



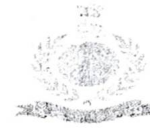
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The legal framework against Human Trafficking is strengthened, by the New Criminal Laws

E3 BNS 2023 has a victim-centric approach to women and child trafficking.

S3 Newly-introduced offence of organised crime in BNS 2023, includes trafficking of a person, and human trafficking for prostitution or ransom, and provides stringent punishment.

GJ The act of buying a child for prostitution has been dealt with enhanced punishment with mandatory minimum punishment of 7 years extendable to 14 years.

O The offence of importation of persons from foreign country is made gender-neutral. It covers the importation of both boys under 18 years and girls under 21 years for the purpose of forced or seduced sexual exploitation.

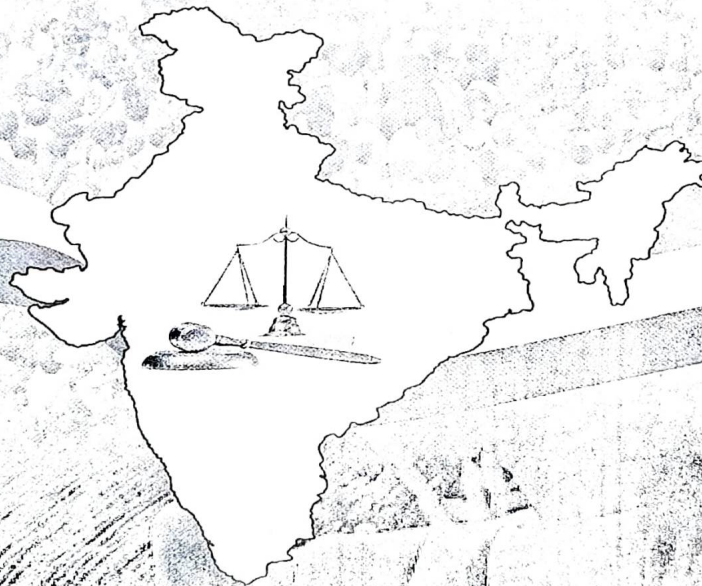
Ei Beggary has been added in the expression 'exploitation*' for the purpose of human trafficking.

- BNS prescribes enhanced punishment for a person indulging in habitual human trafficking.





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Human Trafficking



The New Criminal Laws strengthen the legal regime to provide protection to women from sexual harassment

£3 **Prevention and Prohibition:** Defines and prohibits sexual harassment to foster a harassment-free workplace.

£3 **Alignment with International Standards:** Reinforcing commitment to gender equality and non-discrimination.

E3 **Criminal Penalties:** Sexual harassment encompasses physical contact, demands for sexual favours, displaying pornography against a woman's will, and making sexually coloured remarks.

£3 **Civil Remedies:** Victims of sexual harassment may also pursue civil remedies through legal avenues, such as civil lawsuits or administrative complaints.

£2 **Workplace Policies:** Employers are required by law to implement policies and procedures for preventing and addressing sexual harassment in the workplace.

■ **Strategies for Reducing Sexual Harassment:** Education, culture of respect, policies, victim empowerment, collaboration, and advocacy.





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SEXUAL HARASSMENT



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The New Criminal Laws provide a legal framework to protect medical practitioners from unnecessary harassment

- BNS, 2023 safeguards health care providers from unnecessary harassment.
- 106(1) BNS, 2023 specifies that a registered medical practitioner (RMP) shall be punished with imprisonment for up to two years and a fine for medical negligence. BNS provides lesser punishment for medical practitioners for causing death by rash or negligent act while performing any medical procedure.

£3 Section 51(3) requires the medical practitioner to forward, without any delay, the examination report of the accused to the investigating officer.

£3 The registered Medical Practitioner is required to forward the report of medical examination of the rape victim to the investigating officer within a period of seven days.

- To prevent any contamination and the concomitant prospect of diminishment in the value of the sample, the aspect “without any delay” is strongly emphasized under section 52 BNSS.



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MEDICAL PROFESSIONALS



Witness Protection Scheme

**Guardians of Truth: Bharatiya Nagarik Suraksha Sanhita
(BNSS) 2023 Unveils the Shield of Witness Protection**

CgT" Witnesses: Pillars of Justice, Voices of Truth

Witnesses play a pivotal role as the 'eyes and ears of justice,' guiding the court towards truth and justice. The law aims to protect witnesses from harm and ensure their safety.

Safeguarding Justice: Witness Protection Scheme

A significant stride: Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 introduces the Witness Protection Scheme, acknowledging the critical need to shield witnesses from threats and intimidation.

Responsive Legal Framework: Aligning with Judicial Observations

The State Governments are entrusted to prepare and notify a Witness Protection Scheme. A 'Witness Protection Scheme, 2018 has been drafted and endorsed by the Hon'ble Supreme Court in its judgment in Mahendra Chawla v UOI. They are aimed at guarding the society against criminal misconduct, deterring law-breakers and penalising those who violate or attempt to violate laws, and protecting witnesses from harm and ensuring their safety.

Section 398: A Game-Changer in Witness Safety

This groundbreaking addition ensures that witness safety becomes an integral part of the criminal procedural framework whereby every State Government is mandated under Section 398 to prepare and notify a Witness Protection Scheme (WPS).

Witness Protection: Upholding the Right to Testify Without Fear

The new law for the Witness Protection Scheme stands as a formidable shield, safeguarding witnesses against threats, intimidation, and injury.

Witnesses, Our Silent Heroes: Advocating for Justice

The new law clearly emphasises that Witness Protection is not just a legal provision but a commitment to Justice.

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Bharatiya Nyaya Sanhita (BNS) 2023 introduces a dedicated chapter on offences against woman and child



Stringent Punishment for Offenders

The Bharatiya Nyaya Sanhita (BNS) 2023 ensures strict penalties for crimes against women, with a focus on providing justice for victims of rape and sexual assault.

Enhanced punishment for offenders involved in heinous acts against women, emphasising the commitment to women's safety.

Offences against girls below 18 years of age face severe penalties, including life imprisonment or death sentence for exceptionally heinous cases.



Victim-centric Approach

New provisions ensure victims are heard before withdrawal of any case, thus recognising them as stakeholders in the legal process. Victims are given the right of being informed about the legal process. Section 199(c) of the Bharatiya Nyaya Sanhita (BNS) has made failure to record any information in relation to certain sections such as rape, sexual assault against women, etc. given to a public servant a punishable offence.



Offences Against Children

Section 95 of BNS penalises the exploitation of children, punishing those who hire/engage/employ children for criminal activities.

It ensures that the person hiring or employing children for such purposes faces punishment. Sections 96, 98 & 99 of BNS 2023 penalise

procurement of children for labour or prostitution and buying or selling children for the purpose of prostitution. Sections 139(1), 139(2), 141, 143(4), 143(5), 143(6), 144(1) BNS 2023 are sections dealing stringently against trafficking/maiming/importation of children.



Gender Neutrality and e-FIR

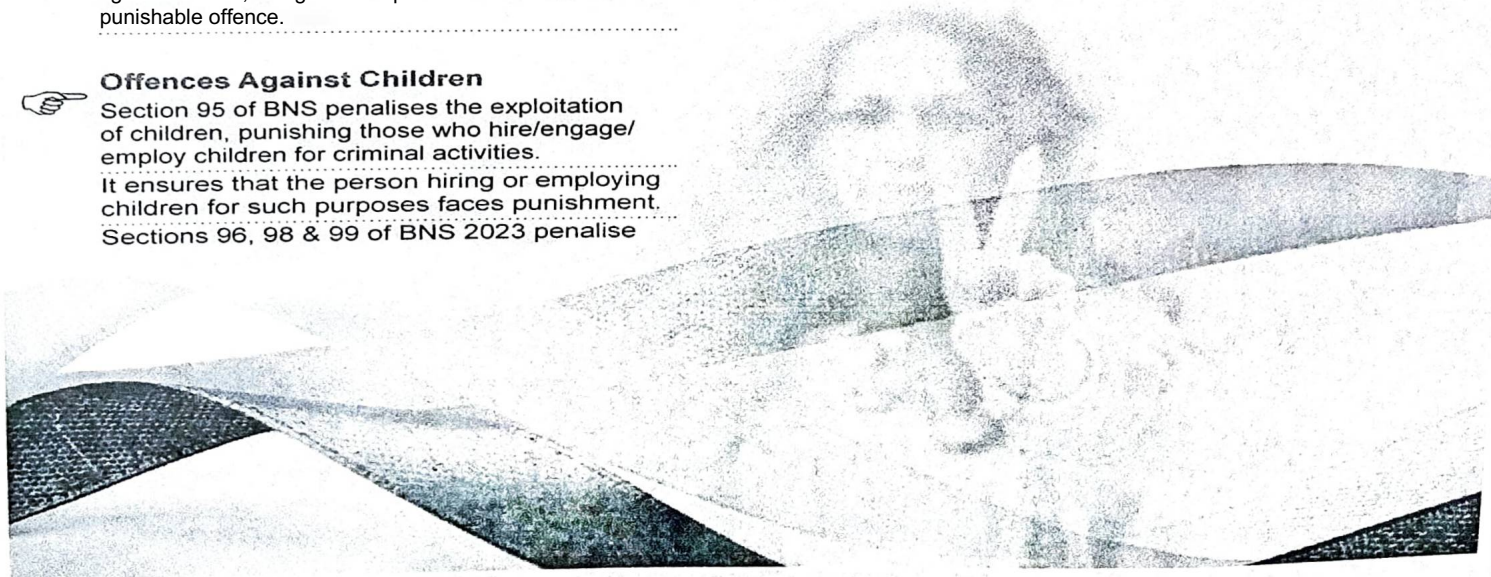
Various offences against woman and child have been made gender neutral in terms of both the victim and the perpetrator.

Victims can report offences by e-FIR. This aligns with the evolving socio-legal approach to empower victims to navigate the legal process without fear of stigma. This will contribute to the prompt reporting of such horrific crimes, which require immediate attention.



Victim's Right to Information

Victims now have the right to obtain a copy of the FIR free of cost, ensuring transparency in legal proceedings. The law mandates informing victims about the progress of investigations within 90 days.



Upholding the Rights of Women and Children (CHHBW)

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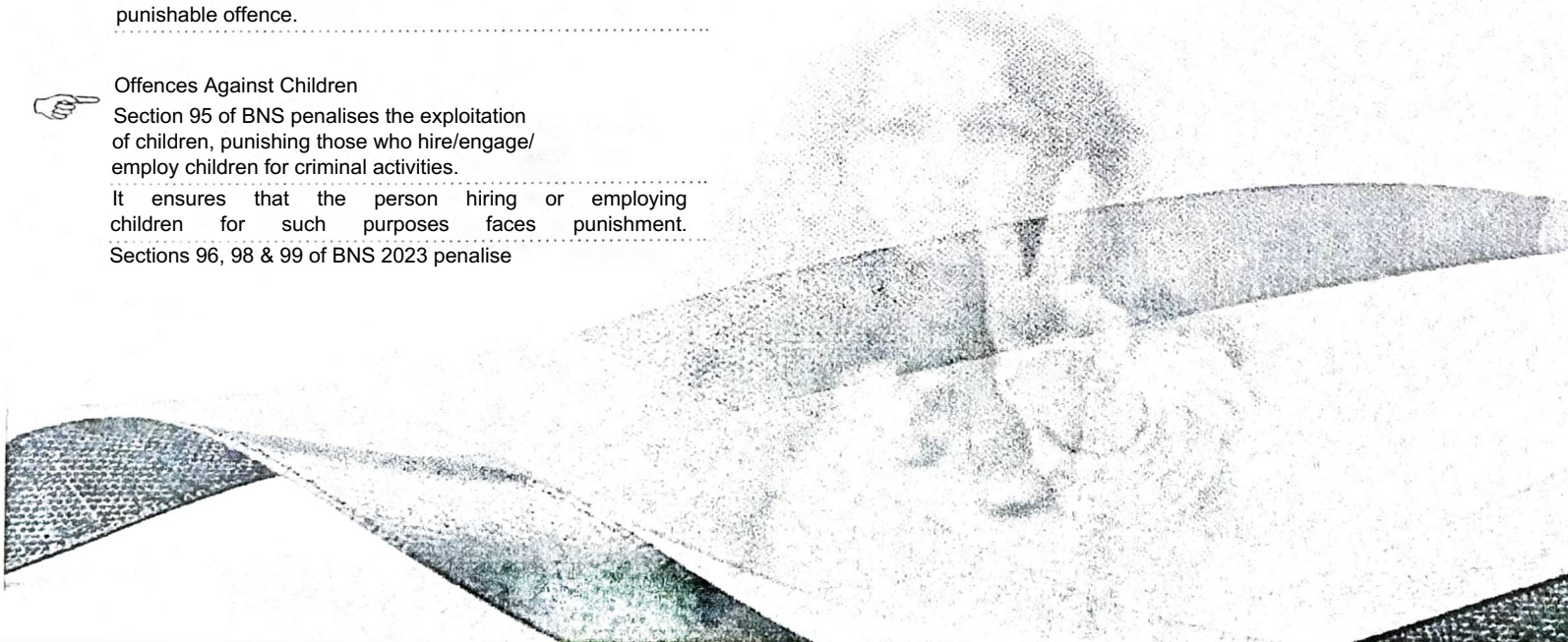
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nee can be initiated at the place where the dependent father or mother resides.

Proclaimed offender: Under BNSS, the proclaimed offender can be declared in all offences
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with
imprisonment of ten years or more, or with life imprisonment or

Bharatiya Sakshya Adhiniyam, 2023

The Bharatiya Sakshya Adhiniyam, 2023 ('BSA') replaces the Indian Evidence Act, 1872.

Applicability of BSA has been extended to courts-martial convened under the Army Act, 1950; the Naval Discipline Act or the Indian Navy (Discipline) Act, 1934 or the Air Force Act, 1950.

The BSA primarily broadens the scope of the Indian Evidence Act, 1872 and addresses the admissibility of digital evidence to keep pace with the advancement of the contemporary world.

The definition of 'evidence' has been expanded to include statements made through electronic mediums, facilitating electronic depositions for witnesses, offenders, experts, and victims, thereby reducing logistical challenges.

Additionally, electronic and digital records are now classified as 'primary evidence' under Section 57 of BSA, underscoring their importance in legal proceedings.

Colonial-era terminologies such as 'Vakil', 'Pleader', and 'Barrister' have been replaced with 'Advocate', modernizing the legal language.

Deletion of words like 'Parliament of the United Kingdom', 'Provincial Act', 'notification by the Crown Representative', 'London Gazette', 'any Dominion', 'colony or possession of his Majesty', 'Jury', 'Lahore', 'United Kingdom of Great Britain and Ireland', 'Commonwealth', 'Her Majesty or by the Privy Council', 'Her Majesty's Government', 'copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's Printer', 'possession of the British Crown', 'Court of Justice in England', 'Her Majesty's Dominions'.

Coercion has been added as one of the elements causing a Confession to become irrelevant, as per section 22 of the BSA.

Bharatiya Nagarik Suraksha Sanhita, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) replaces the Code of Criminal Procedure, 1973.

New definitions introduced: 'Audio-video electronic' [Section 2(1)(a)], 'bail' [Section 2(1)(b)], 'bail bond' [Section 2(1)(d)], 'bond' [Section 2(1)(e)], and 'electronic communication' [Section 2(1)(i)], has been introduced, reflecting the evolving landscape of technology in investigation, trial, and court proceedings, covering aspects such as the service of summons, notices, audio-video conferencing for deposition of evidence, and recording of search and seizure.

Procedural changes: Committal proceedings are to be finished within 90 days from the date of taking cognizance, extendable up to 180 days. Supply of a copy of the police report to the accused and the victim within 14 days from the date of production or appearance of an accused. Section 35 (7) of the BNSS prohibits arrest without permission of an officer of and above the rank of DSP in cases where the offence is punishable with imprisonment for less than 3 years and the person to be arrested is infirm or is above 60 years of age. Under Section 107 of the BNSS, attachment, forfeiture and restoration of proceeds of crime have been introduced.

Use of handcuffs: Section 43(3) of the BNSS has been newly inserted to provide the use of handcuffs while effecting the arrest and production of an arrested person before the Court for certain offences.

Zero FIR: The reluctance of the authorities to register zero FIR would cease with the statutory mandate given to zero FIR under Section 173 of the BNSS.

Mercy Petition: Section 472 of the BNSS has been inserted for time bound disposal of the mercy petitions in death sentence cases.

JAF Protection Scheme: Section 398 of the BNSS provides for States to notify a Witness Protection Scheme.

Gender Neutrality: 'Some adult male member' has been replaced with 'some adult member' for the purpose of service of summons under Section 66 of the BNSS.

Procedure meets Technology: To ensure the use of technology and to bring accountability in investigation during search and seizure, Section 105 of the BNSS makes the videography of the process of search and seizure including the preparation of a list of seized items and the signing of it by the witness mandatory.

Proceeds of Crime: Under Section 107, a new provision has been added to enable the police, with the permission of the Court, to attach and forfeit any property obtained as proceeds of crime.

Hierarchy of Courts: Provisions in the CrPC dealing with 'Metropolitan areas' and 'Metropolitan Magistrates' have been deleted from the BNSS. Sections 2(k), 8, 16, 17, 19, 355 and 404 of CrPC do not find any place in the new Act. The post of Judicial Magistrate of third class and Assistant Sessions Judge has been abolished to bring uniformity.

Bharatiya Nyaya Sanhita, 2023

The new Act, 'Bharatiya Nyaya Sanhita, 2023' ('BNS') replaces the Indian Penal Code, 1860.

Consolidation and Simplification

The BNS consolidates the scattered provisions from the Indian Penal Code, 1860, as well as provisions from various state laws. It reduces the number of Sections from 511 to 358, simplifying the total framework. Children have been brought together under Chapter-V.

Modernized Language and Definitions

Outdated and colonial language has been removed, and modern terms have been adopted. The term "Minor" has been replaced with "child" and the term "insane" has been substituted with "person of unsound mind".

Expanded Jurisdiction: Section 48 of the BNS has extended jurisdiction to criminalize abetment outside India, broadening the scope of legal enforcement.

Revised Offences against Property: The definition of theft has been expanded to include theft of data, identity theft, theft of intangible assets, etc. "Snatching" has been introduced as a distinct offence under Section 304 of the BNS.

Mob Lynching: Before BNS, mob lynching was not a separate offence. Section 103 (2) of the BNS introduces it as a serious category of culpable homicide.

New categories of Offences: BNS introduces 'organised crime' and 'petty organised crime' as central offences for the first time under Sections 111 and 112 of the BNS. Furthermore, the 'Terrorist Act' has been brought under Section 113 of the BNS.

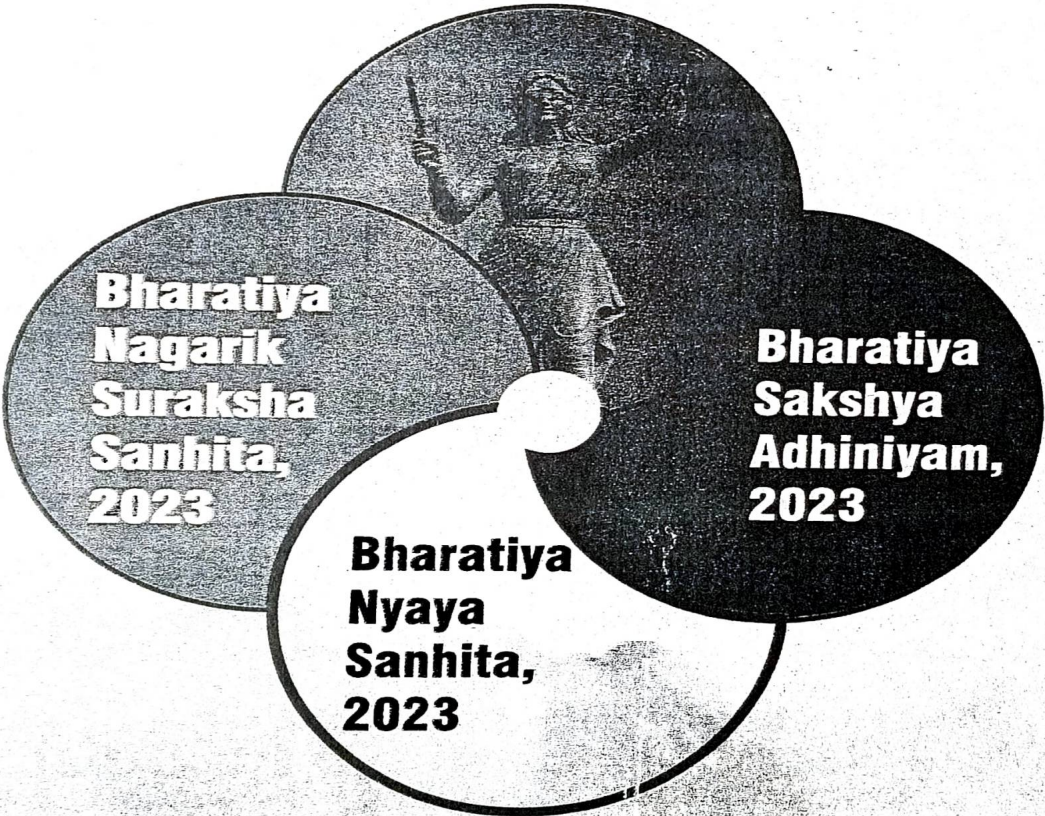
Attempt to commit suicide: The attempt to commit suicide has been deleted from the BNS, in line with the Mental Health Care Act, 2017.

Sedition: Section 124-A of IPC, suppressing constitutional rights, has been deleted from the BNS. Instead, the acts which excite or attempts to excite, secession or armed rebellion or subversive activities, separatist activities or endangering the sovereignty or unity and integrity of India have been dealt under Section 152 of the BNS.

Revised Punishments: 'Community service' has been introduced as a punishment for certain offences under Section 4(f) of the BNS, introducing a reformatory approach, aimed at achieving 'nyaya' in the society.

Sexual intercourse on false promise to marry: Section 69 of the BNS penalises sexual intercourse on false promise of marriage, or by employing deceitful means.

Gender Neutrality: 'Assault or use of criminal force to a woman with intent to disrobe' and 'Importation of a person from a foreign country' have been made gender-neutral under Sections 76 and 77 of the BNS. The offence relating to 'Child Marriage' in boys and girls in Section 141 of the BNS.



**Bharatiya
Nagarik
Suraksha
Sanhita,
2023**

**Bharatiya
Sakshya
Adhiniyam,
2023**

**Bharatiya
Nyaya
Sanhita,
2023**

KEY HIGHLIGHTS

HIGHLIGHTS OF NEW CRIMINAL LAWS FOR PUBLIC AWARENESS

- ❖ With the new laws, the First Information Report (FIR) can be registered from anywhere regardless of any jurisdiction. (173 BNSS)
- *** The new law allows citizens to file e-FIRs.
- ❖ Electronic mode is permitted for all trials, inquiries, and proceedings. (173 of BNSS)
- *** The new law allows electronic presentation of oral evidence, enabling remote testimony and ensure that electronic records will have the same legal effect as paper records.
- ❖ The new law seeks to give powers to police to attach any property that was believed to have obtained through any criminal activity.
- ❖ The new law safeguards one from arrest in case of petty crimes, especially those who are physically incapable, or are senior citizens.
- ❖ Progress of investigation has to be informed to victim within 90 days of registration of the case.
- ❖ The new law ensures the commencement of trial within 60 days of filling chargesheet.
- ❖ After completion of trial verdict has to be pronounced within 30 days.
- ❖ The judgement copy should be uploaded online within 7 days.
- ❖ The death penalty provision is introduced for crime against girls below 18 years of age.
- ❖ For crimes that attract jail term of less than three years, no arrests can be made without the permission of an officer not below the rank of Deputy Superintendent of Police (DSP).
- ❖ A much-needed witness protection provision has been taken care of in the new criminal laws.