spaces computer resource, each such automated storage, including temporary files, is an original.
- e) Scope of secondary evidence has been expanded. Now in addition to certified copies, copies made from original by mechanical processes, copies made from or compared with the original, counterparts of documents as against the parties who did not execute them and oral accounts of the contents of a document given by some person who has himself seen it, are included.

Contd.../-

READY RECKONER

Highlighting the Use of Technology in New Criminal Act

- f) It has been permitted that accused (in custody) may be examined by a Magistrate through electronic means i.e. Video Conferencing / VC facility available in the police station, court, prison or any other such place notified by the State Government. It has been provided that if the accused has been examined through VC, his signature on the statement shall be taken within 72 hours.
- g) A provision has been made wherein the Magistrate may order specimen or sample without the person being arrested. Further there is no existing provision in CrPC for taking finger impression or voice sample which has been provided for in BNSS.

Important sections of BNS, BNSS & BSA for a quick reference while dealing with crimes for police officers, in which technological methods were used. Also, it can assist the police officers in attributing the various offences falling under above Acts. In the same way, it can assist in the procedural aspects of cyber evidence collection from the various formal cyber sources in a manner that is admissible to the judiciary.

Bhartiya Nyaya Sanhita, 2023

Highlighting the use of technology in crimes

Bhartiya Nyaya Sanhita, 2023, emerges as a trailblazer in acknowledging and harnessing the power of technology in the realm of crime.

BNS defines the new trends of committing crimes by using electronic means/communication.

BNS provide a comprehensive legal framework that adapts to the digital age, the legislation seeks not only to punish wrongdoers but also to protect the integrity of the justice system in an era dominated by technological advancements.

Section -2(8) Document - includes electronic and digital record, intended to be used, or which may be used, as evidence of that matter

Section -152 Act endangering sovereignty, unity, and integrity of India - Whoever, purposely or knowingly, by words, either spoken or written, or by signs, or by visible representation, or **by electronic communication** or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India;

Section-196 Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. - **Included or through electronic communication**

Section-197 Imputations, assertions prejudicial to national integration.- **Included or through electronic communication or otherwise**

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Bhartiya Nyaya Sanhita, 2023

Highlighting the use of technology in crimes

Section-206 Absconding to avoid service of summons or other proceeding. - Included or an electronic record.

Section-294 Sale, etc., of obscene books, etc. - including display of any content in electronic form

Section-299 Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs. - Included or through electronic means.

Section-308 Extortion. (e) threatens by sending a message through an electronic device to give him money, committed extortion.

Section-335 Making a false document. - New word "Electronic Document)

Section-336 Forgery. - Included or electronic record forged shall be used for the purpose of cheating,

Section-337 Forgery of record of Court or of public register, etc - Included Whoever forges a document or an electronic record, purporting to be a record or proceeding of or in a Court or an identity document issued by Government

Section-353 Statements conducing to public mischief - Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means.

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Bhartiya Nagrik Suraksha Sanhita 2023

Integrating Technology Across the Legal Spectrum

The BNSS has introduced the use of technology at all stages, from Crime scene visit to Investigation till Trial. This is going to be a game changer in terms of speedy trial and introduces transparency in investigation. The inclusion of technology and forensics in investigation is a significant move geared towards modernizing the criminal justice system and harnessing the strength of modern scientific technologies. This will also ensure greater accountability in police investigation, improve quality of evidence and protect the rights of both the accused and victims.

Sec.2(1) a

(a) "audio-video electronic means" shall include use of any communication device for the purposes of video conferencing, recording of processes of identification, search and seizure or evidence, transmission of electronic communication and for such other purposes and by such other means as the State Government may, by rules provide

(i) "electronic communication" means the communication of any written, verbal, pictorial information or video content transmitted or transferred (whether from one person to another or from one device to another or from a person to a device or from a device to a person) by means of an electronic device including a telephone, mobile phone, or other wireless telecommunication device, or a computer, or audio-video player or camera or any other electronic device or electronic form as may be specified by notification, by the Central Government;

Section-54 Identification of person arrested Included the identification process shall be recorded by any audio-video electronic means.

Section-63 Form of summons.

(ii) in an encrypted or any other form of electronic communication and shall bear the image of the seal of the Court or digital signature

Section-64 Summons how served Included may also be served by electronic communication in such form and in such manner, as the State Government may, by rules, provide.

Section-70 Proof of service in such cases and when serving officer not present

(3) All summons served through electronic communication under sections 64 to 71 (both inclusive) shall be considered as duly served and a copy of such summons shall be attested and kept as a proof of service of summons.

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Bhartiya Nagrik Suraksha Sanhita 2023

Integrating Technology Across the Legal Spectrum

Section-71 Service of summons on witness Included a Court issuing a summons to a witness may, in addition to and simultaneously with the issue of such summons, direct a copy of the summons to be served by electronic communication

Section-94 Summons to produce document or other thing

1) Whenever any Court or any officer in charge of a police station considers that the production of any document, electronic communication, including communication devices, which is likely to contain digital evidence or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this Sanhita

Section-105 Recording of search and seizure through audio video electronic means. Included under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class

Section-173 Information in cognizable cases. Included or by electronic communication

& (ii) by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it

Section-176 Procedure for investigation Included such statement may also be recorded through any audio-video electronic means including mobile phone. And also included (1) cause the forensic expert to visit the crime scene to collect forensic evidence in the offence and also cause videography of the process on mobile phone or any other electronic device:

Section-183 Recording of confessions and statements Included or a special educator, shall be recorded through audio-video electronic means preferably by mobile phone;

Section-185 Search by police officer. Included under this section shall be recorded through audio-video electronic means preferably by mobile phone

Section-187 Procedure when investigation cannot be completed in twenty-four hours Included that the Magistrate may extend further detention in judicial custody on production of the accused either in person or through the audio-video electronic means and also included in explanation.

Section-193 Report of police officer on completion of investigation, including through electronic communication to a Magistrate empowered to take cognizance of the offence on a police report, (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 64, 65, 66, 67, 68, 70 or section 71 of the Bharatiya Nyaya Sanhita, 2023; (i) the sequence of custody in case of electronic device (ii) the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim (8) Included Provided that supply of report and other documents by electronic communication shall be considered as duly served.

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Bhartiya Nagrik Suraksha Sanhita 2023

Integrating Technology Across the Legal Spectrum

Section-202 Offences committed by means of electronic communications, letters, etc

202. (1) Any offence which includes cheating, may, if the deception is practised by means of electronic communications or letters or telecommunication messages, be inquired into or tried by any Court within whose local jurisdiction such electronic communications or letters or messages were sent or were received;

Section-209 Receipt of evidence relating to offences committed outside India included if it thinks fit, direct that copies of depositions made or exhibits produced, either in physical form or in electronic form, before a judicial officer,

Section-210 Cognizance of offences by Magistrate

b) upon a police report (submitted in any mode including electronic mode) of such facts;

Section-227 Issue of process. Included Provided that summons or warrants may also be issued through electronic means

Section-230 Supply to accused of copy of police report and other documents included may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in Court:

Section-231 Supply of copies of statements and documents to accused in other cases triable by Court of Session

Provided further that supply of documents in electronic form shall be considered as duly furnished.

Section-251 Framing of charge

(2) Included through audio-video electronic means and the accused shall be asked whether he pleads guilty of the offence charged or claims to be tried.

Section-254 Evidence for prosecution.

Provided that evidence of a witness under this sub-section may be recorded by audio-video electronic means.

(2) The deposition of evidence of any public servant may be taken through audio-video electronic means.

Section-262 When accused shall be discharged

(2) If, upon considering the police report and the documents sent with it under section 193 and making such examination, if any, of the accused, either physically or through audio-video electronic means, as the Magistrate thinks necessary

Section-265 Evidence for prosecution

(3) Provided further that the examination of a witness under this sub-section may be done by audio-video electronic means at the designated place to be notified by the State Government

Contd.../-

Bhartiya Nagrik Suraksha Sanhita 2023

Integrating Technology Across the Legal Spectrum

Section-266 Evidence for defence.

Provided further that the examination of a witness under this sub-section may be done by audio-video electronic means at the designated place to be notified by the State Government

Section-308 Evidence to be taken in presence of accused including through audio-video electronic means at the designated place to be notified by the State Government

Section-316 Record of examination of accused

(4) Provided that where the accused is in custody and is examined through electronic communication, his signature shall be taken within seventy-two hours of such examination

Section-336 Evidence of public servants, experts, police officers in certain cases.

Provided further that the deposition of such successor public servant, expert or officer may be allowed through audio-video electronic means.

Section-355 Provision for inquiries and trial being held in absence of accused in certain cases.

Explanation. —For the purpose of this section, personal attendance of the accused includes attendance through audio-video electronic means.

Section-356 Inquiry, trial, or judgment in absentia of proclaimed offender.

(5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio-video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct

Section-392 Judgment.

(5) If the accused is in custody, he shall be brought up to hear the judgment pronounced either in person or through audio-video electronic means.

Section-412 Procedure in cases submitted to High Court for confirmation.

In cases submitted by the Court of Session to the High Court for the confirmation of a sentence of death, the proper officer of the High Court shall, without delay, after the order of confirmation or other order has been made by the High Court, send either physically, or through electronic means, a copy of the order, under the seal of the High Court and attested with his official signature, to the Court of Session.

Section-497 Order for custody and disposal of property pending trial in certain cases.

(3) The Court or the Magistrate shall cause to be taken the photograph and if necessary, video graph on mobile phone or any electronic media, of the property referred to in sub-section (1)

Section-530 Trial and proceedings to be held in electronic mode.

All trials, inquiries and proceedings under this Sanhita, including— (i) issuance, service and execution of summons and warrant; (ii) examination of complainant and witnesses; (iii) recording of evidence in inquiries and trials; and (iv) all appellate proceedings or any other proceeding, may be held in electronic mode, by use of electronic communication or use of audio-video electronic means

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Revolutionizing Evidence Presentation A Transparent Approach

1. Considering the risk of manipulation of evidence, the mandatory inclusion of audio-video recording in search and seizure proceedings is an important inclusion in BNSS. In BNSS Sec 105, the scope of audio - video recording during search and seizure includes, among others, the process of preparing a list of seized items and the signature of witnesses. Transparency in search and seizure proceedings is likely to deter against fabrication of evidence and ensure the presence of independent witnesses in these proceedings.

2. Sec 105 requires that this audio video recording be submitted before the District Magistrate, Sub - divisional Magistrate or Judicial Magistrate of first class 'without delay'. In BNSS Sec 176 (3), the requirement for videography of the process of collection of forensic evidence is another move towards greater transparency and accountability in evidence gathering, and a safeguard against irregularities and manipulation.

3. Audio - video recordings have the potential to strengthen the quality of evidence and steps have to be taken to prevent its alteration, modification and transposition, through direct intervention or unintended corruption of a digital record. Appropriate guidelines will have to be formulated for adopting procedures to maintain authenticity and accuracy of electronic evidence.

Section 105 of BNSS 2023 introduces procedures for preparing lists of seized items and witness signatures. Audio-video recordings presented immediately before magistrates ensure transparency in evidence collection, discouraging coercion during custodial interrogation.

Section-105 Recording of search and seizure through audio

Video electronic means. Included under this Chapter or under section 185, including preparation of the list of all things seized in the course of such search and seizure and signing of such list by witnesses, shall be recorded through any audio-video electronic means preferably mobile phone and the police officer shall without delay forward such recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of the first class

Similarly, Sec 176 (1) provides an option of audio - video recording of any statement made during police investigation. The scope of this proviso is wide enough to include disclosure statements of accused before the police, besides the statements of other witnesses (audio - video recording for which is already permitted under Sec.161 CrPC, retained in Sec 180

BNSS). This is an important safeguard to deter against torture and coercion of the accused during custodial interrogations.

Consistent with the CrPC, the BNSS retains the mandatory requirement for videography of police statements, and audio - video recording of statements before the magistrate for certain vulnerable victims with physical or mental disabilities, under Sec 173 (1) and 183 (6), respectively.

Sec 230 of BNSS requires the accused and victim (if represented by a lawyer) to be supplied with the police report and all necessary documents, including statements and confessions.

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Bharatiya Sakshya Adhiniyam 2023

Elevating Electronic Evidence: A Paradigm Shift

BSA, 2023 places electronic/digital evidence on equal footing with traditional documentation for admissibility.

Definitions of 'evidence' and 'documents' expand to include futuristic elements like server logs, locational evidence, and digital voice messages.

Admissibility of electronic records under BSA 2023 in Section 57 and 63 have clearly enunciated the nuances of the same.

BSA 2023 revolutionizes the law of evidence, treating electronic evidence as equivalent to physical evidence in courts.

Section.2

d) "document" means any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.

(vi) An electronic record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, locational evidence, and voice mail messages stored on digital devices are documents.

(e) "evidence" means and includes— (i) all statements including statements given electronically which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry and such statements are called oral evidence; (ii) all documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence.

Section-57 Primary evidence.

Explanation 4.—Where an electronic or digital record is created or stored, and such storage occurs simultaneously or sequentially in multiple files, each such file is primary evidence.

Explanation 5.—Where an electronic or digital record is produced from proper custody, such electronic and digital record is primary evidence unless it is disputed.

Explanation 6.—Where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings is primary evidence.

Explanation 7.—Where an electronic or digital record is stored in multiple storage spaces in a computer resource, each such automated storage, including temporary files, is primary evidence.

Section-63 Admissibility of electronic records.

Computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible. (2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:— (a) the computer output containing the information was produced by the computer or communication device during the period over which the computer or communication device was used regularly to create, store or process information for the purposes of any activity regularly carried on over that period by the person having lawful control over the use of the computer or communication device;

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Bharatiya Sakshya Adhiniyam 2023

Elevating Electronic Evidence: A Paradigm Shift

Section-63 Admissibility of electronic records.

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer or communication device in the ordinary course of the said activities; (c) throughout the material part of the said period, the computer or communication device was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer or communication device in the ordinary course of the said activities. (3) Where over any period, the function of creating, storing or processing information for the purposes of any activity regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by means of one or more computers or communication device, whether— (a) in standalone mode; or (b) on a computer system; or (c) on a computer network; or (d) on a computer resource enabling information creation or providing information processing and storage; or € through an intermediary, all the computers or communication devices used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer or communication device; and references in this section to a computer or communication device shall be construed accordingly. (4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:— (a) identifying the electronic record containing the statement and describing the manner in which it was produced; (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (a) to (e) of sub-section (3); (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the certificate specified in the Schedule (5) For the purposes of this section,—

(a) information shall be taken to be supplied to a computer or communication device if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment; (b) a computer output shall be taken to have been produced by a computer or communication device whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment or by other electronic means as referred to in clauses (a) to (e) of sub-section (3)

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Bharatiya Sakshya Adhiniyam 2023

Elevating Electronic Evidence: A Paradigm Shift

Section-29 Relevancy of entry in public record or an electronic record made in performance of duty.

An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record or an electronic record, is kept, is itself a relevant fact

Section-31 Relevancy of statement as to fact of public nature contained in certain Acts or notifications.

When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any Central Act or State Act or in a Central Government or State Government notification appearing in the respective Official Gazette or in any printed paper or in electronic or digital form purporting to be such Gazette, is a relevant fact.

Section-32 Relevancy of statements as to any law contained in law books including electronic or digital form.

When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published including in electronic or digital form under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book including in electronic or digital form purporting to be a report of such rulings, is relevant.

Section-41 Opinion as to handwriting and signature, when relevant

(2) When the Court has to form an opinion as to the electronic signature of any person, the opinion of the Certifying Authority which has issued the Electronic Signature Certificate is a relevant fact.

Section-81 Presumption as to Gazettes in electronic or digital record

The Court shall presume the genuineness of every electronic or digital record purporting to be the Official Gazette or purporting to be electronic or digital record directed by any law to be kept by any person, if such electronic or digital record is kept substantially in the form required by law and is produced from proper custody. Explanation.—For the purposes of this section and section 93 electronic records are said to be in proper custody if they are in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render that origin probable.

Section-85 Presumption as to electronic agreements.

The Court shall presume that every electronic record purporting to be an agreement containing the electronic or digital signature of the parties was so concluded by affixing the electronic or digital signature of the parties.

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Bharatiya Sakshya Adhiniyam 2023

Streamlining Secondary Evidence: A Futuristic Approach

The scope of secondary evidence broadens under BSA 2023, incorporating copies made through mechanical processes.

Two new forms introduced in the schedule to expedite the authentication and appreciation of digital evidence, addressing challenges under previous statutes.

Section-61 Electronic or digital record.

Nothing in this Adhiniyam shall apply to deny the admissibility of an electronic or digital record in the evidence on the ground that it is an electronic or digital record, and such record shall, subject to section 63, have the same legal effect, validity and enforceability as other document.

The most significant change in BSA is the introduction of evidentiary nature and admissibility of electronic evidence. The proposed changes include expansion of the definition of primary evidence to include copies of electronic or digital files.

Admissibility of Electronic Records (Sec 57 and 63 BSA)

Similar to Sec 65B IEA, Sec 63 BSA provides a specific procedure for the admissibility of electronic records. Sec 2 (d) BSA which replaces Sec 3 IEA, defines documents to also include 'electronic or digital records'.

Sec 62 BSA, which replaces Sec 65A IEA, states that electronic records must be proved as primary evidence, unless mentioned. Newly introduced Sec 61 BSA, prescribes that the admissibility of electronic records cannot be denied on the basis of their nature as electronic records and their legal effect, validity and enforceability shall be at par with paper records.

This will bring in a much - required change in the Evidence Law by treating electronic evidence as good as the physical evidences currently being dealt by courts.

Obviously, proper safeguards have to be built so that the legal sanctity of electronic evidence is maintained. Attention may also be provided towards building institutional and infrastructural capacity for its effective and mandatory implementation. This will include strengthening infrastructural facilities across States/UTs, providing the necessary gadgets collection - transmission - storage of electronic evidence, training of manpower in this regard, etc.

Guidelines will have to be framed by respective States / UTs to ensure high standard for the quality of the equipment, as well as to establish systems and infrastructure regarding the safe and secure storage and transfer of electronic evidence, besides ensuring that it is protected from being leaked, deleted or corrupted.

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Bharatiya Sakshya Adhiniyam 2023

Streamlining Secondary Evidence: A Futuristic Approach

TABLE 1: Crime committed by using Technology related Provisions in BNS:

Sl. No	Offences (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Section
1.1	Punishment for theft. (NB) (C)	Sec 303(2)
	Theft by clerk or servant of property in possession of master. (NB) (C)	Sec 306
	Dishonestly receiving stolen property. (NB)(C)	Sec 317(2)
	Punishment for extortion. (NB)(C)	Sec 308(2)
	Punishment for robbery. (NB)(C)	Sec 309(4)
	Punishment belonging to gang of thieves. (NB)(C)	Sec 313
	Punishment for dacoity. (NB)(C)	Sec 310 (2)
	Making preparation to commit dacoity. (NB)(C)	Sec 310(4)
	Punishment for belonging to gang of dacoits. (NB)(C)	Sec 310(5)
	Assembling for purpose of committing dacoity. (NB)(C)	Sec 310(5)
	Dishonest misappropriation of property. (B) (NC)	Sec 314
1.2	Dishonestly receiving property stolen in the commission of dacoity. (NB) (C)	Sec 317(3)
	Assisting in concealment of stolen property. (NB)(C)	Sec 317(5)
	Punishment for criminal trespass. (B) (C)	Sec 329(3)
	Punishment for Cheating. (B) (NC)	Sec 318(2)
	Cheating and dishonestly inducing delivery of property. (NB)(C)	Sec 318(4)
	Punishment for criminal Breach of Trust. (NB) (C)	Sec 316(4)
	Criminal breach of trust by clerk or servant. (NB)(C)	Sec 316(4)
	Criminal breach of trust by public servant or by banker, merchant or agent. (NB)(C)	Sec 316(5)
	Cheating with knowledge that wrongful loss may ensue to person whose interest offender is bound to protect. (B) (NC)	Sec 318(3)
	Punishment for cheating by Personation. (B) (C)	Sec 319 (2)
	Punishment for criminal intimidation. (B) (NC)	Sec 351(2)
1.3	Punishment for forgery. (B) (NC)	Sec 336(2)
	Forgery for the purpose of cheating. (NB)(C)	Sec 336(3)
	Destruction of document or electronic record to prevent its production as evidence. (B) (NC)	Sec 241
	Falsification of accounts. (B) (NC)	Sec 344
	Punishment for false evidence. (B) (NC)	Sec 229
	Threatening any person to give false evidence. (NB)(C)	Sec 232
	False Personation for purpose of act or proceeding in suit or prosecution. (B) (NC)	Sec 242
Issuing or signing false certificate. (B) (NC)	Sec 234	

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Streamlining Secondary Evidence: A Futuristic Approach

Sl. No	Offences (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Section
1.4	Sale etc. of Obscene books etc. (B) (C)	Sec 294
	Sale etc. of Obscene objects to young person. (B) (C)	Sec 295
	Obscene acts and songs. (B) (C)	Sec 296
	Sexual harassment and punishment for sexual harassment. (NB)(C)	Sec 75
	Voyeurism. (Bailable in 1st Conviction and Non Bailable in 2nd Conviction) (C)(B)	Sec 77
	Stalking. (Bailable in 1st Conviction and Non Bailable in 2nd Conviction) (C) (NB)	Sec 78
	Punishment for Defamation. (B) (NC)	Sec 356(2)
	Printing or engraving matter known to be defamatory. (B) (NC)	Sec 356(3)
	Sale of printed or engraved substance containing defamatory matter. (B) (NC)	Sec 356(4)
	Intentional insult with intent to provoke Breach of peace. (B) (NC)	Sec 352
	Criminal intimidation by an anonymous communication. (B) (NC)	Sec 351(4)
	Uttering any word, gesture or act intended to insult the modesty of women. (B) (C)	Sec 79
	Kidnapping, abducting or inducing woman to compel her marriage etc. (NB) (C)	Sec 87
	Punishment for criminal intimidation. (B) (NC)	Sec 351(2)
1.5	Punishment for criminal conspiracy. (Bailable or Non Bailable) (Cognizable or Non-Cognizable)	Sec 61
	Waging or attempting to wage war or abetting waging of war against the government of India. (NB)(C)	Sec 147
	Conspiracy to commit offence punishable by Sec 147 (NB)(C)	Sec 148
	Sedition. (NB)(C)	Sec 152
	Promoting enmity between different groups on ground of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony. (NB)(C)	Sec 196(1)
	Imputations, assertions prejudicial to national- integrity. (NB)(C)	Sec 197
	Intentional insult with intent to provoke breach of peace. (B) (NC)	Sec 352
	Collecting arms etc, with intention of waging war against the Government of India. (NB) (C)	Sec 149
Punishment for unlawful assembly. (B) (C)	Sec 189(2)	
1.6	Making or selling instrument for counterfeiting coin. (NB)(C)	Sec 181
	Making or selling instrument for counterfeiting Indian coin. (NB)(C)	Sec 181
	Possession of instrument or material for the purpose of using the same for counterfeiting coin. (NB)(C)	Sec 181
	Counterfeiting currency notes or bank notes. (NB) (C)	Sec 178

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Sl. No	Offences (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Section
1.7	Nonattendance in obedience to an order from public servant. (B) (NC)	Sec 208
	Omission to produce document to public servant by person legally bound to give it. (B) (NC)	Sec 210
	Omission to give notice or information to public servant by person legally bound to give it. (B) (NC)	Sec 211
	Refusing oath or affirmation when duly required by public servant to make it. (B) (NC)	Sec 213
	Refusing to answer public servant authorized to question. (B) (NC)	Sec 214
	False statement on oath or affirmation to public servant or person authorized to administer an oath or affirmation. (B) (NC)	Sec 216
	False information, with intent to cause public servant to use his lawful power to the injury of another person. (B) (NC)	Sec 217
	Omission to assist public servant when bound by law to give assistance. (B) (NC)	Sec 222
	Disobedience to order duly promulgated by public servant. (B) (C)	Sec 223
1.8	Abetment of a thing	Sec 45
	Punishment of abetment if act abetted is committed in consequence, and where no express provision is made for its punishment. (B/NB) (C/NC)	Sec 49

Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.1	Cheating	<p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 72: Breach of confidentiality and privacy (B) (NC)</p> <p>Sec 72A: Punishment for disclosure of information in breach of lawful contract. (B) (C)</p>	<p>Sec 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 208, 210, 211, 213, 214, 216, 217, 222, 223</p>

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Bharatiya Sakshya Adhiniyam 2023
Streamlining Secondary Evidence: A Futuristic Approach

Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.2	Fraud	<p>Sec 43: Damage to computer, computer system etc.</p> <p>Sec 43A: Failure to protect data.</p> <p>Sec 65: Tampering with computer source document. (B)(C)</p> <p>Sec 66: Computer related offences. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p> <p>Sec 72A: Punishment for disclosure of information in breach of lawful contract. (B) (C)</p>	<p>318(2), 318 (4), 316(4), 316(5), 318(3), 319(2), 351(2), 336(2), 336(3), 241, 344, 229, 232, 242, 234, 208, 210, 211, 213, 214, 216, 217, 222, 223.</p>
2.3	Forgery	<p>Sec 43: Damage to computer, computer system etc.</p> <p>Sec 65: Tampering with computer source document. (B)(C)</p> <p>Sec 66: Computer related offences. (B)(C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p> <p>Sec 72A: Punishment for disclosure of information in breach of lawful contract. (B) (C)</p>	<p>336(2), 336(3),241, 344, 229, 232, 242, 234, 208, 210, 211, 213, 214, 216, 217, 222, 223.</p>
2.4	Breach of trust	<p>Sec 43A: Failure to protect data.</p> <p>Sec 66B: Dishonestly receiving stolen computer resource or communication device. (B)(C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 66E: Violation of privacy. (NB) (C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p>	<p>294, 295, 296, 75,77,78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 351(2), 208, 210, 211, 213, 214, 216, 217, 222, 223</p>

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.5	Counterfeiting	Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)	Sec 181 & 178
2.6	Threat	Sec 43(C): Contamination and Virus. Sec 65: Tampering with computer source document. (B) (C) Sec 66B: Dishonestly receiving stolen computer resource or communication device. (B) (C) Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B)(C) Sec 66E: Violation of privacy. (B)(C) Sec 66F: Cyber Terrorism. (NB)(C) Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C) Sec 67A: Publishing or transmitting of material containing sexually explicit act etc in electronic form. (NB) (C) Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB)(C) Sec 72: Breach of confidentiality and privacy. (B) (NC)	Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329 (3),318(2), 318(4), 316 (4), 316(5), 318(3), 319 (2),351(2), 294, 295, 75, 77, 78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 61, 147,148,152,196(1),1 97,149, 189(2), 208, 210, 211, 213, 214, 216, 217, 222, 223.
2.7	Intimidation	Sec 43: Damage to computer, computer system etc. Sec 65: Tampering with computer source document. (B)(C) Sec 66B: Dishonestly receiving stolen computer resource or communication device. (B)(C) Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C) Sec 66E: Violation of privacy (B) (C) Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C) Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C) Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C)	Sec 318(2), 318(4),316(4), 316(5), 318(3), 319(2), 351(2), 336 (2), 336 (3), 241, 344, 229, 232, 242, 234, 294, 295, 296, 75, 77, 78, 356 (2), 356 (3), 356 (4), 352, 351 (4), 79, 87

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.8	Obscenity	<p>Sec 66E: Violation of privacy. (B) (C)</p> <p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C)</p>	<p>Sec 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 294, 295, 296, 75, 77, 78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 351(2),</p>
2.9	Vulgarity	<p>Sec 66E: Violation of privacy. (B) (C)</p> <p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C)</p>	<p>Sec 318 (2), 318 (4), 316 (4), 316 (5), 318(3), 319 (2) 351 (2),294, 295, 296, 75, 77,78, 356 (2), 356 (3), 356 (4), 352, 351 (4), 79, 87</p>
2.10	Defamation	<p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in</p>	<p>Sec 318 (2), 318 (4), 316 (4), 316 (5), 318 (3), 319 (2) , 351 (2), 294, 295, 296, 75, 77, 78, 356 (2), 356(3), 356 (4), 352, 351 (4),79, 87</p>
2.11	Cyber stalking	<p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 72: Breach of confidentiality and privacy (B) (NC)</p>	<p>294, 295, 296, 75, 77, 78, 356 (2), 356 (3), 356 (4), 352, 351 (4), 79, 87, 351 (2),</p>

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.12	Terrorism	<p>Sec 66F: Cyber Terrorism. (NB) (C)</p> <p>Sec 69: Power to issue directions for interception or monitoring or decryption of any information through any computer resource. (NB) (C)</p> <p>Sec 69A: Sec 69A: Power to issue directions for blocking for public access of any information through any computer resource. (NB) (C)</p> <p>Sec 69B: Power to authorize to monitor and collect traffic data or information through any computer resource for cyber security. (B) (NC)</p> <p>Sec 70: Protected System</p> <p>Sec 70B: Indian computer emergency response team to serve as National agency for incident response.</p>	<p>61, 147, 148,152, 196(1), 197, 352, 149, 189 (2)</p>
2.13	Piracy	<p>Sec 65: Tampering with computer source document. (B)(C)</p> <p>Sec 66: Computer related offences. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) C)</p>	<p>318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 336(2), 336(3), 241, 344, 229, 232, 242, 234</p>
2.14	Theft (Including Banking Frauds)	<p>Sec 43: Damage to computer, computer system etc.</p> <p>Sec 43A: Failure to protect data.</p> <p>Sec 66B: Dishonestly receiving stolen computer resource or communication device. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B)(C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p> <p>Sec 72A: Punishment for disclosure of information in breach of lawful contract. (B) (C)</p>	<p>Sec 303 (2), 306, 317(2), 308 (2), 309(2), 313, 310 (2), 310(4), 310 (5), 314, 317(3), 317 (5), 329 (3), 208, 210,211, 213, 214, 216, 217, 222, 223.</p>
2.15	Software infringement	<p>Sec 43: Damage to computer, computer system etc.</p> <p>Sec 65: Tampering with computer source document. (B)(C)</p> <p>Sec 66: Computer related offence. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) C)</p>	<p>318(2), 318(4), 316(4), 316(5), 318(3), 319 (2), 351(2),</p>

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.16	Hacking (Attack on password & Web defacement)	<p>Sec 43: Damage to computer, computer system etc.</p> <p>Sec 65: Tampering with computer source document. (B)(C)</p> <p>Sec 66: Computer related offences. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B)(C)</p> <p>Sec 66F: Cyber Terrorism. (NB)(C)</p>	<p>Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329(3), 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 61, 147, 148, 152, 196(1), 197, 352, 149, 189 (2),</p>
2.17	Spoofing	<p>Sec 66D: Cheating by Personation by using Computer Resource. (B)(C)</p>	<p>318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2),</p>
2.18	Tampering	<p>Sec 65: Tampering with computer source document. (B)(C)</p>	<p>336(2), 336(3), 241, 344, 229, 232, 242, 234,</p>
2.19	Phishing, data diddling etc.	<p>Sec 66: Computer related offences. (B)(C)</p> <p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p>	<p>318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2)</p>
2.20	<p>Offences related to OTP, UPI etc.</p> <p>(other than petition received within golden Hour of transaction, which shall be transferred to the online group of Nodal officers)</p>	<p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p>	<p>318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 336(2), 336 (3), 241, 344, 229, 232, 242, 234</p>

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhatiya Nayaya Sanhita (BNS)
2.21	Email/Logic bombing	Sec 43: Damage to computer, computer system etc. Sec 66: Computer related offences. (B) (C) Sec 66F: Cyber Terrorism. (NB) (C)	Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329(3), 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2),
2.22	Web jacking	Sec 66E: Violation of privacy. (NB) (C) Sec 66D: Cheating by Personation by using Computer Resource. (B) (C) Sec 66F: Cyber Terrorism. (NB) (C) Sec 43A: Failure to protect data.	Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329(3),
2.23	Child abuse	Sec 66E: Violation of privacy. (NB) (C) Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C) Sec 69A: Power to issue directions for blocking for public access of any information through any computer resource. (NB) (C)	Sec 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 294, 295, 296, 75, 77, 78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 351(2) And Section 12,13,14 and 15 of POCSO Act
2.24	Fake profile	Sec 66D: Cheating by Personation by using Computer Resource. (B) (C) Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1 st offence) (C)	Sec 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 336(2), 336(3), 241, 344, 229, 232, 242, 234, 294, 295, 296, 75, 77, 78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 351(2),
2.25	ATM Online fraud	Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B) (C)	Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329(3), 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2),

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.26	ATM Physical burglary	- NIL -	Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317(3), 317(5), 329(3), 318(2), 318(4), 316(4), 316(5), 318(3), 319 (2), 351 (2),
2.27	Failure to preserve and retain data by intermediaries	Sec 67C: Preservation and retention of information by intermediary. (B) (C)	----
2.28	Failure by the intermediary to assist the agency.	Sec 69: Power to issue directions for interception or monitoring or decryption of any information through any computer resource. (NB) (C) Sec 69A: Power to issue directions for blocking for public access of any information through any computer resource. (NB) (C) Sec 69B: Power to authorize to monitor and collect traffic data or information through any computer resource for cyber security. (B) (NC)	208, 210, 211, 213, 214, 216, 217, 222, 223.
2.29	Offences relating to Digital signature certificate.	Sec 71: Penalty for Misrepresentation. (B) (NC) Sec 73: Penalty for publishing Electronic Signature Certificate false in certain particulars. (B)(NC)	Sec 303 (2), 306, 317(2), 308 (2), 309(2), 313, 310 (2), 310(4), 310 (5), 314, 317(3), 317 (5), 329 (3), 318(2), 318 (4), 316(4), 316 (5), 318(3), 319(2), 351(2), 336(2), 336 (3), 241, 344, 229, 232, 242, 234, 208, 210, 211, 213, 214, 216, 217, 222, 223.
2.30	Offences relating to religion.	Sec 66D: Cheating by Personation by using Computer Resource. (B)(C) Sec 66F: Cyber Terrorism. (NB)(C) Sec 69B: Power to authorize to monitor and collect traffic data or information through any computer resource for cyber security. (B) (NC)	318(2), 318 (4), 316(4), 316(5), 318(3), 319(2), 351(2), 61, 147, 148, 152, 196(1), 197, 352, 149, 189 (2),

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Table 2: Cyber offences and provisions in the IT Act

Sl. No	Nature of cyber offence	IT Act Provisions (B stands for Bailable offence and NB stands for Non Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Reference of Provision in Bhartiya Nayaya Sanhita (BNS)
2.31	Mis-representation	<p>Sec 66C: Fraudulently or dishonestly make use of the electronic signature, password or any other unique identification feature of any other persons. (B)(C)</p> <p>Sec 66D: Cheating by Personation by using Computer Resource. (B) (C)</p> <p>Sec 66E: Violation of privacy. (NB) (C)</p> <p>Sec 71: Penalty for Misrepresentation. (B) (NC)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p>	<p>Sec 303 (2), 306, 317(2), 308 (2), 309(2), 313, 310 (2), 310(4), 310 (5), 314, 317(3), 317 (5), 329 (3), 318(2), 318 (4), 316(4), 316 (5), 318 (3), 319 (2) ,351 (2), 336(2), 336 (3), 241, 344, 229, 232, 242, 234, 208, 210, 211, 213, 214, 216, 217, 222, 223.</p>
2.32	Sale of illegal articles and Trafficking	<p>Sec 66E: Violation of privacy. (B) (C)</p> <p>Sec 67: Publishing or transmitting of obscene material in electronic form. (Bailable in 1st Conviction and Non Bailable for subsequent offence, if convicted in the 1st offence) (C)</p> <p>Sec 67A: Publishing or transmitting of material containing sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 67B: Publishing or transmitting of material depicting children in sexually explicit act etc. in electronic form. (NB) (C)</p> <p>Sec 72: Breach of confidentiality and privacy. (B) (NC)</p>	<p>Sec 318(2), 318(4), 316(4), 316(5), 318(3), 319(2), 351(2), 336(2), 336(3), 241, 344, 229, 232, 242, 234, 294, 295, 296, 75, 77, 78, 356(2), 356(3), 356(4), 352, 351(4), 79, 87, 351(2),</p>
2.33	Internet time theft	<p>Sec 43(h): charge the services availed of by a person to the account of another person by tampering with or manipulating any computer, computer system or computer network.</p> <p>Sec 65: Tampering with computer source document. (B)(C)</p>	<p>Sec 303(2), 306, 317(2), 308(2), 309(2), 313, 310(2), 310(4), 310(5), 314, 317 (3), 317 (5), 329 (3),</p>

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Table 3: Related Provisions in the POCSO Act, etc

Sl. No	Offence (B stands for Bailable offence and NB stands for Non-Bailable offence) (C stands for Cognizable offence and NC for Non-Cognizable offence)	Section
3.1	Punishment for Sexual harassment. (NB) (C)	Sec 12 of POCSO Act
	Use of child for Pornographic purpose. (NB) (C)	Sec 13 of POCSO Act
	Punishment for using child for Pornographic purpose. (NB) (C)	Sec 14 of POCSO Act
	Punishment for storage of pornographic material involving Child. (NB) (C)	Sec 15 of POCSO Act

Note-1: Certain sections from the following Acts can also be found relevant to the petition received by the SHO.

1. The Copyright Act, 1957
2. Trade Marks Act., 1999
3. The Patents Act, 1970
4. The Immoral Traffic (Prevention) Act, 1956
5. Indecent representation of women (prohibition) Act, 1985
6. Prevention of terrorism Act, 2002
7. Terrorist and Disruptive Act, 1987
8. Negotiable instruments Act, 1881
9. Foreign Exchange Management Act, 1999
10. Arms Act, 1959
11. Narcotic drug and psychotropic substance Act, 1985
12. Theft Act, 1968
13. Currency notes forgery Act, 1899.
14. Indian explosives Act, 1884
15. Protection of civil rights Act, 1955
16. The Banker's Books Evidence Act, 1891
17. Reserve Bank of India Act, 1934

Contd.../-

TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.1	Online Banking	1. Debit card number. 2. Name of the account holder. 3. Bank with branch. 4. SMS received regarding the transfer. 5. Cash transfer details from bank. 6. Recipient's bank A/C details/E-wallet details.	Items 1 to 4 to be collected from the account holder. Item 5 to be collected from the account holder's bank. Item 6 to be collected from the recipient's bank.	See 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.2	Card details theft using a Wi-Fi Modem spliced on the broadband cable.	1. Wi-Fi modem details. 2. Date and time stamps of splicing to be obtained from the event logs of the bank network server. 3. Stolen data to be recovered from the criminal's computer.	ATM fraudulently spliced, Wi-Fi modem, camera, bank network server etc.	See 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.3	Card details theft using skimmer and PIN theft using camera.	Skimmer details and camera details.	ATM, skimmer, camera.	See 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.4	ATM withdrawal through victim's A/C.	Handles, user ID, password, IP address, date and time stamps and bank details.	From the respective bank manager.	See 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.5	Steganographic images/videos/ audio.	1. Name and version of the software tool used for fabrication, date and time stamps and other details from the hex dump of image/video. 2. The software codes inserted through Steganographic technique have to be separated from the image/ video and then to be analyzed with the objective of finding the fraudulent motives of the codes.	Hex dump of the image. Note: These evidence are unlikely to exist in the hex dump of the compressed images / videos / audio received through social media apps like whatsapp, facebook etc. Try only from the originally fabricated / forged images / videos/ audio.	See 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.

Contd.../-

TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.6	CCTV Video Clippings	1. Required scenes 2. Date and time stamps of the required scenes. 3. Original video creation details from the hex dump of the video clipping obtained from the hard disk of the CCTV system.	Hard disk of the CCTV system	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.7	RAM Analysis	Necessary Artifacts from RAM	RAM of Mobile, Computer, Electronic weighing machines, Electronic meters etc.	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.8	Ransomware attacks	Handles, User ID, password, IP address, date and time stamps of the source, decryptions keys, related activity logs etc.	1. Source device, related network devices etc. 2. Storage devices like hard disk, DVD, CD, Pendrive, SD Card, flash memory etc.	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.9	Hacking	Handles, User ID, password, IP Address, date and time stamps of the source, related activity logs etc.	1. Related devices and networks,	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.10	Cyber spoofing	Handles, User ID, password, Original IP address, details of the software tool used for spoofing, date and time stamps of spoofing.	1. The App and the Device used for spoofing, related networks etc. 2. Operating system event logs etc obtained from the Storage devices like hard disk, DVD, CD, Pendrive, SD Card, flash memory etc.	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.11	Theft of documents using the Outbox of the E-mail system.	Handles, User ID, password, Date and time stamps of uploading to and the Subsequent downloading from the Outbox.	Outbox of the E-mail system.	Sec 61 & 63 of BSA.

Contd.../-

TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.12	E-mail communication	Handles, User ID, password, E-Mail address, IP addresses, date and time stamps of the sender and other dispatch details.	Source code of the received Email. Additional information: Sender's details are to be collected from Email service provider.	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.13	Cyber attacks	Handles, User ID, password, IP Address, date and time stamps of source, related activity logs etc.	<ol style="list-style-type: none"> 1. Related devices and networks, CDR, IP dump, IPDR dump. 2. Operating system event logs etc obtained from the Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. 	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.14	Cyber warfare and Cyber Terrorism	Handles, User ID, password, IP Address, date and time stamps of the source of communication, content of communication (encrypted or not), related activity logs etc.	<ol style="list-style-type: none"> 1. Related devices And networks, CDR, IP dump, IPDR dump. 2. Operating system event logs etc obtained from the Storage devices like hard disk, DVD, CD, Pendrive, SD Card, flash memory etc. 	See Sec 94, 97,112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.15	Audio fabrication	<ol style="list-style-type: none"> 1. Name and version of the software tool used for fabrication, date and time stamps and other details. 2. Evidence to establish the ownership of the voice as required by forensics linguistic methods. 	<ol style="list-style-type: none"> 1. Hex dump of the Audio file obtained from the Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. <p>Note: These evidence are unlikely to exist in the hex dump of the compressed audios received through social media apps like whatsapp, facebook etc. Try only from the originally fabricated / forged audios.</p> <ol style="list-style-type: none"> 2. Voice samples from the Audio File. 	See Sec 94,112 & 113 of BNSS and Sec 61 & 63 of BSA.

Contd.../-

TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.16	Image/ Video fabrication/ forgery	Name and version of the software tool used for fabrication, date and time stamps and other details from the hex dump of image / video.	Hex dump of the Image/Video obtained from the Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. Note: These evidence are unlikely to exist in the hex dump of the compressed images/ videos received through social media apps like whatsapp, facebook etc. Try only from the originally fabricated/ forged images/ videos.	See Sec 94,112 &113 of BNSS and Sec 61 & 63 of BSA.
4.17	Counterfeiting	Name and version of the software tool used for fabrication, date and time stamps and other details from the hex dump of image.	Hex dump of the non-compressed image obtained from the Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. Note: These evidence are unlikely to exist in the hex dump of the compressed images received through social media apps like WhatsApp, facebook etc. Try only from the originally fabricated/ forged images.	See Sec 94,97, 98 112 &113 of BNSS and Sec 61 & 63 of BSA.
4.18	Fund misappropriation	Evidence of addition of a record or deletion of a record or modification of a record in the tables of fund databases.	Fund database, Operating system event logs etc.	See Sec 94,97,112 &113 of BNSS and Sec 61 & 63 of BSA.
4.19	Deleted Data recovery	Deleted file	Storage devices like hard disk, DVD, CD, Pendrive, SD Card, flash memory etc.	See Sec 94,97,112 &113 of BNSS and Sec 61 & 63 of BSA.

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TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.20	Data Piracy	Evidence of plaintiff's original possession of the data and evidence of defendant's illegal possession of the data (Sec 328).	Storage devices like hard disk, DVD, CD, Pendrive, SD Card, Flash memory etc of plaintiff and defendant.	See Sec 94,97 of BNSS and Sec 61 & 63 of BSA.
4.21	Software Theft	Evidence of plaintiff's original possession of the software and evidence of defendant's illegal possession of the software (Sec 328 of IPC).	Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc of both plaintiff and defendant.	See Sec 94,97 & 98 of BNSS and Sec 61 & 63 of BSA.
4.22	Software Copyright Infringement	Evidence of copyright infringement after comparing the 2 sets of software by subjecting them through AFC OR POSAR Test.	Plaintiff and defendant software packages in the Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc.	Sec 64 of Copyright Act and See Sec 61 & 63 of BSA.
4.23	VOIP (Net telephone)	IP Dump/IPDR	Telecom service	Sec 94,112 &113 of BNSS and Sec 61 & 63 of BSA.
4.24	Call / SMS details	Call details record (CDR)	Telecom Service Provider	Sec 94,112 &113 of BNSS and Sec 61 & 63 of BSA.
4.25	Data base	Evidence of addition of a record or deletion of a record or modification of a record in the tables of database.	Data base, transaction log of the data base, operating system event logs etc.	Sec 61 & 63 of BSA.
4.26	Operating system	Transaction logs	Operating systems like android, IOS etc. in the source device, event logs.	See Sec 61 & 63 of BSA.

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TABLE 4: Provisions of collection of Evidence in BNSS & BSA related to Cyber Crime through Cyber Forensics

Sl. No	Platform	Evidence to be collected	Sources of evidence	Procedure and Admissibility
4.27	Client-Server-technology- Based Social Media apps like facebook, Tik Tok etc.	1. Handles, User ID, password, IP address, date and time stamps. 2. Owner details (CAF) of the phone number.	1. Social media service provider. 2. Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. 3. Telecom Service Provider	Sec 94, 112 & 113 of BNSS and Sec 61 & 63 of BSA.
4.28	Peer-to-Peer-technology-based Social Media Apps like Whatsapp, Instagram, Snapchat, Telegram, IMO etc.	1. Handles, User ID, password, IP address, date and time stamps, phone number, IMEI Code. 2. Owner details (CAF) of the phone number.	1. Social media service provider 2. Source device 3. Storage devices like hard disk, DVD, CD, Pen drive, SD Card, flash memory etc. 4. Telecom Service Provider	Sec 94, 112 & 113 of BNSS and Sec 61 & 63 of BSA.

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READY RECKONER

Trial in Absentia

The BNSS has introduced provisions for conducting trial in absentia of certain kinds of accused. This allows the trial and pronouncement of judgment in the absence of the accused, which was not provided under the previous Cr.P.C.

Trial in absentia refers to conducting a criminal trial without the presence of the accused person in court. Earlier, Indian law did not allow trial, conviction or sentencing of any person in absentia even for heinous offences.

Under Section 355 of the BNSS, the Judge or Magistrate may conduct a trial of an accused in his absence if it is deemed that the personal attendance of the accused is not necessary in the interests of justice, or if the accused persistently disturbs the proceedings in court.

The BNSS allows in-absentia trial of proclaimed offenders under specific conditions. Section 356 of the BNSS mandates the court to proceed with the trial in absentia when a person declared as a proclaimed offender has absconded to evade trial, and there is no immediate prospect of arresting him. It also specifies a mandatory waiting period of ninety (90) days from the date of framing of the charge before commencing the trial.

The BNSS provides provisions for the pronouncement of judgment in in-absentia trials. It states that the voluntary absence of the accused after the trial has commenced shall not prevent the continuation of the trial, including the pronouncement of the judgment, even if the accused is arrested or appears at the conclusion of the trial.

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Provisions in New Criminal Laws Concerning Trial in Absentia

BNSS

Section 355 BNSS| Bharatiya Nagarik Suraksha Sanhita (BNSS):

Provision for inquiries and trial being held in the absence of accused in certain cases.

- (1) At any stage of an inquiry or trial under this Sanhita, if the Judge or Magistrate is satisfied, for reasons to be recorded, that the personal attendance of the accused before the Court is not necessary in the interests of justice, or that the accused persistently disturbs the proceedings in Court, the Judge or Magistrate may, if the accused is represented by an advocate, dispense with his attendance and proceed with such inquiry or trial in his absence, and may, at any subsequent stage of the proceedings, direct the personal attendance of such accused.
- (2) If the accused in any such case is not represented by an advocate, or if the Judge or Magistrate considers his personal attendance necessary, he may, if he thinks fit and for reasons to be recorded by him, either adjourn such inquiry or trial, or order that the case of such accused be taken up or tried separately.

Explanation.—For the purpose of this section, personal attendance of the accused includes attendance through audio video electronic means

Section 356 BNSS| Bharatiya Nagarik Suraksha Sanhita (BNSS):

Inquiry trial or judgment in absentia of proclaimed offender.

Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly, has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person, and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present, under this Sanhita and pronounce the judgment:

Provided that the Court shall not commence the trial unless a period of ninety days has lapsed from the date of framing of the charge.

BSA

Deemed Joint Trial, Section 24 of Bharatiya Sakshya Adhiniyam, 2023 (BSA)

New Explanation II is added in Adhiniyam, 2023 so as to clarify that “A trial of more persons than one held in the absence of the accused who has absconded or who fails to comply with a proclamation issued under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall be deemed to be a joint trial for a purpose of this section.”

- Note: Section 84 BNSS 2023 provides for proclamation for person absconding.

Contd.../-

Provisions in New Criminal Laws Concerning Trial in Absentia

BNSS

Section 355 BNSS | Bharatiya Nagarik Suraksha Sanhita (BNSS):

2) The Court shall ensure that the following procedure has been complied with before proceeding under sub-section (1) namely:—

(i) issuance of execution of two consecutive warrants of arrest within the interval of atleast thirty days;

(ii) publish in a national or local daily newspaper circulating in the place of his last known address of residence, requiring the proclaimed offender to appear before the Court for trial and informing him that in case he fails to appear within thirty days from the date of such publication, the trial shall commence in his absence;

(iii) inform his relative or friend, if any, about the commencement of the trial; and

(iv) affix information about the commencement of the trial on some conspicuous part of the house or homestead in which such person ordinarily resides and display in the police station of the district of his last known address of residence.

(3) Where the proclaimed offender is not represented by any advocate, he shall be provided with an advocate for his defence at the expense of the State.

(4) Where the Court, competent to try the case or commit for trial, has examined any witnesses for prosecution and recorded their depositions, such depositions shall be given in evidence against such proclaimed offender on the inquiry into, or in trial for, the offence with which he is charged:

Provided that if the proclaimed offender is arrested and produced or appears before the Court during such trial, the Court may, in the interest of justice, allow him to examine any evidence which may have been taken in his absence.

(5) Where a trial is related to a person under this section, the deposition and examination of the witness, may, as far as practicable, be recorded by audio-video electronic means preferably mobile phone and such recording shall be kept in such manner as the Court may direct.

(6) In prosecution for offences under this Sanhita, voluntary absence of accused after the trial has commenced under sub-section (1) shall not prevent continuing the trial including the pronouncement of the judgment even if he is arrested and produced or appears at the conclusion of such trial.

BSA

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Provisions in New Criminal Laws Concerning Trial in Absentia

BNSS

Section 355 BNSS| Bharatiya Nagarik Suraksha Sanhita (BNSS):

(7) No appeal shall lie against the judgment under this section unless the proclaimed offender presents himself before the Court of appeal:

Provided that no appeal against conviction shall lie after the expiry of three years from the date of the judgment.

(8) The State may, by notification, extend the provisions of this section to any absconder mentioned in sub-section (1) of section 84 of this Sanhita.

BSA

Section 84 Of The Bharatiya Nagarik Suraksha Sanhita

84. (1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty days from the date of publishing such proclamation.

(2) The proclamation shall be published as follows:—

- (i) (a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
- (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;
- (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.

(3) A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this section have been complied with, and that the proclamation was published on such day.

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Provisions in New Criminal Laws Concerning Trial in Absentia

BNSS

BSA

Section 84 Of The Bharatiya Nagarik Suraksha Sanhita

(4) Where a proclamation published under sub-section (1) is in respect of a person accused of an offence which is made punishable with imprisonment of ten years or more, or imprisonment for life or with death under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force, and such person fails to appear at the specified place and time required by the proclamation, the Court may, after making such inquiry as it thinks fit, pronounce him a proclaimed offender and make a declaration to that effect.

(5) The provisions of sub-sections (2) and (3) shall apply to a declaration made by the Court under sub-section (4) as they apply to the proclamation published under sub-section (1).

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FORENSIC

I. Description:

Collecting forensic evidence in serious crimes is now mandatory to enhance investigation quality and boost conviction rates. This nationwide implementation empowers states by improving infrastructure. Moreover, the increased collection of samples and granting expert exemptions further strengthens forensic procedures.

II. Legal Provision:Section 176(3)

This section mandates the collection of forensic evidence at the crime scene by a 'forensics expert' for offenses punishable by imprisonment of seven years or more.

The provision prescribes a five-year period for implementation.

Section 349:

Section 349 expands Magistrates' power to order forensic samples, including fingerprints and voice samples, from any person upon a written order.

BNSS Section 349 and CrPC Sec 311A both empower first-class Magistrates to order sample collection for investigations, with BNSS offering a broader scope, including finger impressions and voice samples. Notably, BNSS allows sample collection without prior arrest, providing more flexibility in comparison to CrPC 311A.

Section 329 :

Section 329 allows the submission of a report by a government scientific expert without requiring oral testimony in court, expanding categories of exempted experts.

While both BNSS and CrPC include Government scientific experts, BNSS extends its applicability to "any other scientific expert" specified or certified by the State or Central Government. In contrast, CrPC limits it to "any other Government scientific expert" specified only by the Central Government. The BNSS provision allows a broader range of scientific experts to be involved in legal proceedings.

Section 330 :

In BNSS, when any document is filed, its particulars must be included in a list. The prosecution or accused, along with their advocates, are required to admit or deny the genuineness of each document within thirty days of supply. The Court, at its discretion, may relax the time limit, and no expert can be called unless the expert's report is disputed.

Both BNSS Section 330 and CrPC Section 294 outline a similar process for handling documents filed in court, including the admission or denial of genuineness. However, BNSS 2023 introduces the element of a time limit for admission or denial, along with the provision regarding expert reports.

III. Remarks:

BNSS Section 330 simplifies the document admission process by introducing time limits and restricting expert testimonies unless reports are disputed. Similar to CrPC Section 294, BNSS offers added flexibility through court discretion, enhancing procedural efficiency.

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SERIES-2

What is Ozone layer?

The Ozone layer is a region in the Earth's stratosphere that contains high concentrations of Ozone and protects the Earth from the harmful Ultraviolet radiations of the Sun.

It was discovered in 1913 by the French Physicists Chalres Fabrey and Henri Buisson.

This layer is mainly found in the lower portion of the stratosphere. 90% of all ozone is found between 12km to 50 km above Earth's surface.

INDIAN CUSTOMS - AN ENVIRONMENT SAVIOUR

- OZONE DEPLETING SUBSTANCES - THE ENVIRONMENTAL CULPRIT OF MODERN AGE.

- **AGREEMENTS/PROTOCOLS WIT**
- **REFERENCE TO ODS THE VIENNA CONVENTION**

By the year 1985, the advancements in the scientific understanding of ozone depletion had made the world to understand its impacts on human health and the environment.

It was then that the Vienna Convention for the Protection of the Ozone Layer was created in response. This agreement is a framework convention that lays out principles agreed upon by many parties. It does not, however, require countries to take control actions to protect the ozone layer. This would come later in the form of the Montreal Protocol.

The Vienna Convention was the first convention of any kind to be signed by every country involved, taking effect in 1988 and reaching universal ratification in 2009. This speaks to the enormity of ozone depletion at the time and the willingness of countries around the world to work together to solve it. The Convention aimed to promote cooperation among nations by exchanging information on the effects of human activities on the ozone layer. In doing so, the creators of the Convention hoped policymakers would adopt measures to combat those activities responsible for ozone depletion.

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SOURCES OF OZONE DEPLETING SUBSTANCES



VIENNA CONVENTION

• **THE MONTREAL PROTOCOL**

Adopted on 16 September 1987, the Protocol is to date one of the rare treaties to achieve universal ratification.

The Montreal Protocol phases down the consumption and production of the different ODS in a step-wise manner, with different timetables for developed and developing countries (referred to as “Article 5 countries”).

Under this treaty, all parties have specific responsibilities related to the phase out of the different groups of ODS, control of ODS trade, annual reporting of data, national licensing systems to control ODS imports and exports, and other matters. Developing and developed countries have equal but differentiated responsibilities, but most importantly, both groups of countries have binding, time-targeted, and measurable commitments.

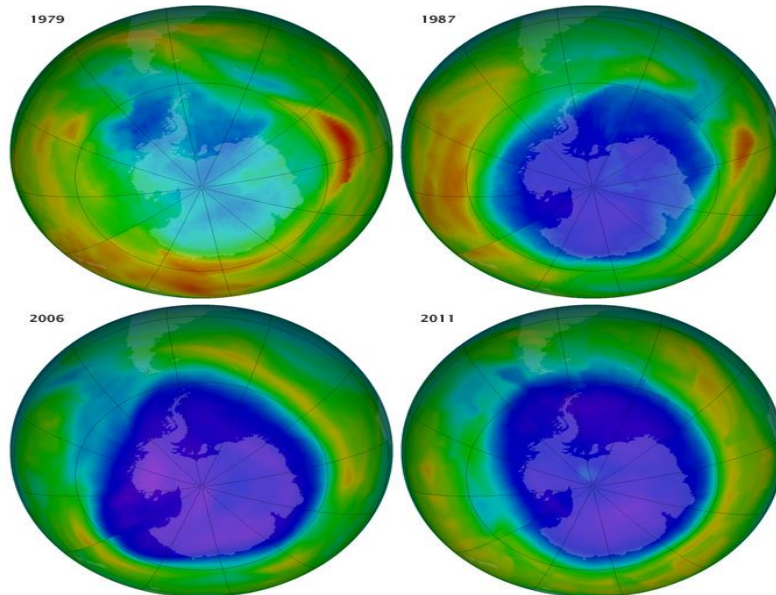
The Multilateral Fund for the Implementation of the Montreal Protocol was established in 1991 under Article 10 of the treaty. The Fund's objective is to provide financial and technical assistance to developing country parties to the Montreal Protocol whose annual per capita consumption and production of ODS is less than 0.3 kg to comply with the control measures of the Protocol.

The substances controlled by the treaty are listed in Annexes :

- A (CFCs, halons),
- B (other fully halogenated CFCs, carbon tetrachloride, methyl chloroform),
- C (HCFCs),
- E (methyl bromide), and
- F (HFCs).

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Watching the Ozone Hole Before and After the Montreal Protocol



•AMENDMENTS TO THE MONTREAL PROTOCOL

There have been four Amendments to the Protocol: the London, Copenhagen, Montreal, and Beijing Amendments.

The 1990 London Amendment provided for an Interim Multilateral Fund to provide assistance to qualifying developing countries, for noncompliance procedures, for the addition of new chemicals to the list of controlled chemicals, and for other miscellaneous changes.

In the 1992 Copenhagen Amendments, parties made the Interim Multilateral Fund permanent and put additional chemicals under control, including methyl bromide and the HCFCs.

The 1997 Montreal Amendment obligated countries to establish and implement a licensing system for the import and export of new, used, recycled and reclaimed controlled substances, and to control trade in the banned substances by parties not in compliance with the Protocol.

The 1999 Beijing Amendment provided for a “basic domestic needs”

Phase out of HCFCs – the Montreal Amendment

Hydrochlorofluorocarbons (HCFCs) are gases used worldwide in refrigeration, air-conditioning and foam applications, but they are being phased out under the Montreal Protocol since deplete the ozone layer.

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Watching the Ozone Hole Before and After the Montreal Protocol

HCFCs are both ODS and powerful greenhouse gases: the most commonly used HCFC is nearly 2,000 times more potent than carbon dioxide in terms of its global warming potential (GWP). Recognizing the potential benefits to the Earth's climate, in September 2007 the Parties decided to accelerate their schedule to phase out HCFCs. Developed countries have been reducing their consumption of HCFCs and will completely phase them out by 2020. Developing countries agreed to start their phase-out process in 2013 and are now following a stepwise reduction until the complete phase-out of HCFCs by 2030.

In Article 5 countries, this HCFC phase-out is in full swing, with support from the Multilateral Fund for the implementation of multi-stage HCFC Phase out Management Plans (HPMPs), investment projects and capacity building activities. Throughout this process, the Parties are encouraging all countries to promote the selection of alternatives to HCFCs that minimize environmental impacts, in particular impacts on climate, as well as meeting other health, safety and economic considerations. For the climate consideration, this means taking global-warming potential, energy use and other relevant factors into account. For refrigeration and air conditioning, this means optimizing refrigerants, equipment, servicing practices, recovery, recycling and disposal at end of life.

• THE KIGALI AMENDMENT TO THE MONTREAL PROTOCOL: HFC PHASE DOWN

Another group of substances, hydrofluorocarbons (HFCs), were introduced as non-ozone depleting alternatives to support the timely phase-out of CFCs and HCFCs. HFCs are now widespread in air conditioners, refrigerators, aerosols, foams and other products. While these chemicals do not deplete the stratospheric ozone layer, some of them have high GWPs (Global Warming Potential) ranging from 12 to 14,000. Overall HFC emissions are growing at a rate of 8% per year and annual emissions are projected to rise to 7-19% of global CO₂ emissions by 2050. Uncontrolled growth in HFC emissions, therefore, challenges efforts to keep global temperature rise at or below 2°C this century. Urgent action on HFCs is needed to protect the climate system.

The Parties to the Montreal Protocol reached an agreement at their 28th Meeting of the Parties on 15 October 2016 in Kigali, Rwanda to phase down HFCs. Countries agreed to add HFCs to the list of controlled substances and approved a timeline for their gradual reduction by 80-85 per cent by the late 2040s. The first reductions by developed countries are expected in 2019. Developing countries will follow with a freeze of HFC consumption levels in 2024 and in 2028 for some nations.

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- **THE KIGALI AMENDMENT TO THE MONTREAL PROTOCOL:
HFC PHASE DOWN**

The Kigali Amendment has come into force on 1 January 2019 for those countries that have ratified the amendment.

The pathway to implement the HFC phase down is to reduce dependency on high-GWP alternatives and increase the adoption of low-GWP, energy-efficient technologies as part of the HCFC phase-out process under the Montreal Protocol.

- **UNEP OZONE SECRETARIATE**

The Ozone Secretariat is based in Nairobi, Kenya, housed within the United Nations Environment Programme (UNEP). It is the administrative office for two very important ozone protection treaties/agreements, the Vienna Convention and the Montreal Protocol.

The Ozone Secretariat organises conferences and meetings for the Vienna Convention and the Montreal Protocol, manages the implementation of decisions resulting from these conventions and meetings, provides stakeholders with data and information on the production and consumption of ozone-depleting substances (ODSs) and Hydrofluorocarbons (HFCs). The Secretariat also provides governments, organizations and individuals with information on the work of the Montreal Protocol and how they can protect the ozone layer and the environment as well.

References:

- i. www.ozone.unep.org
- ii. [Vienna Convention for the Protection of the Ozone Layer \(un.org\)](http://www.un.org)
- iii. [UNEP - UN Environment Programme](http://www.unep.org)



2024

NEWLY RECRUITED INSPECTORS





2024

NEWLY RECRUITED INSPECTORS





2024

NEWLY RECRUITED INSPECTORS



NACIN, ZC, LUCKNOW

2024



स्वच्छता एवं पौधारोपण



योग दिवस



2024



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