

# **AMENDMENTS IN NEW CRIMINAL LAWS AND ITS EFFECT ON JUVENILE JUSTICE SYSTEM**



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**THE BHARATIYA NYAYA  
SANHITA (BNS), 2023**

**CHILD IN CONFLICT WITH LAW  
AND OFFENCES UNDER THE  
MOTOR VEHICLES ACT**

**CYBER CRIME AND JUVENILE**

**CHILDREN'S COURT, POWER,  
JURISDICTION AND DUTIES**

# **THE BHARATIYA NYAYA SANHITA (BNS), 2023**

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**EXPLICIT  
DEFINITION OF  
CHILD**

**RETAINING THE  
AGE OF  
CRIMINAL  
RESPONSIBILITY**

**SEPARATE  
HEADING "*OF  
OFFENCES  
AGAINST CHILD*"  
INTRODUCED IN  
CHAPTER 5 OF  
THE BNS**

# **I. THE BHARATIYA NYAYA SANHITA (BNS), 2023**

## **1. EXPLICIT DEFINITION OF CHILD**

- BNS 2023 explicitly addresses the nuanced needs of juveniles, aligning with the progressive framework established by the Juvenile Justice (Care and Protection of Children) Act, 2015.
- While IPC 1860 relied on broad definitions and discretionary judicial interpretations and used the word Minor in different Sections, BNS 2023 introduces:
- A clear definition of a child under Section 2(3) and categorizes individuals under 18 as a child.

# **SIGNIFICANCE**

- A uniform definition ensures that all minors, regardless of their circumstances, receive protection and benefits under juvenile justice laws. This change aligns India's laws with international standards, particularly the United Nations Convention on the Rights of the Child (UNCRC).
- Now instead of being divided into several sections as in the old Indian Penal Code of 1860, the new Chapter 5 has a detailed list of crimes against women and children.
- Similarly, there is an uniformity in age of woman wherein now Section 376 (2)(i) has been done away with which prescribed under 16 years of age and Under Section 70 (2), if a woman below the age of 18 years is gang raped the culprit can be punished with life imprisonment.

## **2. RETAINING THE AGE OF CRIMINAL RESPONSIBILITY**

The BNS 2023 retains the age of criminal responsibility at seven years, as established in earlier statutes. This means that children below this age are presumed incapable of committing an offence due to their lack of understanding of the consequences of their actions (Section 20 BNS,2023). Similarly, Section 21 BNS also retains the earlier Section 83 of The IPC, Wherein the acts done by a child above 7 years of age and under 12 years of age who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

### **3. SEPARATE HEADING “OF OFFENCES AGAINST CHILD” INTRODUCED IN CHAPTER 5 OF THE BNS**

- Section 93, 94, 97, 98 & 99 of the BNS correspond to Section 317, 318, 369, 372 & 373 of IPC which were not only scattered in different chapters but also were not uniform with regard to the nomenclature, for example: Section 372 of IPC uses the term selling *Minor*, Section 373 of IPC uses the term child.
- By making a specific heading *of offences against child*, the ambiguity has been done away with and any child who comes within the definition of Section 2 (3) of BNS is covered under chapter 5.
- Apart from this Section 95 & 96 has been incorporated under the BNS which are of utmost relevant in the present age.

- **Section 95- Hiring, employing or engaging a child to commit an offence-**

Whoever hires, employs or engages any child to commit an offence shall be punished with imprisonment of either description which shall not be less than three years but which may extend to ten years, and with fine; and if the offence be committed shall also be punished with the punishment provided for that offence as if the offence has been committed by such person himself.

*Explanation* - Hiring, employing, engaging or using a child for sexual exploitation or pornography is covered within the meaning of this section.

- **Section 96- Procurement of child-** Whoever, by any means whatsoever, induces any child to go from any place or to do any act with intent that such child may be, or knowing that it is likely that such child will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.



# **CHILD IN CONFLICT WITH LAW AND OFFENCES UNDER THE MOTOR VEHICLES ACT**

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graph TD; A[CHILD IN CONFLICT WITH LAW AND OFFENCES UNDER THE MOTOR VEHICLES ACT] --> B[JUVENILE JUSTICE AND TRAFFIC VIOLATIONS: LEGAL ACCOUNTABILITY UNDER THE MOTOR VEHICLES ACT]; A --> C[LEGAL FRAMEWORK GOVERNING JUVENILE TRAFFIC VIOLATIONS]; A --> D[RECENT AMENDMENTS AND DEVELOPMENTS]
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**JUVENILE  
JUSTICE AND  
TRAFFIC  
VIOLATIONS:  
LEGAL  
ACCOUNTABILITY  
UNDER THE  
MOTOR  
VEHICLES ACT**

**LEGAL  
FRAMEWORK  
GOVERNING  
JUVENILE  
TRAFFIC  
VIOLATIONS**

**RECENT  
AMENDMENTS  
AND  
DEVELOPMENTS**

## **II. CHILD IN CONFLICT WITH LAW AND OFFENCES UNDER THE MOTOR VEHICLES ACT**

### **1. JUVENILE JUSTICE AND TRAFFIC VIOLATIONS: LEGAL ACCOUNTABILITY UNDER THE MOTOR VEHICLES ACT**

- The rise in juvenile traffic violations in India has sparked significant legal and social concerns. The interplay between the Motor Vehicles Act, of 1988, and the Juvenile Justice (Care and Protection of Children) Act, of 2015, presents a complex legal landscape for determining the accountability of juveniles involved in traffic violations, especially in cases involving fatalities or serious injuries. This article examines the legal frameworks governing such offences and recent legal developments.

## **2. LEGAL FRAMEWORK GOVERNING JUVENILE TRAFFIC VIOLATIONS**

### **– The Motor Vehicles Act, 1988**

The Motor Vehicles Act, of 1988, regulates traffic violations in India. Under this Act, Sections 180 and 181 penalize driving without a valid license or by an unlicensed driver. The Motor Vehicles (Amendment) Act, 2019, introduced Section 199A, holding parents or guardians liable if a juvenile is caught driving. This provision imposes fines, imprisonment, and the cancellation of the vehicle's registration, aiming to deter juveniles from driving illegally.

## – **The Juvenile Justice (Care and Protection of Children) Act, 2015**

The Juvenile Justice Act focuses on the rehabilitation of juveniles in conflict with the law. For traffic offences, juveniles aged 16 to 18 can be tried as adults for heinous offences if it is determined that they understand the consequences of their actions. While most traffic violations are considered “petty” or “serious” offences, those resulting in fatalities may be treated more stringently.

## – **Intersection of Both Acts**

Juvenile traffic offences, especially those resulting in fatalities or serious injuries, involve both the Motor Vehicles Act and the Juvenile Justice Act. The challenge lies in balancing public safety and the principle of rehabilitation, which is fundamental to juvenile justice.

### **3. RECENT AMENDMENTS AND DEVELOPMENTS**

- The Motor Vehicles (Amendment) Act, of 2019, introduced stricter penalties for traffic violations, including those involving juveniles. Section 199A specifically addresses cases where minors are caught driving, holding their parents or guardians accountable. The amendment aims to deter such behavior through heightened penalties and enforcement measures.

- The Kerala High Court in the case of *Sharafudheen vs. State of Kerala*, **Crl.M.C. No. 34/24 & Conn. Cases**, held that the guardian of a minor or the owner of a vehicle driven by a minor can face prosecution under Section 199A of the Motor Vehicles Act, 1988 (MV Act) even before the minor is proceeded against for driving without a license. Since minors are immune from prosecution, the tendency to indulge in such acts has been on the rise and the owners of motor vehicles do not take due precautions to prevent such acts, the Court noted.

Thus, creating criminal liability on the guardian or the owner of a motor vehicle is seminal and has contemporary social relevance. In light of this, the Court issued the following guidelines:

- **Independent Offence:** The offence under Section 199A of the MV Act is unique and independent.
- **No Requirement of Prior Juvenile Charges:** While the commission of an offence under the MV Act by the juvenile is an essential ingredient, a finding regarding the same as per the provisions of the JJ Act is not required for initiating proceedings against the guardian or owner of the vehicle.

- **Initiating Proceedings:** Proceedings against the guardian or owner can be initiated if information regarding the commission of an offence by the juvenile has been recorded in the General Diary. This must be followed by the submission of a Social Background Report (SBR) of the child without undue delay.
- **Timely Submission:** The final report of the offences allegedly committed by the juvenile should be submitted before the Juvenile Justice Board (JJB) at the earliest, preferably within two months of recording the information. The two-month period mentioned in Rule 10(6) of the Model Rules is directory and not mandatory.
- **No Charges Required for Petty Offences:** The JJ Act does not contemplate any charge to be framed against a juvenile for a petty offence.



- **Inquiry Process:** The inquiry against the juvenile should follow the procedure prescribed for the trial of petty offences under the Cr.P.C and must be completed within four months or within any extended period granted.
- **Termination of Proceedings:** If the inquiry is not completed within the mandated period or if the JJB finds the juvenile not guilty, proceedings against the guardian or owner under Section 199A of the MV Act must be terminated, and the accused must be acquitted or discharged.

# **CYBER CRIME AND JUVENILE**

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graph TD; A[CYBER CRIME AND JUVENILE] --> B[DEFINITION]; A --> C[TYPES OF CYBER CRIME]; A --> D[LEGAL FRAMEWORK TO DEAL WITH CYBERCRIMES IN INDIA]
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**DEFINITION**

**TYPES OF  
CYBER CRIME**

**LEGAL  
FRAMEWORK TO  
DEAL WITH  
CYBERCRIMES IN  
INDIA**

# **III. CYBER CRIME AND JUVENILE**

## **1. DEFINITION**

- Cyber Crime is the term used to broadly describe criminal activity in which computer and computer networks are a tool, a target, or place of criminal activity and includes everything from electronic cracking to denial of service attacks. It is also used to include traditional crime in which computer and networks are used to enable the illicit activity. Computer crime mainly consists of unauthorized access to computer system data alteration, data destruction, theft of intellectual property. Cyber crime in the context of national security may involve hacktivism, traditional espionage, or information warfare and related activities.

- There isn't really a fixed definition for cybercrime. The Indian Law has not given any definition to the term “cybercrime”.
- But cyber security is defined under Section (2)(b) of Information Technology Act means protecting information, equipment, device, computer, computer resource, communication device and information stored there in from unauthorized access, use, disclosure, disruption, modification or destruction.
- In a layman's term, Cyber Crime is an illegal activity involving a computer network or computer and it can be done from any location on the planet and against any computer system.

## 2.TYPES OF CYBER CRIME

- **Cyber Bullying:** Repeated online harassment and abuse, often targeting children and adolescents.
- **Hacking:** Unauthorized access to computer systems or networks, potentially for theft or damage.
- **Online Harassment:** Using digital platforms to threaten, intimidate, or cause distress to others.
- **Cyber Grooming:** Building a relationship with a child online to lure them into a real-life meeting for harmful purposes.
- **Distribution of Child Pornography:** Creating, sharing, or possessing illegal images or videos of children for sexual purposes.
- **Identity Theft:** Using someone else's online identity for fraudulent purposes.

### **3. LEGAL FRAMEWORK TO DEAL WITH CYBERCRIMES IN INDIA**

#### **Information Technology Act, 2000 (IT Act)**

- Section 66B: This clause establishes the penalty for receiving computer or communication equipment that has been obtained unlawfully and confirms a potential three-year prison sentence. A punishment of up to Rs. 1 lakh may also be imposed, depending on how serious the offence is.
- Section 66C: It includes digital signatures, password hacking, and other forms of identity theft. A maximum punishment of 3 years in prison and a fine of Rs. 1 lakh are associated with this clause.
- Section 66D: This section addresses exploiting computer resources to impersonate someone else while cheating. The maximum sentence for conviction is three years in prison, and the maximum fine is Rs. 1 lakh.

- Publishing or sending pictures of private locations without the owner's consent is a violation of Section 66E.
- Section 67 B: One of the key sections of legislation offering protection for online actions is this one. This law recognizes offences against children committed online. The following offences are considered crimes against minors under the statute. Child pornography, offensive material, or material that depicts children participating in sexual conduct in any electronic device.
- In addition, Section 294, 77, 78 of BNS, 2023 and Section 13 of the POCSO Act, 2012.

# **CHILDREN'S COURT, POWER, JURISDICTION AND DUTIES**

**DEFINITION**

**POWERS OF CHILDREN'S COURT**

**CHILD ATTAINED AGE OF TWENTY-ONE YEARS AND  
YET TO COMPLETE PRESCRIBED TERM OF STAY IN  
PLACE OF SAFETY**

**PROCEEDING UNDER CHAPTER VIII OF THE  
CODE OF CRIMINAL PROCEDURE NOT TO  
APPLY AGAINST CHILD  
(NOW CHAPTER IX)**

**NO JOINT PROCEEDINGS OF CHILD IN  
CONFLICT WITH LAW AND PERSON NOT A  
CHILD**

**PROVISION WITH RESPECT OF RUN  
AWAY CHILD IN CONFLICT WITH LAW**



# **IV. CHILDREN'S COURT, POWER, JURISDICTION AND DUTIES**

## **1. DEFINITION**

Section 2(20) - “**Children’s Court**” means a court established under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006) or a Special Court under the Protection of Children from Sexual Offences Act, 2012 (32 of 2012), wherever existing and where such courts have not been designated, the Court of Sessions having jurisdiction to try offences under the Act.

## **2. POWERS OF CHILDREN'S COURT**

- Section 19 delineates the powers vested in the Children's Court. Upon receiving the preliminary assessment from the Board as per Section 15, the Children's Court is empowered to make two distinct decisions:
- Firstly, it can determine whether there is a necessity to try the child as an adult, adhering to the procedural requirements outlined in the Code of Criminal Procedure, 1973. This decision is made while considering the special requirements of the child, ensuring a fair trial, and maintaining a conducive atmosphere for the child.

- Secondly, if the Children's Court concludes that trying the child as an adult is unnecessary, it can conduct an inquiry akin to that of the Board and issue appropriate orders in alignment with the provisions specified in Section 18.
- Additionally, the Children's Court is responsible for ensuring that a child found in conflict with the law is placed in a secure environment, referred to as a "place of safety," until they reach the age of twenty-one. During this time, the child is entitled to receive reformatory services, including education, skill development, counseling, behavior modification therapy, and psychiatric support.

- The Court must also oversee the periodic submission of follow-up reports, conducted annually by either a probation officer, the District Child Protection Unit, or a social worker. These reports evaluate the child's progress in the place of safety and ascertain that there is no mistreatment or abuse inflicted upon them.
- Furthermore, all reports generated under subsection (4) are to be forwarded to the Children's Court for record-keeping and any necessary follow-up actions. This ensures ongoing oversight and accountability regarding the child's welfare and progress within the justice system.

### **3. CHILD ATTAINED AGE OF TWENTY-ONE YEARS AND YET TO COMPLETE PRESCRIBED TERM OF STAY IN PLACE OF SAFETY**

- Section 20 addresses the situation where a child in conflict with the law reaches the age of twenty-one before completing their prescribed stay in a place of safety:
- When such a child turns twenty-one but hasn't finished their designated period in the place of safety, the Children's Court is mandated to initiate a follow-up process. This involves an assessment by either a probation officer, the District Child Protection Unit, a social worker, or the Court itself, as necessary.
- The aim is to determine whether the child has undergone positive changes and is ready to reintegrate into society. This assessment takes into account the progress records of the child, as maintained under section 19(4), and may also involve evaluations by relevant experts.

Following this evaluation, the Children's Court has two options:

- Firstly, it can decide to release the child under certain conditions deemed appropriate by the Court. These conditions may include appointing a monitoring authority to oversee the child's behavior and progress for the remainder of the prescribed stay period.
- Alternatively, the Court may determine that the child should complete the remaining portion of their term in a jail setting.
- Additionally, each State Government is required to establish and maintain a list of monitoring authorities and procedures, as prescribed by law. These authorities play a crucial role in ensuring the effective monitoring and support of children transitioning from the justice system back into society.

#### **4. PROCEEDING UNDER CHAPTER VIII OF THE CODE OF CRIMINAL PROCEDURE NOT TO APPLY AGAINST CHILD** **(NOW CHAPTER IX)**

- Section 22 specifies that despite any provisions within the Code of Criminal Procedure, 1973, or any prevailing preventive detention laws, no legal proceedings shall be initiated nor any orders passed against any child under Chapter VIII of the mentioned Code.
- This means that the regular legal procedures outlined in Chapter VIII of the Code of Criminal Procedure, which deal with the trial of summons cases by Magistrates, will not be applicable to children.
- Instead, any legal matters concerning children will be handled in accordance with the procedures and provisions outlined specifically for juveniles in conflict with the law. This reflects the recognition of the unique needs and circumstances of children within the justice system, ensuring that their rights and interests are protected appropriately.

## **5. NO JOINT PROCEEDINGS OF CHILD IN CONFLICT WITH LAW AND PERSON NOT A CHILD**

- Section 23 emphasizes the separation of legal proceedings between children in conflict with the law and adults. It states that despite any provisions in the Code of Criminal Procedure, 1973, or any other law, there will be no combined legal proceedings involving a child accused of an offence and an adult.
- This means that the legal process for children in conflict with the law must be distinct and separate from that of adults, ensuring that children are treated in accordance with their unique rights and requirements.



## **6. PROVISION WITH RESPECT OF RUN AWAY CHILD IN CONFLICT WITH LAW**

- Section 26 addresses the situation of a runaway child who is in conflict with the law. If a child in conflict with the law runs away from a special home, observation home, place of safety, or from the care of a designated person or institution, any police officer is authorized to take charge of the child. Within twenty-four hours, the child must be brought before the Board that originally handled their case, if possible. If not, the child should be presented to the nearest Board.

- The Board then investigates the reasons for the child's escape and decides on the appropriate course of action. This may involve returning the child to the institution or person they fled from, or placing them in another suitable facility or with another responsible individual.
- Additionally, the Board may issue special directives deemed necessary for the child's best interests. Crucially, no further legal proceedings can be initiated against the child in this context, emphasizing the focus on addressing the underlying reasons for the child's runaway behavior and ensuring their welfare and rehabilitation.



THANK YOU