

# **THE BHARATIYA NAGARIK SURAKSHA SANHITA 2023**

**Secondary Stage: Phase 2  
Classes XI And XII**



August 2024  
Shrawana 1946

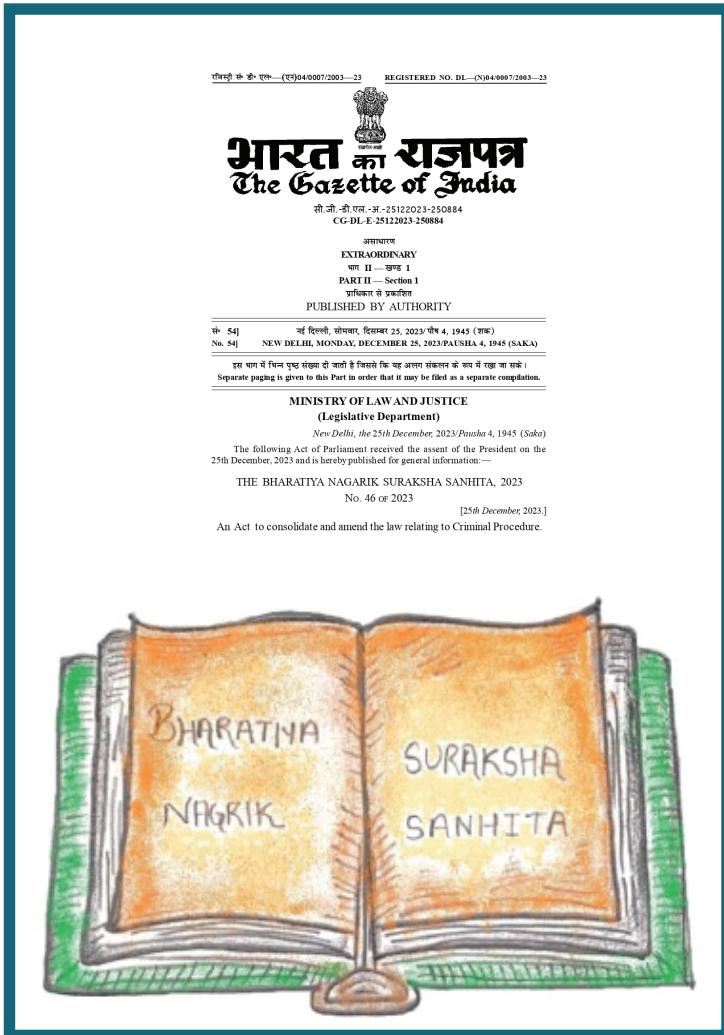
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# THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023



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# Empowering the Citizens

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Imagine a world where women and girls can move freely without the fear of harassment or violence, importantly, where justice is not a distant dream but a timely reality; where social, economic, and political equity are the norms. What is needed is a beacon of hope, a promise of safety, and a pathway to justice. Is there any law that can address these deep-rooted issues that have been the concern of our society for long? Have you read about any such law anywhere? Let us have the hope and confidence that such a law will address all the apprehensions regarding freedom and security that every woman and girl deserves. Let us go through this module and actively engage in the activities given here to know more about the Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023.



## Learning outcomes



After going through this document, you will be able to

- understand the *Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023* and its salient features.
- compare and contrast the Criminal Procedure Code of 1973 with the *BNSS, 2023*.
- analyse the *Sanhita* from a gender sensitive perspective.
- examine the procedural framework devoted to citizen safety and security.

## Introduction

The Government of India had recently enacted the *Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023*. This *Sanhita* would facilitate in translating the commitment to justice, social, economic and political. Additionally, it would also facilitate in ensuring Equality and Fraternity to all the citizens of the country. This *Sanhita* would also help in promoting Fundamental Duties as mentioned in the Constitution of India. It would help in translating the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic and regional or sectional diversities; renouncing practices derogatory to the dignity of women.

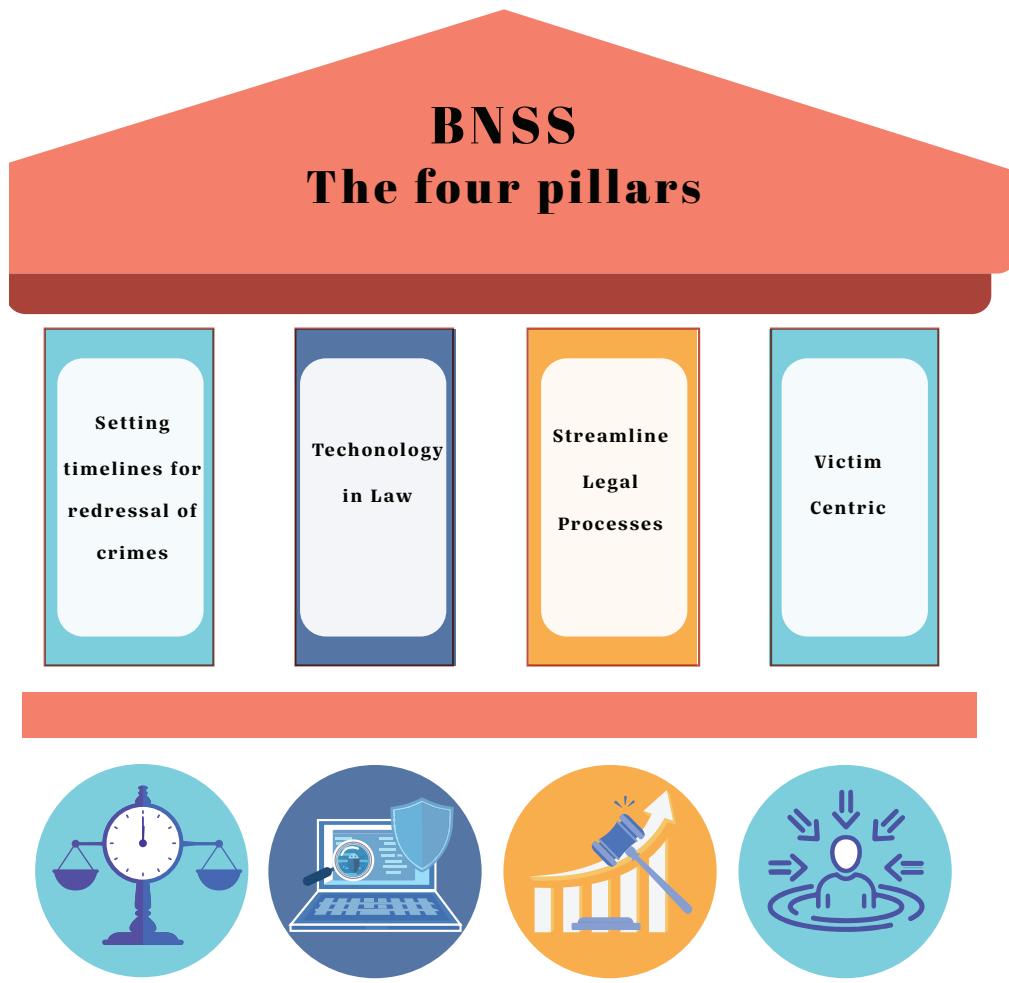


Fig.1. What is new about the Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023?

In the domain of jurisprudence, this is a major reform in the legal system in India. It mainly attempts to expedite and modernize the Indian Criminal Justice System and make it more responsive to the contemporary needs of the society. This *Sanhita* is a historic step as it tries to undo the colonial legacy and make law preventive for mitigating all sorts of crimes committed in different spaces of social interactions such as family, public places as well as the schools. The BNSS helps in the use of technology in criminal proceedings, strengthens victim centric protection and streamline the criminal procedures. This *Sanhita* seeks to safeguard the rights of accused, such as, presumption of innocence and right to legal representation. Further the BNSS focuses on compensation, and rehabilitation through one stop crises centers, protection officers, counsellors, and shelters.

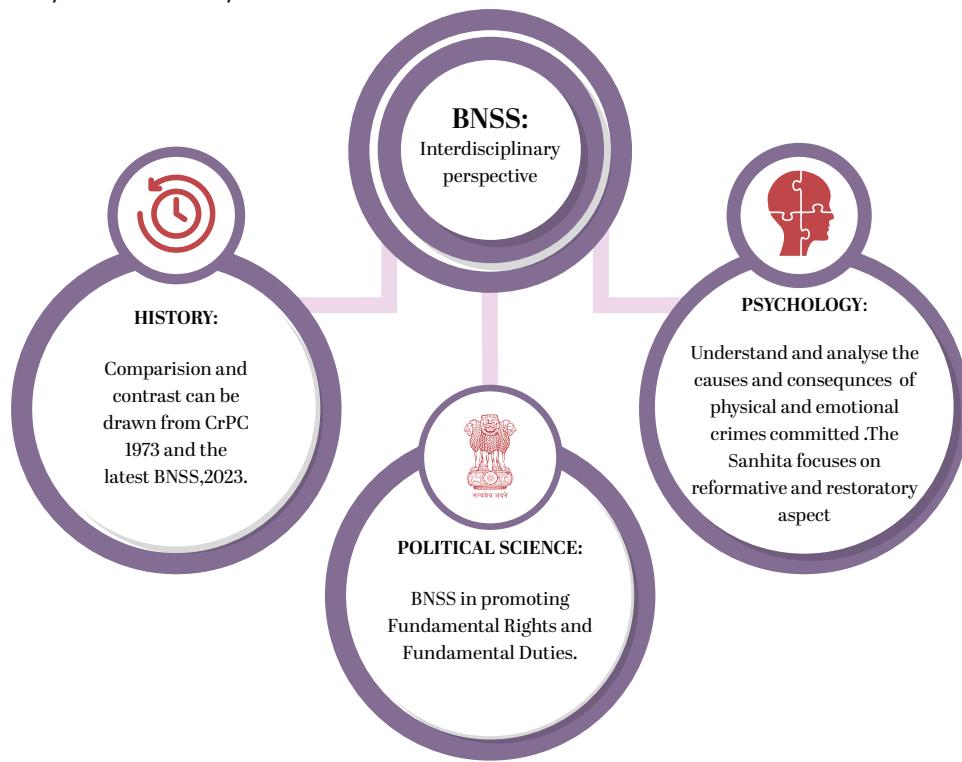


Fig.2. BNSS from inter-disciplinary perspective

## Evolution of BNSS, 2023

- The BNSS replaces the Criminal Procedure Code, 1973 (CrPC).
- The CrPC was first passed in 1861 to address the problem of multiplicity of legal system in India. In 1973, the erstwhile Act

was replaced by the existing CrPC and changes like, anticipatory bail, etc., were introduced. It was amended in 2005 to add changes, such as, provision for plea bargaining and rights of arrested persons. The 2013 amendment, driven by the Nirbhaya case, introduced stricter laws against sexual violence, expedited trial processes, and enhanced victim protection measures. The 2018 amendment further strengthened these provisions by increasing penalties for sexual offences and incorporating more comprehensive measures for the protection of children, including the establishment of fast-track courts for such cases.

- The BNS is the main legislation on procedure for administration of substantive criminal laws in India.
- The BNSS mostly preserves the provisions of the CrPC, however, it aims to simplify the criminal procedure, reduce trial duration, implement timelines for procedure, etc.
- It provides for separation of offences i.e. cognizable and non-cognizable. Further, the nature of the offences i.e., bailable and non-bailable.

## Rationale

This *Sanhita* introduces processes that take into cognisance the interest of the citizens who due to diversity of circumstances are victims of crime that affects the physical and emotional well-being of individuals as stated in this important enactment. The reason for bringing out this *Sanhita* is to deliver timely justice that is not delayed or denied. In this regard, some important cases are being cited as a backdrop.

**Cognisable offenses** are serious crimes that allow the police to arrest without a warrant, whereas non-cognisable offenses are less severe and require a warrant for arrest.

Offences are categorized as bailable and non-bailable, determining whether the accused can be released on bail as a matter of right or at the court's discretion.

A case shall be deemed to be a cognizable case when it relates to two or more offences of which at least one is cognisable.

## Key features of BNSS



S. No.	BNSS
1 	The BNSS adds that this provision will not apply in the following circumstances: (a) Offences punishable by life imprisonment. (b) Persons against whom proceedings are pending in more than one offence.
2 	The BNSS provides that any police officer can request such an examination.
3 	The BNSS mandates forensic investigation for offences punishable with at least 7 years of imprisonment. Forensic experts will visit crime scenes to collect forensic evidence and record the process on mobile phone or any other electronic device. If State does not have forensics facility, it will utilize such facility in another State.
4 	The BNSS expands this to include finger impression and voice sample; it allows these samples to be collected from a person who has not been arrested.



S. No.	BNSS
5 	Witnesses are crucial in delivering justice as they provide valuable information to the court. To ensure their safety and protect them from potential harm or intimidation, the BNSS has introduced a <i>Witness Protection Scheme</i> . State Governments have been given responsibility to draft and notify such a scheme.
6 	A police officer of at least Assistant Sub-Inspector rank will be assigned in each district and police station. Their responsibility will be to keep a record of the names, addresses, and charges against all arrested individuals. This information will be prominently displayed, possibly digitally, in every police station and at the district headquarters.
7 	In BNSS 2023, new definitions have been introduced to clarify certain terms. "audio-video electronic means" now includes the use of any communication device for video conferencing, recording processes such as identification, search and seizure, or evidence, transmitting electronic communication, and other purposes as determined by State Government rules. "electronic communication" refers to the transmission or transfer of written, verbal, pictorial information, or video content through electronic devices like telephones, mobile phones, computers, audio-video players, cameras, or any other specified electronic forms as notified by the Central Government.
8 	BNSS enables all the legal proceedings to be conducted electronically. This includes issuing, serving, and executing summons and warrants, examining complainants and witnesses, recording evidence in inquiries and trials, and conducting appellate or other proceedings through electronic communication or audio-video electronic means.

S. No.	BNSS
9 	Under the BNSS 2023, summons can be served electronically, either in an encrypted format or through any other electronic communication method. The electronic summons must include the image of the Court's seal or a digital signature, ensuring their authenticity and legal validity.
10 	The victim-centric approach in the new laws places a strong emphasis on enhancing the efficiency, fairness, and accountability of the justice system. It acknowledges victims as essential stakeholders in criminal proceedings, granting them participatory rights and an expanded right to information. These reforms prioritise the needs and rights of victims, aiming to make them central figures in the criminal justice system with unprecedented rights and opportunities.

## Important procedures under BNSS

### a. Information of an offence can be sent electronically

BNSS allows information about a cognisable offence (a serious crime that can be acted upon by the police without a warrant) to be sent electronically. Here's how it works:

- **Electronic Submission:** Information about a crime can be sent to police through electronic means (like call or a website).
- **Signature:** Where the information is sent electronically, it has to be signed within 3 days.
- **Copy of FIR:** After recording the information, the police will provide a free copy of FIR to informant or victim.
- **Special Cases for Women:** A woman police officer or any female officer must record the statement in cases of sexual offences.
- **Complaint about Police Refusal:** If a police officer refuses to

Police officers are required to produce an arrested person before a Magistrate within 24 hours to prevent unlawful detention.

register FIR, an application can be made to the Superintendent of Police or a Magistrate.

### b. Zero FIR

A **Zero FIR** is an FIR that can be filed at any police station, regardless of the location where the crime took place. It will then be transferred to the police station with jurisdiction over the area where the crime occurred. Upon receiving information about a serious crime, the police will immediately register a Zero FIR. This ensures that the investigation process can begin without delay.

Under BNSS, every person accused of an offence has the right to legal aid, ensuring that they have a fair trial.

### c. Progress Report to the Victim

As per BNSS, victims have the right to be kept informed about the progress of their case. This includes receiving a progress report within 90 days from the date the First Information Report (FIR) was registered. This report contains updates on the investigations, any arrests made, and other relevant developments pertaining to the case. Keeping victims informed is essential for maintaining transparency and ensuring their trust in the legal process.

Under BNSS, if the investigation is not completed within the prescribed time, the accused is entitled to bail.

### d. Search and Seizure by Police

Under BNSS, when the police search or take something as evidence, they have to record it on video and take photos using a phone or camera. This is to make sure everything is done correctly and nothing is missed. The recordings and photos are then sent to the local magistrate for verification and to ensure everything was done according to the law.

BNSS requires that the identity of victims in sexual offence cases be protected to prevent stigmatisation.

### e. Rights of the Arrested Person

BNSS expands the rights of the arrested person. The following rights have been provided in BNSS:

- When a police officer arrests someone, they must have an ID showing their name and rank.
- The person being arrested has the right to request for a lawyer.
- A woman should be arrested by a female police officer unless there are extreme circumstances.

- Handcuffs may be used during arrest for serious offenses or with habitual offenders.
- The arrested person must be told why they are being arrested and about their right to get bail if the offence allows it.
- The police must inform a relative or a person chosen by the arrested person about the arrest and where they are being held.
- The arrested person should be examined by a medical representative.
- If the arrested person is female, a female medical representative should do the examination.
- Anyone arrested without a warrant must be taken to the Magistrate within 24 hours.

A woman cannot be arrested after sunset and before sunrise, except in exceptional circumstances.

#### **f. Report of the Police Officer on completion of investigation (Chargesheet/Challan)**

The police officer in charge of investigating a case must submit their investigation report within the specified time, ensuring no unnecessary delays. For offences against women under *Bharatiya Nagarik Suraksha Sanhita 2023* or the *Protection of Children from Sexual Offences Act 2012*, this investigation should be completed within 60 days from the date of recording the information. This report includes details of the investigation conducted, evidence collected, and is forwarded to the Officer-in-Charge of the police station. Additionally, a copy of the report is provided to the accused as a matter of right.



An anticipatory bail can be applied for if a person fears arrest, allowing them to avoid being taken into custody.



## Institutional Arrangements for Criminal Justice

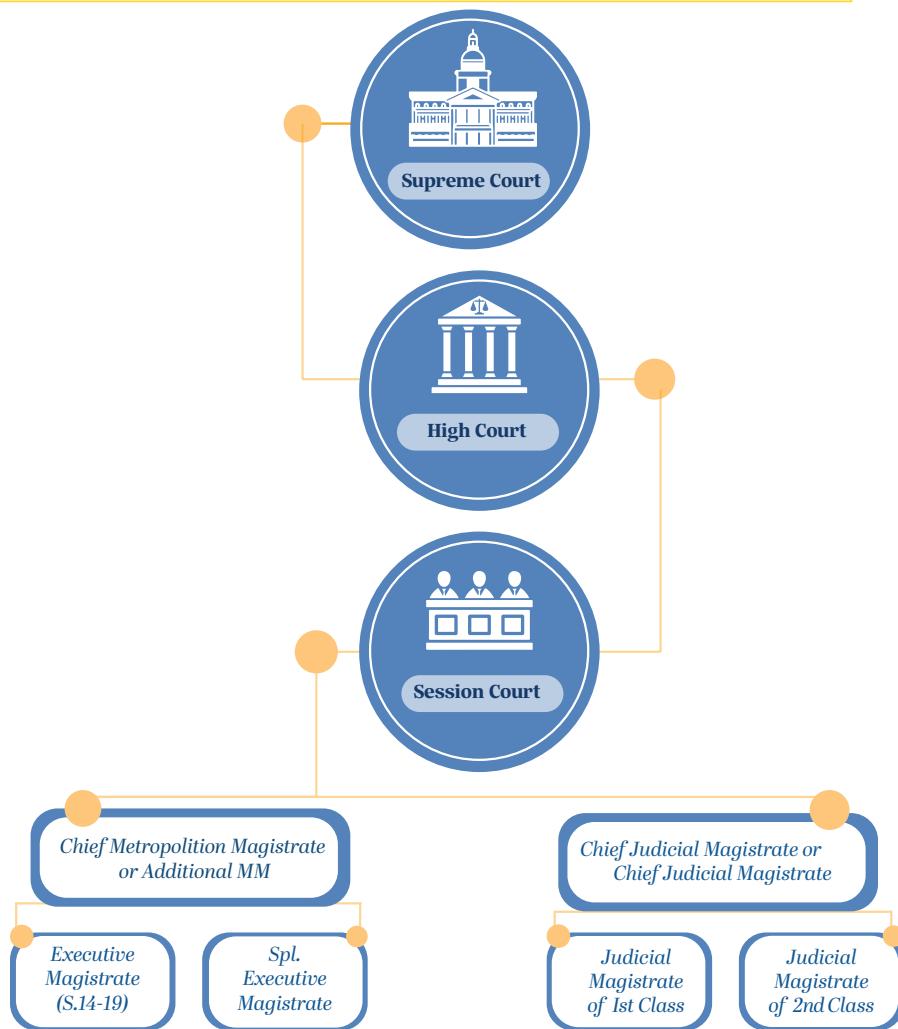


Fig.3. Hierarchy of Courts for the Adjudication of Criminal Matters

## Quiz

- What is the primary objective of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023?
  - To promote economic growth
  - To enhance security and safety of individuals
  - To improve education
  - To develop infrastructure

(Key: b)



**2. Which government body is responsible for implementing the BNSS, 2023?**

- (a) Ministry of Education
- (b) Ministry of Health and family Welfare
- (c) Ministry of Law and Justice
- (d) Ministry of Defence

(Key: c)

**3. Under BNSS, what is the maximum period for which an accused can be held in police custody without a Magistrate's order?**

- (a) 24 hours
- (b) 48 hours
- (c) 72 hours
- (d) 7 days

(Key: a)

**4. Who can file a complaint under BNSS?**

- (a) Any person
- (b) Only police officers
- (c) Only government officials
- (d) Only the accused

(Key: a)

**5. BNSS, 2023 has replaced which law?**

- (a) The Indian Penal Code,1860
- (b) Code of Criminal Procedure (CrPC),1973
- (c) The Indian Evidence Act,1872
- (d) Immoral Traffic (prevention) Act,1956

(Key: b)

**6. What is a 'summon'?**

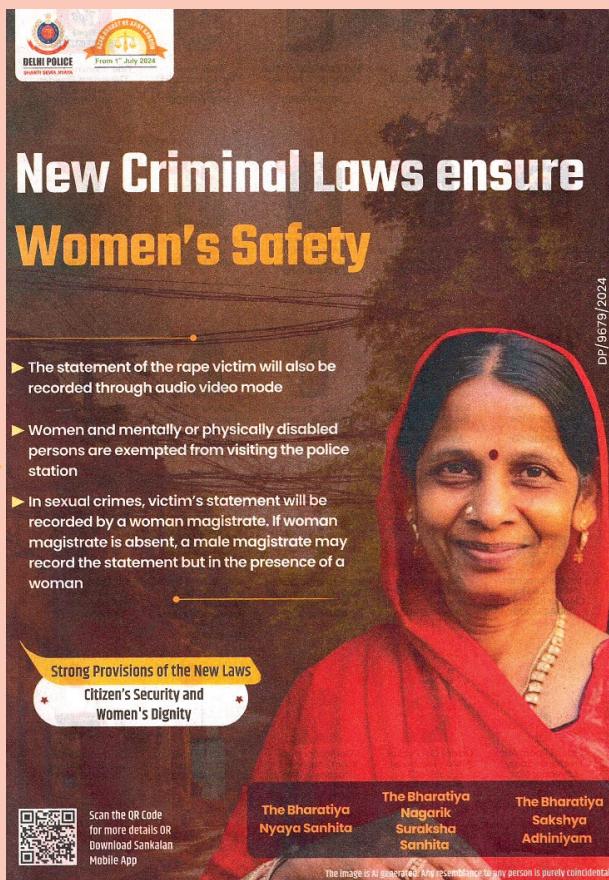
- a) An order to appear in court
- b) An order to pay a fine
- c) An order to arrest
- d) An order to seize property

(Key: a)



## Case Study

The New Criminal Laws have made special provisions for ensuring safety and dignity of women some of which you may be reading as newspaper articles and as advertisements such as the one by the Delhi Police. An example is given below:



Source: Times of India, July 13th, 2024

After reading this newspaper item you may collect more information on:

- What are the other provisions made for women under the Bharatiya Nagarik Suraksha Sanhita?
- You may write an essay of 1000 words on the process of filing e-FIR.
- Write a message on promoting awareness about the Bharatiya Nagarik Suraksha Sanhita.
- Prepare a list of Do's and Don'ts for strengthening security of self and peers.

Crimes in India have also made policy makers address the existing laws and accordingly changes have been made to address the same and promote the right of all citizens with dignity and well-being. You may like to know one of the reasons why the *Sanhita* was a felt requirement to strengthen the democratic ethos where one's self and others are respected.

## Activities

### Case II

#### Excerpts: Offences Affecting the Human Body

A total of 11,58,815 cases of offences affecting the human body were registered which accounted for 32.5 per cent of total IPC crimes during 2022, out of which hurt (6,27,676 cases) accounted for maximum cases i.e., 54.2 per cent, followed by cases of causing death by negligence (1,59,096 cases, 13.7%) and cases of Kidnapping & Abduction (1,07,588 cases, 9.3%).

The cases registered under offences against human body depict an increase of 5.3% in 2022 over 2021 (11,00,425 cases) and the crime rate has increased from 80.5 in 2021 to 84.0 in 2022.

Activity: You may prepare a write-up explaining the reasons for the rise in the crime rates.

#### Crime against Women

A total of 4,45,256 cases of crime against women were registered during 2022, showing an increase of 4.0 per cent over 2021 (4,28,278 cases).

Majority of cases under crime against women under IPC were registered under 'Cruelty by Husband or His Relatives' (31.4%) followed by 'Kidnapping & Abduction of Women' (19.2%), 'Assault on Women with Intent to Outrage her Modesty' (18.7%), and 'Rape' (7.1%). The crime rate registered per lakh women population was 66.4 in 2022 in comparison to 64.5 in 2021.

Activity 1: A project can be taken highlighting the crimes committed in different States and UTs along with the diagnostic factors.

Activity 2: A script can be prepared for a short film on women role models who have faced challenges and have made a mark through their contributions.

#### Crime against Children

A total of 1,62,449 cases of crime against children were registered during 2022, showing an increase of 8.7 per cent over 2021 (1,49,404 cases). In terms of percentage, major crime heads under 'Crime Against Children' during 2021 were Kidnapping & Abduction (45.7%) and Protection of Children from Sexual Offences Act, 2012 (39.7%) including child rape. The crime rate registered per lakh children population was 36.6 in 2022 in comparison to 33.6 in 2021.



**Activity:** You may prepare case studies of children from diverse backgrounds who have faced violence in their growing years. You may include children belonging to SDGs, CWSN, or Transgender. This information can be represented through charts, diagrams and any other creative form which you may like to choose.

### **Juveniles in Conflict with Law**

A total of 30,555 cases have been registered against Juveniles during 2022, depicting decline of 2.0 per cent over 2021 (31,170 cases). The crime rate depicts a decline from 7.0 in 2021 to 6.9 in 2022.

A total of 37,780 juveniles were apprehended in 30,555 cases, out of which 33,261 juveniles were apprehended under cases of IPC and 4,519 juveniles were apprehended under cases of SLL during 2022.

Majority of juveniles in conflict with law apprehended under IPC & SLL crimes were in the age group of 16 years to 18 years (78.6%) (29,690 out of 37,780) during 2022.

**Activity:** You may prepare a detailed essay on juveniles in conflict with law and the legal mechanism that provide redressal mechanism to cover this important age group.

### **Economic Offences**

A total of 1,93,385 cases were registered under economic offences, showing an increase of 11.1 per cent in registration over 2021 (1,74,013 cases). Out of three specified category of economic offences, viz., criminal breach of trust, FCF (forgery, cheating & fraud) and counterfeiting, FCF accounted for maximum of such cases, with 1,70,901 cases, followed by criminal breach of trust (21,814 cases) and counterfeiting (670 cases) during 2022.

**Activity:** You may collect newspaper articles on economic offences that have happened in a months' time and analyse the same. A report can be prepared on the same.

### **Cyber Crimes**

A total of 65,893 cases were registered under Cyber Crimes, showing an increase of 24.4 per cent in registration over 2021 (52,974 cases). Crime rate under this category increased from 3.9 in 2021 to 4.8 in 2022. During 2022, 64.8 per cent of cyber-crime cases registered were for the motive of fraud (42,710 out of 65,893 cases) followed by Extortion with 5.5 per cent (3,648 cases) and Sexual Exploitation with 5.2 per cent (3,434 cases).

**Activity:** You may prepare a chart indicating the cyber-crimes and its coverage in your neighbourhood and school. What measures are taken by your school and the government to address it?

Source: *Crime in India, 2022, Statistics Volume I, National Crime Records Bureau (Ministry of Home Affairs) Government of India National Highway –48, Mahipalpur, New Delhi – 110037.*





The law and Us

## Reflections

- Write a case study on Bharatiya Nagarik Suraksha Sanhita, 2023 as a pillar for promoting the dignity of individuals.
- Prepare poster, charts, audio-video material highlighting the important components of the Sanhita.

## Message for parents

You may go through the *Bharatiya Nagarik Suraksha Sanhita, 2023* and update yourself on its difference from the colonial laws. You may share this information with your children and update them on it being victim-centric, technology-friendly and time-bound administration of justice to the aggrieved. You may focus on preventive measures, so that, as parents we can educate our children to be law-abiding citizens and help in creating a congenial environment while interacting with peers and others. Children need to respect the fundamental rights of others and believe in consensus building, valuing each other's contribution and so on.



## References

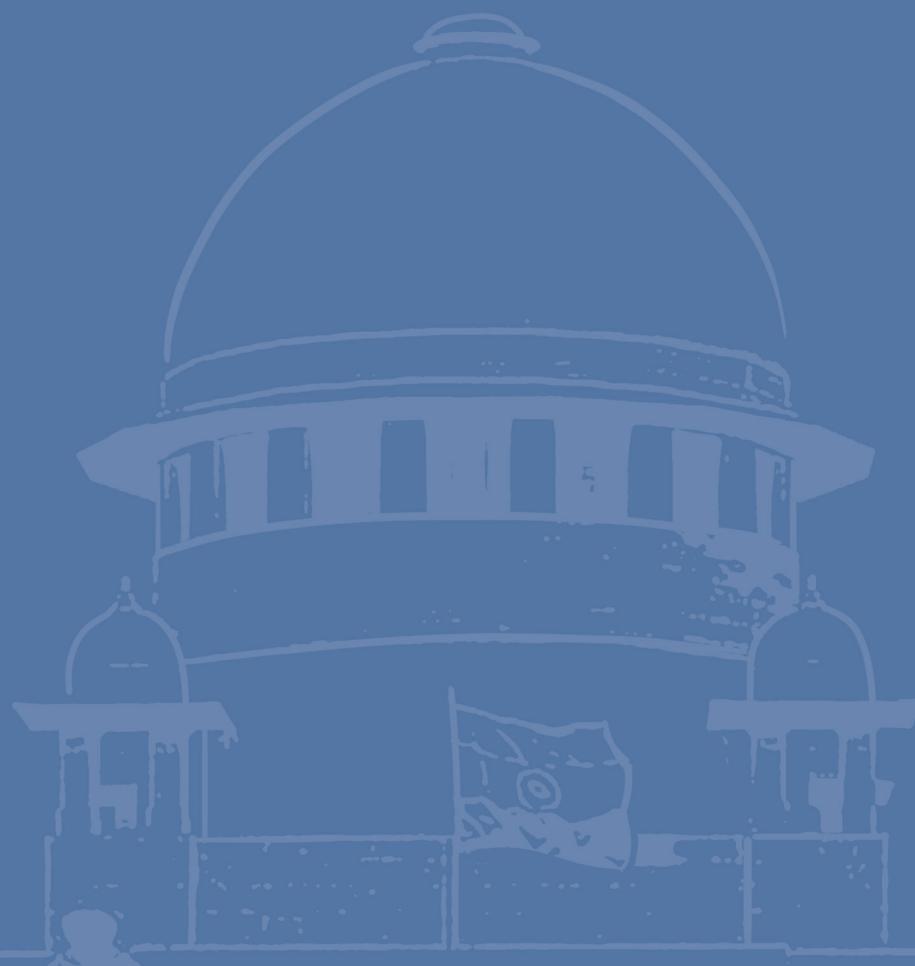
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