

STRINGENT ACTION ON CRIME AGAINST WOMEN

प्रविष्टि तिथि: 03 DEC 2025 5:21PM by PIB Delhi

In the Bharatiya Nyaya Sanhita (BNS), 2023, for the first time, the provisions relating to crime against woman and child have been given precedence and placed under one Chapter. Strict punishments up to death sentence have been provided for the offences against women. Punishment for gang rape of a woman below the age of 18 years is life imprisonment till remainder of the convict's natural life or death. A new offence for having sexual intercourse on false promise of marriage, employment, promotion or by concealing identity, etc. has also been incorporated in BNS. Main provisions related protection of woman in the new Criminal Laws are given in the Annexure.

MAIN FEATURES OF THE NEW CRIMINAL LAWS

The new criminal laws mark a significant step towards creating a citizen centric, more accessible and efficient justice system. The following are main features of the new criminal laws:

A. Victim Centric Provisions

- i. Report Incidents Online: A person may now report incidents by electronic communication, without the need to physically visit a police station. This allows for easier and quicker reporting, facilitating prompt action by the police.
- ii. File FIR at Any Police Station: With the introduction of Zero FIR, a person can file a First Information Report (FIR) at any police station, regardless of jurisdiction. This eliminates delays in initiating legal proceedings and ensures immediate reporting of the offence.
- iii. Free Copy of FIR: Victim is entitled to receive a free copy of the FIR, ensuring their participation in the legal process.
- iv. Right to Inform Upon Arrest: In the event of an arrest, the individual has the right to inform a person of his choice about their situation. This will ensure immediate support and assistance to the arrested individual.
- v. Display of Arrest Information: Every police station and district must now have a designated police officer not below the rank of ASI and the information of all arrested individuals shall now be prominently displayed in every police station. This safeguards the right of the accused persons and mitigates instances of custodial violence and illegal detention by police.
- vi. Progress Updates to Victims: Victims are entitled to get update on the progress of their case within 90 days. This provision keeps victims informed and involved in the legal process, enhancing transparency and trust.
- vii. Supply of police report and other documents: Both the accused and the victim are entitled to receive copies of the FIR, police report/chargesheet, statements, confessions and other documents within 14 days.

- viii. Witness Protection Scheme: The new laws mandate all State Governments to implement Witness Protection Scheme to ensure the safety and security of witnesses, enhancing the credibility and effectiveness of legal proceedings.
 - ix. Exemption from going to police station: Women, persons below 15 years, persons above 60 years, and those with disabilities or acute illness are exempt from attending police stations.
 - x. It is mandated that victim be heard before withdrawal from prosecution in Section 360 of BNSS. The statutory recognition of the right of the victim to be heard is a significant example of a nyaya centric approach to criminal justice system. By mandatorily hearing the victim in proceedings regarding withdrawal of cases, the justice system becomes more responsive to the needs and concerns of those directly affected by crime.
- B. Provisions for Protection of Woman and Child**
- i. Offences against woman and child have been given precedence over all other offences in a new chapter-V of BNS.
 - ii. In BNS, the age differential for minor victims of gang rape has been done away with. Earlier different punishments were prescribed for gang rape on a girl below the age of 16 years and 12 years. This provision has been modified and now gang rape on a woman below the age of eighteen years is punishable with imprisonment of life or death.
 - iii. Women have been recognized as an adult member of family who can receive summons on behalf of the person summoned. The earlier reference to ‘some adult male member’ has been replaced with ‘some adult member’.
 - iv. In order to provide more protection to the victim and enforce transparency in investigation related to an offence of rape, the statement of the victim shall be recorded through audio video means by police.
 - v. For certain offences against woman, statement of the victim is to be recorded, as far as practicable, by a woman Magistrate and in her absence a male Magistrate in the presence of a woman to ensure sensitivity and fairness, creating a supportive environment for victims.
 - vi. Medical practitioners are mandated to send the medical report of a victim of rape to the investigating officer within 7 days.
 - vii. It is provided that no male person under the age of fifteen years or above the age of 60 years (65 years earlier) or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place in which such male person or woman resides. In cases where such a person is willing to attend the police station, they may be allowed to do so.
 - viii. The new laws provide for free first-aid or medical treatment to victims of crimes against women and children at all hospitals. This provision ensures immediate access to essential medical care, prioritizing the well-being and recovery of victims during challenging times.
 - ix. The act of hiring, employing or engaging a child to commit an offence, is made a punishable offence under section 95 of Bharatiya Nyaya Sanhita 2023, which entails punishment of imprisonment of minimum seven years, extendable to ten years. This provision aims to deter gangs or groups from employing/hiring children for committing offence.
- C. Provision relating to use of Technology and Forensics**
- i. Forensic Evidence Collection and videography: To strengthen the case and investigations, it has become mandatory for forensic experts to visit crime scenes for

serious offences and collect evidence in offences which are punishable for 7 years or more. Additionally, the process of evidence collection at the crime scene will be mandatorily videographed to prevent tampering of evidence. This dual approach significantly enhances the quality and reliability of investigations and contributes to a fair administration of justice.

- ii. Electronic Summons: Summons can now be served electronically, expediting legal processes, reducing paperwork, and ensuring efficient communication between all parties involved.
- iii. All proceedings in Electronic Mode: By conducting all legal proceedings electronically, the new laws offer convenience to victims, witnesses and accused, thereby streamlining and expediting the entire legal process.

D. Timelines

- i. Faster and Fair Resolution: The new laws promise a faster and fair resolution of cases, instilling confidence in the legal system. Crucial stages of investigation and trial like - preliminary enquiry (to be completed in 14 days), further investigation (to be completed in 90 days), supply of document to the victim and accused (within 14 days), commitment of a case for trial (within 90 days), filing of discharge applications (within 60 days), framing of charges (within 60 days), pronouncement of judgment (within 45 days) and filing of mercy petitions (30 days before Governor and 60 days before President) - have been streamlined and to be completed within stipulated time period.
- ii. Fast-Track Investigations: The new laws prioritized the investigations for offences against women and children, ensuring timely completion within two months of recording information.
- iii. Adjournments: Courts can grant a maximum of two adjournments to avoid unnecessary delays in case hearings, ensuring timely justice delivery.

E. Reformatory Approach

- i. Community service: The new laws introduce community service for minor offences. The offenders get the chance to positively contribute to society, learn from their mistakes and build stronger community bonds.
- ii. Expansion of the ambit of summary trial: The ambit of summary trial has now been expanded to include more offences ensuring expeditious disposal of cases.

F. Rights of the Accused

Arbitrary arrest of individuals solely to initiate judicial proceedings has been curtailed. The police, now, need not arrest an accused person just for the Magistrate to take cognizance of the police report and no arrest is needed for taking handwriting, signature, fingerprint, or voice samples.

G. New Offences

- i. New offences addressing terrorist act, act endangering, sovereignty, unity and integrity of India, mob lynching, snatching, organized crime, petty organized crime etc. have been added.
- ii. Harsher punishment has been prescribed for repeat offenders of theft – a mandatory minimum sentence of 1 year extendable to 5 years with fine. However, to prevent petty theft from becoming a gateway crime, first-time offenders are punished only with community service, where the value of the stolen property is less than Rs. 5000 and either such value is returned, or such property is restored.

H. Trial in absentia

A new provision of trial in absentia for persons declared as proclaimed offenders allows the Court to proceed with the trial and pronounce the verdict in the absence of the accused. This provision ensures that justice is neither delayed nor denied.

This was stated by the Minister of State in the Ministry of Home Affairs Shri Bandi Sanjay Kumar in a written reply to a question in the Rajya Sabha.

RK/RR/PR/PS

(रिलीज़ आईडी: 2198258) आगंतुक पटल : 825

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