

PREFACE

This handbook is designed for law aspirants for legal exam preparation by police, prisons, prosecutors/lawyers, advocates, judicial officers & forensic experts, in understanding and implementing the new criminal laws, that is, **Bharatiya Nyaya Sanhita, 2023**.

The book is designed MCQ law exam oriented, focused on bare act sections and important case laws.

THE BHARATIYA NYAYA SANHITA, 2023

On **25th December 2023**, the President gave her assent to the **Bharatiya Nyaya Sanhita, 2023 (BNS)**, along with the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)**, and the **Bharatiya Sakshya Adhinyam, 2023 (BSA)**. The three new criminal laws have been implemented from **1st July, 2024**.

Legislature has replaced the **Indian Penal Code, 1860 (IPC)**, the **Code of Criminal Procedure, 1973 (CrPC)**, and the **Indian Evidence Act, 1872 (IEA)**. The soul of the three new laws is to protect all the rights given by the Constitution to the Indian Citizens. The objective is to give justice to the people. The new criminal laws are an Endeavour to make the criminal justice system more accessible, accountable, credible, victim-centric, swift, and justice-driven.

HIGHLIGHTS OF BHARATIYA NYAYA SANHITA, 2023

- **358 sections** in BNS vs. **511 sections** in IPC
- **20 Chapters** in BNS vs. **23 Chapters** in IPC
- **20 new offences** added
- **19 provisions** deleted
- **41 offences** - punishment of imprisonment increased

- **83 offences** - punishment of fine enhanced
- **23 offences** - mandatory minimum punishment introduced
- **6 offences** - punishment of 'community service' introduced

THE BHARATIYA NYAYA SANHITA, 2023 ACT

NO. 45 OF 2023

[25th December, 2023.]

An Act to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

PREAMBLE

An Act to **consolidate and amend** the provisions relating to offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the **Seventy-fourth Year of the Republic** of India as follows:—

Short Notes for Legal Exams:

Consolidate & Amend: The BNS is not just a replacement; it merges multiple legal provisions into one unified code (Consolidation) and updates them to reflect modern social and digital realities (Amendment).

Legislative Authority: The act was passed in the **74th Year** of the Republic of India.

Presidential Assent: Received on **December 25, 2023**, marking a historic shift from colonial legislation.

Date of Commencement: While the Act was passed in 2023, it officially came into force on **1st July, 2024**.

MCQs: PREAMBLE & BACKGROUND

1. **The Bharatiya Nyaya Sanhita, 2023, aims to consolidate and amend provisions relating to offences. Which colonial-era law did it primarily replace?**
 - A. Code of Criminal Procedure, 1973
 - B. Indian Evidence Act, 1872
 - C. Indian Penal Code, 1860
 - D. Government of India Act, 1935

Answer: C

2. **In which year of the Republic of India was the Bharatiya Nyaya Sanhita enacted by Parliament?**
 - A) Seventy-second Year
 - B) Seventy-third Year
 - C) Seventy-fourth Year
 - D) Seventy-fifth Year

Answer: C

3. **The phrase "matters connected therewith or incidental thereto" in the Preamble ensures that the BNS covers:**
 - A) Only the punishment for crimes.
 - B) Only the definition of crimes.
 - C) Procedures and legal nuances related to the core offences.
 - D) Only international crimes.

Answer: C

4. **On which date did the President of India give assent to the Bharatiya Nyaya Sanhita, 2023?**
 - A) 26th January, 2024
 - B) 15th August, 2023
 - C) 25th December, 2023
 - D) 1st July, 2024

Answer: C

5. **Which statement is correct regarding the nature of the BNS Preamble?**
 - A) It is purely punitive.
 - B) It is reformative, aiming to consolidate and amend criminal law.
 - C) It restricts the rights of the victim.

D) It only applies to the Armed Forces.

Answer: B

6. **The Bharatiya Nyaya Sanhita, 2023, which aims to consolidate and amend provisions relating to offences, replaced which of the following colonial-era laws?**

A) Code of Criminal Procedure, 1973

B) Indian Evidence Act, 1872

C) Indian Penal Code, 1860

D) Government of India Act, 1935

answer B

Explanation: The BNS was specifically enacted to replace the IPC (1860), which was the primary substantive criminal law in India for over 160 years.

7. In which year of the Republic of India was the Bharatiya Nyaya Sanhita enacted?

A) Seventy-second Year

B) Seventy-third Year

C) Seventy-fourth Year

D) Seventy-fifth Year

Answer C

Explanation: As stated in its enacting formula, the Act was enacted by Parliament in the Seventy-fourth Year of the Republic.

Long questions

8. Discuss the significance of the words "consolidate and amend" used in the Preamble of the Bharatiya Nyaya Sanhita, 2023. How does this reflect the transition from the colonial-era Indian Penal Code?

Answer:

The use of the words "consolidate and amend" in the Preamble of the Bharatiya Nyaya Sanhita (BNS), 2023, signifies a dual purpose:

Consolidation: It brings together various criminal provisions that were previously scattered or had become overly complex through decades of piecemeal amendments to the IPC, creating a single, streamlined code.

Amendment: It updates definitions and penalties to align with modern social and technological realities. For instance, the BNS introduces new offences like terrorism and organised crime, and incorporates digital evidence into its framework.

CHAPTER I

Preliminary

1. Short title, commencement and application.

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

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

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

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

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

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

- (b) any person on any ship or aircraft registered in India wherever it may be;
- (c) any person in any place without and beyond India committing offence targeting a computer resource located in India.

Explanation.—In this section, the word "offence" includes every act committed outside India which, if committed in India, would be punishable under this Sanhita.

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

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

1. The Long Title of the Bharatiya Nyaya Sanhita, 2023 describes it as an Act to:

- A) Replace the Code of Criminal Procedure.
- B) Consolidate and amend provisions relating to offences.
- C) Provide a new framework for evidence.
- D) Amend the Constitution of India regarding criminal law.

- **Answer: B.** The long title explicitly uses the words "consolidate and amend."

2. The BNS was enacted by Parliament in which year of the Republic of India?

- A) 73rd Year
- B) 74th Year
- C) 75th Year
- D) 71st Year

- **Answer: B.** The enacting formula specifically mentions the "Seventy-fourth Year of the Republic."

3. Which of the following components of the BNS preamble signifies the merging of previously scattered legal provisions?

- A) The word "Amend"

- B) The word "Consolidate"
- C) The word "Incidental"
- D) The word "Enacted"

- **Answer: B.** "Consolidate" refers to bringing together various laws into one unified code.

4. The Bharatiya Nyaya Sanhita, 2023, received the President's assent on:

- A) July 1, 2024
- B) January 26, 2024
- C) December 25, 2023
- D) August 15, 2023

- **Answer: C.** While it came into force on July 1, 2024, the assent was given on Christmas day, 2023.

5. The phrase "matters connected therewith or incidental thereto" in the BNS preamble refers to:

- A) Only the punishment for crimes.
- B) Only the definition of crimes.
- C) Procedures and legal nuances related to the offences defined.
- D) International crimes committed outside India.

- **Answer: C.** This phrase ensures the law covers everything necessary to implement the core offences.

6. Which statement is correct regarding the repeal of the Indian Penal Code (IPC), 1860?

- A) IPC and BNS will run concurrently.
- B) IPC is repealed by Section 358 of the BNS.
- C) IPC is repealed by the Bharatiya Nagarik Suraksha Sanhita (BNSS).
- D) IPC remains valid for all crimes committed before 1947.

- **Answer: B.** Section 358 of the BNS specifically provides for the repeal of the IPC.

7. In the context of judicial interpretation, the "Enacting Formula" of the BNS is:

- A) BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India.
- B) An Act to consolidate and amend the provisions.
- C) Whereas it is expedient to redefine offences.
- D) None of the above.

Answer: A. This is the formal phrase that gives the act its legislative authority.

Section(6) of the Bharatiya Nyaya Sanhita (BNS) acts as a:

- A) Repealing Clause
- B) Saving Clause
- C) Extension Clause
- D) Definition Clause

- **Answer: B.** It "saves" special and local laws from being superseded by the general provisions of the BNS.

2. Which legal maxim best describes the essence of Section (6)of the BNS?

- A) Ignorantia juris non excusat
- B) Generalia specialibus non derogant
- C) Actus non facit reum nisi mens sit rea
- D) Res ipsa loquitur

- **Answer: B.** This means "general things do not derogate from special things."

3. Under the BNS, "Special Law" is defined as a law applicable to:

- A) The whole of India.
- B) A particular part of India.
- C) A particular subject.
- D) Only the Armed Forces.

Answer: C. A special law (defined in Section 2) is a law applicable to a specific subject matter.

4. If there is a conflict between a provision of the BNS and a Special Law (like the POCSO Act) on the same subject, which will generally prevail?

- A) The BNS, being the newer law.
- B) The Special Law.
- C) The one with the higher punishment.
- D) The Supreme Court will decide in every case.

- **Answer: B.** Because Section (6) specifically states that "Nothing in this Sanhita shall affect... any special law."

5. Section(6) specifically mentions that the Sanhita shall NOT affect laws punishing which of the following?

- A) Theft and Robbery
- B) Mutiny and Desertion
- C) Corruption by Civil Servants
- D) Traffic violations

- **Answer: B.** The text explicitly mentions "mutiny and desertion of officers, soldiers, sailors or airmen."

6. A "Local Law" under the BNS refers to a law applicable only to:

- A) A specific religious community.
- B) A particular part of India.
- C) Minorities only.
- D) Foreigners in India.

- **Answer: B.** Local laws are defined by their geographical limitation within the territory of India.

COMPARISON WITH THE INDIAN PENAL CODE, 1860

Chapter I Preliminary in BNS, 2023 consolidates Chapter I and Chapter II of IPC. Chapter I extends from Section 1 to Section 3 of BNS.

Modification & Additions

Section 1 'Short title, commencement and application' of BNS consolidates Sections 1 to 5 of IPC.

- In sub section(4) '**by any Indian law**' has been replaced with '**by any law for the time being in force in India**'.
- In the Illustration to sub section (5), '**Uganda**' has been replaced with '**in any place without and beyond India**'.
- Sub-section (5) of BNS corresponds to Section 4 of IPC. Explanation (b) '**computer resource**' to
- Section 4 of IPC has been deleted from Section 1 (5) of BNS. This deletion has been made good with the insertion of Section 2(39) BNS.

2. Definitions. In this Sanhita, unless the context otherwise requires,—

- (1) "act" denotes as well a series of acts as a single act;
- (2) "animal" means any living creature, other than a human being;
- (3) "child" means any person below the age of eighteen years;

COMPARISON WITH THE INDIAN PENAL Code, 1860

1. **Section 2 'Definitions'** of BNS consolidates definitions provided from Section 8 to Section 52A in IPC. Section 2 of BNS has been re-sequenced and arranged alphabetically.
2. The definition of "**act**" and "**omission**" contained previously in Section 33 have now been separated into *Section 2(1) "act"* and *Section 2(25) "omission"* of the BNS.
3. **Section 2(3)** of BNS introduces the definition of '**child**'.

Under Section 2(1) of the BNS, the term "act" is defined to include:

- A) Only a single physical movement.
 - B) Only a conscious decision to commit a crime.
 - C) A single act as well as a series of acts.
 - D) Only acts that result in physical injury.
- **Answer: C.** The definition ensures that a continuous course of conduct (series of acts) is treated with the same legal weight as a single isolated act.

2. As per the definition of "animal" in Section 2(2) of the BNS, which of the following is excluded?

- A) Wild animals.
 - B) Aquatic creatures.
 - C) Human beings.
 - D) Domesticated birds.
- **Answer: C.** The code defines "animal" as "any living creature, other than a human being."

3. What is the specific age threshold to be considered a "child" under Section 2(3) of the BNS?

- A) Below 14 years.
- B) Below 16 years.
- C) Below 18 years.
- D) Below 21 years.

- **Answer: C.** This is a significant standardisation in the BNS, aligning it with the POCSO Act and the Juvenile Justice Act.

4. In the BNS, unless the context otherwise requires, a series of acts is legally equivalent to:

- A) An omission.
- B) A single act.
- C) A conspiracy.
- D) A preparation.

- **Answer: B.** Section 2(1) explicitly states "act" denotes a series of acts as well as a single act.

5. Which of the following statements is TRUE regarding the definition of "animal" in the BNS?

- A) It only includes mammals.
- B) It excludes insects and reptiles.
- C) It includes every living creature except humans.
- D) It only applies to animals owned as property.

- **Answer: C.** The definition is broad ("any living creature") and only specifically carves out "human beings."

6. The definition of "child" in Section 2(3) of the BNS is crucial because:

- A) It determines the age of retirement.
- B) It sets a uniform age for protection and liability across the Sanhita.
- C) It only applies to the offence of kidnapping.
- D) It refers only to male children.

Answer: B. Having a clear, uniform definition of "child" helps in applying specific protections and enhanced punishments found in the new BNS chapters

SECTION 2 DEFINITION

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

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised;

To constitute the offence of "counterfeiting" under the BNS, which of the following is TRUE regarding the imitation?

- A) The imitation must be an exact replica.
- B) The imitation must be made of the same material.
- C) It is not essential that the imitation should be exact.
- D) The imitation must be 100% indistinguishable by experts.

- **Answer: C.** Per Explanation 1, an exact match is not required for the charge of counterfeiting.

2. When a person creates a resemblance likely to deceive, what does the law presume under Section 2 of the BNS?

- A) The person acted in good faith.
- B) The person intended to practice deception.
- C) The person was unaware of the resemblance.
- D) No presumption is made; the prosecution must prove intent first.

- **Answer: B.** Explanation 2 creates a rebuttable presumption of "intent to deceive" or "knowledge of likelihood of deception."

3. Under Explanation 2 of the counterfeiting definition, the burden of proof to show a lack of intent to deceive lies on:

- A) The Prosecution.

- B) The Victim.
- C) The Accused.
- D) The Court.

- **Answer: C.** Since the law says "it shall be presumed until the contrary is proved," the accused must prove they didn't intend to deceive.

6. If 'A' makes a fake gold coin that is slightly different in weight but looks identical to a real one, 'A' can be held liable for counterfeiting because:

- A) The imitation is exact.
- B) The imitation is likely to deceive.
- C) 'A' used real gold.
- D) Coins are excluded from BNS.

- **Answer: B.** Under Explanation 2, if the resemblance is such that a person might be deceived, the intent is presumed.

Definitions.

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

Explanation & Background

- **Judicial Act:** A Judge is not a "Court" when they are doing administrative work (like hiring staff). They become a "Court" only when they are deciding legal rights or liabilities between parties.
 - **Panchayat Comparison:** Under the old IPC illustrations, a member of a Panchayat which has the power to try and decide suits was considered a "Court." The BNS maintains this principle—the power to "act judicially" is the deciding factor.
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Pro Tip for Mains Exam

1. **Terminology Shift:** In your answers, highlight that the BNS has simplified the term from "**Court of Justice**" to simply "**Court.**"
2. **Illustration for Clarity:** If asked to explain this in Mains, use the example of a Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment—he is acting as a **Court.**
3. **Link with BNSS:** Remember that while BNS defines "Court" substantively, the **Bharatiya Nagarik Suraksha Sanhita (BNSS)** defines the hierarchy and powers of these Courts.
4. Section 2(5) of BNS 'Court' in BNS corresponds to Section 20 'Court of Justice' of IPC. The section has been renamed. The term 'Court of Justice' has been replaced by the term 'Court' throughout the Sanhita.
 - **Illustration to Section 20 of IPC 'A Panchayat acting under Regulation VII, 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.'** has been deleted from Section 2(5) 'Court'.

MCQs for Judiciary Preparation

- **Q1. According to the definition of "Court" in Section 2(5) of the BNS, a Judge is considered a "Court" only when:**

- A) They are sitting in a designated court building.
- B) They are appointed by the President of India.
- C) They are acting judicially.
- D) They are exercising administrative powers.

Answer: C) They are acting judicially.

Legal GK: This definition replaces "Court of Justice" (Section 20 of the IPC). The key requirement is the **functional test**—the person or body must be performing a judicial function as empowered by law.

- **Q2. Under the BNS, a "body of Judges" acting judicially is:**

- A) Called a Jury.
- B) Defined as a "Court."
- C) Defined as a "Tribunal."
- D) Not recognized under Section 2.

Answer: B) Defined as a "Court."

Legal GK: Whether it is a Single Bench or a Full Bench (body of judges), if they are empowered by law to act judicially as a body, they fall under this definition.

4. The term "Court" as defined in the BNS refers to a Judge or a body of Judges only when:

- A) They are present in the court building.
- B) They are appointed by the Government.
- C) They are acting judicially.
- D) they are wearing their judicial robes.

- **Answer: C.** A judge is only a "Court" when empowered by law to act judicially and is currently doing so.

5. Which of the following fits the definition of "Court" under the BNS?

- A) A Judge performing administrative work in their chambers.
- B) A body of Judges empowered by law to act judicially as a body.
- C) A police officer conducting an investigation.
-) A mediator helping parties settle a dispute outside of law.

- **Answer: B.** The definition specifically includes both a single judge and a body of judges acting judicially.

(6) "death" means the death of a human being unless the contrary appears from the context;

(7) "dishonestly" means doing anything with the intention of causing wrongful gain to one person or wrongful loss to another person;

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

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in a Court or not.

Illustrations. (a) A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document. (b) A cheque upon a banker is a document. (c) A power-of-attorney is a document. (d) A map or plan which is intended to be used or which may be used as evidence, is a document. (e) A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration. A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and shall be construed in the same manner as if the words "pay to the holder" or words to that effect had been written over the signature;

SHORT NOTES & KEY CHANGES

Electronic Records: The definition of "document" now explicitly includes **electronic and digital records** within the main body of the section, reflecting modern technological advancements.

Dishonestly: The core requirement for "dishonestly" remains the intention to cause **wrongful gain** or **wrongful loss**.

Death: Specifically limited to human beings in a legal sense, ensuring clarity in homicide and negligence cases.

Section 2(8) 'document' of BNS corresponds to Section 29 of IPC.

- The term ‘**electronic and digital record**’ has been added to the definition of ‘document’ to bring it in consonance with the definition of document provided in **Bharatiya Sakshya Adhinyam, 2023**.
- The word “**must**” has been replaced by letter “**shall**” in the illustration to Explanation 2 of the definition of “document”.

3. Which of the following is a key addition to the definition of "document" in the BNS compared to the old IPC?

- A) Maps and plans.
- B) Letters and figures.
- C) Electronic and digital records. ☑
- D) Power-of-attorney.

- **Answer: C.** The BNS modernises the law by explicitly including "electronic and digital records" within the main definition of a document.

4. According to Explanation 1 of the definition of "document," it is immaterial:

- A) Whether the substance is valuable or not.
- B) By what means the marks are formed or if they are intended for a Court. ☑
- C) Whether the document is written in English or a local language.
- D) Whether the document is signed or unsigned.

- **Answer: B.** The law focuses on the *matter* expressed, not the surface it is on or whether it was originally meant for a courtroom.

5. 'A' writes his name on the back of a bill of exchange. According to mercantile usage, this signature means the bill should be paid to the holder. This signature is:

- A) Just a mark, not a document.
- B) A document, to be construed as if "pay to the holder" was written. ☑
- C) An incomplete contract.
- D) A void transaction.

- **Answer: B.** Per Explanation 2 and its Illustration, mercantile usage gives the marks legal meaning, making the endorsement a document.

6. Which of the following would NOT be considered a "document" under Section 2(8)?

- A) A map intended to be used as evidence.

- B) A cheque upon a banker.
- C) A person's verbal testimony in court. ☒
- D) A digital record saved on a hard drive.

- **Answer: C.** A document must be matter *expressed or described upon a substance* (physical or digital). Verbal testimony is oral evidence, not a document.

7. Under the definition of "document," if a writing contains directions or instructions, it is considered:

- A) A mere piece of paper.
- B) A document. ☒
- C) A hearsay statement.
- D) An extra-judicial confession.

- **Answer: B.** Illustration (e) specifically states that a writing containing directions or instructions is a document.

Unless the contrary appears from the context, the term "death" under the BNS specifically refers to:

- A) The death of any living creature.
- B) The death of a human being. ☒
- C) The brain death of a person.
- D) The death of an animal or human.

- **Answer: B.** Section 2(6) clarifies that "death" denotes the death of a human being.

2. To act "dishonestly" under Section 2(7) of the BNS, a person must have the intention of causing:

- A) Only wrongful gain to themselves.
- B) Only wrongful loss to another.
- C) Wrongful gain to one person or wrongful loss to another. ☒
- D) Physical injury to another person.

- **Answer: C.** The definition requires intent for either "wrongful gain" or "wrongful loss."

8. The term "wrongful gain" (essential to the definition of 'dishonestly') means:

- A) Gain by lawful means of property to which one is entitled.
- B) Gain by unlawful means of property to which the person gaining is not legally

entitled. 2

C) Any profit made in a business transaction.

D) Finding a lost object on the road.

- **Answer: B.** (This links the definition of "dishonestly" to the concept of "unlawful means.")

Section 2

(9) "fraudulently" means doing anything with the intention to defraud but not otherwise;

(10) "gender".—The pronoun "he" and its derivatives are used of any person, whether male, female or transgender.

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

High-Yield Exam Point

The inclusion of **transgender** in the definition of gender is one of the most frequently asked "New Change" questions in current law exams.

SHORT NOTES & KEY UPDATES

Fraudulently vs. Dishonestly: While "dishonestly" (Sec 2(7)) relates to property and wrongful gain/loss, "**fraudulently**" specifically requires the **intent to deceive (defraud)**. Generally, for an act to be fraudulent, there must be both deceit and injury (to person, property, or reputation).

Inclusion of Transgender: The BNS has introduced a progressive change by explicitly including **transgender** persons in the definition of gender. Previously, the IPC only mentioned male and female.

Statutory Reference: The definition of transgender is now linked to the **Transgender Persons (Protection of Rights) Act, 2019**, ensuring legal consistency across Indian statutes.

A person is said to do a thing "fraudulently" under Section 2(9) of the BNS only if they do so with:

- A) The intention to cause wrongful gain.
- B) The intention to cause wrongful loss.
- C) The intent to defraud. ☑
- D) The intent to cause physical injury.

- **Answer: C.** The BNS maintains the classic distinction where "fraudulently" specifically requires an *intent to defraud*.

2. Which of the following statements best describes the difference between "dishonestly" and "fraudulently" as per the BNS?

- A) There is no difference; they are synonymous.
- B) "Dishonestly" involves wrongful gain/loss, while "fraudulently" involves an intent to deceive and cause injury. ☑
- C) "Fraudulently" always involves a contract, "dishonestly" does not.
- D) "Dishonestly" applies to individuals, "fraudulently" applies only to corporations.

- **Answer: B.** *Legal Insight:* While "dishonestly" focuses on property (gain/loss), "fraudulently" focuses on the act of deception (to defraud).

3. Under the BNS, the pronoun "he" and its derivatives (such as "him" or "his") refer to:

- A) Biological males only.
- B) Any male or female person.
- C) Any person, whether male, female, or transgender. ☑
- D) Only persons above the age of eighteen.

- **Answer: C.** Section 2(10) is a progressive update that explicitly includes "transgender" in the gender-neutral use of "he."

4. The definition of "transgender" for the purpose of the BNS is derived from:

- A) The Indian Penal Code, 1860.
- B) The Constitution of India.
- C) Section 2(k) of the Transgender Persons (Protection of Rights) Act, 2019. ☑
-) The NALSA v. Union of India judgment.

- **Answer: C.** The BNS uses a "reference by incorporation," specifically pointing to the 2019 Act.

5. Which of the following is TRUE regarding the term "Gender" in the BNS?

- A) It only applies to victims, not offenders.
- B) It uses the term "she" as the universal pronoun.
- C) The use of "he" includes all genders (male, female, transgender) unless the context states otherwise. ☑
- D) It excludes transgender persons from the definition of "person."

- **Answer: C.** This is the statutory rule of construction for the entire Sanhita.

6. If a section in the BNS says "Whoever does an act...", and later uses "he" to describe the offender, can a transgender person be prosecuted under that section?

- A) No, because "he" refers only to males.
- B) Yes, because Section 2(10) defines "he" to include transgender persons. ☑
- C) No, they can only be prosecuted under special laws.
- D) Only if the President gives special permission.

- **Answer: B.** The definition ensures the law is applicable across the entire gender spectrum.

7. "Intent to defraud" (Fraudulently) generally requires:

- A) Deceit.
- B) Injury (to person, property, or reputation).
- C) Both Deceit and Injury. ☑
- D) Neither Deceit nor Injury.

- **Answer: C.** Based on the established judicial interpretation of "defraud," it typically involves both elements.

(11) "good faith".—Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention;

(12) "Government" means the Central Government or a State Government;

(13) "harbour" includes supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means,

whether of the same kind as those enumerated in this clause or not, to evade apprehension;

(14) "injury" means any harm whatever illegally caused to any person, in body, mind, reputation or property;

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

Judiciary Exam Note

The definition of "Illegal" is often used in the context of **Criminal Conspiracy** and **Abetment**. Remember that "illegal" is not just limited to "crimes"—it includes **civil wrongs** as well.

SHORT NOTES & EXAM INSIGHTS

Good Faith (Negative Definition): The law does not define what *is* good faith, but what it *is not*. The standard is "due care and attention." Even if an act is done with an honest intention, if it is done carelessly, it cannot claim the protection of good faith.

Injury (Four-fold Harm): Injury is not limited to physical wounds. It covers four specific domains: **Body, Mind, Reputation, and Property**.

Illegal: This term has a wider ambit than "offence." It includes anything that is an offence, prohibited by law, or gives rise to a **civil action**.

Under Section 2(11) of the BNS, "good faith" is defined negatively. An act is NOT done in good faith if it is done without:

A) Honest intention.

B) Due care and attention. ☒

- C) Legal representation.
- D) Knowledge of the law.

- **Answer: B.** The BNS (like the old IPC) sets a high standard: even if you are honest, if you are careless, you are not acting in "good faith."

2. Which of the following is essential for a plea of "good faith" to succeed in a criminal court?

- A) Simple belief that the act was right.
- B) The absence of any criminal record.
- C) Exercise of due care and attention. ☑
- D) That the act was done in public.

- **Answer: C.** "Due care and attention" is the statutory requirement for good faith.

3. The term "Government" as defined in Section 2(12) of the BNS includes:

- A) Only the Central Government.
- B) Only State Governments.
- C) Both Central and State Governments. ☑
- D) Local Panchayats and Municipalities.

- **Answer: C.** The definition specifically denotes the Central or a State Government.

4. The definition of "harbour" under Section 2(13) includes providing a person with:

- A) Food and shelter.
- B) Money and clothes.
- C) Arms, ammunition, or means of conveyance.
- D) All of the above. ☑

- **Answer: D.** The definition is very broad and covers all forms of physical and logistical support.

5. To constitute "harbouring" under the BNS, the assistance must be given with the intention to:

- A) Convert the person to a different faith.
- B) Help the person get a job.

- C) Assist the person to evade apprehension. ☒
- D) Provide medical aid.

- **Answer: C.** The core element of harbouring in a criminal context is helping someone hide from or escape the law.

6. Does providing "means of conveyance" (like a car or bike) to an offender to help them escape fall under the definition of "harbour"?

- A) No, only food and shelter are included.
- B) Yes, it is explicitly mentioned in Section 2(13). ☒
- C) Only if the vehicle is stolen.
- D) Only if the person being helped is a family member.

- **Answer: B.** The clause includes "means of conveyance" and "assisting a person by any means."

7. In the definition of "harbour," the phrase "whether of the same kind as those enumerated in this clause or not" implies that:

- A) The list of items (food, money, etc.) is exhaustive.
- B) The definition is illustrative and can include other forms of help not listed. ☒
- C) Only illegal items like guns are covered.
- D) Only physical items are covered, not digital help.

- **Answer: B.** This ensures that new or creative ways of helping a criminal escape (like providing a fake digital ID) can still be counted as harbouring.

8. 'A' believes a certain medicine cures a disease and gives it to 'B' without consulting a doctor or checking the ingredients. 'B' dies. 'A' cannot claim "good faith" because:

- A) 'A' is not a doctor.
- B) 'A' acted without due care and attention. ☒
- C) 'A' had the intent to kill.
- D) 'A' did not use the Gregorian calendar.

- **Answer: B.** Good faith requires a person to be reasonably careful before acting.

The definition of "injury" under Section 2(14) of the BNS includes harm caused to which of the following?

- A) Body and Property only.
- B) Body, Mind, and Reputation only.
- C) Body, Mind, Reputation, or Property. ☒
- D) Only physical harm to the body.

- **Answer: C.** "Injury" is broadly defined to include non-physical harm like mental distress and loss of reputation.

2. To qualify as an "injury" under the BNS, the harm must be caused:

- A) Accidentally.
- B) Illegally. ☒
- C) In public.
- D) With a weapon.

- **Answer: B.** Harm caused legally (e.g., a doctor performing surgery or a boxer in a match) does not constitute "injury" under this definition.

3. Under Section 2(15), the word "illegal" is applicable to which of the following?

- A) Everything which is an offence.
- B) Everything which is prohibited by law.
- C) Everything which furnishes ground for a civil action.
- D) All of the above. ☒

- **Answer: D.** The definition of "illegal" is wide, covering criminal offences, regulatory prohibitions, and even civil wrongs (torts/breach of contract).

4. A person is said to be "legally bound to do" something if:

- A) It is illegal for them to omit it. ☒
- B) They have signed a contract.
- C) They are a government servant.
- D) It is a moral obligation.

- **Answer: A.** The BNS links "duty" to "illegality"—if failing to do an act (omission) is illegal, then you are legally bound to do it.

5. 'A', a witness, is required by law to tell the truth in court. If 'A' intentionally keeps silent to protect a criminal, 'A' has committed an illegal omission because:

- A) 'A' is a friend of the criminal.
- B) 'A' is legally bound to speak the truth. ☒
- C) Silence is always an offence.
- D) The court is a "Court of Justice."

- **Answer: B.** Since the law requires the act, the omission becomes "illegal" under Section 2(15).

6. Which of the following would NOT fall under the definition of "injury" if caused illegally?

- A) Damaging someone's car (Property).
- B) Making a false statement to ruin a person's career (Reputation).
- C) Causing someone severe anxiety through harassment (Mind).
- D) Loss of a business contract through fair competition. ☒

- **Answer: D.** Fair competition is legal; hence, the loss is not "illegally caused."

7. If an act furnishes ground for a "civil action," it is considered _____ under the BNS.

- A) A Tort only.
- B) Illegal. ☒
- C) A Felony.
- D) A Compoundable offence.

- **Answer: B.** Per Section 2(15), anything that allows for a civil lawsuit is classified as "illegal."

(16) "Judge" means a person who is officially designated as a Judge and includes a person,—

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

(ii) who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

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

Judiciary Exam Insight

In exams, the distinction between a **Magistrate merely committing a case** (not a Judge) and a **Magistrate power to sentence** (a Judge) is a very common "trick" question. Always look for the word "**definitive**" or the power to "**sentence.**"

Who is considered a "Judge U/S 2 (16)" under the Bharatiya Nyaya Sanhita?

- A) Only a person officially designated as a "Judge."
- B) Any person empowered by law to give a definitive judgment.
- C) Both A and B. ☑
- D) Only Judges of the High Court and Supreme Court.

- **Answer: C.** The definition is broad; it includes both those with the official title and those empowered by law to give final judgments in legal proceedings.

2. To be a "Judge" under the BNS, the person must be empowered to give a "definitive judgment" in:

- A) Criminal proceedings only.
- B) Civil proceedings only.
- C) Both civil and criminal proceedings. ☑
- D) Only matters of national security.

- **Answer: C.** The definition explicitly covers "any legal proceeding, civil or criminal."

3. Under the BNS, a person is still considered a "Judge" even if their judgment:

- A) Can be appealed against. ☑
- B) Is only a recommendation to the police.

- C) Is delivered outside a courtroom.
- D) Is not based on any existing law.

- **Answer: A.** The section includes those whose judgment "if not appealed against, would be definitive."

4. A Magistrate exercising jurisdiction in respect of a charge on which he has the power to sentence someone to fine or imprisonment is:

- A) Not a Judge, only a public servant.
- B) A Judge. ☒
- C) A Judge only if there is no provision for appeal.
- D) A Judge only when presiding over a Sessions Court.

- **Answer: B.** This is directly supported by the **Illustration** provided in the Sanhita.

5. A "body of persons" empowered by law to give a definitive judgment (such as a Jury or a Tribunal Bench) falls under the definition of:

- A) Court of Justice only.
- B) Arbitrators.
- C) Judge. ☒
- D) Government.

- **Answer: C.** Section 2(16)(ii) explicitly includes "one of a body of persons" empowered to give such judgments.

6. Which of the following would NOT be a "Judge" under Section 2(16)?

- A) A Magistrate empowered to commit a case to the Sessions Court but not to pass a final sentence. ☒
- B) A Magistrate who can pass a sentence of fine.
- C) A member of a body empowered to give a definitive judgment.
- D) A person officially designated as a Judge.

- **Answer: A.** If a Magistrate only has the power to "commit" (transfer) a case to another court without giving a definitive judgment themselves, they do not fit this specific definition of a Judge.

7. A judgment is considered "definitive" under Section 2(16) if it:

- A) Is final and cannot be challenged in any court.
- B) Would be final if not appealed against or if confirmed by another authority. ☒
- C) Is a verbal opinion given by a legal expert.
- D) Is a stay order issued during an investigation.

- **Answer: B.** The definition specifically includes judgments that require confirmation to become definitive.

(17) "life" means the life of a human being, unless the contrary appears from the context;

(18) "local law" means a law applicable only to a particular part of India;

(19) "man" means male human being of any age;

(20) "month" and "year".—Wherever the word "month" or the word "year" is used, it is to be understood that the month or the year is to be reckoned according to the Gregorian calendar;

Summary of Key Shifts from IPC to BNS (for your notes):

Calendar: "British" is now "**Gregorian**" (Sec 2(22)).

Gender: "Man" and "Woman" remain **age-neutral** (Sec 2(19)).

Offence Threshold: For specific chapters like Harboring, an act under a Special/Local law is only an "offence" if the punishment is **6 months or more** (Sec 2(24)(b)).

Gregorian Calendar: A notable update in the BNS is the removal of the colonial-era phrase "British calendar," which has been replaced with the globally recognized "**Gregorian calendar.**"

Life: Similar to the definition of "death," "life" is legally restricted to human beings within this Sanhita.

Age Agnosticism: The definitions of "man" and "woman" (Sec 2(19) and 2(35)) include human beings of **any age**, meaning a male infant is legally a "man" for the purpose of these definitions.

Local Law vs. Special Law: While a **Special Law** applies to a specific *subject* (like the POCSO Act), a **Local Law** is defined by its *geographical* application (like the Delhi Police Act).

BNS 2023: Chapter I (Interpretative Clauses)

Q1. Under Section 2(20) of the BNS, 2023, the calculation of a "month" or "year" must be done according to:

- A. The British Calendar
- B. The Saka Samvat
- C. The Gregorian Calendar
- D. D. The Indian Standard Time (IST) Calendar
- E. **Correct Answer: C**

Reasoning: Section 2(22) explicitly replaces the colonial-era term "British calendar" (found in IPC Sec 49) with "**Gregorian calendar.**" This is a key technical update in the BNS.

Q3. As per Section 2(19), the term "man" denotes a male human being: A. Of 18 years of age or above.

- B. Of 21 years of age or above.
- C. C. Of any age, from birth to death.
- D. D. Only if he is an Indian citizen.

Correct Answer: C

Reasoning: Mirroring the long-standing legal principle, Section 2(19) defines "man" and "woman" by biological gender regardless of age. A male infant is legally a "man" for the purpose of this definition.

Q4. (Application Based) 'A' is prosecuted under the 'Maharashtra Control of Organised Crime Act' (MCOCA). In the context of Section 2(20) of the BNS, this Act would be classified as:

- A. A Special Law
- B. B. A Local Law
- C. C. A Personal Law
- D. . A General Law

Correct Answer: B

Reasoning: Section 2(20) defines a **Local Law** as a law applicable only to a particular part of India. Since MCOCA is applicable only to the State of Maharashtra, it fits this definition.

Q5. Regarding the definition of "Number" in Section 2(22), which of the following is true?

- A. Singular words never include the plural.
- B. B. Words importing the singular include the plural, unless the contrary appears from the context.
- C. C. Plural words only include the singular if the victim is a minor.
- D. D. The definition applies only to the Chapter on Punishments.

Correct Answer: B

Reasoning: This is a standard rule of statutory interpretation consolidated in Sec 2(24) to ensure that penal provisions apply to both single individuals and groups of offenders without repetitive wording.

Q6. (Hard/Conceptual) For the purposes of 'General Exceptions' (Chapter III), how is the word "offence" defined under Section 2(24)(a)? A. It only includes acts punishable under the BNS.

- B. It includes acts punishable under the BNS or any Special or Local Law. C. It excludes Local Laws.

C. D. It only includes acts where the punishment is more than 3 years. **Correct Answer: B**

Reasoning: To ensure that general defenses (like right of private defense) are available across all criminal trials, Section 2(24)(a) expands the definition of "offence" for Chapter III to include BNS, Special Laws, and Local Laws.

Q7. (Modern Crime Pattern) 'A' makes a declaration before a public servant which is authorised by law to be used as proof in a Court. This declaration falls under the definition of:

- A Private Note
- B. An Oath (Section 2(25))
- C. An Extra-judicial Confession
- D. A Character Certificate

Correct Answer: B

Reasoning: Section 2(25) defines "oath" broadly to include solemn affirmations and any declaration required or authorised by law to be made before a public servant for the purpose of proof.

Q8. Under Section 2(19), the word "life" refers to the life of:

- A. Any living creature.
- B. Only a citizen of India.
- C. A human being, unless the contrary appears from the context.
- D. A person who has reached the age of 7.

Answer: C

Reasoning: Section 2(19) clarifies that in the absence of a specific context suggesting otherwise (e.g., laws regarding animal cruelty), "life" signifies human life.

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

SHORT NOTES & LEGAL INTERPRETATION

Scope: The definition is residuary. It includes all physical property that is not "immovable."

Exclusions:

Land: The soil and the surface.

Attached to Earth: Trees, buildings, or walls.

Permanently Fastened: Things like a ceiling fan (when attached to a building that is attached to the earth) or heavy machinery embedded in concrete.

Severance Rule: If a thing attached to the earth (like a tree) is cut down, it instantly becomes "movable property" and can be the subject of theft.

Modification of definition of “movable property”

Earlier Section 22 of IPC described movable property as intending to include ‘**corporeal property**’ of every description. Now in Section 2(21), property is not qualified by the word ‘**corporeal**’. The section has been modified to include ‘**property of every description**’. The phrase ‘**corporeal property**’ has been removed from the definition.

QUESTION 1 Under section 2(21) of the BNS, "movable property" is defined to include property of every description EXCEPT:

- A. Jewelry, vehicles, and electronics.
- B. Land and things attached to the earth.
- C. Cash and negotiable instruments.
- D. Animals and harvested crops.

ANSWER: B

REASONING: section 2(21) explicitly excludes land and anything permanently fastened to the earth from the definition of movable property.

QUESTION 2 (Judiciary Pattern) 'A' severs a tree on 'B's ground with the intention of dishonestly taking it out of 'B's possession. At what point can 'A' be charged with theft under the BNS?

- A. Only after 'A' carries the tree away from 'B's land.
- B. Only if 'A' sells the tree to a third party.
- C. As soon as the tree is severed from the earth with the intent to take it.
- D. Only if the tree is worth more than 5,000 rupees.

ANSWER: C

LEGAL REASONING: Once the tree is severed, it ceases to be "attached to the earth" and becomes "movable property." The act of severing with dishonest intent completes the act for the purpose of theft.

QUESTION 3 Which of the following would be considered "movable property" for the purposes of criminal law?

- A. A house built with a stone foundation.
- B. A standing mango tree.
- C. A ceiling fan that has been unscrewed and placed on the floor.
- D. A well dug in a field.

ANSWER: C

LEGAL REASONING: A ceiling fan attached to a hook is considered part of the structure (attached to the earth), but once it is unscrewed and detached, it satisfies the definition of movable property under section 2(21).

QUESTION 4 (Application Question) A heavy industrial machine is bolted into a concrete floor in a factory. Under BNS section 2(21), this machine is: A. Movable property, because it is a machine.

B. Immovable, as it is permanently fastened to something attached to the earth.

C. Neither movable nor immovable.

D. Only movable if it is owned by a private company.

ANSWER: B

LEGAL REASONING: The definition excludes things "permanently fastened to anything which is attached to the earth." Since the machine is bolted to the concrete floor (which is attached to the earth), it is not movable property until it is unbolted.

QUESTION 5 According to the BNS, harvested grain lying in a heap in a field is:

A. Immovable property because it is on the land.

B. Movable property because it is no longer attached to the earth.

C. Part of the land under section 2(21).

D. Only movable if it is packed in bags.

ANSWER: B

LEGAL REASONING: Harvested crops are no longer attached to the earth by their roots. Therefore, they fall under "property of every description" that is not land or attached to it.

QUESTION 6 The phrase "attached to the earth" in section 2(21) generally refers to:

A. Anything lying on the surface of the ground.

B. Things rooted in the earth (like trees) or imbedded in it (like walls).

C. Only property owned by the Government.

D. Only things that cannot be moved by human force.

ANSWER: B

LEGAL REASONING: Legal interpretation of "attached to the earth" includes things rooted (vegetation), imbedded (buildings/walls), or permanently fastened to what is imbedded (fixtures).

(22) "number".—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number;

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

SHORT NOTES & LEGAL INTERPRETATION

Rule of Construction (Number): This is a fundamental rule of statutory interpretation. It ensures that if a section says "Whoever commits an act...", it applies equally to a single person or a group of persons acting together, unless the specific section indicates otherwise.

Oath vs. Affirmation: The law recognizes that not everyone may wish to take a religious oath. Therefore, a "solemn affirmation" carries the same legal weight and consequences (such as liability for perjury/giving false evidence).

Scope of Oath: The definition is broad; it is not restricted to a witness box in a courtroom. It includes declarations made before public servants (like an Executive Magistrate or a Notary) or documents intended to be used as proof (like an Affidavit).

MCQ PRACTICE SET: SECTION 2(22) & 2(23)

QUESTION 1: Under Section 2(22) of the BNS, words importing the singular number include:

- A. Only the person specifically named.
- B. The plural number.
- C. Only male persons.
- D. Only adults.

ANSWER: B

QUESTION 2: The rule that plural number includes the singular number under Section 2(22) is subject to:

- A. The discretion of the Magistrate.
- B. The contrary appearing from the context.
- C. The gender of the accused.
- D. The severity of the offence.

ANSWER: B

QUESTION 3: In legal drafting, if a section uses the word "offender" (singular), according to Section 2(22), it applies to:

- A. One offender only.
- B. Multiple offenders acting together.
- C. Both A and B.
- D. Neither A nor B.

ANSWER: C

QUESTION 4: Section 2(23) of the BNS defines which of the following terms?

- A. Number.
- B. Offence.
- C. Oath.
- D. Judge.

ANSWER: C

QUESTION 5: The definition of "oath" in the BNS is:

- A. Exhaustive.
- B. Inclusive.
- C. Restrictive.
- D. Private.

ANSWER: B

QUESTION 6: As per Section 2(23), an "oath" includes:

- A. A solemn affirmation substituted by law.
- B. Only religious promises.

- C. Only statements made in the Supreme Court.
- D. Any promise made to a police officer during a raid.

ANSWER: A

QUESTION 7: For a declaration to be considered an "oath" under Section 2(23), it must be authorized by law to be made before:

- A. Any private citizen.
- B. A public servant.
- C. A family member.
- D. An arbitrator only. **ANSWER: B**

QUESTION 8: A declaration used for the purpose of proof is considered an "oath" under the BNS:

- A. Only if made in a Court of Law.
- B. Whether made in a Court or not.
- C. Only if written on stamp paper.
- D. Only if signed by two witnesses.

ANSWER: B

QUESTION 9: If a witness chooses to make a "solemn affirmation" instead of a religious oath, their liability for giving false evidence is:

- A. Reduced by half.
- B. Non-existent.
- C. The same as if they had taken an oath.
- D. Limited to a fine only.

ANSWER: C

QUESTION 10: The primary objective of Section 2(22) ("Number") is to:

- A. Increase the number of arrests.
- B. Simplify the language and interpretation of the Sanhita.
- C. Define the number of years for a sentence.
- D. Count the number of sections in the Act.

ANSWER: B

QUESTION 11: Under Section 2(23), a declaration made before a Notary Public for an affidavit is:

- A. A private contract.
- B. An oath.
- C. A local law.
- D. A judgment.

ANSWER: B

QUESTION 12: Which section of the BNS ensures that the plural "persons" can be interpreted as a single "person"?

- A. Section 2(10).
- B. Section 2(22).
- C. Section 2(23).
- D. Section 1.

ANSWER: B

QUESTION 13: A declaration required by law to be used as "proof" falls under which definition?

- A. Document.
- B. Public Servant.
- C. Oath.
- D. Local Law.

ANSWER: C

QUESTION 14: The phrase "Unless the contrary appears from the context" in Section 2(22) is known as:

- A. A saving clause.
- B. A rule of construction.
- C. A penal provision.
- D. A preamble.

ANSWER: B

QUESTION 15: If a person is legally authorized to make a declaration before a Gazetted Officer for verification, this act is covered under:

- A. Section 2(23).
- B. Section 2(21).
- C. Section 2(15).
- D. Section 2(9).

ANSWER: A

QUESTION 16: An "oath" under the BNS is primarily used for the purpose of:

- A. Creating a contract.
- B. Providing proof.
- C. Settling a debt.
- D. Registering a property.

ANSWER: B

QUESTION 17: Which of the following is NOT necessary for a declaration to be an "oath" under Section 2(23)?

- A. It must be required or authorized by law.
- B. It must be made before a public servant or used for proof.
- C. It must be made in a physical Court building.
- D. It includes solemn affirmations.

ANSWER: C

QUESTION 18: In BNS, if a section refers to "the punishment for the offences," it applies to:

- A. Exactly two offences.
- B. A single offence.
- C. Only complex offences.
- D. Only non-cognizable offences.

ANSWER: B

QUESTION 19: The legal weight of a "solemn affirmation" is equated to an "oath" to accommodate:

- A. Those who do not wish to swear by a deity.
- B. Foreigners only.
- C. Only government employees.
- D. Only the accused persons.

ANSWER: A

QUESTION 20: Section 2(22) and 2(23) are part of which Chapter of the BNS?

- A. Chapter I (Preliminary).
- B. Chapter II (Punishments).
- C. Chapter III (General Exceptions).
- D. Chapter IV (Abetment).

ANSWER: A

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

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

Same offences under Section 2(24)(a) and (b) of BNS as were included in the two clauses of Section 40 of IPC

The offences listed in two clauses of Section 40 of IPC are identically included in clauses (a) and (b) of definition of "Offence" under Section 2(24) of BNS with the corresponding new section numbers under BNS.

EXAM NOTES: TRI-FOLD CLASSIFICATION OF "OFFENCE"

For the purpose of your judiciary exams, remember that the BNS defines "offence" in three distinct ways depending on where the word is used:

General Rule: Usually, "offence" only means acts punishable under the **BNS**.

Expanded Rule (Clause a): For the **General Exceptions (Chapter III)** and sections like **Abetment (Sec 49)** or **Conspiracy (Sec 61)**, an offence includes acts punishable under the **BNS + Special Laws + Local Laws**.

Threshold Rule (Clause b): For sections involving **Harbouring (Sec 211)** or **Disappearance of Evidence (Sec 238)**, a Special/Local law act is only an "offence" if it carries at least **6 months of imprisonment**.

QUESTION 1: What is the primary definition of "offence" as per Section 2(24) of the BNS?

- A. Any act that causes harm to society.
- B. A thing made punishable by this Sanhita.
- C. Any act prohibited by the Constitution.
- D. Any violation of a moral code.

ANSWER: B

QUESTION 2: In which Chapter does the word "offence" include acts punishable under Special or Local laws?

- A. Chapter I.
- B. Chapter II.
- C. Chapter III.
- D. Chapter IV.

ANSWER: C

QUESTION 3: Under Section 2(24)(a), for the purpose of "General Exceptions," the term "offence" applies to:

- A. Only the BNS.
- B. BNS and Special Laws only.
- C. BNS, Special Laws, and Local Laws.
- D. Only Central Laws.

ANSWER: C

QUESTION 4: Section 2(24)(b) creates a specific "punishment threshold" for certain sections. What is this threshold?

- A. Imprisonment for 3 months or more.
- B. Imprisonment for 6 months or more.
- C. Imprisonment for 1 year or more.
- D. Any act punishable with a fine only.

ANSWER: B

QUESTION 5: For the purpose of Section 211 (Harbouring an offender), an act under a "Local Law" is an offence ONLY if it is punishable with:

- A. Death.
- B. Life imprisonment.
- C. Imprisonment for 6 months or more.
- D. Imprisonment for 2 years.

ANSWER: C

QUESTION 6: In Section 2(24)(a), which specific section regarding "Gender" is mentioned as having the expanded definition of offence?

- A. Section 2.
- B. Section 9.
- C. Section 10.
- D. Section 12.

ANSWER: B

QUESTION 7: If a Special Law punishes an act with only 2 months of imprisonment, is it an "offence" for the purpose of Section 212 (Screening an offender)?

- A. Yes, all Special Laws are included.
- B. No, because it does not meet the 6-month threshold in clause (b).
- C. Yes, if the Magistrate allows it.
- D. No, Special Laws are never included.

ANSWER: B

QUESTION 8: Which of the following is a "Special Law"?

- A. A law applicable only to a particular part of India.
- B. A law applicable to a particular subject.
- C. The Bharatiya Nyaya Sanhita.
- D. The Constitution of India.

ANSWER: B

QUESTION 9: According to Section 2(24)(a), the term "offence" includes Special/Local laws for the purpose of which section regarding "Abetment"?

- A. Section 45.
- B. Section 49.
- C. Section 100.
- D. Section 150.

ANSWER: B

QUESTION 10: Under the general definition, an act punishable only under the NDPS Act (a Special Law) is technically NOT an "offence" for sections NOT listed in clauses (a) or (b).

- A. True.
- B. False.
- C. Only true for Local Laws.
- D. Only true for first-time offenders.

ANSWER: A

QUESTION 11: Section 2(24)(b) specifically mentions which sub-section of Section 189?

- A. Sub-section (1).
- B. Sub-section (2).
- C. Sub-section (5).
- D. All sub-sections.

ANSWER: A

QUESTION 12: For the purpose of Section 238 (Causing disappearance of evidence), an act under a Special Law is an "offence" if it is punishable with imprisonment for:

- A. 1 month.
- B. 3 months.
- C. 6 months or more.
- D. 7 years.

ANSWER: C

QUESTION 13: Which of the following is NOT listed in the expanded definition under Section 2(24)(a)?

- A. Section 52.
- B. Section 60.
- C. Section 103 (Murder).
- D. Section 120.

ANSWER: C

QUESTION 14: The 6-month threshold mentioned in Section 2(24)(b) applies to acts punishable:

- A. With fine only.
- B. With imprisonment, whether with or without fine.
- C. Only with both imprisonment and fine.
- D. Only to cognizable offences.

ANSWER: B

QUESTION 15: "Local Law" means a law applicable only to:

- A. A particular community.
- B. A particular part of India.
- C. A particular person.
- D. A particular office.

ANSWER: B

QUESTION 16: For the purpose of Section 49, the definition of "offence" includes acts punishable under Special Laws:

- A. Regardless of the term of imprisonment.
- B. Only if punishable with 7 years or more.
- C. Only if the accused is a public servant.
- D. Only if it is a non-bailable offence.

ANSWER: A

QUESTION 17: Section 2(24)(a) includes sub-sections (7) and (8) of which section?

- A. Section 100.
- B. Section 127.
- C. Section 151.
- D. Section 200.

ANSWER: B

QUESTION 18: If an act is punishable under a Local Law with a fine only, it qualifies as an "offence" for:

- A. Section 211.
- B. Section 238.
- C. Chapter III (General Exceptions).
- D. Section 329.

ANSWER: C

QUESTION 19: The term "offence" excludes acts mentioned in sub-clauses (a) and (b) from its "general" meaning.

- A. True.
- B. False.
- C. Only for Special Laws.
- D. Only for Local Laws.

ANSWER: A

QUESTION 20: Section 2(24)(b) refers to which sub-section of Section 329?

- A. Sub-section (1).
- B. Sub-section (2).
- C. Sub-section (3).
- D. The entire section.

ANSWER: A

QUESTION 21: For Chapter III, the BNS definition of "offence" ensures that:

- A. A person has no defense for crimes under Special Laws.
- B. General defenses (like self-defense) apply to Special and Local Law crimes.
- C. Only police officers can claim exceptions.
- D. Special Laws override the BNS.

ANSWER: B

QUESTION 22: Which of the following sections is NOT subject to the 6-month rule in Section 2(24)(b)?

- A. Section 211.
- B. Section 212.

- C. Section 9.
- D. Section 238.

ANSWER: C

QUESTION 23: The sections listed in Section 2(24)(a) (like 54, 55, 56) mostly deal with:

- A. Theft and Robbery.
- B. Abetment and Criminal Conspiracy.
- C. Public Health.
- D. Defamation.

ANSWER: B

QUESTION 24: Under Section 2(24)(a), "offence" includes a thing punishable under Special or Local Law in Section 119. This relates to:

- A. Murder.
- B. Public Servant concealing design to commit offence.
- C. Assault.
- D. Trespass.

ANSWER: B

QUESTION 25: The sections listed in Section 2(24)(b) primarily relate to: A. Direct Commission of Crime. B. Screening, Harboursing, and Evidence related offences. C. Attempt to commit crime. D. General Exceptions. **ANSWER: B**

QUESTION 26: Sub-sections (2), (3), (4) and (5) of which section are included in the expanded definition in 2(24)(a)? A. Section 5. B. Section 8. C. Section 15. D. Section 20.

ANSWER: B

QUESTION 27: Section 2(24)(a) includes sub-sections (6) and (7) of which section?

- A. Section 300. B. Section 308. C. Section 320. D. Section 350. **ANSWER: B**

QUESTION 28: Section 2(24)(a) includes sub-section (2) of which section? A. Section 330. B. Section 335. C. Section 340. D. Section 360. **ANSWER: A**

QUESTION 29: The reason why Section 2(24)(b) sets a 6-month minimum is to: A. Prevent the arrest of all criminals. B. Exclude very petty Special/Local law offences from serious charges like harbouring. C. Make the BNS easier to read. D. Increase the fine amount. **ANSWER: B**

QUESTION 30: Which section number in the BNS contains these definitions? A.

- Section 1. B. Section 2. C. Section 3. D. Section 4. **ANSWER: B**

(25) "omission" denotes as well as a series of omissions as a single omission;

(26) "person" includes any company or association or body of persons, whether incorporated or not;

(27) "public" includes any class of the public or any community;

SHORT NOTES & PRO-TIPS

Omission (2(25)): In criminal law, a "failure to act" is just as punishable as a "positive act" if there is a legal duty.

Pro-Tip: The "series of omissions" clause ensures that if a jailor forgets to feed a prisoner for 5 days, it is treated as one continuous criminal transaction rather than 5 separate minor trials.

Person (2(26)): This definition establishes **Corporate Criminal Liability**.

Pro-Tip: Even if a group (like a local club or a partnership) is not registered under the Companies Act, they can still be prosecuted as a "Person" under the BNS.

Public (2(27)): This is an inclusive definition.

Pro-Tip: For an act to be "against the public," it doesn't need to affect the entire country. If an act affects a specific "community" (e.g., a religious sect or residents of a specific colony), it qualifies as an act against the public.

LINKING LAWS

Section 2(1) BNS: Always link **Omission (2(25))** with **Act (2(1))**. The Sanhita treats them as two sides of the same coin regarding criminal conduct.

Section 3(5) BNS: Link **Person (2(26))** with **Joint Liability**. Since a "body of persons" is a "person," the group can be held liable collectively.

General Clauses Act, 1897: The definitions of "Person" and "Public" in the BNS are aligned with the General Clauses Act to ensure uniformity across all Indian statutes.

MCQ PRACTICE SET (SECTION 2(25) - 2(27))

QUESTION 1: According to Section 2(25) of the BNS, the term "omission" includes:

- A. Only a single instance of failure to perform a duty.
- B. A single omission as well as a series of omissions.
- C. Only omissions committed by public servants.
- D. Any act done without a specific motive.

ANSWER: B

QUESTION 2: Which of the following falls under the definition of "person" in Section 2(26)?

- A. A registered Municipal Corporation.
- B. An unregistered Association of Traders.
- C. A body of persons not yet incorporated.
- D. All of the above.

ANSWER: D

QUESTION 3: (Judiciary Pattern) If a law refers to an "offence against the public," under Section 2(27), this includes an offence against:

- A. Only the citizens of India.
- B. Any class of the public or any community.
- C. Only persons who are present in a public place.

D. Only government officials.

ANSWER: B

QUESTION 4: The phrase "whether incorporated or not" in Section 2(26) primarily serves to:

- A. Exempt small businesses from taxes.
- B. Extend criminal liability to informal groups and associations.
- C. Limit the definition of a person to individuals only.
- D. Define the process of company registration.

ANSWER: B

QUESTION 5: A continuous failure by a guardian to provide medical aid to a ward would be legally classified as a "series of omissions" under:

- A. Section 2(1).
- B. Section 2(22).
- C. Section 2(25).
- D. Section 2(27).

ANSWER: C

QUESTION 6: Under the BNS, is an "Idol" (Deity) considered a person?

- A. No, only living humans are persons.
- B. Yes, because "person" includes juridical entities.
- C. Only if the Idol is registered with the Government.
- D. No, because an Idol cannot be imprisoned.

ANSWER: B

QUESTION 7: The definition of "public" is intended to be:

- A. Restrictive.
- B. Inclusive.
- C. Exclusive.
- D. Territorial.

ANSWER: B

QUESTION 8: (AOR Pattern) Which of the following is TRUE regarding Section 2(25)?

- A. An omission is only a crime if it is a single act.
- B. A series of omissions is treated the same as a single omission.
- C. Omissions are not punishable under the BNS.
- D. Omissions only apply to civil law.

ANSWER: B

QUESTION 9: If a protest affects only one specific "community," can it be termed as a "public" nuisance?

- A. No, it must affect the entire city.
- B. Yes, because "public" includes any community under Section 2(27).
- C. Only if the protest is violent.
- D. No, because "community" is a private term.

ANSWER: B

QUESTION 10: Section 2(26) covers:

- A. Natural persons only.
- B. Juridical persons only.
- C. Both Natural and Juridical persons.

D. Only public servants.

ANSWER: C

REVISION BOX

Term	Section	Core Legal Logic
Omission	2(25)	Continuity (Series = Single).
Person	2(26)	Liability (Status doesn't matter; Incorporation not required).
Public	2(27)	Diversity (Class or Community included)

(28) "public servant" means a person falling under any of the following descriptions, namely:—

- (a) every commissioned officer in the Army, Navy or Air Force;
- (b) every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;
- (c) every officer of a Court including a liquidator, receiver or commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised by a Court to perform any of such duties;
- (d) every assessor or member of a panchayat assisting a Court or public servant;
- (e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court, or by any other competent public authority;
- (f) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;
- (g) every officer of the Government whose duty it is, as such officer, to prevent offences,

to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

(h) every officer whose duty it is, as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction of any law for the protection of the pecuniary interests of the Government;

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

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

(k) every person—

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

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

Explanation.—(a) persons falling under any of the descriptions made in this clause are public servants, whether appointed by the Government or not; (b) every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation is a public servant; (c) "election" means an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of selection to which is by, or under any law for the time being in force.

Illustration. A Municipal Commissioner is a public servant;

SHORT NOTES & PRO-TIPS

Status vs. Pay: A person may be a "public servant" even if they are not receiving a salary from the government (e.g., an arbitrator appointed by a court). It is the **duty** and **authority** that determines the status, not the paycheck

The Adjudicator Rule: Any person performing an adjudicatory function (deciding a legal dispute) is a public servant, even if they aren't officially titled "Judge."

Expansion in BNS: The definition is significantly broader than in the old IPC, covering modern administrative and regulatory roles to ensure accountability.

LINKING LAWS

Prevention of Corruption Act (PC Act), 1988: The definition of "public servant" in the BNS is often read alongside Section 2(c) of the PC Act. For corruption cases, the PC Act definition is usually even wider.

Protection of Public Servants: Sections like **Section 132** (Assault to deter public servant from discharge of duty) and **Section 198** (Obstructing public servant in discharge of public functions) of the BNS directly rely on this definition.

Section 2(16): Cross-reference with the definition of "**Judge**" to see how every Judge is a public servant, but not every public servant is a Judge.

SHORT NOTES & PRO-TIPS

Broad Scope: The definition is functional, not just hierarchical. If a person is performing a "Public Duty," they are likely a public servant under the BNS.

Pro-Tip: Focus on Clause (xi) and (xii). These are "catch-all" clauses that bring employees of Government Companies (PSUs) and individuals remunerated by fees for public duties into the net.

The "De Facto" Rule: Under the explanations to this section (though not reproduced in the core text above), even if there is a legal defect in a person's appointment, if they are acting as a public servant, they are treated as one.

LINKING LAWS

Prevention of Corruption Act, 1988: Section 2(c) of the PC Act defines public servants even more broadly than the BNS to ensure no corrupt official escapes.

Section 198-205 BNS: These sections deal with contempt of the lawful authority of public servants.

Section 132 & 221 BNS: Deals with assault on public servants and public servants disobeying law to cause injury.

QUESTION 1: Which of the following is defined under Section 2(28) of the BNS? A. Public. B. Public Servant. C. Person. D. Omission. **ANSWER: B**

QUESTION 2: An arbitrator to whom a matter has been referred by a Court of Justice is: A. A private contractor. B. A public servant under Section 2(28)(v). C. An officer of the Court only. D. Not a public servant. **ANSWER: B**

QUESTION 3: (Judiciary Pattern) Does a person need to be in receipt of a salary from the Government to be a "public servant"? A. Yes, salary is a mandatory requirement. B. No, provided they perform a duty defined in Section 2(28). C. Only if they are a Commissioned Officer. D. Only in cases of corruption. **ANSWER: B**

QUESTION 4: Every Commissioned Officer in the Military, Naval, or Air Forces of India is a public servant under which clause? A. Clause (i). B. Clause (v). C. Clause (viii). D. Clause (x). **ANSWER: A**

QUESTION 5: A person empowered by law to keep others in confinement (e.g., a Jailer) is a public servant under: A. Section 2(28)(vi). B. Section 2(28)(ii). C. Section 2(25). D. Section 2(10). **ANSWER: A**

QUESTION 6: Which of the following is NOT necessarily a public servant under the BNS? A. A Judge. B. An officer of a Court of Justice. C. An employee of a purely private law firm. D. A member of a panchayat assisting a Court. **ANSWER: C**

QUESTION 7: An officer whose duty is to protect "public health, safety or convenience" is a public servant under: A. Clause (vii). B. Clause (i). C. Clause (iii). D. Clause (v). **ANSWER: A**

QUESTION 8: (AOR Pattern) If a Court specially authorizes a person to administer an oath, that person becomes a public servant for that purpose. A. True, under Section 2(28)(iii). B. False, they are only a private witness. C. True, but only if they are a lawyer. D. False, only permanent employees are public servants. **ANSWER: A**

QUESTION 9: The definition of "public servant" is intended to: A. Protect them from all criminal charges. B. Define the class of persons who can be charged for specific offences like "taking gratification." C. Limit the number of people working for the government. D. Define who can vote in elections. **ANSWER: B**

QUESTION 10: Every "Judge" is a "Public Servant," but not every "Public Servant" is a "Judge." This statement is: A. Legally Correct. B. Legally Incorrect. C. Correct only under the IPC, not BNS. D. Correct only for the Supreme Court. **ANSWER: A**

QUESTION 1: Which of the following is NOT a public servant under Section 2(28) of the BNS?

- A. A Commissioned Officer in the Indian Air Force.
- B. An Arbitrator appointed by a Court.
- C. A Senior Advocate appearing for a private client.
- D. A Municipal Commissioner.

ANSWER: C

QUESTION 2: A person in the service of a "Government Company" as defined in the Companies Act, 2013, is a public servant under:

- A. Clause (i).
- B. Clause (vi).
- C. Clause (xii).
- D. Clause (iii).

ANSWER: C

QUESTION 3: (Judiciary Pattern) An officer whose duty is to protect "public health, safety or convenience" is a public servant under:

- A. Section 2(28)(vii).
- B. Section 2(28)(ii).
- C. Section 2(28)(ix).
- D. Section 2(28)(xi).

ANSWER: A

QUESTION 4: Does a person need to receive a salary from the Government to be a public servant under BNS?

- A. Yes, salary is the primary requirement.
- B. No, they can be remunerated by fees or commission for public duty.
- C. Only if they are in the Military.
- D. Only if they are a Judge.

ANSWER: B

QUESTION 5: Every Judge is a public servant under Section 2(28)(ii). This includes:

- A. Only Supreme Court and High Court Judges.
- B. Any person empowered by law to discharge adjudicatory functions.
- C. Only Judges who receive a pension.
- D. Only District Judges.

ANSWER: B

QUESTION 6: A person empowered to prepare or revise an electoral roll is a public servant under:

A. Clause (iii).

B. Clause (v).

C. Clause (x).

D. Clause (xii).

ANSWER: C

QUESTION 7: An officer of a Court of Justice whose duty is to interpret or preserve order in the Court is a public servant under:

A. Clause (iii).

B. Clause (iv).

C. Clause (vi).

D. Clause (vii).

ANSWER: A

QUESTION 8: (AOR Pattern) If an individual is appointed by a competent public authority to report on a matter, they are a public servant under:

A. Clause (v).

B. Clause (ii).

C. Clause (viii).

D. Clause (xi).

ANSWER: A

QUESTION 9: A Jailor or any person empowered to keep others in confinement is a public servant under:

A. Section 2(28)(vi).

B. Section 2(28)(i).

C. Section 2(28)(iv).

D. Section 2(28)(vii).

ANSWER: A

QUESTION 10: Which clause includes members of a panchayat assisting a Court of Justice?

A. Clause (ii).

B. Clause (iv).

C. Clause (vi).

D. Clause (viii).

ANSWER: B

REVISION BOX

Description	BNS Clause
Military Officers	2(28)(i)
Adjudicators/Judges	2(28)(ii)
Confinement Officers	2(28)(vi)
Election Officers	2(28)(x)
PSU Employees	2(28)(xii)

REVISION BOX

Category	Clause in 2(28)
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Defense Forces	(i)
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Judges	(ii)
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Court Officers	(iii)
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Confinement Officers	(vi)
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Police/Health Officers	(vii)
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Export to Sheets

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

(30) "special law" means a law applicable to a particular subject;

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

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

SHORT NOTES & PRO-TIPS

Reason to Believe (2(29)): This is a subjective-objective test. It does not require absolute "knowledge," but it requires more than "suspicion." If the circumstances

are such that any reasonable person would conclude a fact exists, the law presumes "reason to believe."

Special Law (2(30)): A law that carves out a specific area of regulation (e.g., the NDPS Act for drugs).

Pro-Tip: In exams, if a question asks about a law applicable to a "territory," it is a Local Law. If it asks about a "subject," it is a Special Law.

Valuable Security (2(31)): Focus on the verb list: *Created, Extended, Transferred, Restricted, Extinguished, or Released.*

Pro-Tip: A "Will" or a "Settlement Deed" are classic examples. Even an unsigned draft that *purports* to be a final deed can be a valuable security for the purpose of a forgery charge.

LINKING LAWS

Bharatiya Sakshya Adhiniyam (BSA): The definition of "Document" in the BSA is the genus, while "Valuable Security" in BNS is the species.

Section 336-340 BNS: These sections (Forgery of valuable security) carry much higher punishments than ordinary forgery.

Section 2(18) BNS: Contrast **Special Law** with the definition of **Local Law**.

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MCQ PRACTICE SET (SECTION 2(29) - 2(31))

QUESTION 1: As per Section 2(29) of the BNS, "reason to believe" requires:

- A. Absolute personal knowledge.
- B. Sufficient cause to believe.
- C. A suspicion based on hearsay.
- D. A court order confirming the fact.

ANSWER: B

QUESTION 2: A law applicable to a particular subject is defined as a:

- A. Local Law.
- B. Special Law.
- C. Common Law.
- D. Personal Law.

ANSWER: B

QUESTION 3: Which section of the BNS defines "Valuable Security"?

- A. Section 2(15).
- B. Section 2(29).
- C. Section 2(31).
- D. Section 2(33).

ANSWER: C

QUESTION 4: A document that "purports" to create a legal right is a valuable security even if it is legally defective. This is:

- A. True, under Section 2(31).
- B. False, only valid documents are valuable securities.
- C. True only if the document is notarized.
- D. False, BNS only covers registered documents.

ANSWER: A

QUESTION 5: (Judiciary Pattern) 'A' receives a gold chain from 'B', knowing that 'B' is a known snatcher and cannot afford such an item. 'A' has:

- A. Knowledge.

B. Reason to believe it is stolen property.

C. No liability.

D. A moral duty but no legal duty.

ANSWER: B

QUESTION 6: Which of the following is an example of a "Special Law"?

A. The Protection of Children from Sexual Offences (POCSO) Act.

B. The Goa Children's Act.

C. The Indian Contract Act.

D. The Civil Procedure Code.

ANSWER: A

QUESTION 7: A document whereby a person acknowledges that he "lies under legal liability" is a:

A. Special Law.

B. Local Law.

C. Valuable Security.

D. Public Document.

ANSWER: C

QUESTION 8: If a document "restricts" a legal right, it falls under the definition of:

A. Document of Evidence.

B. Valuable Security.

C. Reason to believe.

D. Omission.

ANSWER: B

QUESTION 9: The standard of "Reason to Believe" is:

- A. Lower than suspicion.
- B. Higher than suspicion but lower than knowledge.
- C. Exactly the same as knowledge.
- D. Purely based on the accused's whim.

ANSWER: B

QUESTION 10: Which of the following does NOT constitute a valuable security?

- A. A mortgage deed.
- B. A promissory note.
- C. A mere letter of recommendation for a job.
- D. A registered sale deed.

ANSWER: C

QUESTION 11: A law applicable to "Money Laundering" across all states of India is a:

- A. Local Law.
- B. Special Law.
- C. Customary Law.
- D. Procedural Law.

ANSWER: B

QUESTION 12: Under Section 2(31), the word "extinguished" refers to:

- A. Extending the time of a contract.

- B. Ending or canceling a legal right.
- C. Creating a new property right.
- D. Transferring a right to a third party.

ANSWER: B

QUESTION 13: To prove "Reason to believe," the court looks at the facts from the perspective of:

- A. The accused's unique intelligence.
- B. A reasonable man of ordinary prudence.
- C. A high-ranking police officer.
- D. The victim only.

ANSWER: B

QUESTION 14: An "acknowledgment of debt" signed by a debtor is:

- A. An Omission.
- B. A Valuable Security.
- C. A Special Law.
- D. A Public Servant's report.

ANSWER: B

QUESTION 15: Which of the following is NOT a verb used in the definition of Valuable Security?

- A. Created.
- B. Extinguished.
- C. Published.
- D. Transferred.

ANSWER: C

QUESTION 16: The difference between Section 2(30) and Section 2(18) is:

- A. Subject-matter vs. Territory.
- B. Civil vs. Criminal.
- C. Substantive vs. Procedural.
- D. Singular vs. Plural.

ANSWER: A

QUESTION 17: 'A' has a "suspicion" that a watch is stolen but no "sufficient cause" to believe it. This qualifies as "Reason to Believe."

- A. Yes.
- B. No, "sufficient cause" is mandatory.
- C. Only if the watch is expensive.
- D. Only if 'A' is a dealer in watches.

ANSWER: B

QUESTION 18: If a document purports to "release" a legal right, it is a valuable security under:

- A. Section 2(25).
- B. Section 2(28).
- C. Section 2(31).
- D. Section 2(2).

ANSWER: C

QUESTION 19: The term "Special Law" was previously defined in which section of the IPC?

- A. Section 40.
- B. Section 41.
- C. Section 42.
- D. Section 44.

ANSWER: B (Pro-Tip: Use this for linking history in your AOR exam).

QUESTION 20: Can a "photocopy" of a forged sale deed be treated as a valuable security if it is used to claim a right?

- A. No, only the original.
- B. Yes, if it "purports" to be the document creating the right.
- C. Only if attested.
- D. No, photocopies are not documents.

ANSWER: B

REVISION BOX

Section	Term	Core Element
2(29)	Reason to Believe	Sufficient cause (Objective facts).
2(30)	Special Law	Particular subject (e.g., Arms Act).
2(31)	Valuable Security	Legal Right (Creation/Transfer/Loss).

(32) "vessel" means anything made for the conveyance by water of human beings or of property;

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

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

(34) "will" means any testamentary document;

(35) "woman" means a female human being of any age;

SHORT NOTES & PRO-TIPS

Voluntarily (2(33)): This is a tripartite definition. It covers: 1. **Intention**, 2. **Knowledge**, and 3. **Likelihood** (Reason to believe).

Pro-Tip: In criminal law, "voluntarily" does not just mean "willingly." Even if you didn't *want* a specific result, if you knew it was *likely* to happen and proceeded anyway, you caused it voluntarily.

Woman (2(35)): This definition is absolute.

Pro-Tip: There is no age bar. A one-day-old female infant is a "woman" under the BNS. This is crucial for interpreting offences like outraging the modesty of a woman.

Vessel (2(32)): This is broader than a "ship." It includes boats, rafts, or any floating structure used for transport.

LINKING LAWS

Indian Succession Act, 1925: The definition of "**Will**" (2(34)) is essentially linked here. A Will is a "testamentary document" because it only takes effect after the death of the testator.

Section 115 BNS (Voluntarily causing hurt): The definition in 2(33) is the bedrock for all "hurt" and "grievous hurt" offences.

General Clauses Act: Often used to supplement the definition of "Vessel" in maritime legal contexts.

MCQ PRACTICE SET (SECTION 2(32) - 2(35))

QUESTION 1: Under Section 2(32) of the BNS, a "vessel" is defined as:

- A. Any container used for storing water.
- B. Anything made for the conveyance by water of human beings or property.
- C. Only large ships registered with the Navy.
- D. Any vehicle used for transport on land or water.

ANSWER: B

QUESTION 2: A person causes an effect "voluntarily" under Section 2(33) if they cause it by means:

- A. They intended to cause it.
- B. They knew were likely to cause it.
- C. They had reason to believe were likely to cause it.
- D. All of the above.

ANSWER: D

QUESTION 3: The definition of "will" under Section 2(34) refers to:

- A. A person's determination to commit a crime.
- B. Any testamentary document.
- C. A power of attorney.

D. A contract between two living persons.

ANSWER: B

QUESTION 4: According to Section 2(35), the term "woman" refers to:

A. A female human being above 18 years of age.

B. A female human being who is married.

C. A female human being of any age.

D. Only a female human being who is a citizen of India.

ANSWER: C

QUESTION 5: (Judiciary Pattern) 'A' sets fire to a house to rob it. He knows that 'B' is sleeping inside and might die. 'A' does not *intend* to kill 'B', but 'B' dies in the fire. 'A' has caused the death:

A. Accidentally.

B. Voluntarily.

C. Negligently.

D. Involuntarily.

ANSWER: B

QUESTION 6: A small wooden raft used to transport timber across a river is a "vessel" under BNS.

A. True, under Section 2(32).

B. False, only motorized boats are vessels.

C. True, but only if it carries a flag.

D. False, rafts are not mentioned in BNS.

ANSWER: A

QUESTION 7: The term "testamentary document" used in Section 2(34) implies that the document:

- A. Relates to a person's testimony in court.
- B. Takes effect only after the death of the person making it.
- C. Is a sworn affidavit before a Magistrate.
- D. Is a document of a public servant.

ANSWER: B

QUESTION 8: A six-month-old female child is considered a "woman" for the purpose of the BNS.

- A. No, she is a child.
- B. Yes, under Section 2(35).
- C. Only in cases of inheritance.
- D. Only if she is the victim of a cybercrime.

ANSWER: B

QUESTION 9: 'A' strikes 'B' with a heavy rod, having reason to believe it is *likely* to cause a fracture. Even if 'A' didn't intend to break 'B's bone, the act is:

- A. Involuntary.
- B. Voluntary.
- C. Justifiable.
- D. Culpable Homicide.

ANSWER: B

QUESTION 10: Which section of the BNS defines the word "Will"?

- A. Section 2(31).

B. Section 2(32).

C. Section 2(34).

D. Section 2(35).

ANSWER: C

QUESTION 11: The definition of "voluntarily" (2(33)) is essential to prove:

A. Actus Reus.

B. Mens Rea.

C. Alibi.

D. Locus Standi.

ANSWER: B

QUESTION 12: Which of the following is NOT part of the definition of "voluntarily"?

A. Intention.

B. Knowledge.

C. Sudden Impulse.

D. Reason to believe.

ANSWER: C

QUESTION 13: (AOR Pattern) In a case of outraging modesty, the defense argues the victim is a minor and thus not a "woman." This argument is:

A. Valid under the BNS.

B. Invalid, as "woman" includes females of any age under 2(35).

C. Valid if the victim is under 12.

D. Invalid, but only under the POCSO Act.

ANSWER: B

QUESTION 14: A "Vessel" must be intended for the conveyance of:

- A. Human beings only.
- B. Property only.
- C. Human beings or property.
- D. Military personnel only.

ANSWER: C

QUESTION 15: The distinction between "Intention" and "Reason to believe" in Section 2(33) shows that:

- A. They are identical.
- B. Intention is a higher degree of mental culpability.
- C. Reason to believe is purely accidental.
- D. Intention is only used for murder.

ANSWER: B

QUESTION 16: If a woman changes her gender legally to male, do they still fall under Section 2(35)?

- A. Yes, biological birth is the only factor.
- B. No, "female human being" refers to current legal status.
- C. Only if they are above 21.
- D. BNS does not address this.

ANSWER: B

QUESTION 17: Which term is used to describe the nature of a "Will" in Section 2(34)?

- A. Mandatory.
- B. Testamentary.
- C. Statutory.
- D. Arbitrary.

ANSWER: B

QUESTION 18: A person causes an effect voluntarily if they had "knowledge" of the likelihood of that effect. This "knowledge" must exist:

- A. After the act is completed.
- B. At the time of employing the means.
- C. At the time of the trial.
- D. Only if a witness is present.

ANSWER: B

QUESTION 19: The BNS definition of "woman" was previously in which section of the IPC?

- A. Section 8.
- B. Section 10.
- C. Section 12.
- D. Section 14.

ANSWER: B

QUESTION 20: In a maritime collision, a "floating crane" used for moving cargo is a "vessel" because:

- A. It is made for conveyance of property by water.
- B. It is made of iron.

C. It has a captain.

D. It is docked at a port.

ANSWER: A

REVISION BOX

Section	Term	Key Insight
2(33)	Voluntarily	Includes Intention, Knowledge, and Likelihood.
2(35)	Woman	Age is irrelevant; female human being.

This **conceptual triad** (Wrongful Gain, Wrongful Loss, and Dishonestly) forms the backbone of the economic harm principle in Indian criminal law. These definitions are foundational for prosecuting offences against property.

I. The Conceptual Triad: Foundation of Property Offences

These definitions are essential for understanding the following sections under the **Bharatiya Nyaya Sanhita (BNS), 2023**:

- **Theft** (Section 303)
- **Extortion** (Section 308)
- **Criminal Misappropriation** (Section 314)
- **Criminal Breach of Trust** (Section 316)
- **Cheating** (Section 318)

Legal Lineage: These sections correspond to **Sections 23 and 24** of the Indian Penal Code (IPC), 1860.

(36) "wrongful gain" means gain by unlawful means of property to which the person gaining is not legally entitled;

(37) "wrongful loss" means the loss by unlawful means of property to which the person losing it is legally entitled;

(38) "gaining wrongfully" and "losing wrongfully".—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property; and

SHORT NOTES (Point-wise for Exam Memory)

(36) Wrongful Gain

- **Definition:** Gaining property by **unlawful means**.
- **Key point:** The person gaining is **not legally entitled** to that property.
- **Example:** Stealing a phone – the thief gains wrongfully.
- **Includes:** Both **acquisition** and **retention** of property unlawfully.

(37) Wrongful Loss

- **Definition:** Losing property by **unlawful means**.
- **Key point:** The person losing is **legally entitled** to that property.
- **Example:** Having your wallet stolen – you suffer wrongful loss.
- **Includes:** Being **wrongfully deprived** of property **or** wrongfully kept out of it.

(38) Gaining Wrongfully & Losing Wrongfully

Term

Meaning

Term	Meaning
Gaining wrongfully	Retaining or acquiring property unlawfully
Losing wrongfully	Being wrongfully deprived or kept out of property

✂ **Important:** These definitions are **mutually linked** – wrongful gain to one usually means wrongful loss to another.

□ PRO TIPS FOR JUDICIARY EXAMS

1. **Interconnection:** Wrongful gain and wrongful loss are **two sides of the same coin** – one cannot exist without the other in most property offences (theft, extortion, criminal breach of trust).
2. **Memory Trick:**
 - *Gain = getting what you shouldn't have*
 - *Loss = losing what you should keep*
3. **Key distinction:**
 - Wrongful gain/loss require **unlawful means + lack of legal entitlement**.
 - Mere civil wrong without illegality may not suffice.
4. **Common exam trap:**

"A finds a wallet on the road, knows the owner, but keeps it."

 - This is **wrongful gain** (retention) even though initial taking wasn't theft.
5. **Case linkage:** These definitions are essential for understanding:

- Theft (Section 303 BNS) – requires dishonest intention → wrongful gain/loss
- Criminal misappropriation (Section 314 BNS)
- Cheating (Section 318 BNS)

6. **Judgment quote ready:**

"Dishonestly involves causing wrongful gain or wrongful loss."

Expert Tip: In a Judgement Writing paper, always check if the "Gain" was by "Unlawful Means." If the means were lawful (e.g., a bank charging a late fee per a signed contract), then even if the person is "not legally entitled" to that specific amount in equity, it is **not** Wrongful Gain under BNS because the element of "Unlawful Means" is missing.

The Link: The definition of "Property."

- **Simple Logic:** BNS says Wrongful Gain must involve "Property." The TPA defines what can be transferred legally.

The Connection: If you gain property by **Fraud** or **Coercion** (Contract Act), you have obtained it by "Unlawful Means" (BNS). While the Contract Act helps the victim get their property back, the BNS punishes the person for the "Wrongful Gain."

☐ 30 MCQs WITH ANSWERS

Q1. Under BNS, "wrongful gain" means gain by which means?

- a) Legal means
- b) Unlawful means
- c) Contractual means

d) Moral means

Ans: b) Unlawful means

Q2. For wrongful gain, the person gaining must be:

- a) Legally entitled to the property
- b) Not legally entitled to the property
- c) Owner of the property
- d) A public servant

Ans: b) Not legally entitled to the property

Q3. Wrongful loss means loss by:

- a) Accident
- b) Natural calamity
- c) Unlawful means
- d) Contract

Ans: c) Unlawful means

Q4. In wrongful loss, the person losing the property is:

- a) Not entitled to the property
- b) Legally entitled to the property
- c) A trespasser
- d) A stranger

Ans: b) Legally entitled to the property

Q5. "Gaining wrongfully" includes:

- a) Only acquiring property
- b) Only retaining property
- c) Both acquiring and retaining property

d) Neither acquiring nor retaining

Ans: c) Both acquiring and retaining property

Q6. "Losing wrongfully" includes:

a) Only being deprived of property

b) Only being kept out of property

c) Both being deprived of and kept out of property

d) Neither

Ans: c) Both being deprived of and kept out of property

Q7. Wrongful gain and wrongful loss are:

a) Independent concepts

b) Mutually exclusive

c) Interconnected

d) Not defined in BNS

Ans: c) Interconnected

Q8. A steals B's mobile phone. Here, A gets:

a) Wrongful loss

b) Wrongful gain

c) Legal gain

d) No gain

Ans: b) Wrongful gain

Q9. In the above question, B suffers:

a) Wrongful gain

b) Wrongful loss

c) No loss

d) Legal loss

Ans: b) Wrongful loss

Q10. A finds a diamond ring on a public bus, knows who the owner is, but keeps it. This is:

a) Wrongful gain by acquisition

b) Wrongful gain by retention

c) Both a and b

d) Neither

Ans: c) Both a and b

Q11. Wrongful gain requires that the property be obtained:

a) With consent

b) Without consent

c) By unlawful means

d) Both b and c

Ans: c) By unlawful means

Q12. X wrongfully keeps Y's land by force. X is:

a) Gaining wrongfully

b) Losing wrongfully

c) Not guilty

d) None

Ans: a) Gaining wrongfully

Q13. Y is wrongfully prevented from entering his own house. Y suffers:

a) Wrongful gain

b) Wrongful loss (being kept out)

c) No loss

d) Legal loss

Ans: b) Wrongful loss (being kept out)

Q14. These definitions are primarily used for understanding which concept in BNS?

a) Negligence

b) Dishonestly

c) Fraudulently

d) Good faith

Ans: b) Dishonestly

Q15. A retains stolen property even after knowing it is stolen. This is:

a) Wrongful gain by retention

b) Wrongful loss

c) Legal possession

d) None

Ans: a) Wrongful gain by retention

Q16. Unlawful means for wrongful gain includes:

a) Theft

b) Extortion

c) Criminal breach of trust

d) All of the above

Ans: d) All of the above

Q17. Wrongful loss does NOT include:

a) Being deprived of property

b) Being kept out of property

c) Giving property as a gift

d) Losing property by theft

Ans: c) Giving property as a gift

Q18. Which section of BNS contains these definitions?

a) Section 1

b) Section 2

c) Section 3

d) Section 4

Ans: b) Section 2

Q19. "A person is said to gain wrongfully when he retains wrongfully" – this is part of:

a) Clause (36)

b) Clause (37)

c) Clause (38)

d) Clause (39)

Ans: c) Clause (38)

Q20. These definitions are borrowed from which previous code?

a) Indian Penal Code, 1860

b) CrPC, 1973

c) Evidence Act, 1872

d) None

Ans: a) Indian Penal Code, 1860

Q21. Wrongful gain and wrongful loss must be:

a) Permanent

b) Temporary

c) Either permanent or temporary

d) None

Ans: c) Either permanent or temporary

Q22. A takes B's pen without B's consent, intending to return it after one day.

This is:

- a) No wrongful gain
- b) Wrongful gain (temporary)
- c) Legal act
- d) None

Ans: b) Wrongful gain (temporary)

Q23. The term "property" in these clauses includes:

- a) Movable property only
- b) Immovable property only
- c) Both movable and immovable property
- d) Neither

Ans: c) Both movable and immovable property

Q24. Wrongful gain to one person:

- a) Always means wrongful loss to another
- b) May not always mean wrongful loss to another
- c) Never means wrongful loss
- d) None

Ans: a) Always means wrongful loss to another

Q25. X pays government official to get a job unlawfully. The official gains:

- a) Wrongful gain
- b) No gain
- c) Legal gain

d) None

Ans: a) Wrongful gain

Q26. Y is wrongfully evicted from his ancestral house. Y suffers:

a) Wrongful loss (deprivation)

b) Wrongful gain

c) No loss

d) None

Ans: a) Wrongful loss (deprivation)

Q27. These definitions help in proving which element of theft?

a) Moving property

b) Without consent

c) Dishonest intention

d) Property being movable

Ans: c) Dishonest intention

Q28. "Wrongful gain" and "wrongful loss" are defined in BNS to:

a) Expand criminal liability

b) Define dishonesty

c) Replace IPC

d) None

Ans: b) Define dishonesty

Q29. A retains his neighbour's lawn mower knowing it belongs to the neighbour. This is:

a) Wrongful gain

b) Wrongful loss

c) No offence

d) None

Ans: a) Wrongful gain

Q30. The phrase "wrongfully kept out of any property" in clause (38) refers to:

- a) Physical dispossession only
- b) Legal prevention from possession
- c) Both physical and legal prevention
- d) Neither

Ans: c) Both physical and legal prevention

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

SHORT NOTES & PRO-TIPS

The "Gap-Filling" Rule: Section 2(39) is a vital bridge. Since the BNS deals with cybercrimes (like Section 316 for data theft), it doesn't redefine technical terms like "Digital Signature" or "Electronic Record." It simply imports them from the **IT Act, 2000**.

Pro-Tip: In exams, if you are asked for the definition of "Inquiry" or "Trial" in the context of the BNS, you must look at the **Bharatiya Nagarik Suraksha Sanhita (BNSS)**.

Uniformity: This clause ensures there is no "conflict of laws" between the substantive law (BNS), the procedural law (BNSS), and the technical law (IT Act).

LINKING LAWS

Information Technology Act, 2000: Definitions of "Computer," "Communication Device," and "Data" are imported into BNS via Section 2(39).

Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023: Procedural terms like "Investigation," "Police Report," and "Summons" are governed by this link.

Bharatiya Sakshya Adhiniyam (BSA), 2023: While not explicitly mentioned in 2(39), the BNS relies on BSA for definitions of "Document" and "Evidence."

QUESTION 1: According to Section 2(39) of the BNS, words not defined in the Sanhita but defined in the IT Act, 2000 shall:

- A. Be treated as undefined and void.
- B. Have the meaning assigned to them in the IT Act, 2000.
- C. Be defined by the Supreme Court on a case-to-case basis.
- D. Carry their ordinary dictionary meaning.

ANSWER: B

QUESTION 2: Which Act is specifically mentioned in Section 2(39) for importing definitions?

- A. The Indian Evidence Act.
- B. The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.
- C. The Transfer of Property Act.
- D. The Civil Procedure Code.

ANSWER: B

QUESTION 3: Technical terms like "Electronic Record" used in the BNS are interpreted as per:

- A. The Constitution of India.
- B. The Information Technology Act, 2000.
- C. The General Clauses Act.
- D. The Police Act.

ANSWER: B

QUESTION 4: The purpose of Section 2(39) is to ensure:

- A. Legal ambiguity.
- B. Consistency and uniformity across different statutes.
- C. High penalties for cybercrimes.
- D. That lawyers have more work.

ANSWER: B

QUESTION 5: If a term related to "Investigation" is used in the BNS but not defined therein, where should a lawyer look for its definition?

- A. The BNS itself.
- B. The BNSS, 2023.
- C. The BSA, 2023.
- D. The IPC.

ANSWER: B

3. GENERAL EXPLANATIONS. (1) Throughout this Sanhita every definition of an offence, every penal provision, and every Illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions", though those exceptions are not repeated in such definition, penal provision, or Illustration.

Illustrations. (a) The sections in this Sanhita, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that

nothing shall be an offence which is done by a child under seven years of age. (b) A, a police officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it".

(2) Every expression which is explained in any Part of this Sanhita, is used in every Part of this Sanhita in conformity with the explanation.

(3) When property is in the possession of a person's spouse, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Sanhita.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this sub-section.

(4) In every Part of this Sanhita, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

(5) When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

(6) Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

(7) Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration. A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

(8) When an offence is committed by means of several acts, whoever intentionally cooperates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations. (a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally cooperate in the commission of murder and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate. (b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly cooperate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z. (c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or cooperation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not cooperate with B, A is guilty only of an attempt to commit murder.

(9) Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration. A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

This section of the **Bharatiya Nyaya Sanhita (BNS), 2023** (which corresponds to Sections 6, 7, 27, 32, 34-38 of the IPC) is the "Grammar" of criminal law. It explains how to read the entire Code.

I. Important Short Notes for Judiciary Prelims

- **The "Master Clause" (Section 3(1)):** Every offence in the BNS is subject to **General Exceptions**, even if the section doesn't explicitly mention them. It saves the drafters from repeating "provided the person is not insane or a child" in every section.
- **Constructive Liability (Section 3(5)):** This is the doctrine of **Common Intention**. When two or more people act together for a shared goal, the law treats them as a single unit. Each is liable for the final result as if they did it alone.
- **Vicarious Possession (Section 3(3)):** Property with your spouse, clerk, or servant is legally in *your* possession. This prevents criminals from hiding stolen goods with their staff to escape liability.
- **Acts include Omissions (Section 3(4)):** In criminal law, doing nothing (when you have a legal duty to act) is the same as doing a physical act.
- **Different Liability (Section 3(9)):** Even if two people participate in the same killing, their crimes can be different (e.g., one guilty of Murder, the other of Culpable Homicide) based on their specific *mens rea* or provocation.

II. One-Liner Legal Facts & GK

1. **Section 3(5) BNS** is the new equivalent of the famous **Section 34 IPC** (Common Intention).
2. The landmark case establishing the "Prior Meeting of Minds" for Common Intention is **Barendra Kumar Ghosh v. King Emperor** (The Postmaster Case).
3. Common Intention (3(5) BNS) is a **rule of evidence**, not a substantive offence on its own.
4. Possession by a **clerk or servant** is considered "Constructive Possession" by the master.
5. A **temporary employee** is treated exactly like a permanent clerk for the purposes of criminal possession.

III. One-Liner Question & Answer

- **Q: Can a person be guilty of murder by doing nothing?**
 - **A:** Yes, if they illegally omit a legal duty, such as a jailor intentionally not feeding a prisoner (Section 3(7)).
- **Q: What is the primary difference between Common Intention and Common Object?**
 - **A:** Common Intention requires a "prior meeting of minds," whereas Common Object (Unlawful Assembly) does not.

- **Q: If A and B both poison Z independently without knowing about each other, is it Common Intention?**
 - A: No, Section 3(8) requires **intentional cooperation** for joint liability.
 - **Q: Is a spouse's possession always the husband's/wife's possession?**
 - A: Yes, under Section 3(3), provided it is held "on account of that person."
-

IV. True or False

1. General Exceptions must be mentioned in every section of the BNS. (**False**)
 2. An "act" also includes an "illegal omission." (**True**)
 3. In Common Intention, every person must do the exact same physical act. (**False**)
 4. A temporary servant's possession is not the master's possession. (**False**)
 5. Two people can be guilty of different offences while committing the same criminal act. (**True**)
-

V. 30 MCQ Practice (Prelims Level)

(Answers provided at the end)

1. **Under BNS, "act" includes:**
 - (a) Lawful omission (b) Illegal omission (c) Only physical movement (d) Only violent acts
2. **Section 3(5) of BNS deals with:**
 - (a) Common Object (b) Common Intention (c) Criminal Conspiracy (d) Abetment
3. **To invoke Section 3(5), there must be at least:**
 - (a) 1 person (b) 2 persons (c) 5 persons (d) 11 persons
4. **Property in possession of a servant is in possession of:**
 - (a) The Servant (b) The State (c) The Master (d) No one
5. **A police officer arrests a murderer without a warrant. He is protected by:**
 - (a) Section 3(1) (b) Right of Private Defense (c) Section 3(5) (d) Section 3(9)
6. **"Prior meeting of minds" is a necessary element of:**

(a) Section 3(9) (b) Section 3(3) (c) Section 3(5) (d) Section 3(4)

7. **If A beats Z and B denies Z food, and Z dies, they are guilty under:**

(a) Section 3(7) (b) Section 3(3) (c) Only B is guilty (d) Only A is guilty

8. **Section 3(5) creates:**

(a) A new offence (b) Vicarious liability (c) Joint/Constructive liability (d) Civil liability

9. **A child under 7 commits a crime. Which section ensures they aren't punished?**

(a) Section 3(1) (b) Section 3(5) (c) Section 1 (d) Section 2

10. **In Section 3(9), A and B kill Z. A has provocation, B does not. B is guilty of:**

(a) Culpable Homicide (b) Murder (c) Attempt (d) Abetment

(...Questions 11-30 follow similar patterns of Section application...)

Answers: 1(b), 2(b), 3(b), 4(c), 5(a), 6(c), 7(a), 8(c), 9(a), 10(b).

VI. Comprehensive Legal Logic Chart

Concept	BNS Section	Key Logic
Exceptions	3(1)	Read every crime as if the "General Exceptions" chapter is attached to it.
Possession	3(3)	Physical custody by Clerk/Spouse = Legal possession by the Person.
The "Act"	3(4) & 3(7)	Act = Positive Action; Omission = Failure to act. Both create liability.
Joint Liability	3(5)	Common Intention + Participation = One for all, all for one.

Concept	BNS Section	Key Logic
Cooperation	3(8)	Multiple acts leading to one crime = Everyone doing an act is a partner in crime.
Individual Intent	3(9)	Same act + Different Intentions = Different Offences.

MCQ PRACTICE SET (SECTION 4)

QUESTION 1: Which of the following is a NEW punishment introduced in the BNS, 2023?

- A. Forfeiture of property.
- B. Community service.
- C. Simple imprisonment.
- D. Solitary confinement.

ANSWER: B

QUESTION 2: Under Section 4, how many distinct types of punishments are prescribed?

- A. Five.
- B. Six.
- C. Seven.
- D. Four.

ANSWER: B

QUESTION 3: Imprisonment under the BNS is of two descriptions. These are:

- A. Conditional and Unconditional.

- B. Rigorous and Simple.
- C. Bailable and Non-bailable.
- D. Short-term and Long-term.

ANSWER: B

QUESTION 4: "Rigorous imprisonment" is defined as imprisonment with:

- A. Solitary confinement.
- B. Hard labour.
- C. No contact with the outside world.
- D. Compulsory education.

ANSWER: B

QUESTION 5: Forfeiture of property as a punishment is mentioned under which clause of Section 4?

- A. Clause (a).
- B. Clause (d).
- C. Clause (e).
- D. Clause (f).

ANSWER: B

QUESTION 6: (Judiciary Pattern) In which of the following cases can "Community Service" be awarded as per the BNS?

- A. Murder.
- B. Petty theft or public misconduct.
- C. Rape.
- D. Criminal Conspiracy for terror acts.

ANSWER: B

QUESTION 7: Life imprisonment under the BNS generally means:

- A. 14 years of imprisonment.
- B. 20 years of imprisonment.
- C. Imprisonment for the remainder of the person's natural life.
- D. Imprisonment until the next general election.

ANSWER: C

QUESTION 8: If a person is sentenced to "Fine" only, can they be sent to jail for non-payment?

- A. No, fine is the only punishment.
- B. Yes, imprisonment in default of fine is permitted under subsequent sections.
- C. Only if the Supreme Court agrees.
- D. Only if the person is a repeat offender.

ANSWER: B

QUESTION 9: Which punishment is the most severe according to the hierarchy in Section 4?

- A. Life Imprisonment.
- B. Forfeiture of property.
- C. Death.
- D. Rigorous Imprisonment.

ANSWER: C

QUESTION 10: "Community Service" is intended to be:

- A. A way to get free government labor.

- B. Punitive and Reformative for petty offences.
- C. A punishment for High Court Judges.
- D. A substitute for the Death Penalty.

ANSWER: B

QUESTION 11: Who has the power to define the nature of "Community Service" in a specific case?

- A. The Police.
- B. The Court.
- C. The Victim.
- D. The NGO.

ANSWER: B

QUESTION 12: Is "Transportation for Life" a punishment under the BNS?

- A. Yes, it was retained from the IPC.
- B. No, it has been abolished.
- C. Only for crimes committed at sea.
- D. Yes, but only for terrorists.

ANSWER: B

QUESTION 13: (AOR Pattern) Which section of the BNS corresponds to Section 53 of the old IPC?

- A. Section 2.
- B. Section 4.
- C. Section 10.
- D. Section 12.

ANSWER: B

QUESTION 14: Which clause mentions the "Death" penalty?

- A. Clause (a).
- B. Clause (b).
- C. Clause (c).
- D. Clause (d).

ANSWER: A

QUESTION 15: Simple imprisonment is usually awarded for:

- A. Violent crimes.
- B. Minor offences or cases of defamation.
- C. Organized crime.
- D. Crimes against the State.

ANSWER: B

QUESTION 16: The introduction of "Community Service" reflects which theory of punishment?

- A. Deterrent Theory.
- /B. Reformatory Theory.
- C. Retributive Theory.
- D. Preventive Theory.

ANSWER: B

QUESTION 17: In the case of Rigorous Imprisonment, the "hard labour" is assigned by:

- A. The Court in its judgment.

- B. The Prison Authorities.
- C. The Ministry of Home Affairs.
- D. The Police.

ANSWER: B

QUESTION 18: Can "Forfeiture of Property" be combined with "Imprisonment"?

- A. No, only one punishment can be given.
- B. Yes, if the section defining the offence allows both.
- C. Only for civil servants.
- D. Only if the property is worth more than 1 Crore.

ANSWER: B

QUESTION 19: Which of the following is NOT a punishment under the BNS?

- A. Fine.
- B. Public Flogging.
- C. Death.
- D. Community Service.

ANSWER: B

QUESTION 20: Section 4 falls under which Chapter?

- A. Chapter I.
- B. Chapter II.
- C. Chapter III.
- D. Chapter IV.

ANSWER: B

CHAPTER II

OF PUNISHMENTS

4. PUNISHMENTS. The punishments to which offenders are liable under the provisions of this Sanhita are—

- (a) Death;
- (b) Imprisonment for life;
- (c) Imprisonment, which is of two descriptions, namely:— (1) Rigorous, that is, with hard labour; (2) Simple;
- (d) Forfeiture of property;
- (e) Fine;
- (f) Community Service.

SECTION DETAILS

Particulars	Details
Section	4 of Bharatiya Nyaya Sanhita, 2023
Popularly Known As	"Sentencing Section" / "Punishments Provision"
Corresponding IPC Section	Section 53 of IPC, 1860
Chapter	Chapter II - Of Punishments
Nature	Substantive Law - Sentencing
New Addition	Community Service (not in IPC)

□ LANDMARK JUDGEMENTS (Two-Liner Crux)

Bachan Singh v. State of Punjab Death penalty constitutionally valid but must be awarded

(1980)	only in "rarest of rare cases". Established sentencing guidelines for capital punishment.
Machhi Singh v. State of Punjab (1983)	Expanded "rarest of rare" doctrine. Gave specific categories where death penalty can be imposed.
Swamy Shraddananda v. State of Karnataka (2008)	Life imprisonment means imprisonment for entire remaining natural life of convict. Introduced "actual life imprisonment" concept.
Union of India v. V. Sriharan (2016)	Constitutional bench upheld power of courts to impose "special category" life sentence.
State of Punjab v. Dalbir Singh (2012)	Community service not recognized as punishment under IPC - but now added in BNS 2023.
Mithu v. State of Punjab (1983)	Section 303 IPC (mandatory death for life convicts) struck down as unconstitutional.
Sunil Batra v. Delhi Administration (1978)	Prisoners retain fundamental rights; solitary confinement restrictions upheld.
Ravji v. State of Rajasthan (1996)	Imprisonment for life means imprisonment for whole of remaining life - not 14 or 20 years fixed term.
Sangeet v. State of Haryana (2013)	Death penalty sentencing requires individual assessment; "rarest of rare" not to be applied mechanically.
Alister Anthony Pareira v. State of Maharashtra (2012)	Fine amount must be just and reasonable, not excessive.

LEGAL MAXIMS (Relevant to Punishment)

Maxim

Meaning

Application

Maxim	Meaning	Application
Nulla poena sine lege	No punishment without law	Punishment only for defined offences
Actus non facit reum nisi mens sit rea	Act does not make guilty unless mind is guilty	Required for imposing punishment
Audi alteram partem	Hear the other side	Before sentencing
Proportionality	Punishment proportionate to crime	Constitutional mandate
Res judicata	Matter already adjudicated	Finality of sentence
Furiosi nulla voluntas est	A madman has no will	Unsound mind - no punishment
De minimis non curat lex	Law does not concern trifles	Slight harm - no punishment (Sec 33 BNS)

Nulla poena sine lege: No punishment without a law. You cannot be punished for something that wasn't a crime when you did it.

- **Proportionata regit poenam:** Punishment should be proportionate to the crime.
- **Ut poena ad paucos, metus ad omnes perveniat:** That punishment may reach a few, but the fear of it may reach all (The Deterrent Theory).

CONCEPT OF PUNISHMENT - THEORIES

Theory	Meaning	BNS Application
Deterrent	Deter others from crime	Death, imprisonment
Retributive	"Eye for an eye"	Death penalty

Theory	Meaning	BNS Application
Reformative	Reform the offender	Probation, community service
Incapacitation	Remove from society	Life imprisonment
Compensatory	Compensate victim	Fine to victim (rape cases Sec 65 BNS)

- **BNS & Constitution:** The power to grant pardon/remission (linked to Death/Life sentences) lies with the President (**Art. 72**) and Governor (**Art. 161**).
- **BNS & BNSS:** While Section 4 BNS lists "Community Service," the procedure for how it is monitored is found in the **Bharatiya Nagarik Suraksha Sanhita (BNSS)**.
- **Solitary Confinement:** Linked to Rigorous Imprisonment. Under BNS (Sections 10 & 11), it cannot exceed 3 months in total.
- **Fraction of Punishment:** In calculating fractions of punishment (e.g., for attempts), Life Imprisonment is treated as equivalent to **20 years** (Section 5 BNS / Old Sec 57 IPC).

Concept 1: Death Penalty under BNS

- **Section 4(a)** - Listed as punishment
- **Section 103(1)** - Murder punishable with death or life imprisonment
- **Section 103(2)** - Group murder on discriminatory grounds - death or life
- **Section 104** - Life convict committing murder - death or natural life imprisonment
- **Section 140(2)** - Kidnapping for ransom causing death - death or life
- **Section 147** - Waging war against India - death or life
- **Section 160** - Abetment of mutiny if mutiny committed - death or life
- **Rarest of Rare Doctrine** - Bachan Singh case

Concept 2: Imprisonment for Life

- **Section 4(b)** - Listed as punishment
- **Section 6** - Reckoned as 20 years (for fractions)
- **Section 104** - "Remainder of natural life" for life convicts
- **Section 64(2)** - Rape by specified persons - natural life imprisonment
- **Section 65** - Rape of minor - natural life imprisonment

- **Section 310(2)** - Dacoity - life imprisonment
- **Ravji Case (1996)** - Life = entire remaining life

Concept 3: Rigorous vs Simple Imprisonment

Aspect	Rigorous	Simple
Section 4(c)	With hard labour	Without hard labour
Section 7	Court can direct wholly/partly rigorous or simple	-
Examples	Theft, dacoity, robbery	Defamation, public nuisance
Default of fine	Can be rigorous (Sec 8(4))	Only simple if fine only (Sec 8(5))

Concept 4: Forfeiture of Property (Section 4(d))

- **Section 154** - Depredation on foreign State's territory
- **Section 155** - Receiving property taken by war
- **Section 203** - Public servant unlawfully buying property
- **Section 186(2)** - Fictitious stamps forfeited
- **Not common** - Limited to specific offences

Concept 5: Fine (Section 4(e))

- **Section 8** - Unlimited fine but not excessive
- **Section 8(2)** - Default imprisonment for non-payment
- **Section 8(5)** - Default imprisonment limit: 2 months ($\leq 5K$), 4 months ($\leq 10K$), 1 year (above)
- **Section 8(7)** - Fine can be levied within 6 years after sentence
- **Section 65** - Fine to be paid to rape victim
- **Section 124** - Fine for acid attack to meet medical expenses

Concept 6: Community Service (NEW in BNS)

Particulars	Details
Section 4(f)	Listed as punishment (NOT in IPC)
Section 8(5)	Default of community service leads to simple imprisonment
Section 209	Non-appearance in response to proclamation - community service
Section 226	Attempt to commit suicide to compel public servant - community service
Section 303(2) Proviso	First-time theft < ₹5000 after returning property - community service
Section 355	Drunken misconduct - community service
Section 356(2)	Defamation - community service

Q: Which punishment for which offence?

Offence (BNS Section)	Punishment (Section 4)
Murder (103)	Death or Life + Fine
Rape of minor under 12 (65(2))	Death or Natural Life + Fine
Gang rape of minor (70(2))	Death or Natural Life + Fine
Waging war (147)	Death or Life + Fine

Offence (BNS Section)	Punishment (Section 4)
Dacoity (310)	Life or 10 yrs rigorous + Fine
Theft (303)	3 yrs or fine or both
Snatching (304)	3 yrs + fine
Defamation (356)	2 yrs simple + fine or community service
Public nuisance (292)	Fine only (₹1000)

Memory Tricks

TRICK 1: "D-FLIR" to remember punishments

- **D** - Death
- **F** - Forfeiture of property
- **L** - Life imprisonment
- **I** - Imprisonment (Rigorous/Simple)
- **R** - fine (Reminds of Rupee/Fine) + Community Service

TRICK 2: Death penalty offences in BNS

"MURDER PLUS WAGER" - MURDER (Sec 103), PLUS: Waging war (147), Abetment of mutiny (160), Rape of minor (65), Gang rape minor (70), Kidnap for ransom death (140), Dacoity with murder (310)

Exam Pointers

1. **New addition in BNS:** Community Service (Section 4(f)) - NOT in IPC Section 53
2. **IPC Section 53** had 5 punishments (No community service)
3. **Section 6 BNS:** Life = 20 years for calculation of fractions
4. **Section 7 BNS:** Court can order part rigorous + part simple imprisonment
5. **Section 8(5):** Default of fine when ONLY fine/community service = simple imprisonment ONLY
6. **Fine limits for default imprisonment:**

- ₹5000 → 2 months
- ₹10000 → 4 months
- Above ₹10000 → 1 year
- 7. **Death penalty:** Only in "rarest of rare cases" (Bachan Singh)
- 8. **Life imprisonment:** Can be "remaining natural life" for heinous crimes (Section 104, 64(2), 65)
- 9. **Forfeiture:** Limited to specific offences - NOT common like fine

30+ MCQs ON SECTION 4 BNS

Q1. Which of the following is NOT a punishment under Section 4 of BNS, 2023?

- a) Death
- b) Imprisonment for life
- c) Solitary confinement
- d) Community Service

Ans: c) Solitary confinement (It's a mode of imprisonment under Section 11-12, not a separate punishment)

Q2. How many types of punishments are listed under Section 4 of BNS?

- a) 5
- b) 6
- c) 7
- d) 8

Ans: b) 6 (Death, Life, Imprisonment (2 types), Forfeiture, Fine, Community Service)

Q3. Which punishment under Section 4 BNS was NOT present in IPC Section 53?

- a) Forfeiture of property
- b) Fine
- c) Community Service
- d) Imprisonment for life

Ans: c) Community Service

Q4. Rigorous imprisonment means imprisonment with:

- a) Solitary confinement
- b) Hard labour
- c) No labour
- d) Community service

Ans: b) Hard labour

Q5. As per Section 4(c), imprisonment is of how many descriptions?

- a) One
- b) Two
- c) Three
- d) Four

Ans: b) Two (Rigorous and Simple)

Q6. Which Section of BNS corresponds to Section 53 of IPC?

- a) Section 2
- b) Section 3
- c) Section 4
- d) Section 5

Ans: c) Section 4

Q7. The punishment of "Death" under Section 4(a) is awarded in which of the following cases?

- a) Murder under Section 103
- b) Waging war under Section 147
- c) Dacoity with murder under Section 310(3)
- d) All of the above

Ans: d) All of the above

Q8. "Imprisonment for life" under Section 4(b) for calculation of fractions is reckoned as:

- a) 14 years
- b) 20 years
- c) 30 years
- d) Whole life

Ans: b) 20 years (As per Section 6 BNS)

Q9. Which landmark case established the "rarest of rare" doctrine for death penalty?

- a) Mithu v. State of Punjab
- b) Bachan Singh v. State of Punjab
- c) Kesavananda Bharati v. State of Kerala
- d) Maneka Gandhi v. Union of India

Ans: b) Bachan Singh v. State of Punjab (1980)

Q10. Under Section 4(e), fine amount can be:

- a) Fixed maximum of ₹10,000
- b) Fixed maximum of ₹1,00,000
- c) Unlimited but not excessive
- d) Only ₹500

Ans: c) Unlimited but not excessive (Section 8(1))

Q11. In default of payment of fine only (no imprisonment sentence), the default imprisonment shall be:

- a) Rigorous imprisonment
- b) Simple imprisonment
- c) Both rigorous and simple
- d) No imprisonment

Ans: b) Simple imprisonment (Section 8(5))

Q12. Forfeiture of property under Section 4(d) can be ordered in which of the following BNS sections?

- a) Section 154 (Depredation on foreign territory)
- b) Section 203 (Public servant buying property)
- c) Both a and b
- d) Neither

Ans: c) Both a and b

Q13. Community Service under Section 4(f) is NOT provided for:

- a) Defamation under Section 356
- b) First-time theft under ₹5000 with return of property
- c) Murder under Section 103
- d) Drunken misconduct under Section 355

Ans: c) Murder under Section 103

Q14. The legal maxim "Nulla poena sine lege" means:

- a) No punishment without law
- b) No crime without law
- c) Law is above punishment
- d) Punishment is above law

Ans: a) No punishment without law

Q15. As per Section 6 BNS, imprisonment for life shall be reckoned as equivalent to which term for calculating fractions?

- a) 14 years
- b) 18 years
- c) 20 years
- d) 25 years

Ans: c) 20 years (unless otherwise provided)

Q16. Which Section of BNS empowers the court to direct that imprisonment shall be wholly rigorous or partly rigorous and partly simple?

- a) Section 4
- b) Section 5
- c) Section 6
- d) Section 7

Ans: d) Section 7

Q17. Which case held that life imprisonment means imprisonment for the entire remaining natural life of the convict?

- a) Bachan Singh case
- b) Swamy Shraddananda case
- c) Mithu case
- d) Sunil Batra case

Ans: b) Swamy Shraddananda v. State of Karnataka (2008)

Q18. The maximum default imprisonment term when fine exceeds ₹10,000 is:

- a) 2 months
- b) 4 months
- c) 6 months
- d) 1 year

Ans: d) 1 year (Section 8(5)(c))

Q19. Which of the following offences provides for "Fine to be paid to the victim"?

- a) Theft under Section 303
- b) Rape of minor under Section 65
- c) Cheating under Section 318
- d) Criminal trespass under Section 329

Ans: b) Rape of minor under Section 65

Q20. The theory of punishment that focuses on reforming the offender is called:

- a) Deterrent theory
- b) Retributive theory
- c) Reformatory theory
- d) Incapacitation theory

Ans: c) Reformatory theory

Q21. Under Section 4(c), which type of imprisonment can be awarded for defamation under Section 356?

- a) Rigorous imprisonment
- b) Simple imprisonment
- c) Both rigorous and simple
- d) Neither

Ans: b) Simple imprisonment (Section 356 specifically says "simple imprisonment")

Q22. The punishment of "Forfeiture of property" under Section 4(d) is:

- a) Mandatory for all offences
- b) Discretionary for limited offences
- c) Never awarded
- d) Always awarded for theft

Ans: b) Discretionary for limited offences

Q23. Which case struck down Section 303 IPC (mandatory death for life convicts) as unconstitutional?

- a) Bachan Singh case
- b) Mithu v. State of Punjab
- c) Machhi Singh case
- d) Ravji case

Ans: b) Mithu v. State of Punjab (1983)

Q24. The maximum default imprisonment for non-payment of fine of ₹8,000 is:

- a) 2 months
- b) 4 months
- c) 6 months
- d) 1 year

Ans: b) 4 months (Section 8(5)(b) - fine does not exceed ₹10,000)

Q25. Which of the following is NOT a theory of punishment?

- a) Deterrent theory
- b) Reformatory theory
- c) Preventive theory
- d) Administrative theory

Ans: d) Administrative theory

Q26. Section 4(f) - Community Service is a punishment under BNS. In which case did the Supreme Court earlier observe that community service is not recognized under IPC?

- a) Bachan Singh case
- b) State of Punjab v. Dalbir Singh (2012)
- c) Mithu case
- d) Ravji case

Ans: b) State of Punjab v. Dalbir Singh (2012)

Q27. As per Section 8(7), fine can be levied within:

- a) 3 years after sentence
- b) 6 years after sentence
- c) 10 years after sentence
- d) 12 years after sentence

Ans: b) 6 years after sentence (or longer if imprisonment period >6 years)

Q28. The legal maxim "Actus non facit reum nisi mens sit rea" relates to:

- a) Punishment without trial
- b) Guilty mind required for crime
- c) No punishment for children
- d) Fine only for corporations

Ans: b) Guilty mind required for crime

Q29. Under Section 4(c), rigorous imprisonment can be awarded for:

- a) Theft under Section 303 (second conviction)
- b) Defamation
- c) Public nuisance
- d) Drunken misconduct

Ans: a) Theft under Section 303 (second conviction - rigorous imprisonment mandatory 1-5 years)

Q30. Which BNS section provides that the appropriate Government may commute punishment without consent of offender?

- a) Section 4
- b) Section 5
- c) Section 6
- d) Section 7

Ans: b) Section 5

Q31. "Proportionality of punishment" means:

- a) Punishment must be equal to crime
- b) Punishment must be less than crime
- c) Punishment must be proportionate to the gravity of offence
- d) No punishment for petty offences

Ans: c) Punishment must be proportionate to the gravity of offence

Q32. As per Section 8(4), imprisonment in default of community service may be:

- a) Only simple imprisonment
- b) Only rigorous imprisonment
- c) Any description (rigorous/simple) that could have been awarded for the offence
- d) Only fine

Ans: c) Any description (rigorous/simple) that could have been awarded for the offence

□ ANSWER KEY FOR QUICK REFERENCE

Q.No Ans Q.NoAnsQ.NoAnsQ.NoAns

1 c 9 b 17 b 25 d

2 b 10 c 18 d 26 b

3 c 11 b 19 b 27 b

4 b 12 c 20 c 28 b

Q.No	Ans	Q.No	Ans	Q.No	Ans	Q.No	Ans
5	b	13	c	21	b	29	a
6	c	14	a	22	b	30	b
7	d	15	c	23	b	31	c
8	b	16	d	24	b	32	c

5. Commutation of sentence. The appropriate Government may, without the consent of the offender, commute any punishment under this Sanhita to any other punishment in accordance with section 474 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

Explanation.—For the purposes of this section the expression "appropriate Government" means,— (a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and (b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.

Section 5 BNS: The "Mercy" Clause

This section corresponds to **Sections 54 and 55 of the IPC**. It is often referred to as the **Statutory Power of Commutation**.

Relevant Legal Maxims

- **Salus Populi Suprema Lex:** The welfare of the people is the supreme law. (Justifies executive intervention for peace or justice).
- **Grace of the Sovereign:** Commutation is a matter of grace/discretion, not a matter of right for the convict.

- **Constitutional Link:** Section 5 BNS is **Statutory Power**. Art. 72 (President) and Art. 161 (Governor) are **Constitutional Powers**. Constitutional powers are "superior" and cannot be limited by the BNSS or BNS.
- **The 14-Year Bar:** Under **Section 474 BNSS**, if a life sentence is commuted for a crime where death is one of the punishments, the convict **must** serve at least 14 years.
- **Concurrent Powers:** In death penalty cases, both the Central and State Governments often have concurrent powers, but usually, the State acts first.
- **Difference between Commutation vs. Remission:**
 - **Commutation:** Changes the **nature** (e.g., Death to Life).
 - **Remission:** Reduces the **duration** but nature stays the same (e.g., 10 years Rigorous to 7 years Rigorous).
- **The "No Consent" Rule:** Always remember that the state doesn't need the convict's permission to be "merciful." This is a common Prelims trap.
- **Who is "Appropriate"?:** For Judiciary exams, look at the **Law** broken. If it's a Union law (like UAPA), it's the Centre. If it's a General law (like BNS), usually the State where the trial happened has the power.
- **Mnemonic for Section 5: "5 is for Exchange"** (Exchanging a hard punishment for a soft one).
- **Within BNSS, 2023**

Section	Relevance
Section 474	Procedure for commutation of sentence
Section 473	Suspension/remission of sentence
Section 475	Power to suspend/remit sentences

• Constitutional Provisions

Article	Relevance
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Article	Relevance
Article 72	President's power to grant pardon, reprieve, respite or remission
Article 161	Governor's power to grant pardon, etc.
Article 73	Extent of executive power of Union
Article 162	Extent of executive power of State

HIGH PROBABILITY EXAM TOPICS

1. **Section 5 BNS vs IPC Sections 54 & 55** - One comprehensive section covering all punishments
2. **"Without consent of offender"** - Key distinguishing feature
3. **Appropriate Government definition** - Death sentence ALWAYS Central Government
4. **Section 5 + Section 474 BNSS** - Power + Procedure linkage
5. **Articles 72 & 161** - Constitutional pardon powers
6. **Kehar Singh case** - President's power widest amplitude
7. **Epuru Sudhakar case** - Judicial review of pardon powers
8. **Maru Ram case** - Constitutional vs statutory powers
9. **Difference between commutation, pardon, remission, respite, reprieve**
10. **Shatrughan Chauhan case** - Delay in mercy petition = ground for commutation

LANDMARK JUDGEMENTS

Case	Crux (2 lines)
K.M. Nanavati v. State of Bombay (1961)	Governor's power under Article 161 is concurrent with President's power under Article 72; both are

Case

Crux (2 lines)

**Maru Ram v. Union of India
(1981)**

constitutional powers not controlled by statutory provisions.

Constitutional power of pardon (Art. 72/161) is independent of statutory powers under CrPC; judicial review available only on limited grounds like non-application of mind.

**Kehar Singh v. Union of
India (1989)**

President's power under Article 72 is of widest amplitude; Court cannot substitute its opinion over President's decision on mercy petition.

**Epuru Sudhakar v. Govt. of
A.P. (2006)**

Power to pardon is subject to judicial review on grounds of arbitrariness, mala fides, discrimination, or non-application of mind.

**State of Punjab v. Joginder
Singh (1990)**

Remission under statutory provisions cannot be claimed as a right; it is a privilege granted by appropriate government.

**Swamy Shraddananda v.
State of Karnataka (2008)**

Life imprisonment can mean imprisonment for entire remaining natural life; such sentence cannot be commuted lightly by government.

**Union of India v. V. Sriharan
(2016)**

Constitutional courts can impose "special category life sentence" without remission; government cannot commute such sentence without following procedure.

Sangeet v. State of Haryana

Remission powers must be exercised consistently with

Case	Crux (2 lines)
(2013)	sentencing policy; premature release not automatic after 14 years.
Laxman Naskar v. Union of India (2000)	Laid down guidelines for considering mercy petitions: nature of offence, circumstances, probability of re-offending, etc.
Shatrughan Chauhan v. Union of India (2014)	Inordinate delay in deciding mercy petition is a ground for commutation of death sentence to life imprisonment.

CONCEPT OF COMMUTATION - TYPES OF EXECUTIVE CLEMENCY

Term	Meaning	BNS/Constitution Context
Pardon	Complete absolving of crime and sentence	Art. 72/161 - removes both conviction & sentence
Commutation	Change to less severe punishment	Section 5 BNS - death to life, etc.
Remission	Reduction in amount of sentence without changing its character	BNSS Section 473 - reducing time
Respite	Awarding lesser sentence due to special	Pregnancy, old age, etc.

Term	Meaning	BNS/Constitution Context
	circumstances	
Reprieve	Temporary suspension of sentence	Stay of execution of death sentence

1. **Section 5 + Section 474 BNSS** are complementary – Section 5 provides power, Section 474 provides procedure
2. **Commutation ≠ Pardon** – Commutation changes punishment; pardon forgives completely
3. **Constitutional powers (Art. 72/161)** are separate and broader than statutory commutation
4. **Judicial review available** on grounds of arbitrariness, mala fides, discrimination (Epuru Sudhakar case)
5. **No right to claim commutation** – it's a privilege of the executive
6. **Victim rights** – Though consent not required, courts have recognized victim's right to be heard

30+ MCQs ON SECTION 5 BNS

Q1. Section 5 of BNS, 2023 deals with:

- a) Punishments
- b) Commutation of sentence
- c) Fractions of punishment
- d) Solitary confinement

Ans: b) Commutation of sentence

Q2. Under Section 5 BNS, commutation of sentence requires:

- a) Consent of the offender
- b) Consent of the victim

- c) Consent of both offender and victim
- d) No consent of the offender

Ans: d) No consent of the offender

Q3. Which Section of BNSS is referred to in Section 5 BNS for commutation procedure?

- a) Section 472
- b) Section 473
- c) Section 474
- d) Section 475

Ans: c) Section 474

Q4. For a death sentence awarded under Section 103 BNS, the appropriate government for commutation is:

- a) State Government
- b) Central Government
- c) District Magistrate
- d) High Court

Ans: b) Central Government

Q5. For a life imprisonment sentence for theft under Section 303 BNS, the appropriate government is:

- a) Central Government
- b) State Government
- c) Supreme Court
- d) President of India

Ans: b) State Government

Q6. Section 5 BNS corresponds to which sections of IPC?

- a) Sections 53 & 54
- b) Sections 54 & 55
- c) Sections 55 & 56
- d) Sections 56 & 57

Ans: b) Sections 54 & 55

Q7. The power of commutation under Section 5 BNS is exercisable by:

- a) President of India only
- b) Governor of State only
- c) Appropriate Government
- d) Supreme Court

Ans: c) Appropriate Government

Q8. Which of the following punishments CANNOT be commuted under Section 5 BNS?

- a) Death
- b) Life imprisonment
- c) Community Service
- d) All can be commuted

Ans: d) All can be commuted (Section says "any punishment under this Sanhita")

Q9. Under Explanation (a) to Section 5, death sentence always falls under the executive power of:

- a) State Government
- b) Central Government
- c) Local Government
- d) Judiciary

Ans: b) Central Government

Q10. Which landmark case held that the power to pardon is subject to judicial review on grounds of arbitrariness?

- a) Kehar Singh v. Union of India
- b) Epuru Sudhakar v. Govt. of A.P.
- c) Maru Ram v. Union of India
- d) Nanavati v. State of Bombay

Ans: b) Epuru Sudhakar v. Govt. of A.P. (2006)

Q11. The constitutional power of the President to grant pardon is under:

- a) Article 72
- b) Article 161
- c) Article 32
- d) Article 226

Ans: a) Article 72

Q12. The constitutional power of the Governor to grant pardon is under:

- a) Article 72
- b) Article 161
- c) Article 32
- d) Article 226

Ans: b) Article 161

Q13. Which case held that the President's power under Article 72 is of the widest amplitude and cannot be substituted by Court's opinion?

- a) Kehar Singh v. Union of India
- b) Bachan Singh v. State of Punjab
- c) Mithu v. State of Punjab
- d) Ravji v. State of Rajasthan

Ans: a) Kehar Singh v. Union of India (1989)

Q14. "Commutation" means:

- a) Complete forgiveness of crime
- b) Reduction in sentence term only
- c) Change to a less severe punishment
- d) Temporary suspension of sentence

Ans: c) Change to a less severe punishment

Q15. Which case held that Governor's power under Article 161 is concurrent with President's power under Article 72?

- a) Maru Ram v. Union of India
- b) K.M. Nanavati v. State of Bombay

- c) Epuru Sudhakar case
- d) Laxman Naskar case

Ans: b) K.M. Nanavati v. State of Bombay (1961)

Q16. As per Section 5 BNS, the appropriate government for commutation of sentence for a State law offence (non-death) is:

- a) Central Government
- b) Government of the State within which the offender is sentenced
- c) High Court
- d) Supreme Court

Ans: b) Government of the State within which the offender is sentenced

Q17. The legal maxim "Salus populi suprema lex" means:

- a) Let justice be done
- b) Welfare of the people is the supreme law
- c) No one should be twice vexed
- d) Hear the other side

Ans: b) Welfare of the people is the supreme law

Q18. Which of the following is NOT a type of executive clemency?

- a) Pardon
- b) Commutation
- c) Acquittal
- d) Remission

Ans: c) Acquittal

Q19. The difference between commutation and remission is:

- a) Commutation changes punishment; remission reduces term
- b) Remission changes punishment; commutation reduces term
- c) Both are same
- d) Both require consent

Ans: a) Commutation changes punishment; remission reduces term

Q20. Under Section 5 BNS, death sentence can be commuted to:

- a) Life imprisonment only
- b) Fine only
- c) Life imprisonment or rigorous imprisonment
- d) Only community service

Ans: c) Life imprisonment or rigorous imprisonment (as per Section 474 BNSS)

Q21. Which case laid down guidelines for considering mercy petitions including nature of offence and probability of re-offending?

- a) Laxman Naskar v. Union of India
- b) Shatrughan Chauhan v. Union of India
- c) Sangeet v. State of Haryana
- d) Swamy Shraddananda case

Ans: a) Laxman Naskar v. Union of India (2000)

Q22. The power of commutation under Section 5 BNS is:

- a) A right of the offender
- b) A privilege of the executive
- c) Mandatory upon government
- d) Subject to consent of offender

Ans: b) A privilege of the executive

Q23. Which case held that inordinate delay in deciding mercy petition is a ground for commutation of death sentence?

- a) Kehar Singh case
- b) Shatrughan Chauhan v. Union of India
- c) Maru Ram case
- d) Nanavati case

Ans: b) Shatrughan Chauhan v. Union of India (2014)

Q24. "Remission" of sentence means:

- a) Change to less severe punishment
- b) Complete forgiveness

- c) Reduction in amount of sentence without changing character
- d) Temporary suspension

Ans: c) Reduction in amount of sentence without changing character

Q25. Section 5 BNS uses the expression "appropriate Government". Who decides which government is appropriate?

- a) The convict
- b) The court that sentenced
- c) The Section 5 Explanation itself defines
- d) The President

Ans: c) The Section 5 Explanation itself defines

Q26. Under Section 5 BNS, a sentence for an offence relating to "banking" (Union List) shall be commuted by:

- a) State Government
- b) Central Government
- c) Reserve Bank of India
- d) Supreme Court

Ans: b) Central Government (matter to which executive power of Union extends)

Q27. Which case introduced the concept of "special category life sentence" without remission?

- a) Swamy Shraddananda case
- b) Union of India v. V. Sriharan
- c) Both a and b
- d) Neither

Ans: c) Both a and b (Shraddananda introduced; Sriharan upheld by Constitution Bench)

Q28. The statutory power of commutation under Section 5 BNS is subject to:

- a) Constitutional powers under Articles 72/161
- b) Only High Court's approval

- c) Victim's consent
- d) Supreme Court's confirmation

Ans: a) Constitutional powers under Articles 72/161

Q29. "Reprieve" means:

- a) Complete pardon
- b) Reduction of sentence
- c) Temporary suspension of sentence
- d) Change of punishment

Ans: c) Temporary suspension of sentence

Q30. Which of the following statements is TRUE about Section 5 BNS?

- a) Commutation requires consent of the offender
- b) Death sentence commutation is done by State Government
- c) Appropriate Government is defined in the Explanation
- d) It only applies to imprisonment sentences

Ans: c) Appropriate Government is defined in the Explanation

Q31. The case of Maru Ram v. Union of India (1981) dealt with:

- a) Rarest of rare doctrine
- b) Constitutional power of pardon vs statutory remission
- c) Acid attack punishment
- d) Community service validity

Ans: b) Constitutional power of pardon vs statutory remission

Q32. A person sentenced to death by a court in Maharashtra for murder under Section 103 BNS. Appropriate government for commutation is:

- a) Government of Maharashtra
- b) Central Government
- c) Both a and b
- d) President directly

Ans: b) Central Government (Explanation (a) - death sentence always Central)

Q33. "Respite" in executive clemency means:

- a) Complete forgiveness
- b) Change of punishment
- c) Awarding lesser sentence due to special circumstances
- d) Reduction of sentence term

Ans: c) Awarding lesser sentence due to special circumstances (e.g., pregnancy)

Q34. Under Section 5 BNS, which government is appropriate for commuting a sentence of fine imposed for a State law offence?

- a) Central Government
- b) State Government
- c) District Court
- d) High Court

Ans: b) State Government (Explanation (b) - State subject)

Q35. The principle that "power to pardon is subject to judicial review on limited grounds" was established in:

- a) Kehar Singh case
- b) Epuru Sudhakar case
- c) Maru Ram case
- d) Nanavati case

Ans: b) Epuru Sudhakar v. Govt. of A.P. (2006)

6. Fractions of terms of punishment. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years unless otherwise provided.

- **Link with Section 62 BNS (Punishment for Attempt):** If a person attempts an offence and no specific punishment is provided, they are punished with **half** of the longest term. If the punishment is Life, Section 6 provides the "20-year" base, making the half-term **10 years**.

- **Link with Right of Private Defense:** In some cases where the right is exceeded, the court may reduce the sentence to a fraction, requiring the Section 6 calculation.
- **Link with Fine Default (Section 8 BNS):** If a fine isn't paid, the imprisonment in default cannot exceed **one-fourth** of the maximum term. If the maximum is Life, we use the 20-year rule to find the one-fourth (5 years).
- **The BNSS Connection:** While BNS calculates the fraction for *sentencing*, **Section 474 BNSS** handles the *execution* (Remission/Commutation), where the 14-year minimum rule applies.

Exam Trick: If the question asks "What is the duration of Life Imprisonment?", the answer is **Natural Life**. If it asks "For calculating fractions, what is Life Imprisonment?", the answer is **20 years**.

LANDMARK JUDGEMENTS

Case

Crux (2 lines)

Gopal Vinayak Godse v. State of Maharashtra (1961)

Imprisonment for life means imprisonment for the whole of the remaining life of the convict; not limited to 14 or 20 years.

Ravji v. State of Rajasthan (1996)

Life imprisonment means imprisonment for the remainder of natural life; Section 57 IPC (20 years for fractions) is only for calculation, not actual term.

Swamy Shraddananda v. State of Karnataka (2008)

Court can impose life imprisonment for entire natural life, overriding statutory remission provisions; Section 57 IPC doesn't limit actual term.

Union of India v. V. Sriharan (2016)

Constitution Bench upheld "special category life sentence" without remission for 30 years or more; Section 57 IPC not a limitation.

State of Punjab v. Joginder Singh (1990)

Remission under statutory provisions cannot be claimed as a right; government's discretion in

Case	Crux (2 lines)
	releasing life convicts.
Sangeet v. State of Haryana (2013)	Premature release of life convicts not automatic after 14/20 years; requires individual assessment.
Maru Ram v. Union of India (1981)	Life imprisonment means imprisonment for the rest of life; remission provisions only allow earlier release, not change of sentence character.
Ashok Kumar v. State of Haryana (2015)	For calculating fractions like 1/2 or 1/4 of punishment, life term is treated as 20 years as per Section 57 IPC.
State of Haryana v. Mahender Singh (2007)	Life convict can be released after 14 years only if government exercises remission power; no automatic right.
V. Sriharan (2016) - Constitution Bench	Fixed term life sentence (e.g., 20, 30 years) without remission is constitutionally valid; Section 57 IPC is only a yardstick.

☐☐ LEGAL MAXIMS (Relevant to Fractional Punishment)

Maxim	Meaning	Application
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Maxim	Meaning	Application
Lex non cogit ad impossibilia	Law does not compel the impossible	Fractions applied reasonably
Aequitas sequitur legem	Equity follows the law	Fraction calculation is strict legal rule
Ratio legis est anima legis	Reason of law is the soul of law	Purpose behind 20-year fiction
Generalia specialibus non derogant	General things do not derogate from special things	"Unless otherwise provided" exception
Dura lex sed lex	The law is harsh but it is the law	Strict application of fraction rule

□ MIXED CONCEPTS & LINKING (Exam Special)

Concept 1: Why 20 Years? The Fiction Explained

Actual Reality

Legal Fiction (for fractions)

Life imprisonment = entire natural life

Life imprisonment = 20 years

Varies person to person (may be 30, 40, 50+ years)

Fixed 20 years for uniform calculation

Actual Reality

Legal Fiction (for fractions)

Cannot be calculated exactly

Enables mathematical fractions

Purpose: To allow mathematical calculation of fractions like $1/2$, $1/4$, $1/7$, $1/14$ for various sentencing provisions.

Concept 2: Sections Where Fractions are Used in BNS

Section	Fraction	Application
Section 55(b)	$1/2$	Abetment of death/life offence - hurt caused → 14 years (half of life=20 → 10, but section says 14? Careful)
Section 56	$1/4$, $1/2$	Abetment of imprisonment offence - max $1/4$ of max term; if public servant → $1/2$
Section 62	$1/2$	Attempt to commit offence - half of life (10 years) or half of max term
Section 238(c)	$1/4$	Causing disappearance of evidence - $1/4$ of max term
Section 249(c)	$1/4$	Harbouring offender - $1/4$ of max term
Section 250(c)	$1/4$	Taking gift to screen offender - $1/4$ of max term

Section	Fraction	Application
Section 251(c)	1/4	Offering gift to screen offender - 1/4 of max term
Section 253(c)	1/4	Harbouring escaped offender - 1/4 of max term

Concept 3: Calculation Examples

Original Term	Fraction	Calculation	Result
Life (20 years fiction)	1/2	$20 \times 1/2 = 10$	10 years
Life (20 years fiction)	1/4	$20 \times 1/4 = 5$	5 years
10 years imprisonment	1/4	$10 \times 1/4 = 2.5$	2 years 6 months
7 years imprisonment	1/2	$7 \times 1/2 = 3.5$	3 years 6 months
14 years imprisonment	1/4	$14 \times 1/4 = 3.5$	3 years 6 months

Concept 4: "Unless Otherwise Provided" - The Exception

Meaning: Section 6 applies only when no other specific provision exists.

Where different provision exists	Effect
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Where different provision exists	Effect
Section 104 BNS	Life convict committing murder → natural life imprisonment (not 20 years fiction)
Section 64(2) BNS	Rape by specified persons → natural life imprisonment
Section 65 BNS	Rape of minor → natural life imprisonment
Section 70 BNS	Gang rape → natural life imprisonment
Section 111(2)(b) BNS	Organised crime → natural life imprisonment
Section 143(6)(7) BNS	Trafficking of child by public servant → natural life imprisonment

Concept 5: Life Imprisonment - Actual Term vs Fractional Term

Aspect	For Remission/Premature Release	For Fraction Calculation (Sec 6)
Term considered	Entire natural life	20 years (fiction)
Authority	Government (Art. 72/161 + Prisons Act)	Court (for sentencing)
Minimum term before	Usually 14 years (no	Not applicable

Aspect	For Remission/Premature Release	For Fraction Calculation (Sec 6)
remission	automatic right)	
Maximum term	Till death	20 years (for fractions)

Key Case: *Ravji v. State of Rajasthan (1996)* - Life imprisonment means whole life, not 14 or 20 years.

Concept 6: Section 6 BNS vs Section 57 IPC - Comparison

Aspect	IPC Section 57	BNS Section 6
Wording	"Imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years"	Same wording
Exception clause	"For the purposes of sections 55 and 55A"	"Unless otherwise provided" (broader)
Scope	Limited to sections 55 and 55A IPC	All fractional calculations in BNS
Change	-	Expanded scope; cleaner drafting

BNS Improvement: Broader application - "unless otherwise provided" covers all fractions, not just specific sections.

30+ MCQs ON SECTION 6 BNS

Q1. Section 6 of BNS, 2023 deals with:

- a) Commutation of sentence
- b) Fractions of terms of punishment
- c) Solitary confinement
- d) Enhanced punishment

Ans: b) Fractions of terms of punishment

Q2. Under Section 6 BNS, imprisonment for life shall be reckoned as equivalent to:

- a) Fourteen years
- b) Twenty years
- c) Thirty years
- d) Whole natural life

Ans: b) Twenty years

Q3. Section 6 BNS corresponds to which section of IPC?

- a) Section 53
- b) Section 54
- c) Section 55
- d) Section 57

Ans: d) Section 57

Q4. The fiction that life imprisonment equals 20 years under Section 6 is for:

- a) Actual imprisonment term
- b) Calculating fractions of punishment only
- c) Determining parole eligibility
- d) Remission purposes

Ans: b) Calculating fractions of punishment only

Q5. Which landmark case held that life imprisonment means imprisonment for the whole of the remaining life of the convict?

- a) Bachan Singh v. State of Punjab
- b) Gopal Vinayak Godse v. State of Maharashtra
- c) Kehar Singh v. Union of India
- d) Maru Ram v. Union of India

Ans: b) Gopal Vinayak Godse v. State of Maharashtra (1961)

Q6. The exception phrase in Section 6 BNS is:

- a) "Unless otherwise provided"
- b) "Subject to section 5"
- c) "Notwithstanding anything"
- d) "Without prejudice to"

Ans: a) "Unless otherwise provided"

Q7. Under Section 62 BNS (attempt to commit murder), the maximum punishment is half of life imprisonment. What is that term?

- a) 7 years
- b) 10 years
- c) 14 years
- d) 20 years

Ans: b) 10 years (Half of 20 years fiction)

Q8. As per Section 56 BNS, abetment of offence punishable with imprisonment (when offence not committed) is punishable with:

- a) 1/2 of longest term
- b) 1/4 of longest term
- c) 1/3 of longest term
- d) 1/5 of longest term

Ans: b) 1/4 of longest term

Q9. If the maximum punishment for an offence is 10 years, under Section 56 BNS (ordinary abetment), the abettor can be punished for maximum:

- a) 5 years
- b) 4 years

- c) 3 years
- d) 2.5 years

Ans: d) 2.5 years ($1/4$ of 10 = 2.5 years)

Q10. Which case held that Section 57 IPC (corresponding to Section 6 BNS) is only for calculation and not for actual term of life imprisonment?

- a) Ravji v. State of Rajasthan
- b) Swamy Shraddananda case
- c) Both a and b
- d) Neither

Ans: c) Both a and b

Q11. For calculating fractions, life imprisonment is treated as:

- a) 14 years
- b) 20 years
- c) 25 years
- d) Whole life

Ans: b) 20 years

Q12. Under Section 55 BNS, if abetment of death/life offence causes hurt but offence not committed, punishment is:

- a) 7 years
- b) 10 years
- c) 14 years
- d) 20 years

Ans: c) 14 years (Section 55(b) - specific provision, not pure fraction of life)

Q13. The purpose of Section 6 BNS is to:

- a) Reduce actual imprisonment
- b) Enable mathematical calculation of fractions
- c) Increase punishment severity
- d) Provide remission

Ans: b) Enable mathematical calculation of fractions

Q14. Which of the following BNS provisions provides for "natural life imprisonment" where Section 6 does NOT apply?

- a) Section 104 (Life convict committing murder)
- b) Section 64(2) (Rape by specified persons)
- c) Section 65 (Rape of minor)
- d) All of the above

Ans: d) All of the above

Q15. If an offence has maximum punishment of 14 years, under Section 238(c) BNS (causing disappearance of evidence for offence <10 years), the maximum is:

- a) 7 years
- b) 5 years
- c) 3.5 years
- d) 2 years

Ans: c) 3.5 years (1/4 of 14 = 3.5 years)

Q16. The legal maxim "Lex non cogit ad impossibilia" means:

- a) Law does not compel the impossible
- b) Let justice be done
- c) Welfare of the people is supreme
- d) No one should be twice vexed

Ans: a) Law does not compel the impossible

Q17. Which case upheld the constitutional validity of "special category life sentence" without remission?

- a) Union of India v. V. Sriharan (2016)
- b) Maru Ram v. Union of India
- c) Sangeet v. State of Haryana
- d) Laxman Naskar case

Ans: a) Union of India v. V. Sriharan (2016)

Q18. Under Section 249(c) BNS (harbouring offender for offence punishable up to 1 year), maximum punishment is:

- a) 6 months
- b) 3 months
- c) 1 month
- d) 9 months

Ans: b) 3 months ($1/4$ of 1 year = 3 months)

Q19. Ravji v. State of Rajasthan (1996) held that life imprisonment means:

- a) 14 years
- b) 20 years
- c) Imprisonment for remainder of natural life
- d) 10 years

Ans: c) Imprisonment for remainder of natural life

Q20. In Swamy Shraddananda case, the Supreme Court held that:

- a) Life imprisonment cannot exceed 20 years
- b) Court can impose life imprisonment for entire natural life
- c) Section 57 IPC overrides all other provisions
- d) Remission is automatic after 14 years

Ans: b) Court can impose life imprisonment for entire natural life

Q21. For calculating $1/2$ of life imprisonment under Section 62 BNS (attempt), the term is:

- a) 7 years
- b) 10 years
- c) 14 years
- d) 20 years

Ans: b) 10 years ($20 \times 1/2 = 10$ years)

Q22. Which of the following statements is TRUE about Section 6 BNS?

- a) It applies to natural life imprisonment provisions
- b) It is a fiction for calculation purposes only
- c) It mandates release after 20 years
- d) It overrides all other BNS provisions

Ans: b) It is a fiction for calculation purposes only

Q23. Under Section 55(a) BNS, abetment of death/life offence when offence not committed is punishable with:

- a) 14 years
- b) 10 years
- c) 7 years
- d) 5 years

Ans: c) 7 years (Section 55(a) - specific provision)

Q24. The case of Ashok Kumar v. State of Haryana (2015) related to:

- a) Death penalty validity
- b) Fraction calculation under Section 57 IPC
- c) Juvenile justice
- d) Acid attack punishment

Ans: b) Fraction calculation under Section 57 IPC

Q25. Under Section 253(c) BNS (harbouring escaped offender for offence up to 1 year), maximum punishment is:

- a) 3 months
- b) 6 months
- c) 1 month
- d) 9 months

Ans: a) 3 months (1/4 of 1 year)

Q26. The legal maxim "Ratio legis est anima legis" means:

- a) Law is harsh but it is the law
- b) Reason of law is the soul of law
- c) Equity follows the law
- d) Law does not compel the impossible

Ans: b) Reason of law is the soul of law

Q27. Which BNS section provides that a life convict committing murder shall be punished with natural life imprisonment?

- a) Section 103
- b) Section 104
- c) Section 105
- d) Section 106

Ans: b) Section 104

Q28. If an offence has maximum imprisonment of 7 years, under Section 56 BNS (abetment by public servant when offence not committed), maximum punishment is:

- a) 3.5 years
- b) 2 years
- c) 1.75 years
- d) 5 years

Ans: a) 3.5 years ($1/2$ of 7 = 3.5 years - public servant gets half)

Q29. The exception "unless otherwise provided" in Section 6 BNS means:

- a) Section 6 always applies
- b) Section 6 does not apply if another provision specifies a different rule
- c) Section 6 applies only to state offences
- d) Section 6 applies only to central offences

Ans: b) Section 6 does not apply if another provision specifies a different rule

Q30. Which case held that remission under statutory provisions cannot be claimed as a right?

- a) State of Punjab v. Joginder Singh
- b) Kehar Singh v. Union of India
- c) Bachan Singh v. State of Punjab
- d) Mithu v. State of Punjab

Ans: a) State of Punjab v. Joginder Singh (1990)

Q31. Under Section 62 BNS, attempt to commit an offence punishable with 14 years imprisonment shall be punishable with maximum:

- a) 14 years

- b) 10 years
- c) 7 years
- d) 5 years

Ans: c) 7 years (Half of 14 = 7 years)

Q32. The difference between IPC Section 57 and BNS Section 6 is:

- a) BNS has broader exception clause
- b) IPC had no exception clause
- c) Both a and b
- d) No difference

Ans: c) Both a and b (IPC 57 had limited exceptions for sections 55,55A; BNS 6 has "unless otherwise provided" for all fractions)

Q33. Under Section 250(c) BNS (taking gift to screen offender for offence <10 years), maximum punishment is:

- a) 1/2 of max term
- b) 1/4 of max term
- c) 1/3 of max term
- d) 1/5 of max term

Ans: b) 1/4 of max term

Q34. The Constitution Bench case of V. Sriharan (2016) upheld:

- a) Mandatory death penalty
- b) Fixed term life sentence without remission
- c) Abolition of death penalty
- d) Community service as punishment

Ans: b) Fixed term life sentence without remission

Q35. For calculating 1/7 of life imprisonment under Section 6, the term would be approximately:

- a) 2 years 10 months
- b) 3 years 6 months
- c) 2 years
- d) 5 years

Ans: a) 2 years 10 months ($20 \div 7 = 2.857$ years \approx 2 years 10 months)

7. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Section 7 of the **Bharatiya Nyaya Sanhita (BNS)** gives the judiciary the "Discretion of Description."

Key Logic: This section only applies to offences where the law says "imprisonment of either description." If the law specifically mandates "Rigorous Imprisonment" only, the judge cannot use Section 7 to make it simple.

- **Link with Section 4 BNS:** While Section 4 lists the *types* of punishments, Section 7 explains *how* the judge can mix them.
- **Link with Solitary Confinement (Sections 10 & 11 BNS):** Solitary confinement can only be awarded if the imprisonment is **Rigorous**. Therefore, a judge must first use Section 7 to declare the sentence "Rigorous" before adding solitary confinement.
- **Link with BNSS (Sentencing Hearing):** Under the BNSS, the accused has a right to be heard on the "question of sentence." This is when the lawyer argues why the imprisonment should be "Simple" rather than "Rigorous" under Section 7.
- **The "Partly-Partly" Logic:** This is often used in reformatory justice—giving a taste of hard labor (rigorous) for a few months and keeping the rest simple to allow for rehabilitation.
- **Exam Trap:** Prelims may ask if a Life sentence can be "Simple." **No.** By standard practice and legal evolution, Life Imprisonment is almost always treated as **Rigorous** in nature, even if not explicitly stated, though the BNS keeps it distinct in Section 4.
- **The "Writing" Tip:** In Mains, when writing a judgment for Theft (which allows either description), always justify *why* you chose Rigorous (e.g., "habitual offender") or Simple (e.g., "first-time offender, young age").

Original Sentence

Default of Fine

|

|



If RI or Either Description → Can be RI or SI (Sec 8(4))

If SI Only → Only SI (Sec 8(5))

If Fine/CS Only → Only SI (Sec 8(5))

Exam Pointers

1. **Section 7 applies ONLY** when the offence is punishable with imprisonment of **either description**
2. **Key phrase:** "it shall be competent to the Court" - discretionary power, not mandatory
3. **Mixed sentence possible** - part rigorous + part simple (unique feature of Section 7)
4. **Section 4(c)** defines rigorous (hard labour) and simple (no hard labour)
5. **No automatic right** to simple imprisonment - court's discretion
6. **Solitary confinement** (Sections 11-12) - only with rigorous imprisonment
7. **Default of fine** - Section 8(4) allows rigorous/simple if original sentence could be rigorous

30+ MCQs ON SECTION 7 BNS

Q1. Section 7 of BNS, 2023 deals with:

- a) Commutation of sentence
- b) Sentence may be wholly or partly rigorous or simple
- c) Fractions of punishment
- d) Enhanced punishment

Ans: b) Sentence may be wholly or partly rigorous or simple

Q2. Section 7 BNS corresponds to which section of IPC?

- a) Section 53
- b) Section 57
- c) Section 60
- d) Section 61

Ans: c) Section 60

Q3. Under Section 7 BNS, the power to award mixed sentence (part rigorous + part simple) applies when:

- a) Offence is punishable with death
- b) Offence is punishable with imprisonment of either description
- c) Offence is punishable with fine only
- d) Offence is punishable with forfeiture only

Ans: b) Offence is punishable with imprisonment of either description

Q4. Rigorous imprisonment means imprisonment with:

- a) Solitary confinement
- b) Hard labour
- c) No labour
- d) Community service

Ans: b) Hard labour (Section 4(c)(1))

Q5. Simple imprisonment means imprisonment:

- a) With hard labour
- b) With solitary confinement
- c) Without hard labour
- d) With community service

Ans: c) Without hard labour (Section 4(c)(2))

Q6. Which of the following BNS offences is punishable with "imprisonment of either description" making Section 7 applicable?

- a) Rape under Section 64

- b) Murder under Section 103
- c) Theft under Section 303
- d) Dacoity under Section 310

Ans: c) Theft under Section 303

Q7. Under Section 7, a court can direct that:

- a) Imprisonment shall be wholly rigorous only
- b) Imprisonment shall be wholly simple only
- c) Any part of imprisonment shall be rigorous and the rest simple
- d) All of the above

Ans: d) All of the above

Q8. Which landmark case held that rigorous imprisonment does not mean degrading or brutal treatment?

- a) Bachan Singh v. State of Punjab
- b) Sunil Batra v. Delhi Administration
- c) Kehar Singh v. Union of India
- d) Maru Ram v. Union of India

Ans: b) Sunil Batra v. Delhi Administration (1978)

Q9. The discretion under Section 7 BNS is exercised by:

- a) Executive Government
- b) Court which sentences the offender
- c) President of India
- d) Governor of State

Ans: b) Court which sentences the offender

Q10. Under Section 7, the phrase "it shall be competent to the Court" means:

- a) The court is mandatory to award mixed sentence
- b) The court has discretionary power
- c) The court cannot award mixed sentence
- d) The executive must decide

Ans: b) The court has discretionary power

Q11. Solitary confinement under Sections 11-12 BNS can be imposed with:

- a) Simple imprisonment only
- b) Rigorous imprisonment only
- c) Both rigorous and simple imprisonment
- d) Neither

Ans: b) Rigorous imprisonment only

Q12. Which case held that hard labour under rigorous imprisonment cannot amount to forced labour under Article 23?

- a) People's Union for Democratic Rights v. Union of India
- b) Sunil Batra case
- c) Charles Sobraj case
- d) Dalbir Singh case

Ans: a) People's Union for Democratic Rights v. Union of India (1982)

Q13. For an offence punishable with imprisonment of either description, the court under Section 7:

- a) Must award rigorous imprisonment
- b) Must award simple imprisonment
- c) Can award wholly rigorous, wholly simple, or part rigorous + part simple
- d) Cannot award imprisonment

Ans: c) Can award wholly rigorous, wholly simple, or part rigorous + part simple

Q14. Defamation under Section 356 BNS is punishable with:

- a) Rigorous imprisonment
- b) Simple imprisonment
- c) Either description imprisonment
- d) Death

Ans: b) Simple imprisonment (Section 7 does NOT apply as SI only)

Q15. The legal maxim "Proportionality" in sentencing means:

- a) Punishment must be equal to crime
- b) Punishment must be less than crime

- c) Punishment must be proportionate to the gravity of offence
- d) No punishment for petty offences

Ans: c) Punishment must be proportionate to the gravity of offence

Q16. Under Section 8(4) BNS, imprisonment in default of fine may be of any description:

- a) Only if original sentence could be rigorous
- b) Only if original sentence was simple
- c) Only if no original sentence
- d) Only for death penalty

Ans: a) Only if original sentence could be rigorous

Q17. Which case held that classification of offences into rigorous/simple imprisonment is based on gravity and nature of offence?

- a) Haricharan Kurmi v. State of Bihar
- b) Sunil Batra case
- c) Charles Sobraj case
- d) Dalbir Singh case

Ans: a) Haricharan Kurmi v. State of Bihar (1964)

Q18. If an offender is sentenced to 2 years rigorous imprisonment under Section 7, can the court order solitary confinement?

- a) Yes, as per Sections 11-12
- b) No, never
- c) Only if the offender consents
- d) Only for simple imprisonment

Ans: a) Yes, as per Sections 11-12 (subject to limits)

Q19. Under Section 7, "partly rigorous and partly simple" means:

- a) Alternate days of rigorous and simple
- b) Court can specify which portion is rigorous and which is simple
- c) Offender can choose
- d) Automatically half-half

Ans: b) Court can specify which portion is rigorous and which is simple

Q20. Which case held that converting rigorous imprisonment to simple imprisonment is a matter of judicial discretion?

- a) Rameshwar Dass v. State of Haryana
- b) Sunil Batra case
- c) Charles Sobraj case
- d) Bachan Singh case

Ans: a) Rameshwar Dass v. State of Haryana (2018)

Q21. Theft under Section 303(2) BNS (second conviction) provides for:

- a) Simple imprisonment only
- b) Rigorous imprisonment (mandatory 1-5 years)
- c) Either description imprisonment
- d) Only fine

Ans: b) Rigorous imprisonment (mandatory 1-5 years) - Section 7 may not apply as RI is mandatory

Q22. Under Section 8(5) BNS, if the offence is punishable with fine or community service only, imprisonment in default shall be:

- a) Rigorous
- b) Simple
- c) Either description
- d) No imprisonment

Ans: b) Simple (cannot be rigorous)

Q23. The phrase "either description" in Section 7 refers to:

- a) Death or life imprisonment
- b) Rigorous or simple imprisonment
- c) Fine or forfeiture
- d) Community service or fine

Ans: b) Rigorous or simple imprisonment

Q24. Which case held that handcuffing and bar fetters during rigorous imprisonment must be justified?

- a) Charles Sobraj v. Supdt., Central Jail
- b) Sunil Batra case
- c) People's Union case
- d) Dalbir Singh case

Ans: a) Charles Sobraj v. Supdt., Central Jail (1978)

Q25. Section 7 BNS applies to which of the following offences?

- a) Criminal intimidation under Section 351(2) (either description up to 2 years)
- b) Wrongful restraint under Section 126(2) (simple imprisonment)
- c) Defamation under Section 356(2) (simple imprisonment)
- d) Public nuisance under Section 292 (fine only)

Ans: a) Criminal intimidation under Section 351(2)

Q26. The legal maxim "Nemo debet bis vexari" means:

- a) No one should be twice vexed
- b) Welfare of the people is supreme
- c) Law does not compel the impossible
- d) Hear the other side

Ans: a) No one should be twice vexed (protection against double jeopardy)

Q27. Under Section 7, if a court awards 3 years imprisonment with 2 years rigorous and 1 year simple, this is:

- a) Invalid as sentence must be uniform
- b) Valid as per Section 7
- c) Valid only for offences under Chapter V
- d) Invalid as simple imprisonment cannot be awarded with rigorous

Ans: b) Valid as per Section 7

Q28. Which case held that court's discretion under Section 60 IPC (now Section 7 BNS) is judicial discretion to be exercised reasonably?

- a) State of Karnataka v. K. Yarappa Reddy
- b) Sunil Batra case

- c) Charles Sobraj case
- d) Haricharan Kurmi case

Ans: a) State of Karnataka v. K. Yarappa Reddy (1999)

Q29. Section 7 BNS is NOT applicable when:

- a) The section specifies "imprisonment of either description"
- b) The section specifies "rigorous imprisonment"
- c) The section specifies "imprisonment" without qualification
- d) The section specifies "simple imprisonment"

Ans: b) and d) (when specific description is mandated)

Q30. The difference between IPC Section 60 and BNS Section 7 is:

- a) BNS has added community service
- b) IPC had no provision for mixed sentence
- c) No substantive difference; both are identical
- d) BNS removed the power to award mixed sentence

Ans: c) No substantive difference; both are identical

Q31. Under Section 7, the court's power to award mixed sentence is:

- a) Mandatory in all cases
- b) Discretionary based on circumstances
- c) Only with victim's consent
- d) Only with offender's consent

Ans: b) Discretionary based on circumstances

Q32. For an offence punishable with "imprisonment of either description for a term which may extend to 7 years", the court under Section 7 can award:

- a) 7 years rigorous imprisonment
- b) 7 years simple imprisonment
- c) 4 years rigorous + 3 years simple
- d) All of the above

Ans: d) All of the above

- Q33.** The legal maxim "Salus populi suprema lex" in sentencing means:
- a) Punishment must be proportionate
 - b) Welfare of the people is the supreme law - justifying deterrent punishment
 - c) No punishment without law
 - d) Law does not compel the impossible

Ans: b) Welfare of the people is the supreme law - justifying deterrent punishment

- Q34.** Which BNS section provides the definition of rigorous and simple imprisonment?
- a) Section 2
 - b) Section 3
 - c) Section 4(c)
 - d) Section 5

Ans: c) Section 4(c)

- Q35.** If an offence is punishable with "rigorous imprisonment for a term which may extend to 10 years", can the court under Section 7 award simple imprisonment?
- a) Yes, wholly or partly
 - b) No, because the offence is not punishable with imprisonment of either description
 - c) Yes, but only partly
 - d) Yes, with offender's consent

Ans: b) No, because the offence is not punishable with imprisonment of either description (only RI is specified)

8. Amount of fine, liability in default of payment of fine, etc. (1) Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

(2) In every case of an offence— (a) punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment; (b) punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, in which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

(3) The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

(4) The imprisonment which the Court imposes in default of payment of a fine or in default of community service may be of any description to which the offender might have been sentenced for the offence.

(5) If the offence is punishable with fine or community service, the imprisonment which the Court imposes in default of payment of the fine or in default of community service shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine or in default of community service, shall not exceed,— (a) two months when the amount of the fine does not exceed five thousand rupees; (b) four months when the amount of the fine does not exceed ten thousand rupees; and (c) one year in any other case.

(6)(a) The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law; (b) If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

(7) The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

SECTION 8 BNS

- |— Sub-section (1) → Amount of fine (unlimited but not excessive)
- |— Sub-section (2) → Court's power to order default imprisonment
- |— Sub-section (3) → Limit on default imprisonment (1/4 of max term)
- |— Sub-section (4) → Description of default imprisonment (RI/SI as per original sentence)
- |— Sub-section (5) → Default imprisonment for fine/CS only offences (SI only + limits)
 - | |— Clause (a) → Fine \leq ₹5,000 → max 2 months SI
 - | |— Clause (b) → Fine \leq ₹10,000 → max 4 months SI
 - | |— Clause (c) → Fine $>$ ₹10,000 → max 1 year SI
- |— Sub-section (6) → Termination of default imprisonment on part payment
 - | |— Illustration → Pro-rata discharge
- |— Sub-section (7) → Time limit for levy of fine (6 years or during imprisonment)

Section 8(3) applies only when offence is punishable with **imprisonment as well as fine**.

Concept 4: Default Imprisonment Limits for Fine/CS Only (Section 8(5))

Fine Amount	Maximum Default Imprisonment	Type
Up to ₹5,000	2 months	Simple Imprisonment
₹5,001 to ₹10,000	4 months	Simple Imprisonment
Above ₹10,000	1 year	Simple Imprisonment

Key Point: For fine-only or community service-only offences, default imprisonment is **ALWAYS simple imprisonment**, never rigorous.

Concept 5: Pro-rata Discharge Calculation (Section 8(6) Illustration)

Example from Illustration:

- Fine = ₹1,000
- Default imprisonment = 4 months
- Pro-rata rate = ₹250 per month

Fine Paid	Time Served	Result
₹750 (75%)	1 month (25% of 4 months)	Discharge after 1 month (paid more than pro-rata)
₹750 (75%)	At end of 1 month	Immediate discharge
₹500 (50%)	2 months (50% of 4 months)	Discharge after 2 months
₹500 (50%)	At end of 2 months	Immediate discharge

Formula: Imprisonment suffered \geq (Fine unpaid / Total fine) \times Total default term

Concept 6: Time Limit for Levy of Fine (Section 8(7))

Scenario	Time Limit
Sentence with imprisonment \leq 6 years	Within 6 years after passing of sentence
Sentence with imprisonment $>$ 6 years	Any time before expiration of that imprisonment
Death of offender	Fine can be levied from deceased's estate

Key Point: Death of offender does NOT discharge fine liability from his property.

Case Law: *Alister Anthony Pareira v. State of Maharashtra (2012)* - Fine must be just and reasonable.

□ PRO TIPS FOR JUDICIARY PRELIM EXAM

Memory Tricks

TRICK 1: "8-5-2-4-1" for Section 8(5) limits

- **8** (Section 8)
- **5** (Sub-section 5)
- **2 months** for fine \leq ₹5,000
- **4 months** for fine \leq ₹10,000

- **1 year** for fine > ₹10,000

TRICK 2: "1/4 MAX" for Section 8(3)

- Default imprisonment \leq 1/4 of maximum term for the offence

TRICK 3: "6 YEARS OR SENTENCE" for Section 8(7)

- Fine leviable within 6 years OR during imprisonment period if longer

TRICK 4: "CS DEFAULT = SI"

- Community Service default = Simple Imprisonment only

TRICK 5: "FINE ONLY = SI ONLY"

- For fine-only offences, default imprisonment is ALWAYS simple
-

Exam Pointers

1. **Section 8(1)** - "Unlimited but not excessive" - Alister Anthony Pareira case
2. **Sub-section (1)**: "Unlimited but not excessive" - judicial discretion with reasonableness requirement
3. **Sub-section (2)**: Court's power to impose default imprisonment - discretionary, not mandatory
4. **Sub-section (3)**: 1/4 of maximum term - applies only when offence punishable with imprisonment + fine
5. **Sub-section (4)**: Default imprisonment description follows original sentence's possible description
6. **Sub-section (5)**: Fine/CS only → default = simple imprisonment only (CANNOT be rigorous)
7. **Sub-section (6)**: Pro-rata discharge - unique provision, common in exam MCQs
8. **Sub-section (7)**: 6 years limitation - death doesn't discharge property liability

9. **Default imprisonment** - Coercive measure, not substitute punishment
(Rameshwar case)
10. **Fine from estate after death** - P.K. Choudhary case
11. **Community Service** - New in BNS; default provisions specifically added
12. **Consolidation** - Section 8 replaces IPC Sections 63-67, 69, 70 (7 sections into 1)

30+ MCQs ON SECTION 8 BNS

Q1. Section 8 of BNS, 2023 deals with:

- a) Commutation of sentence
- b) Amount of fine and default imprisonment
- c) Fractions of punishment
- d) Solitary confinement

Ans: b) Amount of fine and default imprisonment

Q2. Section 8 BNS consolidates how many IPC sections?

- a) 3
- b) 5
- c) 7
- d) 9

Ans: c) 7 (Sections 63, 64, 65, 66, 67, 69, 70 of IPC)

Q3. Under Section 8(1), the amount of fine where no sum is expressed is:

- a) Maximum ₹10,000
- b) Maximum ₹1,00,000
- c) Unlimited but not excessive
- d) Fixed at ₹5,000

Ans: c) Unlimited but not excessive

Q4. Under Section 8(3), imprisonment in default of fine shall not exceed:

- a) One-half of maximum term
- b) One-third of maximum term
- c) One-fourth of maximum term
- d) Equal to maximum term

Ans: c) One-fourth of maximum term

Q5. For an offence punishable with imprisonment up to 10 years and fine, the maximum default imprisonment is:

- a) 2 years
- b) 2 years 6 months
- c) 3 years
- d) 5 years

Ans: b) 2 years 6 months ($1/4$ of 10 = 2.5 years)

Q6. Under Section 8(5), if the offence is punishable with fine only, default imprisonment shall be:

- a) Rigorous imprisonment
- b) Simple imprisonment
- c) Either rigorous or simple
- d) No imprisonment

Ans: b) Simple imprisonment

Q7. Under Section 8(5)(a), if fine does not exceed ₹5,000, maximum default imprisonment is:

- a) 1 month
- b) 2 months
- c) 3 months
- d) 6 months

Ans: b) 2 months

Q8. Under Section 8(5)(b), if fine does not exceed ₹10,000, maximum default imprisonment is:

- a) 2 months
- b) 3 months
- c) 4 months
- d) 6 months

Ans: c) 4 months

Q9. Under Section 8(5)(c), if fine exceeds ₹10,000, maximum default imprisonment is:

- a) 6 months
- b) 9 months
- c) 1 year
- d) 2 years

Ans: c) 1 year

Q10. Which landmark case held that fine amount must be just and reasonable, not excessive?

- a) Bachan Singh v. State of Punjab
- b) Alister Anthony Pareira v. State of Maharashtra
- c) Kehar Singh v. Union of India
- d) Sunil Batra v. Delhi Administration

Ans: b) Alister Anthony Pareira v. State of Maharashtra (2012)

Q11. Under Section 8(7), fine may be levied within how many years after passing of sentence?

- a) 3 years
- b) 5 years
- c) 6 years
- d) 12 years

Ans: c) 6 years

Q12. Under Section 8(7), if the offender is liable to imprisonment for more than 6 years, fine may be levied:

- a) Only within 6 years
- b) At any time before expiration of imprisonment period
- c) Only after imprisonment ends
- d) Never

Ans: b) At any time before expiration of imprisonment period

Q13. Under Section 8(7), death of the offender:

- a) Discharges all fine liability
- b) Discharges fine liability from property
- c) Does not discharge fine liability from property
- d) Automatically waives fine

Ans: c) Does not discharge fine liability from property

Q14. As per the illustration under Section 8(6), a person sentenced to ₹1000 fine with 4 months default imprisonment pays ₹500. What happens?

- a) Serves full 4 months
- b) Discharged after 2 months
- c) Discharged after 1 month
- d) Discharged immediately

Ans: b) Discharged after 2 months (50% fine paid = 50% of 4 months = 2 months)

Q15. Section 8(4) provides that default imprisonment may be of any description:

- a) As decided by the executive
- b) To which offender might have been sentenced for the offence
- c) Only simple imprisonment
- d) Only rigorous imprisonment

Ans: b) To which offender might have been sentenced for the offence

Q16. For an offence punishable with rigorous imprisonment only, default imprisonment under Section 8(4) can be:

- a) Only rigorous
- b) Only simple
- c) Either rigorous or simple
- d) Only fine

Ans: a) Only rigorous (as original sentence could only be rigorous)

Q17. Under Section 8(5), default imprisonment for community service is:

- a) Rigorous imprisonment
- b) Simple imprisonment
- c) Either rigorous or simple
- d) No imprisonment

Ans: b) Simple imprisonment

Q18. The legal maxim "Ubi jus ibi remedium" means:

- a) Where there is a right there is a remedy
- b) Law does not compel the impossible
- c) Welfare of the people is supreme
- d) No one should be twice vexed

Ans: a) Where there is a right there is a remedy

Q19. Which case held that default imprisonment is not a substitute for fine but a coercive measure?

- a) State of M.P. v. Rameshwar

- b) Alister Anthony Pareira case
- c) Bachan Singh case
- d) Sunil Batra case

Ans: a) State of M.P. v. Rameshwar (2009)

Q20. Under Section 8(2), the power to direct default imprisonment is:

- a) Mandatory in all cases
- b) Discretionary with the Court
- c) Only with victim's consent
- d) Only with offender's consent

Ans: b) Discretionary with the Court

Q21. For an offence punishable with 7 years imprisonment and fine, the maximum default imprisonment is:

- a) 1 year
- b) 1 year 6 months
- c) 1 year 9 months
- d) 2 years

Ans: c) 1 year 9 months ($1/4$ of 7 = 1.75 years = 1 year 9 months)

Q22. Under Section 8(6)(b), if a proportion of fine is paid, the imprisonment terminates when:

- a) Any amount is paid
- b) Full fine is paid

- c) Term suffered is not less than proportional to unpaid fine
- d) Offender applies for release

Ans: c) Term suffered is not less than proportional to unpaid fine

Q23. Which case held that fine can be levied even after death of convict from his estate?

- a) P.K. Choudhary v. Union of India
- b) Ghulam Mehdi v. State of Rajasthan
- c) Kuldip Singh v. State
- d) Bishwanath Prasad v. State

Ans: a) P.K. Choudhary v. Union of India (1986)

Q24. Under Section 8(5), if fine is ₹15,000, maximum default imprisonment is:

- a) 2 months
- b) 4 months
- c) 6 months
- d) 1 year

Ans: d) 1 year (over ₹10,000 → 1 year)

Q25. Section 8(3) applies only when the offence is punishable with:

- a) Fine only
- b) Imprisonment only
- c) Imprisonment as well as fine
- d) Community service only

Ans: c) Imprisonment as well as fine

Q26. The legal maxim "Nemo moriturus praesumitur mentire" relates to Section 8(7) and means:

- a) No one at point of death is presumed to lie
- b) Death discharges all liability
- c) Act of God does no harm
- d) Equity follows the law

Ans: a) No one at point of death is presumed to lie

Q27. Under Section 8(6), if fine is ₹10,000 with 4 months default, and ₹7,500 paid after 1 month, the convict:

- a) Serves full 4 months
- b) Discharged immediately after payment
- c) Discharged after completing 1 month
- d) Serves 3 more months

Ans: b) Discharged immediately after payment (as per illustration logic - payment at time of expiration of 1 month leads to immediate discharge)

Q28. For an offence punishable with imprisonment or fine (either/or), which sub-sections apply?

- a) 8(1), 8(2)(b), 8(4), 8(6), 8(7)
- b) 8(1), 8(2)(a), 8(3), 8(4)
- c) Only 8(5)
- d) Only 8(1)

Ans: a) 8(1), 8(2)(b), 8(4), 8(6), 8(7) (8(3) applies only for imprisonment+fine)

Q29. Under Section 8(4), default imprisonment for community service can be:

- a) Only simple imprisonment
- b) Any description as per original sentence possible description
- c) Only rigorous imprisonment
- d) Only fine

Ans: b) Any description as per original sentence possible description

Q30. Which case held that imprisonment in default of fine is not a sentence but a penalty for non-payment?

- a) Kuldip Singh v. State
- b) Alister Anthony Pareira case
- c) Bachan Singh case
- d) Sunil Batra case

Ans: a) Kuldip Singh v. State (1970)

Q31. For an offence punishable with 14 years imprisonment and fine, the maximum default imprisonment is:

- a) 2 years
- b) 3 years
- c) 3 years 6 months
- d) 5 years

Ans: c) 3 years 6 months ($1/4$ of 14 = 3.5 years)

Q32. Under Section 8(7), fine may be levied:

- a) Only from the offender personally
- b) From offender's property even after death
- c) Only from family members
- d) Only from sureties

Ans: b) From offender's property even after death

Q33. The phrase "unlimited, but shall not be excessive" in Section 8(1) means:

- a) No upper limit but must be reasonable
- b) Maximum ₹1 crore
- c) Maximum ₹10 lakh
- d) Unlimited without any restriction

Ans: a) No upper limit but must be reasonable

Q34. Under Section 8(5), if an offence is punishable with community service only, default imprisonment:

- a) Shall be rigorous
- b) Shall be simple with limits as per fine amount
- c) Cannot be imposed
- d) Shall be life imprisonment

Ans: b) Shall be simple with limits as per fine amount

Q35. The consolidation of IPC Sections 63-70 into BNS Section 8 results in:

- a) Loss of some provisions
- b) Addition of community service default provisions
- c) Removal of fine provisions
- d) Only procedural changes

Ans: b) Addition of community service default provisions