
Role of Bharatiya Nyaya Sanhita, 2023 in Strengthening National Security and Preventing Terrorism

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ABSTRACT

The Bharatiya Nyaya Sanhita (BNS), 2023 is replaced The Indian Penal Code, 1860. The **Bharatiya Nyaya Sanhita, 2023** is a significant reform aimed at modernizing and strengthening the laws related to national security, combating terrorism, and safeguarding the integrity of the state. The BNS prescribes severe penalties for terrorism-related activities, including life imprisonment and death sentences for the most dangerous offenses. Bail provisions for individuals accused of terrorism and other serious crimes are made more stringent to prevent misuse and ensure public safety. This paper explores the role of the BNS, 2023, in reinforcing national security, its potential impact on preventing terrorism.

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Introduction

In the Indian Penal Code Chapter VI and Section 121 to 130 with two additional sections Section 121A and Section 124A which deal with the offences against the state. In 2023 Indian Penal Code is changed into Bharatiya Nyaya Sanhita. The BNS is came into forced on 01 July 2024. In BNS chapter VII and Section 147 to 158 deals with offences against the state. Under the Indian Constitution, the word Sovereign, Socialist, Secular, democratic and Republic is mentioned in the preamble. Offences against state is the most dangerous offences. It is the duty of the Government to protect the state. In India, there

are various forces created which protects the state. The constitution defines the framework for governance and ensures the protection of the state's sovereignty and integrity. It lays out the rights of the citizens and the structure of government. Governments maintain armed forces (army, navy, air force) to protect the state from external threats, such as invasions or attacks by foreign powers. Investments in defense technology, military bases, and strategic positioning of forces help to deter and respond to potential aggressions. Governments often form military alliances (e.g., NATO) to strengthen their security and to be better prepared for joint defense against external threats. With the rise of digital threats, it is also the responsibility of the government to invest in cyber security to protect state infrastructure, military systems and sensitive data from cyber-attacks or hacking. In India we will setup various armed forces which deals with protection i.e. Border Security Force (BSF), Central Reserve Police Force (CRPF), Central Industrial Security Force (CISF), States Police Force and at the end NCC.

Role of Bharatiya Nyaya Sanhita in strengthening National Security and Preventing Terrorism

BNS 2023 provides a comprehensive definition of terrorism, incorporating acts that disrupt public peace and security, damage critical infrastructure, and harm the sovereignty and integrity of the nation.

1. Waging War Against the Government of India (Section 147)

If any person commits or attempts to wage or abets the waging of war against the Government of India shall be punished with **death** or **imprisonment for life** and **shall also be liable to fine**. This section penalises the actions that strike at the nation's sovereignty. Any person found guilty of waging or attempts to wage war or abetting such endeavors may face severe penalties.

2. Concealing Design to Wage War (Section 150)

If any person conceals design to wage war against the government of India then he will face imprisonment up to **ten years** and **shall also be liable to fine**.

3. Assaulting President, Governor etc., with intent to compel or restrain exercise of any lawful power (Section 151)

Section 151 addresses offenses against constitutional authorities i.e. President of India and Governor of States. Individuals attempting to induce or compel the President of India or a Governor of any State through criminal force or the show of criminal force, face **imprisonment up to seven years** and **shall also be liable to fine**.

4. Waging War Against a Foreign State (Section 153)

Section 153 addresses individuals attempting to wage war against a foreign state. There shall be provision of punishment also i.e. imprisonment for life and also fine will be added.

5. Depredation and Receiving Stolen Property (Sections 154 and 155)

Sections 154 and 155 focus on offenses related to depredation on foreign territories and receiving stolen property shall be punished with imprisonment up to seven years, fines, and forfeiture of property.

6. Voluntary Allowing of Escape (Section 156)

This section addresses the actions of public servants who, having the custody of any State prisoner or prisoner of war, voluntarily allow such prisoner to escape. The penalty for this offense is imprisonment for life or imprisonment for a term extending up to ten years, also be liable to fines.

7. Negligent Allowing of Escape (Section 157)

In cases where a public servant negligently allows -

- a) a prisoner of state or
- b) prisoner of war,
to escape from confinement.

the punishment for this offense is simple imprisonment for a term up to **3 years**, along with **fine**.

8. Aiding Escape or Resistance to Recapture (Section 158)

Section 158 addresses individuals who knowingly aid or assist a State prisoner or prisoner of war in escaping from lawful custody. It also covers those who rescue, attempt to rescue, harbor, conceal, or offer resistance to the recapture of such prisoners. The penalties for these actions include **life imprisonment** or **imprisonment for a term extending up to ten years, fine will also be imposed**.

Role of Judiciary in strengthening National Security and Preventing Terrorism

1. Nandini Satpathy v. P.L. Dani (1978)

The Hon'ble Supreme Court of India ruled that the accused should be afforded protection against arbitrary detention and torture, even in cases involving national security offenses, emphasizing due process of law.

2. **Kartar Singh v. State of Punjab (1994)**

This case dealt with the constitutional validity of TADA. While the Hon'ble SC upheld the validity of TADA, it emphasized the importance of balancing national security with the protection of individual rights by method of judicial oversight thereby also expressing the need for checks and balances to prevent its misuse.

3. **People's Union for Civil Liberties v. Union of India (2003)**

This case challenged certain provisions of POTA, especially relating to detentions. The Hon'ble Supreme Court emphasized that while the State has the power to curb terrorism, it must do so within the constitutional framework.

4. **Mohammed ajmal kasab v. State of Maharashtra (2012)**

The prosecution of Ajmal Kasab under various anti-terror laws reinforced the importance of having strong legal tools to tackle terrorism. The court underlined that acts of terrorism threaten national sovereignty and warrant the severest punishments. In the current context, terrorism continues to pose a significant threat to national security. In light of the ever-evolving tactics of terrorist groups, the introduction of Section 113 under the Bharatiya Nyaya Sanhita is timely. This provision seeks to fill gaps left by prior laws and provides a comprehensive legal framework to deal with modern-day terrorist threats, including cyber terrorism and cross-border insurgencies.

5. **Afzal Guru v. State of Jammu & Kashmir (2013)**

Afzal Guru was convicted for his role in the 2001 Indian Parliament attack, which was carried out by terrorist groups. He was sentenced to death, and the case attracted significant attention due to the death penalty's implications. The Supreme Court give death sentence to afzal guru.

6. **T. S. R. Subramanian v. Union of India (2014)**

The court held that officers serving in sensitive positions must adhere to national interests and that disloyalty or attempts to undermine the state could be penalized under the laws of sedition.

7. Yakub Memon Case (2015)

Yakub Memon, a key conspirator in the 1993 Bombay bombings, was sentenced to death by the Supreme Court after being convicted of terror-related offenses under TADA. The Supreme Court upheld his death sentence despite appeals from various human rights groups for clemency, citing the severity of the crime and its impact on national security. The case was a significant moment in the application of the death penalty in terrorism cases and the judiciary's approach to ensuring deterrence against terrorist activities.

Conclusion

The BNS, 2023 represents a major step forward in India's efforts to strengthen national security and counter terrorism. Legal systems across the world maintain severe punishments for such offenses, with sentences varying depending on the nature and gravity of the offense. It is the responsibility of the Government that he will protect the state boundaries. The constitution of India plays an important role in protecting the nation from terrorist attacks.

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