Bharatiya Nyaya Sanhita, 2023 (Criminal Law – I)

KSLU LL.B. — Complete Exam-Ready Study Bundle (All Five Units)

KSLU LL.B. Study Bundle

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> ***Read this first page, then go to your unit.*** *This single file holds the whole subject: how to use the notes, the rules that win marks, and all units of content. Everything is in plain English, every Latin maxim is translated in [brackets], and every topic is built backwards from the real exam questions.*

> ***About this bundle.*** *A complete, exam-focused resource for the full KSLU Criminal Law – I syllabus under the* ***Bharatiya Nyaya Sanhita, 2023****. Every topic is built backwards from the questions examiners actually repeat, so nothing high-yield is missed. The newer BNS offences —* ***community service*** *as a punishment,* ***mob lynching, organized crime, terrorist act, snatching,*** *and* ***sexual intercourse on a false promise of marriage*** *— are covered in full alongside the settled core.*

How to Use These Notes

What this is. A complete, exam-focused bundle covering all five units of KSLU Criminal Law – I (BNS, 2023). Every topic is built from one question: *what will the examiner ask, and how do I score full marks?* High-frequency questions get the most space; the years listed under each question tell you where to spend revision time.

Who it is for. The first-time learner (understand before memorising), the revision student (fast high-yield recall), and the last-week crammer (which questions repeat and how to answer them).

What is inside every topic — the same blocks, in the same order:

Block	Its job	The mark it earns
Previous Year Questions	Real questions + years asked	What to prepare and how often it repeats
The Hook	A true story / landmark-case opener	Memorable; a strong opening line
Jurist / Statutory Quotes	Exact definitions & sections	Examiners reward precise authority
In Simple Terms	Plain-English translation	Ensures you *understand*
The Visual (chart)	Maps the topic structure	Recall and structure at a glance
Case Laws	Landmark judgments + ratio	Case names with years are pure marks
▤ **Tracker +** ⚠ **Risk Alert**	Answer plan + applied IRAC	Converts knowledge into a scoring answer

Each unit closes with a **Quick Revision & Case Law Table** for the final hour.

The 4-step study plan. (1) Read the PYQ box first. (2) Understand, then memorise. (3) Trace the chart from memory. (4) Rehearse the Tracker and one Risk Alert.

The 10 Rules That Win Marks

1. **Lead with a definition + roadmap.**
2. **Follow the Blueprint Tracker** stage by stage.
3. **Name the case AND the year** every time.
4. **Quote the exact BNS section** where one is given.
5. **Translate every Latin maxim in [brackets].**
6. **Use the four IRAC headings** for problems; spot the decoy fact.
7. **Always give a definite verdict.**
8. **Use the chart's structure** to organise the body.
9. **Close with a short, confident conclusion.**
10. **Manage time** so no high-mark question is left unwritten.

BNS Quick Section Reference

> *The high-frequency sections, by topic. Citing the right BNS section is pure marks — keep these at your fingertips.*

Topic	BNS section
Common intention	**S.3(5)**
Punishments (incl. community service)	**S.4**
Private defence	**Ss 34–44**
Insanity / Accident / Necessity	**Ss 22 / 18 / 19**
Abetment / Criminal conspiracy / Attempt	**Ss 45–60 / 61 / 62**
Rape & sexual offences	**Ss 63–72**
Dowry death / Cruelty / Bigamy	**Ss 80 / 85–86 / 82**
Culpable homicide / Murder	**Ss 100 / 101 (punishment 103)**
Mob lynching / Death by negligence & hit-and-run	**S.103(2) / S.106**
Organized crime / Terrorist act	**Ss 111–112 / 113**
Hurt / Grievous hurt / Acid attack	**Ss 114 / 116 / 124**
Wrongful restraint / confinement	**Ss 126 / 127**
Criminal force / Assault	**Ss 129 / 131**
Kidnapping / Abduction	**Ss 137 / 138**
Offences against the State (incl. S.152)	**Ss 147–158**
Unlawful assembly / Common object / Rioting / Affray	**Ss 189 / 190 / 191 / 194**
Giving / Fabricating false evidence	**Ss 227 / 228**
Public nuisance	**Ss 270–273**
Mischief / Criminal trespass	**Ss 324 / 329**

Topic	BNS section
Forgery / Making false document	**Ss 336 / 335**
Theft / Snatching / Extortion	**Ss 303 / 304 / 308**
Robbery / Dacoity	**Ss 309 / 310**
Criminal misappropriation / breach of trust	**Ss 314 / 316**
Receiving stolen property / Cheating	**S.317 / Ss 318–319**
Defamation / Criminal intimidation	**Ss 356 / 351**

UNIT 1 — General Principles, Punishments & General Exceptions

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> ***Unit focus.*** *The foundations of criminal liability under the BNS, 2023 — the concept of crime, mens rea, parties to a crime, the kinds of punishment (including the new community service), and the General Exceptions in Ss 14–44, which now house the right of private defence.*

Table of Contents

1. Concept of Crime; Crime v. Tort & Morality

Previous Year Questions

- ***[16M]*** *What is crime? Explain the difference between crime and tort. (2017, 2012; BNS 2025)*
- ***[10M]*** *Define crime and explain its essential ingredients / elements of crime. (2024, 2023, 2020, 2021, 2022)*
- ***[Short Note]*** *Concept of crime. (2012, 2018, 2023)*

The Hook

In 1962 the Supreme Court in *State of Maharashtra v. M.H. George (1965)* fined a man who carried gold through India without ever meaning to break Indian law — proof that a "crime" is whatever **the State** chooses to forbid and punish, not merely what feels immoral. A lie may be a sin and a broken promise a tort, but only a *public wrong the State prosecutes* is a crime.

What is a Crime?

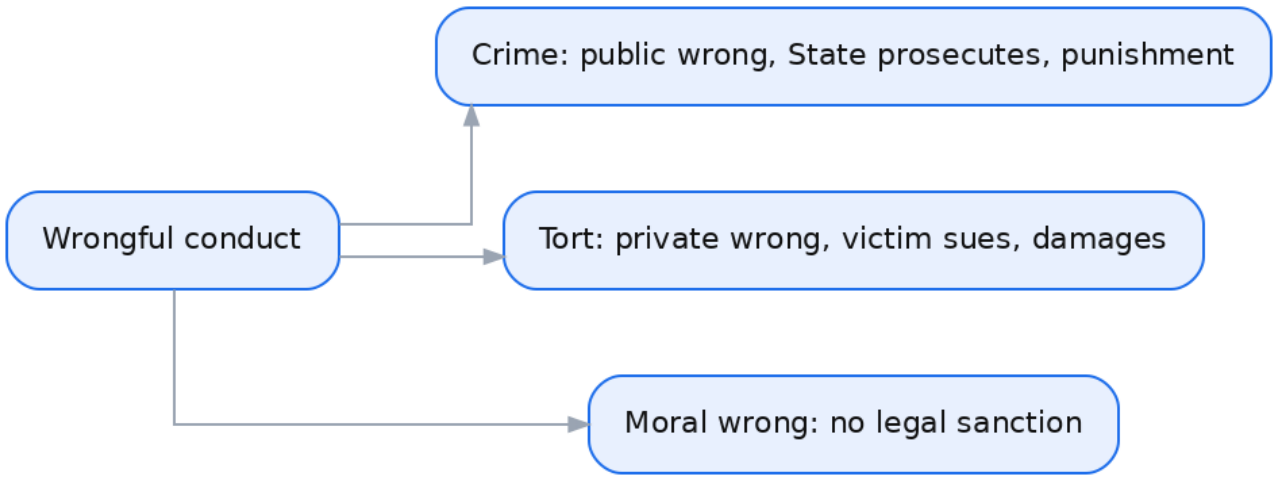
A crime is an act or omission that the law forbids and for which the State, not the victim, prosecutes and punishes the wrongdoer. Two pillars carry every crime: a forbidden **act (*actus reus*** [the guilty act]) and, usually, a **guilty mind (*mens rea*** [the guilty mind]). Essential ingredients commonly listed are: a human being, a guilty intention/knowledge, an act or omission, and an injury to another or to society.

> ***Blackstone:*** *"A crime is an act committed or omitted in violation of a public law either forbidding or commanding it."*

In Simple Terms: A crime breaks a rule the State has laid down for everyone. The wrong is treated as committed against society as a whole, which is why the State — not the injured person — runs the prosecution.

Basis	Crime	Tort	Moral wrong
Wrong against	Society / State	A private individual	Conscience / society’s ethics
Action by	State (prosecution)	Injured party (civil suit)	None enforceable
Result	Punishment	Compensation (damages)	Social disapproval only
Sanction	Fine, imprisonment, etc.	Unliquidated damages	No legal sanction

The Visual



Case Laws

- ***State of Maharashtra v. M.H. George (1965)*** — some statutory offences impose liability even without guilty intent (strict liability).
- ***C.K. Damodaran Nair v. Govt. of India (1997)*** — crime is a wrong against the community at large.

▤ 16-MARK ESSAY BLUEPRINT TRACKER

- ***STAGE 1 ⟶ Hook + Roadmap:*** *open with crime as a public wrong; promise definition, ingredients and the crime/tort/morality contrast.*
- ***STAGE 2 ⟶ Definition & ingredients:*** *Blackstone + the four ingredients (human, mens rea, act/omission, injury).*
- ***STAGE 3 ⟶ Crime v. tort:*** *the comparison table — wrong against whom, who acts, remedy.*
- ***STAGE 4 ⟶ Crime v. morality / overlap:*** *not every sin is a crime; not every crime is immoral (regulatory offences).*
- ***STAGE 5 ⟶ Verdict:*** *the distinguishing mark is* ***State prosecution and punishment****.*

⚠ FACT-PATTERN RISK ALERT

Scenario: *Z breaks a solemn promise to marry Y and also damages Y's reputation in the village. Y wants Z "punished".*

- ***I — ISSUE:*** *Is breaking the promise a crime, a tort, or a moral wrong?*
- ***R — RULE:*** *Only conduct the penal law forbids and the State prosecutes is a crime.*
- ***A — ANALYSIS:*** *Breach of promise to marry is at most a civil wrong; the reputational harm may be the* ***tort/offence of defamation*** *if the ingredients are met — but the "broken promise" itself is a moral wrong.*
- ***C — CONCLUSION:*** *No crime in the broken promise; pursue defamation separately if its ingredients exist.*

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2. Mens Rea and Actus Reus

Previous Year Questions

- ***[16M]*** *What is mens rea? State its significance in statutory offences. (2014, 2018; BNS 2025)*
- ***[16M]*** *Discuss the maxim "actus non facit reum nisi mens sit rea" with case law. (2017, 2024)*
- ***[Short Note]*** *Mens rea / actus reus; Mobarik Ali Ahmed v. State of Bombay; R v. Prince. (2012, 2013, 2015, 2019, 2022, 2025)*

The Hook

In *R v. Prince (1875)* a man who took an under-16 girl from her father honestly believed she was 18 — yet he was convicted, because that statute did not require a guilty mind about her age. The case became the textbook warning that **the legislature can switch *mens rea* off** for some offences.

The Concept

The governing maxim is *actus non facit reum nisi mens sit rea* [an act does not make a person guilty unless the mind is also guilty]. A crime normally needs two elements working together:

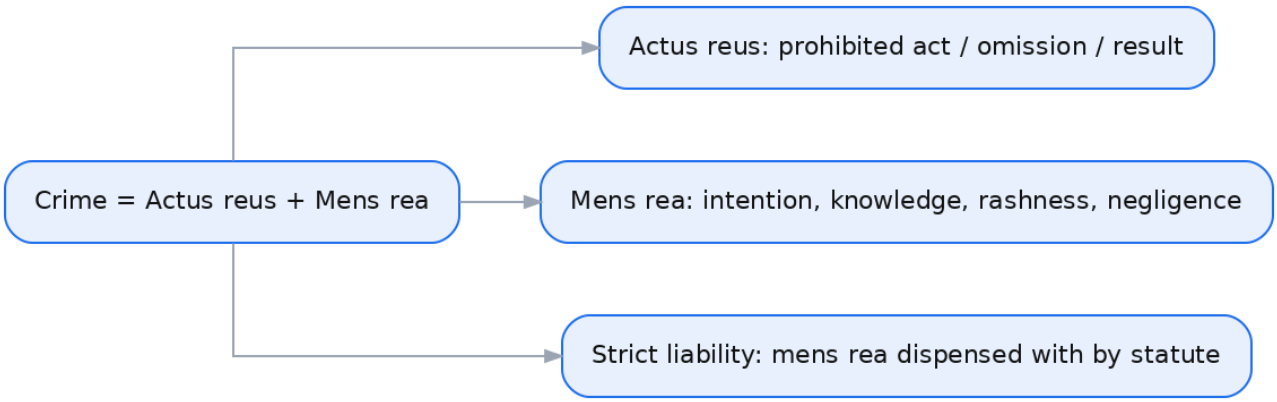
- ***Actus reus*** [the guilty act] — the prohibited conduct, including, where required, the result and the surrounding circumstances. An omission counts only where the law imposes a duty to act.
- ***Mens rea*** [the guilty mind] — the blameworthy mental state: intention, knowledge, or (sometimes) rashness/negligence. The BNS expresses it through words like "intentionally", "voluntarily" (S.2(38)), "dishonestly", "fraudulently", and "knowingly" rather than the Latin phrase itself.

Both must concur: the guilty mind must accompany the guilty act (*Khandu's case*).

> ***Maxim:*** *"Actus non facit reum nisi mens sit rea" — the act alone is not punishable unless done with a guilty mind.*

In Simple Terms: Doing the forbidden thing is not enough; the law usually also asks *did you mean it, or know what you were doing?* Where the statute is silent, courts presume *mens rea* is required — unless the wording or subject (public welfare/regulatory law) shows Parliament meant **strict liability**.

The Visual



Case Laws

- ***R v. Prince (1875)*** — statutory offence of taking a minor; honest belief in age no defence (strict liability as to age).
- ***Sherras v. De Rutzen (1895)*** — presumption that *mens rea* is required can be displaced by clear statutory words.
- ***State of Maharashtra v. M.H. George (1965)*** — regulatory/economic offences may be strict-liability.
- ***Mobarik Ali Ahmed v. State of Bombay, 1957*** — *mens rea* of cheating proved though the accused acted from abroad through letters; an offence can be committed in India by a person outside it.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *state the maxim; promise to explain both elements and mens rea's role in statutory offences.*
- ***STAGE 2 ⟶ Actus reus & mens rea defined:*** *the two limbs; forms of mens rea; how BNS expresses it.*
- ***STAGE 3 ⟶ Significance in statutory offences:*** *the presumption of mens rea; when it is displaced (strict liability).*
- ***STAGE 4 ⟶ Cases:*** *Prince, Sherras, M.H. George.*
- ***STAGE 5 ⟶ Verdict:*** *mens rea is the default; only clear statutory language can exclude it.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A is at work with a hatchet; the head flies off and kills a bystander. (Decoy: a death resulted.)*

- ***I — ISSUE:*** *Is A guilty despite the absence of any guilty mind?*
- ***R — RULE:*** *No mens rea, no offence — and the* ***accident*** *exception (S.18) protects a lawful act done without criminal intent.*
- ***A — ANALYSIS:*** *A was doing a lawful act, lawfully, carefully; the death was a misfortune, not intended or foreseen.*
- ***C — CONCLUSION:*** *No offence; A is protected by S.18.*

3. Possible Parties to a Crime; Common Intention

Previous Year Questions

- ***[16M]*** *Explain the possible parties to the crime. How do the liabilities of the parties vary? (2011, 2012, 2015; BNS 2026)*
- ***[16M]*** *Explain the criminal liability of persons for acts done in furtherance of common intention. (2016, 2014, 2020)*
- ***[Short Note]*** *Common intention and common object. (2018, 2023, 2022)*

The Hook

In *Barendra Kumar Ghosh v. King-Emperor (1925)* — the famous "post-office murder" — a man who only stood guard while others shot the postmaster was hanged. The Privy Council's line is still quoted: **"they also serve who only stand and wait."** Standing guard with a shared plan makes you a principal.

Who are the parties, and how does liability vary?

Modern criminal law does not strictly grade "principals" and "accessories"; the BNS fixes liability through three devices:

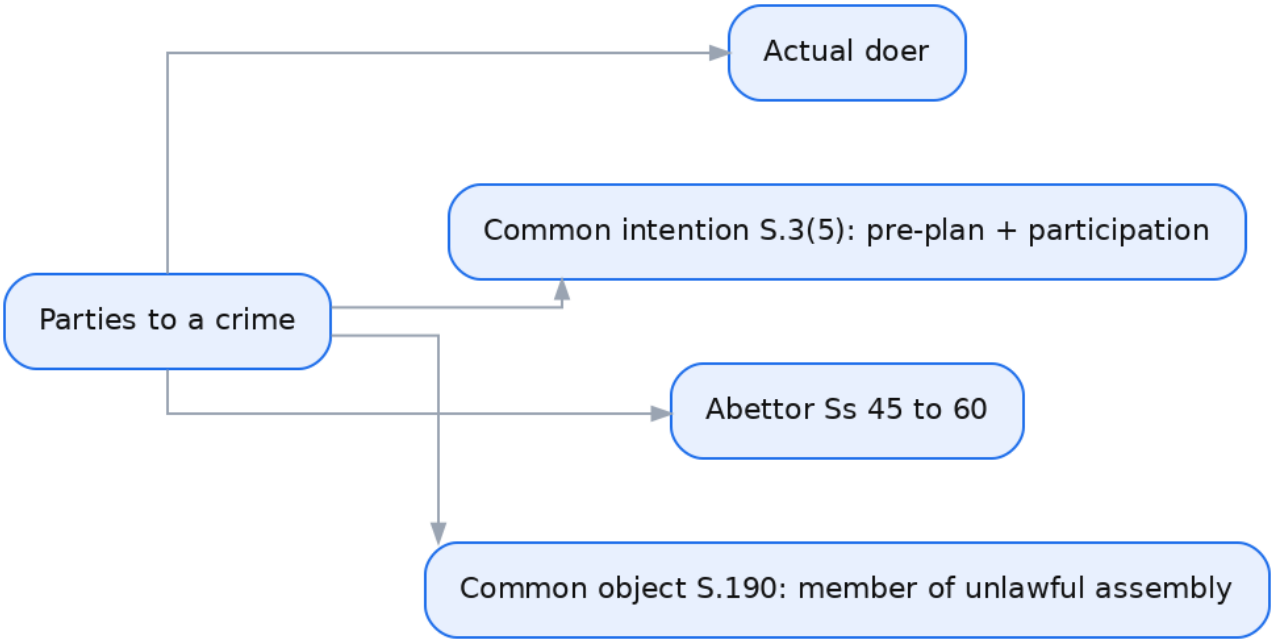
1. **The actual doer** — the person whose act completes the offence.
2. **Joint liability — common intention (S.3(5)):** when a criminal act is done by several persons *in furtherance of the common intention of all*, each is liable as if he did it alone. It needs a **pre-arranged plan** (which can form on the spot) and **participation**.
3. **Constructive/derivative liability — abetment (Ss 45–60) and unlawful assembly/common object (S.190).** Under common object, mere membership of an unlawful assembly fixes liability for an offence committed in prosecution of the common object.

So liability varies by *role and mental link*: the doer answers for the act; the confederate answers through shared intention; the abettor through instigation/conspiracy/aid; the assembly member through common object.

> ***Section 3(5), BNS:*** *"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."*

In Simple Terms: If a group shares a plan and acts on it, the law refuses to let each one hide behind "I didn't strike the blow." Each carries the whole act.

The Visual



Case Laws

- ***Barendra Kumar Ghosh v. King-Emperor (1925)*** — participation with common intention makes a lookout a principal.
- ***Mahbub Shah v. Emperor (1945)*** — common intention needs a pre-arranged plan; mere similar intention is not enough.
- ***Pandurang v. State of Hyderabad (1955)*** — distinguished common intention (S.34) from similar intention.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *Barendra Kumar Ghosh; promise the categories and how liability differs.*
- ***STAGE 2 ⟶ The doer + common intention:*** *S.3(5) elements (plan + participation).*
- ***STAGE 3 ⟶ Constructive liability:*** *abetment and common object contrasted.*
- ***STAGE 4 ⟶ Common intention v. common object*** *(S.3(5) v. S.190): plan v. membership; same/likely offence.*
- ***STAGE 5 ⟶ Verdict:*** *liability tracks the mental link, not merely the physical blow.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A and friends, meaning to kill B, lure him to a spot "to settle a dispute" and together kill him. (Decoy: only one may have struck the fatal blow.)*

- ***I — ISSUE:*** *Are all liable for murder though only one struck?*
- ***R — RULE:*** *S.3(5) — common intention + participation makes each liable as the sole doer.*
- ***A — ANALYSIS:*** *the luring shows a* ***pre-arranged plan****; all participated; the fatal blow is attributed to all.*
- ***C — CONCLUSION:*** *all are guilty of murder read with S.3(5).*

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4. Mistake of Fact and Mistake of Law

Previous Year Questions

- ***[16M]*** *Critically examine the defence of mistake of fact and mistake of law. (2018, 2019, 2012)*
- ***[Short Note]*** *Mistake of fact and mistake of law. (2013)*

The Hook

A police officer told to arrest "Y" makes careful inquiries, honestly concludes that Z is Y, and arrests Z. He has arrested the wrong man — yet the law shields him, because he acted in good faith on a **mistake of fact**.

The Concept

Two maxims sit side by side:

- *Ignorantia facti excusat* [ignorance of fact excuses] — a genuine, reasonable mistake of fact, made in good faith, can negate *mens rea*.
- *Ignorantia juris non excusat* [ignorance of law is no excuse] — not knowing the law is generally no defence.

The BNS gives this effect through two general exceptions:

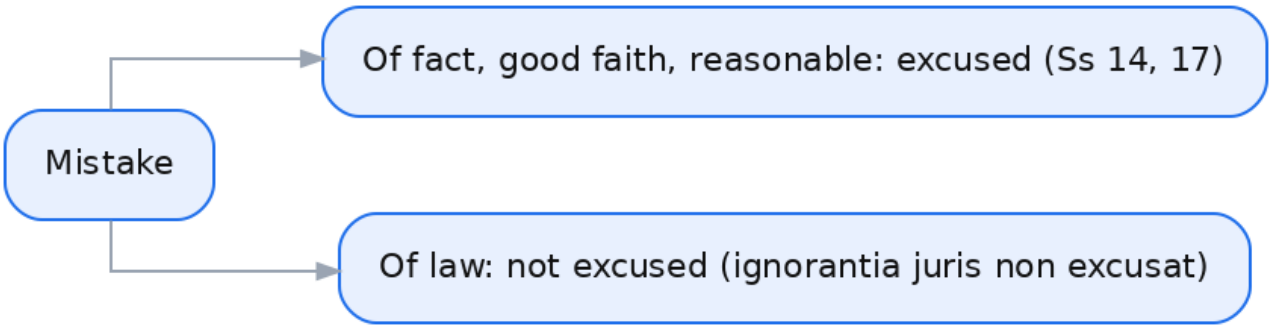
- **S.14** — act done by a person *bound by law*, or who *by mistake of fact in good faith believes himself bound* by law.
- **S.17** — act done by a person *justified by law*, or who *by mistake of fact in good faith believes himself justified* by law.

The mistake must be **of fact, in good faith, and reasonable**.

> ***Section 17, BNS:*** *"Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be justified by law, in doing it."*

In Simple Terms: If you honestly and reasonably get the *facts* wrong while doing what the law allows, you are excused. Getting the *law* wrong does not excuse you.

The Visual



Case Laws

- ***State of Orissa v. Bhagaban Barik (1987)*** — good-faith belief must be reasonable, formed after due care.
- ***R v. Tolson (1889)*** — honest, reasonable belief husband was dead negated bigamy *mens rea*.
- ***King-Emperor v. Tustipada Mandal*** — applied mistake-of-fact reasoning under the old S.79.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *the two maxims; promise to compare fact v. law mistakes.*
- ***STAGE 2 ⟶ Mistake of fact:*** *Ss 14 & 17; good faith + reasonableness.*
- ***STAGE 3 ⟶ Mistake of law:*** *why it does not excuse; narrow practical exceptions.*
- ***STAGE 4 ⟶ Cases:*** *Tolson, Bhagaban Barik.*
- ***STAGE 5 ⟶ Verdict:*** *factual good-faith error excuses; legal ignorance does not.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *An officer of court, ordered to arrest Y, after due inquiry honestly believes Z is Y and arrests Z. (Decoy: the wrong person was arrested.)*

- ***I — ISSUE:*** *Has the officer committed wrongful confinement/restraint?*
- ***R — RULE:*** *S.14/17 — mistake of fact in good faith while bound/justified by law.*
- ***A — ANALYSIS:*** *he was bound by the court's order and made the error after due inquiry, in good faith.*
- ***C — CONCLUSION:*** *no offence; the mistake-of-fact exception applies.*

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5. Intoxication

Previous Year Questions

- ***[Short Note]*** *Intoxication / crime committed in a state of intoxication. (2012, 2022)*

The Concept

The BNS distinguishes **involuntary** from **voluntary** intoxication:

- **S.23** — an act by a person who, at the time, *by reason of intoxication administered without his knowledge or against his will*, is incapable of knowing the nature of the act or that it is wrong, is **no offence**.
- **S.24** — where the offence requires a particular **knowledge**, a *voluntarily* intoxicated person is treated as having the knowledge he would have had if sober. Voluntary drunkenness is **not** a general excuse.

> ***Section 23, BNS:*** *intoxication is a defence only when it was involuntary and destroyed the capacity to know the nature of the act or that it was wrong.*

In Simple Terms: If someone secretly drugs you, the law forgives an act you could not understand. If you got drunk on your own, you cannot use it to escape — you are deemed to know what a sober person would.

Case Laws

- ***Basdev v. State of PEPSU (1956)*** — voluntary drunkenness no defence; intoxication relevant only to whether the *specific intent* was actually formed.

- ***DPP v. Beard (1920)*** — drunkenness negating capacity to form specific intent may reduce murder to culpable homicide.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *drunkenness as sword v. shield.*
- ***STAGE 2 ⟶ Involuntary intoxication (S.23):*** *full excuse if capacity destroyed.*
- ***STAGE 3 ⟶ Voluntary intoxication (S.24):*** *deemed knowledge; effect on specific intent.*
- ***STAGE 4 ⟶ Cases:*** *Basdev, Beard.*
- ***STAGE 5 ⟶ Verdict:*** *only involuntary intoxication excuses.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *Drunk before bed, A mistakenly gives his ailing wife a poisonous photographic solution kept beside the medicine; she dies. (Decoy: he was intoxicated.)*

- ***I — ISSUE:*** *Can voluntary intoxication excuse the death?*
- ***R — RULE:*** *S.24 — voluntary intoxication gives deemed knowledge; death by negligence (S.106) may apply.*
- ***A — ANALYSIS:*** *the drinking was voluntary; a sober person would have checked the bottle; the act was negligent, not innocent.*
- ***C — CONCLUSION:*** *intoxication is no shield; liability for causing death by negligence (S.106).*

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6. Unsoundness of Mind (Insanity)

Previous Year Questions

- ***[16M]*** *Explain the nature and extent of unsoundness of mind required to exempt a person from criminal liability. (2011, 2017)*
- ***[16M]*** *Who are legally abnormal persons? Discuss M'Naghten's answers. (2013, 2015, 2020)*
- ***[Short Note]*** *Medical insanity v. legal insanity. (2017, 2023, 2024)*

The Hook

In 1843 Daniel M'Naghten, deluded that the Tory government was persecuting him, shot the Prime Minister's secretary dead. His acquittal so shocked Victorian England that the House of Lords laid down the **M'Naghten Rules** — still the heart of the insanity defence in India.

The Concept

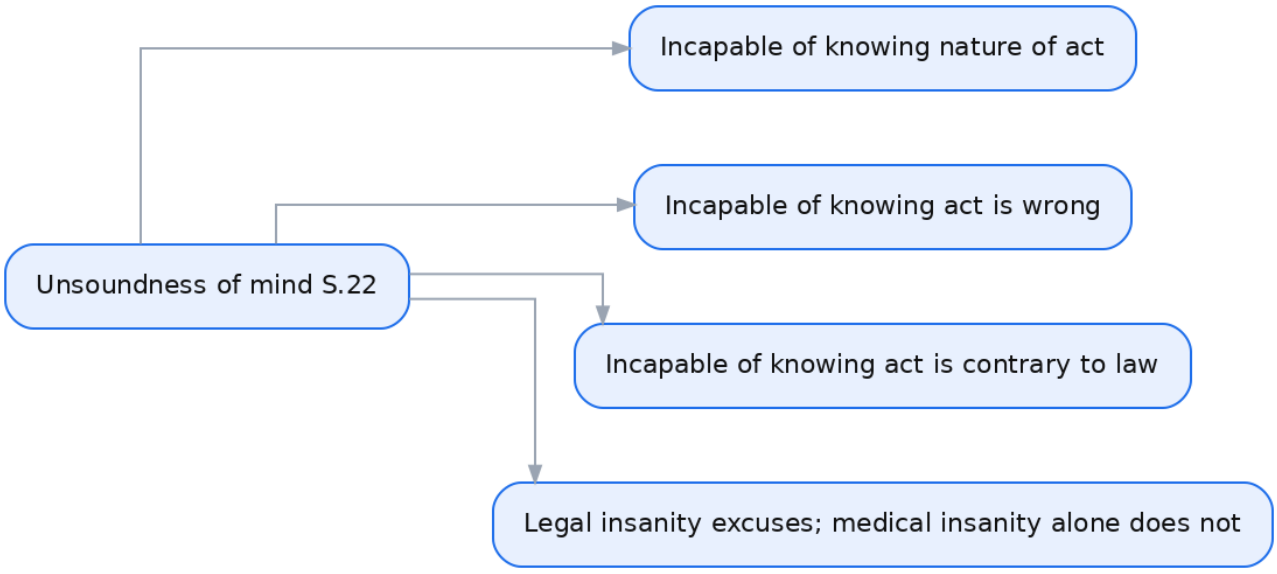
S.22 exempts a person who, *at the time of the act, by reason of unsoundness of mind, was incapable of knowing the nature of the act, or that it was wrong or contrary to law.*

The law protects only **legal insanity**, not mere **medical insanity**. A person may be clinically ill yet still know what he is doing and that it is wrong — in which case S.22 gives no shelter. The burden to prove legal insanity is on the accused (on a balance of probabilities); the crucial time is *the moment of the act*.

> ***Section 22, BNS:*** *"Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law."*

In Simple Terms: Only insanity that destroys the power to understand *what* you are doing or *that it is wrong* excuses you. Being mentally ill is not, by itself, a defence.

The Visual



Case Laws

- ***M'Naghten's Case (1843)*** — source of the rules: defect of reason from disease of the mind.

- ***State of M.P. v. Ahmadulla (1961)*** — burden of proving legal insanity is on the accused.
- ***Surendra Mishra v. State of Jharkhand (2011)*** — medical insanity is not enough; legal insanity must be shown.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *M'Naghten 1843; promise nature, extent, and the legal/medical split.*
- ***STAGE 2 ⟶ S.22 limbs:*** *incapacity to know nature / wrongness / illegality.*
- ***STAGE 3 ⟶ Legal v. medical insanity:*** *the decisive distinction; time of act; burden.*
- ***STAGE 4 ⟶ Cases:*** *Ahmadulla, Surendra Mishra.*
- ***STAGE 5 ⟶ Verdict:*** *only legal insanity under S.22 exempts.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A, father of an 8-year-old, butchers the child "to propitiate a deity" and pleads insanity. (Decoy: a religious/delusional motive.)*

- ***I — ISSUE:*** *Does S.22 exempt A?*
- ***R — RULE:*** *legal insanity requires incapacity to know the act's nature or wrongness at the time.*
- ***A — ANALYSIS:*** *a delusional motive is not the test; if A knew he was killing and that killing is wrong/illegal, S.22 fails; expert evidence and conduct decide.*
- ***C — CONCLUSION:*** *unless legal insanity is proved, A is guilty of murder; motive alone does not exempt.*

7. Other General Exceptions — Accident, Necessity, Consent, Infancy, Compulsion

Previous Year Questions

- ***[16M]*** *Explain the defence of consent under the Code. (2025)*
- ***[Short Note]*** *Accident; necessity. (2013, 2017)*
- ***[Problem]*** *Tiger/rifle; boat & boy at sea; surgeon's operation; fencing for amusement. (2012–2026)*

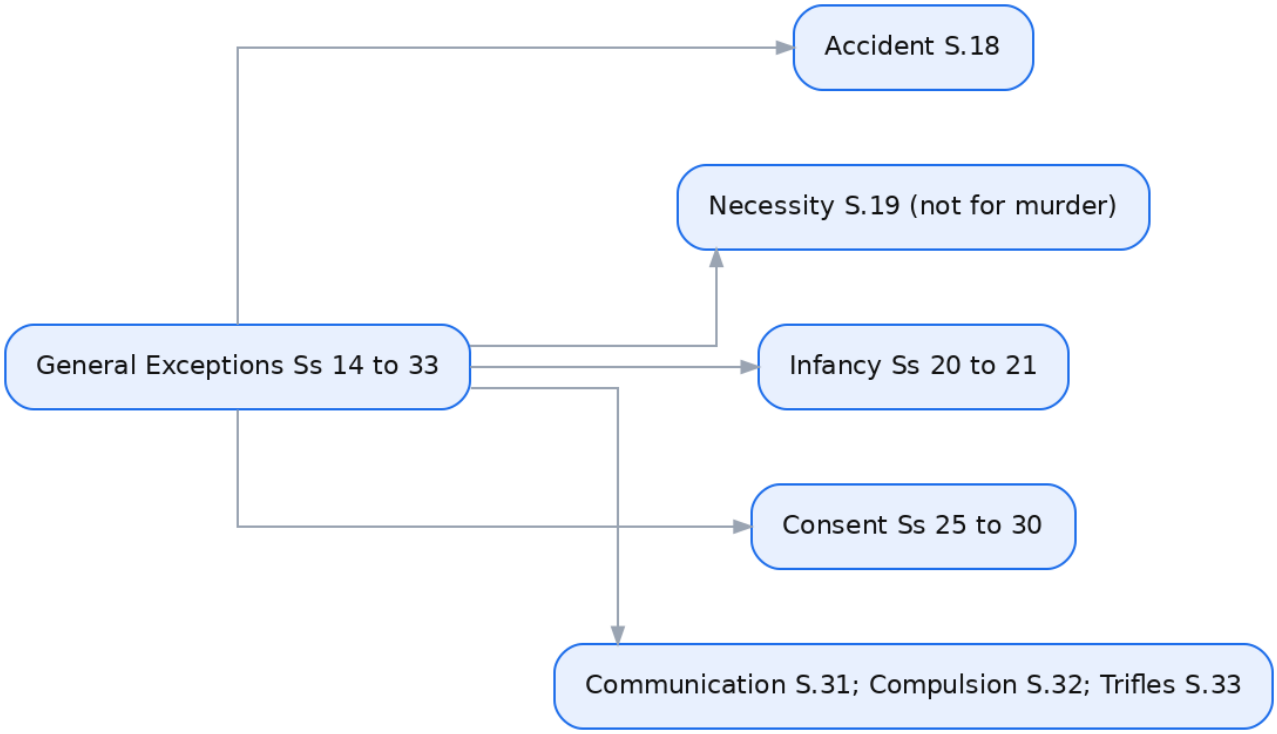
The Concept (the remaining Ss 14–33 defences)

- **Accident — S.18:** a lawful act, done lawfully, by lawful means, with proper care, without criminal intent — an accident is no offence.
- **Necessity — S.19:** an act done without criminal intent, in good faith, to prevent **greater harm** to person or property, is no offence. It is judged on proportionality — but necessity is **no defence to murder of an innocent** (*Dudley & Stephens*).
- **Infancy — S.20** (child under 7, *doli incapax* [incapable of crime]) and **S.21** (child 7–12 of immature understanding).
- **Consent — Ss 25–30:** harm (not death/grievous hurt intended) suffered by consent of an adult (S.25); act in good faith for the person's benefit done with consent (S.26, e.g. a surgery); benefit of a child/insane person via guardian's consent (S.27); but consent is invalid if given under **fear or misconception**, by a person of unsound mind, or by a child under 12 (S.28); and consent never legalises an independently illegal act (S.29).
- **Communication in good faith — S.31:** a communication made in good faith for the recipient's benefit is no offence even if it causes harm (e.g. a doctor's grim prognosis).
- **Compulsion/duress — S.32:** acts (except murder and offences against the State punishable with death) done under threat of instant death are excused.
- **Trifling acts — S.33:** *de minimis non curat lex* [the law does not concern itself with trifles].

> ***Section 18, BNS:*** *"Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution."*

In Simple Terms: The Code carves out honest accidents, lesser-evil choices, the very young, consented harms, kind communications, and acts forced by death-threats — but never lets these excuses cover the deliberate killing of an innocent.

The Visual



Case Laws

- ***R v. Dudley & Stephens (1884)*** — necessity is no defence to murdering an innocent for survival.
- ***Sukaroo Kobiraj v. Empress (1887)*** — an unskilled "doctor" cannot claim the good-faith/consent shield for a botched operation.
- ***Tunda v. Rex (1950)*** — injury in a consented sport (wrestling) is protected as accident in a lawful activity.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *the Code's "carve-outs"; promise to cover accident, necessity, consent and the limits.*
- ***STAGE 2 ⟶ Consent (the asked topic):*** *Ss 25–30; what consent does and does not legalise; invalid consent (S.28).*
- ***STAGE 3 ⟶ Accident & necessity:*** *S.18, S.19, with the Dudley & Stephens limit.*
- ***STAGE 4 ⟶ Communication, compulsion, trifles, infancy:*** *quick statutory tour.*
- ***STAGE 5 ⟶ Verdict:*** *these exceptions negate guilt only within strict statutory limits.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *Three adults and a boy are cast away at sea with no food; the adults kill the boy to survive. (Decoy: genuine survival necessity.)*

- ***I — ISSUE:*** *Does necessity (S.19) excuse the killing?*
- ***R — RULE:*** *R v. Dudley & Stephens — necessity is* ***no defence to the murder of an innocent****.*
- ***A — ANALYSIS:*** *however dire the situation, the deliberate killing of an innocent for self-preservation is not within S.19.*
- ***C — CONCLUSION:*** *the adults are guilty of murder; necessity fails.*

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8. Right of Private Defence

Previous Year Questions

- ***[16M]*** *What is the right of private defence? When does the right of private defence of the body extend to causing death? (2012, 2014, 2017, 2022; BNS 2026)*
- ***[16M]*** *When can private defence be pleaded and when is it lost? (2021)*
- ***[10M]*** *Examine the provisions relating to the right of private defence. (2019, 2021, 2022, 2023)*

The Hook

In *Darshan Singh v. State of Punjab (2010)* the Supreme Court declared that “a person cannot be expected to act in a cowardly manner when confronted with a grave danger” — the law of private defence exists so that a citizen need not flee from an aggressor before protecting life and property.

The Concept

Under BNS, private defence is a general exception in **Ss 34–44**:

- **S.34** — nothing done in private defence is an offence.
- **S.35** — the right protects one’s own (and another’s) **body**, and **property** (movable/immovable) against theft, robbery, mischief, criminal trespass.
- **S.37** — limits: no right against acts of public servants acting in good faith, where there is time to seek protection, or more harm than necessary. The force must be **proportionate**.

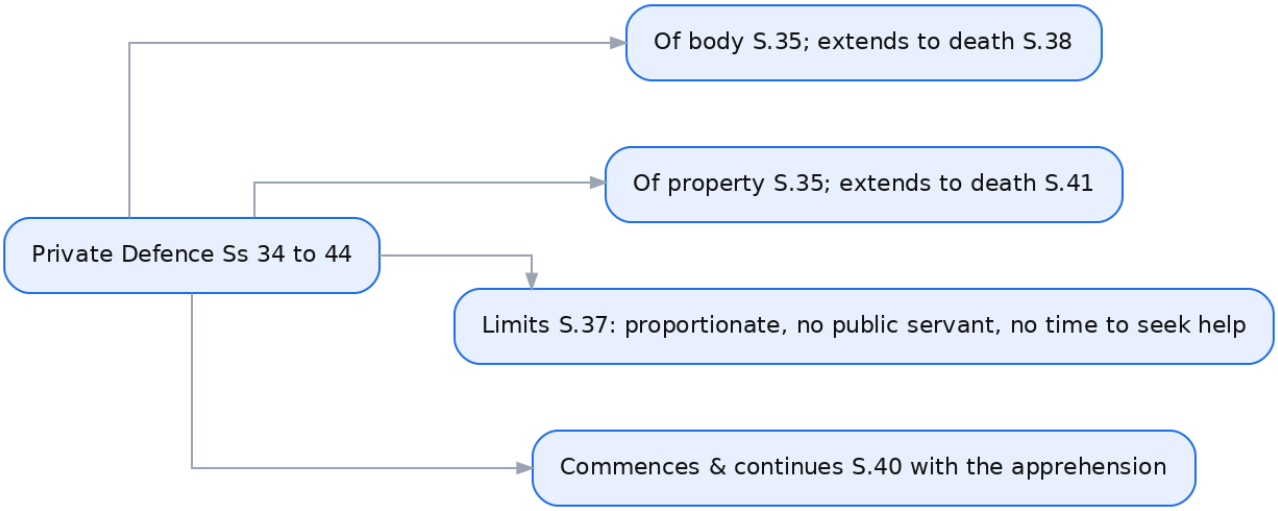
- **S.38** — the right of private defence of the body **extends to causing death** only in enumerated situations: reasonable apprehension of (i) death, (ii) grievous hurt, (iii) rape, (iv) gratifying unnatural lust, (v) kidnapping/abduction, (vi) wrongful confinement with no recourse to authorities, (vii) acid attack.
- **S.40** — the right commences when a reasonable apprehension of danger arises and lasts while it continues.

The right is **preventive, not punitive**; it is lost where the danger is past, where authorities could be approached, or where excessive harm is inflicted.

> ***Section 38, BNS:*** *the right of private defence of the body extends to voluntarily causing death where the assault reasonably causes apprehension of death, grievous hurt, rape, unnatural lust, kidnapping/abduction, wrongful confinement, or an acid attack.*

In Simple Terms: You may use reasonable force — even fatal force in the listed grave situations — to protect body or property from an immediate, unlawful attack. But you may not use it as revenge, after the danger has passed, or in excess.

The Visual



Case Laws

- ***Darshan Singh v. State of Punjab (2010)*** — laid down the guiding principles; no duty to retreat from grave danger.
- ***Munney Khan v. State of M.P. (1971)*** — right is available only against imminent, real danger.
- ***James Martin v. State of Kerala (2004)*** — force must be proportionate; the right is preventive, not retaliatory.

▤ 16-MARK ESSAY BLUEPRINT TRACKER

- ***STAGE 1 ⟶ Hook + Roadmap:*** *Darshan Singh; promise scope, the death-extension, and the limits.*
- ***STAGE 2 ⟶ Scope:*** *Ss 34–35 — body and property.*
- ***STAGE 3 ⟶ When it extends to death (the asked core):*** *S.38 seven situations + S.41 for property.*
- ***STAGE 4 ⟶ Limits (S.37) & when lost:*** *proportionality, public servants, time to seek help.*
- ***STAGE 5 ⟶ Verdict:*** *a preventive right within proportionate, time-bound limits.*

⚠ FACT-PATTERN RISK ALERT

Scenario: *A police constable, ordered by a superior to fire on a violent mob, fires; a citizen is killed. (Decoy: "I was only obeying orders.")*

- ***I — ISSUE:*** *Is the constable protected (private defence / lawful order)?*
- ***R — RULE:*** *acts of a person bound by law (S.14) and proportionate defence (Ss 37–38); an order to fire is lawful only if necessary and proportionate.*
- ***A — ANALYSIS:*** *if the firing was a necessary, proportionate response to a real threat, he is protected; a manifestly unlawful or excessive order is no shield.*
- ***C — CONCLUSION:*** *protected if the force was proportionate and the order lawful; otherwise liable.*

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9. Punishments under BNS (incl. Community Service & Death Sentence)

Previous Year Questions

- ***[16M]*** *Explain the various types of punishments under the BNS (with special reference to the death sentence). (2011, 2012, 2013, 2016, 2022; BNS 2025)*
- ***[16M]*** *"A corrective/rehabilitative theory restores a man to society." Discuss. (2021)*
- ***[10M]*** *Capital punishment is awarded only in the "rarest of rare cases" — elaborate. (2025; BNS 2026)*

The Hook

In *Bachan Singh v. State of Punjab (1980)* the Supreme Court upheld the death penalty but confined it to the **“rarest of rare cases”** where the alternative of life imprisonment is “unquestionably foreclosed.” It remains the single most important sentencing rule in Indian criminal law.

The Concept — kinds of punishment (S.4)

Section 4, BNS prescribes six punishments:

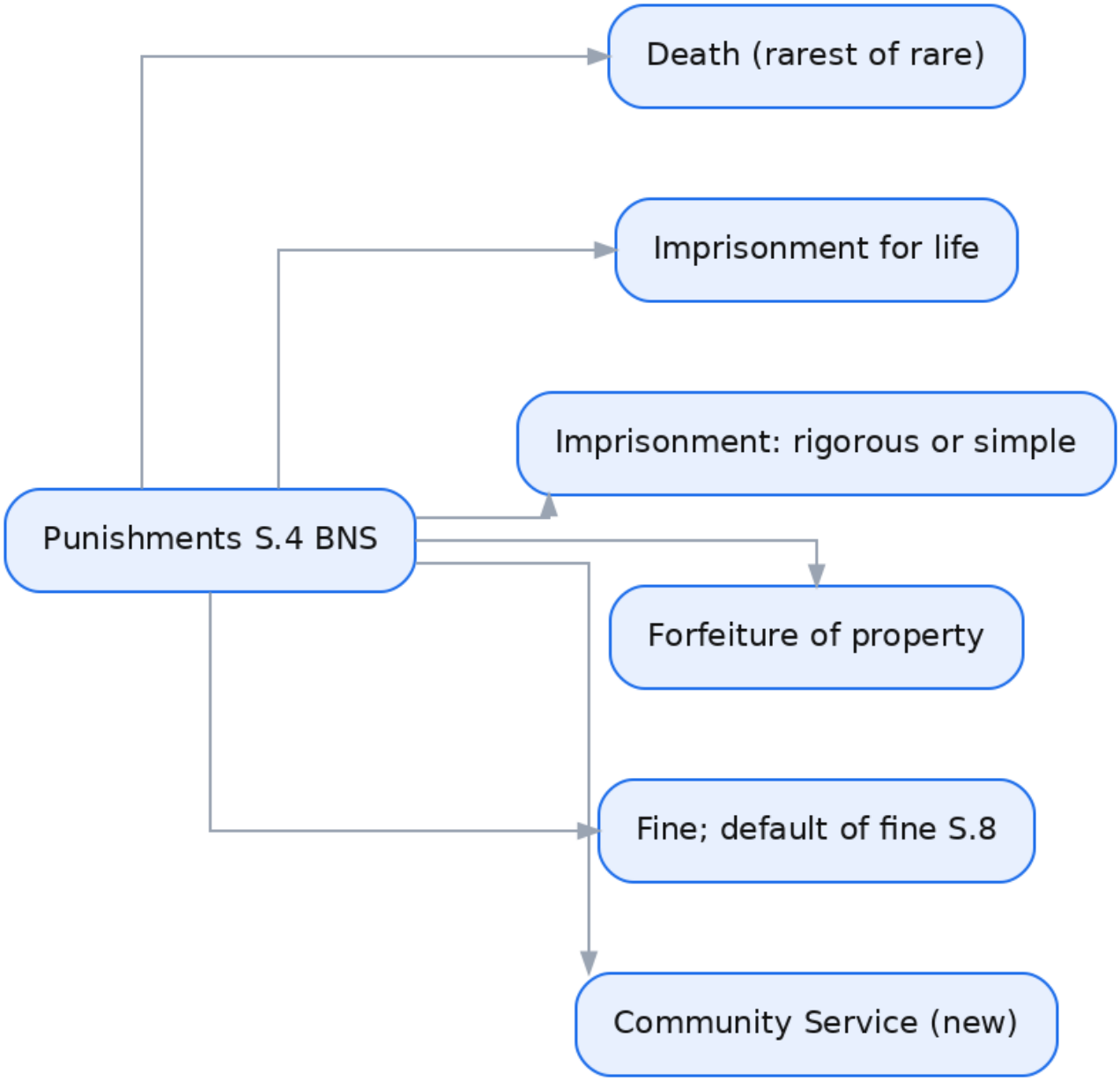
1. **Death**; (b) **Imprisonment for life**; (c) **Imprisonment** — rigorous or simple; (d) **Forfeiture of property**; (e) **Fine**; and (f) **Community Service** — a *new* punishment introduced by the BNS for petty offences (e.g. petty theft, defamation, non-appearance, attempt to commit suicide to constrain a public servant).

Supporting provisions: **S.5** commutation of sentence; **S.8** fine and **liability in default of fine**; **S.11–12** solitary confinement and its limits. The theories of punishment — deterrent, retributive, preventive, and **reformative/rehabilitative** — explain *why* we punish; modern policy (and the new community-service penalty) leans reformative for lesser crimes.

> ***Section 4, BNS:*** *“The punishments to which offenders are liable under the provisions of this Sanhita are — Death; Imprisonment for life; Imprisonment…; Forfeiture of property; Fine; **Community Service**.”*

In Simple Terms: BNS keeps the old ladder of punishments but adds **community service**, signalling a reformative tilt for minor offences, while the death penalty survives only for the “rarest of rare” cases.

The Visual



Case Laws

- ***Bachan Singh v. State of Punjab (1980)*** — death penalty constitutional; “rarest of rare” doctrine.
- ***Machhi Singh v. State of Punjab (1983)*** — laid down guidelines/aggravating–mitigating balance for the death sentence.
- ***Jagmohan Singh v. State of U.P. (1973)*** — upheld judicial discretion in capital sentencing.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *Bachan Singh; promise the S.4 list, the new community service, and the death-sentence rule.*
- ***STAGE 2 ⟶ Kinds of punishment (S.4):*** *the six punishments, highlighting community service as new.*
- ***STAGE 3 ⟶ Death sentence:*** *“rarest of rare”; Bachan Singh/Machhi Singh.*
- ***STAGE 4 ⟶ Theories:*** *deterrent/retributive/preventive/reformative; the BNS’s reformative tilt.*
- ***STAGE 5 ⟶ Verdict:*** *a graded scheme topped by capital punishment for the rarest cases.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A first-time offender is convicted of a petty offence (e.g. minor defamation or petty theft). (Decoy: prosecution presses for imprisonment.)*

- ***I — ISSUE:*** *What punishment fits a petty, first-time offence under BNS?*
- ***R — RULE:*** *S.4(f) introduces* ***community service*** *for specified minor offences.*
- ***A — ANALYSIS:*** *the reformative aim and the statutory option favour community service over jail for such offences.*
- ***C — CONCLUSION:*** *community service is an appropriate BNS sentence for the petty offence.*

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10. Solitary Confinement

Previous Year Questions

- ***[Short Note]*** *Solitary confinement. (2011, 2012, 2014, 2021, 2022, 2023, 2024)*

The Concept

S.11 allows a court, where a person is sentenced to **rigorous imprisonment**, to order a portion of that term in **solitary confinement** (kept apart from others). **S.12** caps it: not exceeding **one month** if the sentence is up to 6 months; **two months** if 6–12 months; **three months** if over a year — and it must be in instalments, not exceeding 14 days at a

time (with intervals). It cannot be imposed where imprisonment is not part of the sentence or for the whole term.

> ***Section 12, BNS:*** *solitary confinement must be imposed in limited instalments and can never exceed the statutory ceilings.*

In Simple Terms: Solitary confinement is an *add-on* to rigorous imprisonment, strictly capped in duration and broken into short spells, because prolonged isolation is inhumane.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *isolation as a capped add-on to RI.*
- ***STAGE 2 ⟶ When it can be ordered:*** *only with rigorous imprisonment (S.11).*
- ***STAGE 3 ⟶ Limits:*** *the S.12 ceilings and instalment rule.*
- ***STAGE 4 ⟶ Rationale:*** *humanitarian caps.*
- ***STAGE 5 ⟶ Verdict:*** *lawful only within strict statutory limits.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A court sentences X to 4 months' rigorous imprisonment and orders 2 months of it in solitary confinement.*

- ***I — ISSUE:*** *Is the solitary order valid?*
- ***R — RULE:*** *S.12 caps solitary at* ***one month*** *where the sentence is up to 6 months.*
- ***A — ANALYSIS:*** *2 months exceeds the ceiling for a 4-month sentence.*
- ***C — CONCLUSION:*** *the solitary order is illegal to the extent it exceeds one month.*

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11. Public Servant

Previous Year Questions

- ***[Short Note]*** *Public servant. (2011, 2012, 2013, 2019, 2021, 2022)*

The Concept

S.2(28) BNS defines “public servant” to include judges, government officers, officers of court, police, persons in service/pay of the Government or local authority, and others discharging public functions. The label matters because the Code both **protects** public servants (e.g. S.14 acts done under legal duty) and **targets** offences *by* or *against* them.

> ***Section 2(28), BNS:*** *lists the categories of persons who are “public servants” for the purposes of the Sanhita.*

In Simple Terms: A public servant is anyone the State entrusts with a public duty. Their official role both shields lawful acts and exposes them to special offences.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *why the definition matters both ways.*
- ***STAGE 2 ⟶ Definition:*** *the S.2(28) categories.*
- ***STAGE 3 ⟶ Protection v. liability:*** *lawful-duty shield v. special offences.*
- ***STAGE 4 ⟶ Illustrations:*** *judge, police officer, court officer.*
- ***STAGE 5 ⟶ Verdict:*** *a functional, public-duty test.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A court officer executing an arrest warrant is sued for wrongful confinement.*

- ***I — ISSUE:*** *Is he protected as a public servant acting under legal duty?*
- ***R — RULE:*** *S.2(28) (status) read with S.14 (act bound by law).*
- ***A — ANALYSIS:*** *acting under a valid warrant in good faith, he is a public servant performing a legal duty.*
- ***C — CONCLUSION:*** *protected; no offence.*

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12. Extent & Operation — Territorial and Extra-Territorial Jurisdiction

Previous Year Questions

- ***[16M]*** *Discuss the territorial / extra-territorial jurisdiction of the Code. (2022, 2013, 2019)*
- ***[Problem]*** *Indian citizen commits murder abroad; soldier commits murder in Nepal. (2014, 2015, 2022)*

The Concept

S.1 BNS fixes reach:

- **Intra-territorial (S.1(2)–(3)):** every person is liable for offences committed *within India*, whoever the offender.
- **Extra-territorial (S.1(4)–(5)):** the Sanhita reaches (i) any **citizen of India** anywhere in the world; (ii) any **person** on a ship or aircraft registered in India; and (iii) any person committing an offence **targeting a computer resource located in India**.

So an Indian citizen who murders abroad can be tried in India; the place of the act does not defeat jurisdiction over a citizen.

> ***Section 1(4), BNS:*** *the provisions apply to an offence committed by any citizen of India in any place beyond India, and by any person on a ship/aircraft registered in India.*

In Simple Terms: Indian law follows the Indian citizen across borders; within India it binds everyone. Where you are matters less than who you are (a citizen) or where the harm lands (India).

Case Laws

- ***Mobarik Ali Ahmed v. State of Bombay (1957)*** — a person outside India can be guilty of an offence committed *in* India through acts/agents here.
- ***Central Bank of India v. Ram Narain (1955)*** — extra-territorial jurisdiction over citizens explained.

▤ 16-MARK ESSAY BLUEPRINT TRACKER

- ***STAGE 1 ⟶ Hook + Roadmap:*** *law follows the citizen; promise intra- and extra-territorial reach.*
- ***STAGE 2 ⟶ Intra-territorial (S.1(2)–(3)):*** *everyone within India.*
- ***STAGE 3 ⟶ Extra-territorial (S.1(4)–(5)):*** *citizens abroad; Indian ships/ aircraft; computer resources in India.*
- ***STAGE 4 ⟶ Cases:*** *Mobarik Ali, Ram Narain.*
- ***STAGE 5 ⟶ Verdict:*** *jurisdiction turns on citizenship/registration or harm in India.*

⚠ FACT-PATTERN RISK ALERT

Scenario: *An Indian citizen commits murder in England (variant: a serving soldier commits murder in Nepal). Can he be tried in India? (Decoy: the act was outside India.)*

- ***I — ISSUE:*** *Does Indian law reach an offence committed abroad?*
- ***R — RULE:*** *S.1(4) — citizens are liable for offences committed anywhere beyond India.*
- ***A — ANALYSIS:*** *as an Indian citizen, the offender is within extra-territorial reach; the soldier is additionally covered as a person in the Government's service.*
- ***C — CONCLUSION:*** *yes, he can be tried in India.*

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13. Historical Background & Rationale for the BNS

Previous Year Questions

- ***[10M]*** *Critically examine the rationale behind enacting the BNS, 2023 replacing the IPC, 1860; highlight the key reforms. (BNS 2026)*
- ***[10M]*** *Discuss the historical background and extent of operation of the BNS; highlight key features. (BNS 2026)*

The Concept

The IPC, drafted by **Lord Macaulay's** First Law Commission and enacted in **1860**, governed Indian criminal law for over 160 years. The **BNS, 2023** (in force **1 July 2024**), with its companions the **Bharatiya Nagarik Suraksha Sanhita** (replacing the CrPC) and **Bharatiya Sakshya Adhiniyam** (replacing the Evidence Act), was enacted to "decolonise" and modernise the law. **Key reforms:**

- **New offences** answering modern realities — **organized crime (Ss 111–112), terrorist act (S.113), mob lynching (S.103(2)), snatching (S.304),** and **sexual intercourse on a false promise of marriage (S.69)**.
- **Community service** as a punishment (S.4(f)).
- **Sedition abolished**; replaced by S.152 targeting acts endangering sovereignty, unity and integrity.
- **Gender-neutral** framing of several provisions and reorganisation of chapters (offences against women and children grouped together).
- **Removal of obsolete/struck-down offences** (adultery, the unnatural-offence section).

> ***Statement of Objects:*** *the BNS aims to replace colonial-era law with a code suited to contemporary needs while retaining settled principles.*

In Simple Terms: The BNS keeps the tried-and-tested core of the earlier law but reorganises it, adds offences for today's crimes, introduces community service, drops sedition and obsolete offences, and adopts gender-neutral language.

▤ *16-MARK ESSAY BLUEPRINT TRACKER*

- ***STAGE 1 ⟶ Hook + Roadmap:*** *Macaulay's 1860 Code to the 2024 BNS.*
- ***STAGE 2 ⟶ Historical background:*** *origins of the earlier Code; the three new criminal laws.*
- ***STAGE 3 ⟶ Key reforms:*** *new offences, community service, sedition replaced, gender neutrality.*
- ***STAGE 4 ⟶ Extent & operation:*** *S.1 reach (cross-ref topic 12).*
- ***STAGE 5 ⟶ Verdict:*** *continuity of principle with modernised content.*

⚠ *FACT-PATTERN RISK ALERT*

Scenario: *A student argues that the BNS is "just the old Code renamed." (Decoy: much of the substantive core is retained.)*

- ***I — ISSUE:*** *Is the BNS merely a renamed version of the old Code?*
- ***R — RULE:*** *the BNS retains core principles but adds new offences (organized crime, terrorism, mob lynching, snatching), community service, and drops sedition/ adultery.*
- ***A — ANALYSIS:*** *continuity of doctrine does not erase substantive reform and reorganisation.*
- ***C — CONCLUSION:*** *the BNS is a reform, not a mere renaming.*

Quick Revision & Case Law Table

One-line memory hooks

- **Crime v. tort:** public wrong, State prosecutes, punishment — v. private wrong, victim sues, damages.
- **Mens rea:** *actus non facit reum nisi mens sit rea*; presumed unless statute excludes (strict liability).
- **Parties:** doer + common intention (S.3(5), plan + participation) + abetment + common object (S.190).
- **Mistake:** of fact in good faith excuses (Ss 14, 17); of law does not.
- **Intoxication:** involuntary excuses (S.23); voluntary gives deemed knowledge (S.24).
- **Insanity:** S.22 — legal, not merely medical, insanity; incapacity to know nature/ wrongness.
- **Exceptions:** accident S.18; necessity S.19 (not for murder); consent Ss 25–30; communication S.31; compulsion S.32; trifles S.33.
- **Private defence:** Ss 34–44; body extends to death in S.38's seven situations; proportionate, preventive, time-bound.
- **Punishments:** S.4 — death, life, imprisonment, forfeiture, fine, **community service (new)**; death only "rarest of rare."
- **Solitary confinement:** S.11–12; capped, in instalments, only with RI.
- **Jurisdiction:** S.1 — everyone within India; citizens & Indian ships/aircraft abroad.
- **BNS rationale:** decolonise + modernise; new offences, community service, sedition replaced (S.152).

Master Case List for Unit 1

Case	Topic	One-line ratio
State of Maharashtra v. M.H. George (1965)	Mens rea	Regulatory offences may be strict-liability
R v. Prince (1875)	Mens rea	Statutory offence; mistake of age no defence
Mobarik Ali Ahmed v. State of Bombay (1957)	Jurisdiction	Offence in India committed by a person abroad
Barendra Kumar Ghosh v. King-Emperor (1925)	Common intention	Participation with shared plan makes a lookout a principal
Mahbub Shah v. Emperor (1945)	Common intention	Needs a pre-arranged plan, not mere similar intent
R v. Tolson (1889)	Mistake of fact	Reasonable belief negates mens rea
Basdev v. State of PEPSU (1956)	Intoxication	Voluntary drunkenness no general defence
M’Naghten’s Case (1843)	Insanity	Source of the insanity rules
Surendra Mishra v. State of Jharkhand (2011)	Insanity	Legal, not medical, insanity exempts
R v. Dudley & Stephens (1884)	Necessity	No defence to murder of an innocent
Darshan Singh v. State of Punjab (2010)	Private defence	Principles; no duty to retreat from grave danger
Bachan Singh v. State of Punjab (1980)	Punishment	Death penalty only in the “rarest of rare” cases

End of Unit 1.

Bharatiya Nyaya Sanhita, 2023 (Criminal Law – I)

KSLU LL.B. — Model Answers: Essays, Short Notes & Problems (All Five Units)

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> ***Read this first, then go to your unit.*** *This companion to the study notes gives you a full, exam-ready* ***model answer*** *to every essay, every recurring short / explanatory note, and every fact-pattern problem asked in past KSLU Criminal Law – I papers — grouped by unit and topic in the same order as the notes. Everything is in BNS sections; sub-10-mark short notes are answered in the notes bundle, not here.*

How to Use This Question Bank

What this is. A rehearsal book. The study notes teach the concept; this bank shows you how to *write the marks* — a complete answer in the exact shape an examiner rewards, with the must-write phrases underlined.

The 3-step drill. (1) Read the question and try a 2-minute plan from memory. (2) Read the model answer; note the structure, the cases, and the verdict. (3) For problems, re-do the IRAC in your own words under time.

Priorities. The ★ rating shows how often a question repeats — ★★★ (5+ times) is a near-certainty; do these first. The Priority Index below lists them ranked.

House rules that win marks. Lead with a definition + roadmap; name the case **and** the year; quote the exact BNS section; for problems use the four IRAC headings (Issue, Rule, Application, Conclusion) and always give a definite verdict; spot the planted decoy fact.

Exam Pattern & Mark Weights

> ***100-mark paper (BNS pattern):*** *answer Q.9 (two problems × 10 = 20 marks) and any five of Q.1–Q.8 (16 marks each). Always attempt the problems first.* ***80-mark paper:*** *one essay (10M) and one short note / problem (6M) compulsory from each of the five units.*

Mark slot	What it is	Where it is drilled
16M (100-mark) / 10M (80-mark)	Long essay	Section A of each unit
10M short / explanatory note	Recurring short note	Section B of each unit
Problems (10M / 6M)	Fact-pattern, IRAC	Section C of each unit

Priority Index — Questions by Frequency

Rank	Question (short)	Type	Frequency	Unit
1	Hurt → grievous hurt	Essay	★★★	3 (Q3.2)
2	Culpable homicide v. murder; when not murder	Essay	★★★	3 (Q3.1)
3	Offences relating to marriage (dowry/ bigamy/cruelty)	Essay	★★★	2 (Q2.4)
4	Rape — ingredients, exceptions, punishment	Essay	★★★	2 (Q2.3)
5	Right of private defence; when it extends to death	Essay	★★★	1 (Q1.7)
6	Punishments under BNS; death sentence	Essay	★★★	1 (Q1.8)
7	Misappropriation v. criminal breach of trust	Essay	★★★	5 (Q5.3)
8	Cheating; cheating by personation	Essay	★★★	5 (Q5.4)
9	“In all robbery there is theft or extortion”; dacoity	Essay	★★★	5 (Q5.2)
10	Theft; v. extortion; when robbery	Essay	★★★	5 (Q5.1)
11	Forgery; making a false document	Essay	★★★	4 (Q4.6)
12	Criminal trespass / house trespass / house breaking	Essay	★★★	4 (Q4.5)
13	Unlawful assembly; member’s liability; rioting	Essay	★★★	4 (Q4.2)
14	Giving v. fabricating false evidence	Essay	★★★	4 (Q4.1)
15	Mischief — essentials	Essay	★★★	4 (Q4.4)
16	Mens rea; significance in statutory offences	Essay	★★★	1 (Q1.2)
17	Parties to a crime; common intention	Essay	★★★	1 (Q1.3)
18	Unsoundness of mind (insanity); M’Naghten	Essay	★★★	1 (Q1.5)
19	Concept of crime; crime v. tort	Essay	★★★	1 (Q1.1)
20	Wrongful restraint v. wrongful confinement	Essay	★★★	3 (Q3.3)
21	Criminal force / assault	Essay	★★★	3 (Q3.4)

Rank	Question (short)	Type	Frequency	Unit
22	Kidnapping v. abduction	Essay	★★★	3 (Q3.5)
23	Abetment; abettor; trans-border abetment	Essay	★★★	2 (Q2.1)
24	Defamation; ingredients & exceptions	Essay	★★★	5 (Q5.5)
25	Solitary confinement	Short note	★★★	1 (S1.1)
26	Public servant	Short note	★★★	1 (S1.2)
27	Criminal conspiracy	Short note/ Essay	★★★	2 (Q2.2/ S2.2)
28	Arrest of wrong person (mistake of fact)	Problem	★★★	1 (P1.1)

Year Index — Questions by Paper

> *A representative cross-reference of recurring questions to the blocks that answer them. Use it to rehearse a whole past paper under time.*

Year (paper)	Essays (examples)	Short notes / Problems (examples)
BNS 2026 (100)	Q1.3 parties; Q3.1 CH v. murder; Q3.3 restraint; Q5.3 misappropriation v. CBT	P1.9 hatchet; P5.9 threat-to-defame; P3.2 16-day hurt
BNS 2026 (80)	Q1.10 BNS rationale; Q2.4 marriage; Q4.3 State; Q5.5 defamation	S2.2 conspiracy; S2.7 kidnapping; S3.1 mob lynching; S3.2 terrorist act
BNS 2025 (100) June	Q1.8 punishments; Q2.4 marriage; Q3.2 hurt; Q5.1 theft	P3.14 take minor girl; P1.3 tiger; P2.12 rape of minor
BNS 2025 (100) Jan	Q1.1 crime; Q1.8 punishments; Q2.1 abetment; Q3.1 CH/ murder	P1.2 doctor-shock; P5.4 ring in river; P3.9 wall across path
2025 (80)	Q1.2 mens rea; Q3.2 hurt; Q4.5 trespass; Q5.4 cheating	S1.1 solitary; S4.1 sedition; P3.7 acid attack
2024 (80)	Q1.2 mens rea (maxim); Q3.1 CH/ murder; Q4.6 forgery; Q5.2 robbery	S1.5 legality; S3.3 negligence; S4.3 religion
2022 (100)	Q1.8 punishments; Q1.7 private defence; Q3.2 hurt; Q4.4 religion	P2.4 abet-kill-M-kill-R; P1.10 constable; P3.9 wall
2019 (100)	Q1.9 jurisdiction; Q2.2 conspiracy; Q3.2 hurt; Q4.6 forgery	P1.8 insanity; P3.5 lure-and-kill; P3.6 Hakim eye
2017 (100)	Q1.1 crime; Q1.5 insanity; Q3.1 CH/ murder; Q5.4 cheating	P3.13 minor elope; P2.9 bigamy; P2.7 pickpocket
2015 (100)	Q1.3 parties; Q3.2 hurt; Q5.2 robbery; Q2.4 marriage	P3.4 poisoned apple; P1.6 drunk-poison; P1.7 boat & boy

UNIT 1 — General Principles, Punishments & General Exceptions · Question Bank

Bharatiya Nyaya Sanhita, 2023 (Criminal Law – I) · KSLU LL.B. · Medha-Academy.in

> ***Scope of this unit's bank:*** *full model answers to every* ***essay*** *(§A), every recurring* ***short / explanatory note*** *(§B), and every* ***fact-pattern problem*** *(§C) asked in past KSLU papers for this unit. Sub-10-mark short notes are answered in the study-notes bundle.*

A. Essay Questions — Model Answers

Q1.1 — `[16M]` What is crime? Explain the difference between crime and tort.

> *Asked: 2017(100), 2012(100), 2020(100); BNS 2025(100); 2021(80), 2023(80)* · ★★★ · *Notes: Unit 1 → Concept of Crime*

Introduction. A crime is an act or omission forbidden by law and punished by the State, treated as a wrong against the whole community and not merely against the individual victim. Because the wrong is public, it is the State — not the injured person — that prosecutes and punishes. This answer states the meaning and essential ingredients of crime and then draws the line between a crime and a tort.

Meaning and essential ingredients of crime

1. A human being — the wrongdoer must be a person whom the law holds capable of committing the offence. The BNS binds "every person" within India (S.1), and a corporation too can be liable through its responsible officers.
2. *Mens rea* [a guilty mind] — most offences require a blameworthy mental state such as intention, knowledge, rashness or negligence. The BNS conveys it through operative words like "dishonestly", "fraudulently", "voluntarily" and "knowingly", rather than the Latin phrase itself.

3. *Actus reus* [a guilty act] — a prohibited act, or an omission where the law imposes a duty to act, together with the forbidden result and its attendant circumstances. The act and the guilty mind must coincide.
4. Injury to another or to society — the conduct must cause or threaten harm that the law treats as a public wrong; it is this public dimension that justifies State prosecution and punishment.

> ***Blackstone:*** *"A crime is an act committed or omitted in violation of a public law either forbidding or commanding it."*

Crime distinguished from tort

1. Wrong against whom — a crime is a wrong against society/State; a tort is a wrong against a private individual's legal rights.
2. Who proceeds — a crime is prosecuted by the State in its own name; a tort is sued upon by the injured party in a civil court.
3. Object and result — criminal proceedings aim at *punishment* (fine, imprisonment, even death); tort proceedings aim at *compensation* by way of unliquidated damages.
4. Compromise — most crimes cannot be privately compromised away (save compoundable ones), whereas a tort claim is freely settled between the parties.

Basis	**Crime**	**Tort**
Wrong against	Society / State	A private individual
Who proceeds	The State (prosecution)	The injured party (civil suit)
Result	Punishment	Compensation (damages)
Compromise	Generally not	Freely settled

The same act — an assault, for instance — may be **both** a crime and a tort; but the *criminal* aspect is the public wrong the State punishes, while the *tortious* aspect is the private claim for damages.

Leading cases

- ***State of Maharashtra v. M.H. George (1965)*** — some statutory offences impose liability even without a guilty mind (strict liability), showing crime is defined by the State's prohibition.
- ***C.K. Damodaran Nair v. Govt. of India (1997)*** — a crime is a wrong against the community at large.

Conclusion. The defining mark of a crime is that the State prosecutes and punishes it as a public wrong, whereas a tort is a private wrong remedied by compensation at the victim's own suit; the ingredients of a guilty act and a guilty mind, causing public harm, complete the concept of crime.

Q1.2 — [16M] What is *mens rea*? State its significance in statutory offences. (Maxim *actus non facit reum nisi mens sit rea*.)

> *Asked: 2014(100), 2018(100); BNS 2025(100); maxim 2017(100), 2024(80); 2022(80), 2025(80) · ★★★ · Notes: Unit 1 → Mens Rea*

Introduction. *Mens rea* means the guilty mind — the blameworthy mental state the law usually requires before it will convict. The governing maxim is *actus non facit reum nisi mens sit rea* [an act does not make a person guilty unless the mind is also guilty]. This answer explains the two elements of a crime, the forms of *mens rea*, and its significance — especially the presumption and its displacement — in statutory offences.

The two elements of a crime

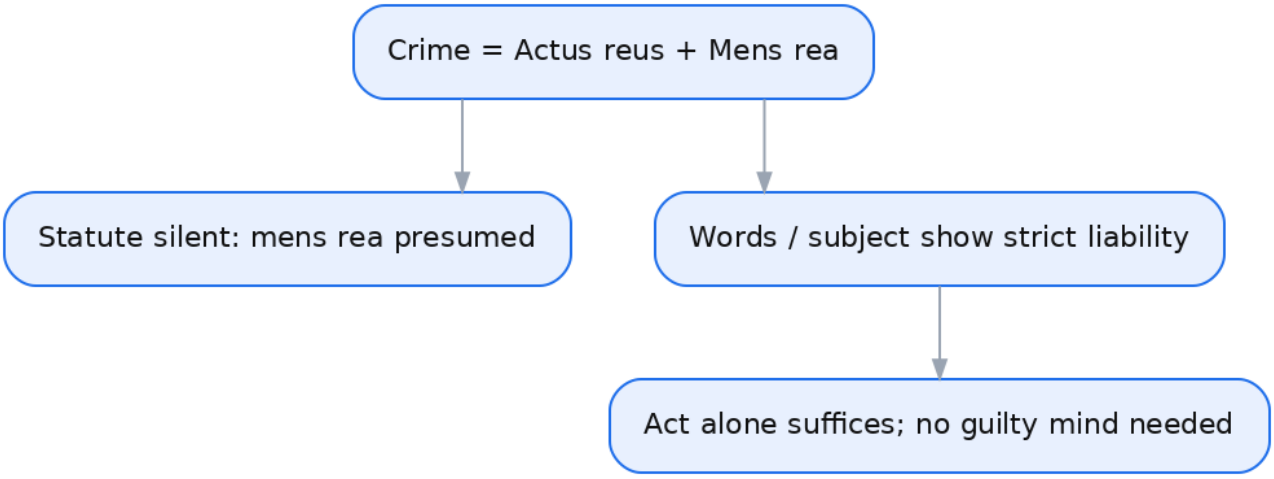
1. *Actus reus* — the prohibited conduct, its surrounding circumstances and its result. An omission counts only where the law casts a duty to act, such as a parent's duty to feed a child.
2. *Mens rea* — the mental element, which may take the form of intention, knowledge, rashness or negligence depending on the offence. The BNS rarely uses the Latin term; it signals the mental element through words such as "intentionally", "dishonestly" and "voluntarily" (S.2(38)).
3. Concurrence — the guilty act and the guilty mind must coincide in point of time, so that the prohibited act is *animated* by the blameworthy state of mind.

Forms of *mens rea*

1. Intention — the conscious purpose to bring about the prohibited result, the highest form of fault.
2. Knowledge — awareness that the result is practically certain or likely to follow.
3. Rashness/negligence — running an unjustified risk, or failing to take the care a reasonable person would, as in causing death by a negligent act.

Significance of *mens rea* in statutory offences

1. The presumption of mens rea — when a statute creating an offence is silent on the mental element, the courts presume that the legislature intended *mens rea* to be required; the prosecution must then prove the guilty mind.
2. The strict-liability exception — the presumption is displaced where the words of the statute, or its subject-matter (public-welfare, regulatory, food, environment or economic law), show that Parliament intended liability *without* a guilty mind.
3. Practical effect — in a strict-liability offence the act alone suffices for conviction; the accused cannot escape by proving honest mistake, as the legislature has prioritised regulation over individual fault.



Sketch this in the exam — the 30-second version earns presentation marks.

Leading cases

- ***R v. Prince (1875)*** — taking a minor; honest belief in her age was no defence, the statute being strict as to age.
- ***Sherras v. De Rutzen (1895)*** — the presumption of *mens rea* is displaced only by clear statutory intent.
- ***State of Maharashtra v. M.H. George (1965)*** — economic and regulatory offences may be strict-liability.

Conclusion. *Mens rea* is the rule and strict liability the exception; in statutory offences the guilty mind is presumed unless the statute, by its language or its purpose, clearly dispenses with it — so the maxim *actus non facit reum nisi mens sit rea* remains the backbone of criminal liability.

Q1.3 — `[16M]` Explain the possible parties to a crime. How do the liabilities of the parties vary? (Common intention)

> *Asked: 2011(100), 2012(100), 2015(100); BNS 2026(100); common intention 2014(100), 2016(100), 2020(100) · ★★★ · Notes: Unit 1 → Parties to a Crime*

Introduction. The BNS fixes guilt not only on the hand that strikes the blow but on everyone with a sufficient mental and physical link to the crime. The liability of each party therefore *varies* with that link — whether through the actual act, common intention (S. 3(5)), abetment, or common object.

The possible parties and how liability attaches

1. The actual doer — the person whose own act completes the offence; he answers for what he personally does, and is the primary offender.
2. Joint offenders — common intention, S.3(5) — where a criminal act is done by several persons *in furtherance of the common intention of all*, each is liable as though he alone

had done it. The provision requires (a) a pre-arranged plan, which may form even on the spot, and (b) participation in the act in some form.

3. The abettor (Ss 45–60) — a person who instigates, conspires in, or intentionally aids the offence; he is liable even though absent when the act is done, because the law punishes the architect of crime.
4. Member of an unlawful assembly — common object, S.190 — every member of an unlawful assembly is liable for an offence committed by any member in prosecution of the common object, or one the members knew was likely; mere membership fixes liability.

Common intention contrasted with common object

1. Number — common intention applies to any number (two or more); common object needs an unlawful assembly of five or more.
2. Mental requirement — common intention needs a prior *meeting of minds* and a shared plan; common object needs only membership with knowledge of the object.
3. Scope of liability — under S.3(5) the act done together is attributed to all; under S.190 each member answers for acts done in prosecution of the common object.

Common intention (S.3(5))	Common object (S.190)
Any number (2+)	5 or more (unlawful assembly)
Pre-arranged plan needed	Membership suffices
Liability for the joint act	Liability for acts in the object

Leading cases

- ***Barendra Kumar Ghosh v. King-Emperor (1925)*** — a lookout who shares the plan is a principal: “they also serve who only stand and wait.”
- ***Mahbub Shah v. Emperor (1945)*** — common intention requires a pre-arranged plan, not merely a similar intention formed independently.
- ***Pandurang v. State of Hyderabad (1955)*** — distinguished common intention from similar intention.

Conclusion. The liability of the parties varies with each one’s role and mental link: the doer answers for his act, the joint offender through common intention, the abettor through his instigation or aid, and the assembly member through the common object — the law thus reaches every meaningful participant in a crime.

Q1.4 — `[16M]` Critically examine the defence of mistake of fact and mistake of law.

> *Asked: 2018(100), 2019(100), 2012(100); 2013(100) · ★★ · Notes: Unit 1 → Mistake*

Introduction. Two maxims govern: *ignorantia facti excusat* [ignorance of fact excuses] and *ignorantia juris non excusat* [ignorance of law does not excuse]. The BNS gives effect to the first as a general exception and rejects the second; this answer examines both and the criticism of the dividing line.

Mistake of fact — a defence (Ss 14 and 17)

1. Section 14 — nothing is an offence done by a person *bound by law*, or who, by a mistake of fact in good faith, believes himself bound by law to do it; e.g. a soldier or officer carrying out a lawful order under an honest factual error.
2. Section 17 — nothing is an offence done by a person *justified by law*, or who, by a mistake of fact in good faith, believes himself justified by law; this protects, for instance, an arrest of the wrong person made after due inquiry.
3. Conditions — the mistake must be (i) of *fact*, not of law; (ii) made in *good faith*; and (iii) *reasonable*, formed after the care and attention the situation demands. A careless or reckless belief does not qualify.

Mistake of law — generally no defence

1. Presumption of knowledge — every person is presumed to know the law of the land; to allow ignorance of law as an excuse would make enforcement impossible and reward the ignorant over the diligent.
2. Limited softening — the bar is on ignorance of the *law*, not on a mistaken understanding of *facts*; and a genuine *claim of right* (a mistaken belief about one's private legal rights) may negate the dishonest intent some offences require.

Critical appraisal. The rule is sound in principle but can be harsh where statutes are obscure, technical or newly enacted. Courts mitigate this by insisting only on a *reasonable, good-faith* factual belief and by reading down "dishonesty" where the accused acted under a bona fide claim of right; but the core rule that ignorance of law is no excuse remains, in the interest of certainty.

Leading cases

- ***R v. Tolson (1889)*** — a reasonable, good-faith belief that her husband was dead negated the *mens rea* of bigamy.
- ***State of Orissa v. Bhagaban Barik (1987)*** — the good-faith belief must be reasonable and formed with due care.

Conclusion. A reasonable, good-faith mistake of fact excuses (Ss 14, 17); a mistake of law does not — the BNS protects the honest factual error while preserving the certainty on which the criminal law depends. In short, the honest man who errs on the facts is excused, while no one may plead ignorance of the law itself.

Q1.5 — [16M] Explain the nature and extent of unsoundness of mind required to exempt a person from criminal liability. (M’Naghten)

> *Asked: 2011(100), 2017(100), 2013(100), 2015(100), 2020(100) · ★★★ · Notes: Unit 1 → Insanity*

Introduction. Section 22 exempts a person who, by reason of unsoundness of mind, was incapable of knowing the nature of his act, or that it was wrong or contrary to law. The law protects only legal insanity, not mere medical insanity; this answer states the M’Naghten foundation, the statutory limbs and the crucial legal/medical distinction.

The M’Naghten foundation

The rule derives from *M’Naghten’s Case (1843)*, where a man acting under an insane delusion killed the Prime Minister’s secretary. The House of Lords ruled that to escape liability the accused must show that, from a *defect of reason due to disease of the mind*, he did not know the *nature and quality* of his act, or did not know that it was *wrong*.

The nature and extent of the exemption (S.22)

1. Incapacity to know the *nature* of the act — the accused does not understand the physical character of what he is doing, e.g. cutting a sleeping man’s throat believing it to be a harmless game.
2. Incapacity to know the act is *wrong* — he grasps the act but, through disease of the mind, cannot judge it to be morally wrong.
3. Incapacity to know it is *contrary to law* — a distinct statutory limb; inability to appreciate the act’s illegality.
4. Time of the act — the incapacity must exist *at the moment of the offence*; insanity before or after is irrelevant.
5. Burden of proof — the accused must prove legal insanity on a *balance of probabilities*; the prosecution’s burden of proving guilt is otherwise undisturbed.

Legal insanity v. medical insanity

A person may be clinically ill yet still know what he is doing and that it is wrong; such *medical* insanity does not exempt. Only *legal* insanity — the incapacity described in S.22 — is a defence.

Legal insanity	Medical insanity
Incapacity to know nature / wrongness	Any mental disease or disorder
A complete defence under S.22	Not, by itself, a defence

Leading cases

- ***State of M.P. v. Ahmadulla (1961)*** — the burden of proving legal insanity lies on the accused.
- ***Surendra Mishra v. State of Jharkhand (2011)*** — medical insanity is insufficient; legal insanity must be established.

Conclusion. Only unsoundness of mind that destroys the capacity to know the nature or wrongfulness of the act, at the time of the act, exempts under S.22; mere mental illness, however genuine, is not enough. The defence therefore protects only the accused whose disease of the mind robbed him of the very capacity to reason about his act.

Q1.6 — `[16M]` Explain the defence of consent under the BNS (and the allied general exceptions).

> *Asked: 2025(80); + problems on surgery & sport · ★ · Notes: Unit 1 → Consent / General Exceptions*

Introduction. Consent can convert what would otherwise be an offence into lawful conduct, on the principle *volenti non fit injuria* [to one who consents, no wrong is done]. The BNS recognises it as a general exception in Ss 25–30, subject to firm limits in Ss 28–29.

When consent is a defence

1. Section 25 — harm *not intended and not known to be likely to cause death or grievous hurt*, suffered by a person above 18 who *consents*, is no offence; this protects, for example, injuries in a consented game or sport.
2. Section 26 — an act done *in good faith for the benefit* of a person, with that person's consent, is no offence even if it risks death, provided death is not intended; a risky but consented surgery is the classic instance.
3. Section 27 — acts done in good faith for the benefit of a *child under 12 or a person of unsound mind*, with the guardian's consent, are protected.
4. Section 30 — an act done in good faith for a person's benefit *without consent*, where consent is impossible to obtain in time, e.g. an emergency operation on an unconscious patient. The common thread across Ss 25–30 is that the law respects a competent person's autonomy to accept risk for a lawful and beneficial purpose, while never permitting consent to cloak conduct the law independently forbids. Consent must also be free and informed; a consent extracted by pressure or obtained by concealing material facts is no consent at all.

The limits — when consent is invalid

1. Section 28 — consent given under *fear of injury*, or under a *misconception of fact*, or by a person of *unsound mind*, or by a *child under 12*, is no consent in law.

2. Section 29 — consent never legalises an act that is itself an offence independently of the harm consented to.

Leading cases

- ***Sukaroo Kobiraj v. Empress (1887)*** — an unskilled "doctor" cannot claim the good-faith/consent shield for a botched operation that causes death.
- ***Tunda v. Rex (1950)*** — injury suffered in a consented wrestling bout is protected as the ordinary risk of the sport.

Conclusion. Consent excuses harm only within Ss 25–30, never where it is vitiated under S.28 or covers an independent offence; free, informed consent to a lawful, beneficial act — and only such consent — is the touchstone. Where the harm exceeds what was consented to, or the consent is vitiated, the actor stands outside the exception and is liable for the resulting offence.

Q1.7 — `[16M]` What is the right of private defence? When does the right of private defence of the body extend to causing death?

> *Asked: 2012(100), 2014(100), 2017(100), 2022(100); BNS 2026(100); 2021(100); 2019(80), 2021(80), 2022(80), 2023(80) · ★★★ · Notes: Unit 1 → Private Defence*

Introduction. Private defence is the citizen's right to protect body and property against unlawful aggression without waiting for the State's aid. It is contained in Ss 34–44, is *preventive and not punitive*, and rests on the idea that the law cannot be everywhere at once.

Scope of the right

1. Section 34 — nothing done in the exercise of the right of private defence is an offence; the act, though it would otherwise be a crime, is justified.
2. Section 35 — the right protects one's own body and the body of *any other person*, and protects *property* (movable or immovable) against theft, robbery, mischief and criminal trespass.
3. Section 37 (limits) — there is *no* right against the acts of a public servant acting in good faith under colour of office, *no* right where there is time to have recourse to the protection of the authorities, and the harm inflicted must be *no more than necessary* — the defence must be **proportionate**.

When the defence of the body extends to causing death — Section 38

The right of private defence of the body extends to *voluntarily causing death* of the assailant where the assault reasonably causes an apprehension of:

1. death; 2. grievous hurt; 3. rape; 4. gratifying unnatural lust; 5. kidnapping or abduction; 6. wrongful confinement in circumstances giving no recourse to public authorities; and 7. an acid attack or apprehension thereof.

Section 40 fixes the timing: the right *commences* the moment a reasonable apprehension of danger arises and *continues* only so long as that apprehension lasts. Once the danger is past, any further force becomes retaliation, not defence. The person pleading private defence need not establish it beyond reasonable doubt; a reasonable probability that the situation fell within Ss 34–44 entitles him to the benefit, because the right is a substantive protection rather than a mere excuse. The reasonableness of his apprehension is judged from the standpoint of a person actually facing the danger, not by the cool calculation of hindsight.

Leading cases

- ***Darshan Singh v. State of Punjab (2010)*** — laid down the guiding principles; a person need not act cowardly or retreat in the face of grave danger.
- ***James Martin v. State of Kerala (2004)*** — the force used must be proportionate; the right is preventive, not retaliatory.

Conclusion. The defence of the body extends to causing death only in the seven situations enumerated in S.38, and only while the danger lasts and within proportionate limits (Ss 37, 40); outside these conditions, the killing is not justified. The right is thus a measured shield for the citizen, not a licence to retaliate once the threat has passed.

Q1.8 — `[16M]` Explain the various punishments under the BNS, with special reference to the death sentence.

> *Asked: 2011(100), 2012(100), 2013(100), 2016(100), 2022(100); BNS 2025(100); corrective theory 2021(100); 2018(80), 2021(80), 2023(80); BNS 2026(80); 2025(80)* · ★★★ · *Notes: Unit 1 → Punishments*

Introduction. Section 4 of the BNS prescribes six kinds of punishment, retaining the established ladder of penalties while adding **community service** as a new, reformative sanction. The theories of punishment — deterrent, retributive, preventive and reformative — explain why the State punishes at all.

The kinds of punishment (S.4)

1. Death — capital punishment, the gravest sanction, reserved for the most heinous offences such as murder and terrorism.
2. Imprisonment for life — imprisonment for the whole of the convict's remaining natural life, unless remitted by the appropriate Government.
3. Imprisonment — which may be *rigorous* (with hard labour) or *simple*.
4. Forfeiture of property — confiscation of specified property of the offender.
5. Fine — a pecuniary penalty, with statutory rules on its amount and on imprisonment in default of payment (S.8).

6. Community Service — a *new* punishment under the BNS for petty offences (e.g. petty theft, defamation, a public servant's unlawful trading, attempting suicide to constrain a public servant), reflecting a reformative philosophy.

The death sentence — "rarest of rare"

1. Constitutional validity — the death penalty has been upheld as constitutional, but its use is confined to the "rarest of rare cases" where the alternative of life imprisonment is "unquestionably foreclosed".
2. Balancing exercise — the court must weigh the *aggravating* circumstances of the crime against the *mitigating* circumstances of the criminal, and record special reasons before imposing death. In default of payment of a fine the court may order imprisonment proportioned to the amount (S.8), and imprisonment for life now generally means imprisonment for the whole of the convict's natural life unless the appropriate Government remits or commutes it. Forfeiture of property and fine may be combined with imprisonment, and community service is to be performed without remuneration as a benefit to the community, reflecting the reformative aim of the new Code.
3. Reformative tilt of the BNS — the introduction of community service shows a legislative preference for reformation over retribution in lesser offences.

Leading cases

- ***Bachan Singh v. State of Punjab (1980)*** — upheld the death penalty and laid down the "rarest of rare" doctrine.
- ***Machhi Singh v. State of Punjab (1983)*** — gave guidelines balancing aggravating and mitigating factors.

Conclusion. The BNS provides a graded scheme of six punishments, newly including community service, with the death sentence confined to the rarest of rare cases — a structure that blends deterrence with a growing reformative emphasis. The sentencing court must match the punishment to both the gravity of the offence and the circumstances of the offender.

Q1.9 — `[16M]` Discuss the territorial and extra-territorial jurisdiction (extent and operation) of the BNS.

> *Asked: 2022(100), 2013(100), 2019(100); 2019(80), 2021(80) · ★★ · Notes: Unit 1 → Jurisdiction*

Introduction. Section 1 of the BNS defines the Code's reach — *intra-territorially* over everyone within India, and *extra-territorially* over Indian citizens and Indian vessels/aircraft beyond India. Jurisdiction thus turns either on where the act occurs or on who commits it.

Intra-territorial jurisdiction

1. Section 1(2)–(3) — every person is liable to punishment for *every act or omission contrary to the BNS committed within India*, whatever the offender's nationality, faith or domicile.
2. Basis — the principle of territorial sovereignty: the law of the land binds all who are within the land, citizen and foreigner alike.

Extra-territorial jurisdiction

1. Citizens abroad — any *citizen of India* who commits an offence *beyond India* is liable as if it had been committed within India.
2. Indian ships and aircraft — any person on a ship or aircraft *registered in India*, wherever it may be at the time.
3. Offences targeting India — any person, anywhere, committing an offence *targeting a computer resource located in India*, a modern extension reflecting cyber-crime. A related consequence is that jurisdiction travels with the Indian flag: an offence committed on an Indian-registered ship on the high seas, or on an Indian aircraft in flight, is triable in India as though committed on Indian soil. The provision also preserves the operation of special and local laws, so the general Code and specialised statutes operate together rather than one to the exclusion of the other, and prosecution of a citizen for a foreign offence may require the sanction of the Central Government.

Effect. An Indian citizen who commits murder abroad can be brought to trial in India; the place of the act does not defeat jurisdiction over a citizen, though prosecution may require the sanction of the appropriate authority.

Leading cases

- ***Mobarik Ali Ahmed v. State of Bombay (1957)*** — a person physically outside India can commit an offence *in* India through acts done or agents operating here.
- ***Central Bank of India v. Ram Narain (1955)*** — explained the extra-territorial reach over citizens.

Conclusion. The BNS binds everyone within India and follows Indian citizens and Indian vessels abroad, so neither foreign nationality within India nor a foreign location of the act (for a citizen) defeats its operation. The Code thus rests on the twin bases of territorial sovereignty within India and the nationality principle for citizens abroad. In practice this means a foreigner who commits an offence in India is fully triable here, while an Indian who offends abroad cannot escape Indian law merely by crossing a border — subject only to any sanction the law requires for a foreign offence.

Q1.10 — [16M] Critically examine the rationale behind the BNS, 2023 and its key reforms (historical background, extent and operation).

> *Asked: BNS 2026(80) · ★ · Notes: Unit 1 → Historical Background*

Introduction. The Bharatiya Nyaya Sanhita, 2023 (in force 1 July 2024) replaced the colonial-era Penal Code of 1860, alongside the **Bharatiya Nagarik Suraksha Sanhita** (procedure) and the **Bharatiya Sakshya Adhiniyam** (evidence). It was enacted to "decolonise" and modernise India's criminal law while retaining its settled doctrinal core.

Historical background

1. The 1860 Code — drafted by Lord Macaulay's First Law Commission, it governed Indian criminal law for over 160 years and was admired for its clarity, but its framing and some offences had become dated.
2. The three new laws of 2023 — together they overhaul the substantive law, procedure and evidence in a single reform package.

Rationale for the reform

1. Decolonisation — to replace colonial framing with a code aligned to contemporary constitutional values.
2. Modernisation — to address crimes the old code never named, such as organised crime, terrorism and cyber-enabled offences.
3. Reformative sentencing — to introduce non-custodial options for petty offenders.

Key reforms

1. New offences — organized crime (Ss 111–112), terrorist act (S.113), mob lynching (S. 103(2)), snatching (S.304), and sexual intercourse on a false promise of marriage (S. 69).
2. Community service as a recognised punishment (S.4).
3. Sedition replaced by S.152, which targets acts endangering the sovereignty, unity and integrity of India.
4. Gender-neutral framing and the grouping together of offences against women and children.
5. Removal of obsolete offences — adultery and the unnatural-offence section are gone, reflecting the position settled by the Supreme Court. A further structural change is the reorganisation of the chapters so that offences against women and children are grouped together for ease of reference, together with the use of fixed minimum sentences for grave offences to curb undue leniency. The reform is also procedural-minded — timelines for investigation and trial, and the use of electronic and forensic evidence, are emphasised in the companion statutes — so that the substantive modernisation of the BNS is matched by a faster, more transparent process. As to

extent and operation, the new Code follows S.1 — applying within India to everyone and beyond India to citizens and Indian vessels — so its reach is at once territorial and personal. Where a citizen is tried in India for a foreign offence, the act is judged by Indian law, and double jeopardy principles prevent a second punishment for the same offence already punished abroad.

Conclusion. The BNS retains the tested core of Indian penal law while modernising its content and sentencing; it is a substantive reform — new offences, new punishments and a new orientation — not a mere renaming of the old code. For the student, the practical message is to cite BNS sections and the new offences, not the repealed provisions.

B. Short Notes — Model Answers

S1.1 — `[10M]` Solitary confinement.

> *Asked: 2011(100), 2012(100), 2014(100); 2021(80), 2022(80), 2023(80), 2024(80) · ★★★ · Notes: Unit 1 → Solitary Confinement*

Introduction. Solitary confinement means keeping a prisoner wholly isolated from contact with other prisoners. The BNS treats it as an *add-on* to rigorous imprisonment, hedged by strict limits because prolonged isolation is recognised as inhumane and psychologically harmful.

When it may be imposed

1. Section 11 — a court may order solitary confinement *only* where the offender is sentenced to *rigorous imprisonment*, and only for a portion of the term; it cannot stand alone or attach to simple imprisonment.
2. Not for the whole term — it can never be imposed for the entire sentence, only for limited spells within it.

The statutory ceilings (S.12)

1. Maximum totals — the aggregate solitary confinement must not exceed *one month* where the sentence is up to six months, *two months* where it is between six months and a year, and *three months* where it exceeds a year.
2. In instalments — it must be inflicted in instalments not exceeding fourteen days at a time, with intervals between them; for longer sentences, no instalment beyond seven days without intervening intervals. The insistence on short, spaced spells reflects the medical understanding that unbroken isolation is psychologically harmful and must not become a hidden second punishment.
3. Rationale — these caps protect the prisoner's mental health and reflect that isolation is a severe, exceptional measure.

Leading case. ***Sunil Batra v. Delhi Administration (1978)*** — solitary confinement is a grave deprivation to be imposed sparingly and strictly within the law.

Conclusion. Solitary confinement is lawful only as an instalmental add-on to rigorous imprisonment, within the strict ceilings of Ss 11–12; any excess is illegal and liable to be struck down. The measure is therefore the exception, never the norm, in the execution of a sentence of imprisonment.

S1.2 — `[10M]` Public servant.

> *Asked: 2011(100), 2012(100), 2013(100), 2022(100); 2019(80), 2021(80)* · ★★★ · *Notes: Unit 1 → Public Servant*

Introduction. A "public servant" is a person whom the State entrusts with a public duty. The definition matters because the BNS both *protects* such persons in their lawful acts and *creates special offences* committed by or against them.

Who is a public servant (S.2(28))

1. Judges and persons exercising judicial functions — those who adjudicate, or are empowered to perform any adjudicatory duty.
2. Officers of a court of justice — including persons who execute its process, such as an officer serving a warrant or attaching property.
3. Police officers and government servants — persons in the service or pay of the Government, or remunerated by it for the performance of a public duty.
4. Persons in the service or pay of a local authority or corporation, and others charged with the discharge of a public function in the public interest. The category is deliberately wide so that everyone who wields public power is both accountable for its abuse and protected in its proper exercise.

Why the status matters

1. Protection of lawful acts — an act done by a public servant bound or justified by law is shielded (e.g. S.14), so the diligent officer is not penalised for doing his duty.
2. Special liability — offences *by* a public servant (corruption, disobedience of legal direction) and *against* one (obstruction, assault while on duty) receive distinct, often graver, treatment.

Leading case. ***R.S. Nayak v. A.R. Antulay (1984)*** — applied a *functional* test to decide who is a "public servant" (in the context of sanction to prosecute); the touchstone is the public duty attached to the office.

Conclusion. A public servant is identified by the public duty he discharges; that status simultaneously protects his lawful acts and exposes him to special offences under the Code. Whether a person answers the description is decided functionally, by the public duty he in fact performs, not by his designation alone.

S1.3 — [10M] Intoxication as a defence.

> *Asked: 2012(100); 2022(80)* · ★ · *Notes: Unit 1 → Intoxication*

Introduction. Intoxication excuses only when it is involuntary and destroys the capacity to understand the act; voluntary drunkenness is, as a rule, no defence. The BNS draws this distinction in Ss 23–24.

Involuntary intoxication (S.23)

1. Section 23 — an act is no offence if, at the time of doing it, the person was, *by reason of intoxication administered to him without his knowledge or against his will*, incapable of knowing the nature of the act or that it was wrong or contrary to law.
2. Genuinely involuntary — the protection applies only where the accused was secretly drugged or forced to consume the intoxicant, not where he chose to drink.

Voluntary intoxication (S.24)

1. Deemed knowledge — where an offence requires a particular *knowledge*, a person who is *voluntarily* intoxicated is treated as having the knowledge he would have had if sober.
2. Specific intent — voluntary drunkenness may still be relevant to whether a required *specific intent* was actually formed; if it was not, the offence may be reduced (e.g. murder to culpable homicide). The burden of showing that the intoxication was involuntary, or that the required specific intent was in fact absent, lies on the accused who raises the plea.

Leading case. ***Basdev v. State of PEPSU (1956)*** — voluntary drunkenness is no defence; it bears only on whether the necessary specific intent in fact existed.

Conclusion. Only involuntary intoxication that destroys understanding excuses; voluntary intoxication gives deemed knowledge and is no shield, though it may occasionally reduce an offence requiring specific intent. The policy is plain: a person who chooses to get drunk cannot use that choice to escape the consequences of what he then does.

S1.4 — [10M] Necessity as a general exception.

> *Asked: 2013(100); + problems* · ★ · *Notes: Unit 1 → Necessity*

Introduction. Necessity excuses an act done to prevent a greater harm — the choice of the lesser evil — but it is firmly limited and is no defence to the murder of an innocent.

The rule (S.19)

1. Section 19 — an act done *without any criminal intention, in good faith, for the purpose of preventing or avoiding other harm to person or property*, is no offence.

2. Proportionality — the harm caused must be *less* than the harm sought to be avoided; the actor must genuinely choose the smaller evil.
3. Good faith and no criminal intent — the act is justified only where done honestly to avert harm, not to cause it; malice destroys the defence.
4. Imminence and no lawful alternative — the harm to be avoided must be imminent and real, leaving the actor no reasonable lawful course but to inflict the lesser harm; a remote or speculative danger will not do.
5. Limited scope — the exception protects the choice of the lesser evil in an emergency, but it is read narrowly so that it does not become a general licence to break the law whenever convenient.

The murder limit

1. No defence to killing an innocent — however dire the circumstances, the deliberate killing of an innocent who poses no threat cannot be justified by necessity.

Leading case. ***R v. Dudley & Stephens (1884)*** — shipwrecked sailors who killed and ate a cabin boy to survive could not plead necessity to a charge of murder.

Conclusion. Necessity excuses only a proportionate, good-faith choice of the lesser evil, and never the deliberate killing of an innocent person. The defence is confined to true emergencies where the actor genuinely had no lawful alternative and inflicted the smaller of two unavoidable harms.

S1.5 — `[10M]` Principles of legality and the protection of the accused.

> *Asked: 2021(100)* · ★ · *Notes: Unit 1 → Principles of Legality*

Introduction. The principle of legality — *nullum crimen, nulla poena sine lege* [no crime and no punishment without law] — means a person may be punished only for conduct that a pre-existing law has clearly made an offence, and only with a punishment the law prescribes.

The protections it secures

1. No retrospective crime (Art. 20(1)) — conduct cannot be punished as an offence created only *after* it was done, nor with a heavier penalty than the law in force then allowed.
2. No double jeopardy (Art. 20(2)) — no person shall be prosecuted and punished for the *same offence* more than once.
3. No self-incrimination (Art. 20(3)) — an accused cannot be *compelled* to be a witness against himself.
4. Presumption of innocence — the burden lies on the prosecution to prove guilt *beyond reasonable doubt*; the accused need not prove innocence.

5. Strict construction of penal statutes — criminal statutes are construed strictly, and any genuine ambiguity is resolved in favour of the accused.
6. Fair trial and due process — the accused is entitled to be told the charge, to be heard, and to a reasoned decision, so that punishment follows only a fair adjudication and not executive fiat.

Leading case. ***Maru Ram v. Union of India (1980)*** — punishment must rest on valid, certain law; arbitrariness in sentencing is impermissible.

Conclusion. The principles of legality ensure that crime and punishment flow only from clear, prospective law, shielding the accused from retrospective, arbitrary, or repeated punishment. Together these guarantees make the criminal process fair and predictable, so that no person is convicted except according to settled law.

C. Problems — Model Answers (IRAC)

P1.1 — `[Prob]` An officer of court, ordered to arrest Y, after due inquiry believes Z to be Y and arrests Z. Has the officer committed an offence?

> *Asked: 2011(100), 2016(100), 2019(100), 2022(100); 2018(80) · ★★★ · Notes: Unit 1 Risk Alert*

Issue. Is an officer who, in good faith and after due inquiry, arrests the *wrong* person liable for wrongful confinement, or is he protected by mistake of fact?

Rule. Section 14 protects an act done by a person *bound by law*, or who, by a mistake of fact in good faith, believes himself bound by law to do it. The good faith must be genuine and the belief reasonable, formed after due care — ***State of Orissa v. Bhagaban Barik (1987)***.

Application. The officer was *bound by the court's order* to arrest Y, so he was acting in discharge of a legal duty. He made *due inquiry* and *honestly and reasonably* concluded that Z was Y before arresting him. The planted decoy — that he in fact arrested the *wrong person* — does not defeat the defence, because liability under S.14 turns on the officer's good-faith factual belief, not on the correctness of the result. There was no dishonest, malicious or careless conduct; he did exactly what a careful officer in his position would do.

Conclusion. The officer has committed no offence; he is fully protected by the mistake-of-fact exception in S.14, and Z's remedy, if any, is not against him.

P1.2 — [Prob] A doctor, in good faith, tells a patient he cannot survive; the patient dies of the shock. What is the doctor's liability?

> *Asked: 2014(100); BNS 2025(100); 2018(80) · ★★ · Notes: Unit 1 → Communication in good faith*

Issue. Is a doctor criminally liable for a death caused by a truthful but grim prognosis communicated in good faith?

Rule. Section 31 — a *communication made in good faith for the benefit of a person* is no offence by reason of any harm to that person, if it is made for his benefit. Section 26 similarly protects good-faith acts for benefit.

Application. The doctor's statement was made *in good faith* and *for the patient's benefit* — to enable him to arrange treatment and his affairs. The decoy is that the communication "caused" the death by shock; but the law expressly protects honest, beneficial communication regardless of an unforeseen and unintended reaction such as fatal shock. The doctor had neither the intention nor the knowledge that his words would kill, and the communication itself was proper and well-meant. It is important that the harm flowed from the *communication* and not from any negligent *act* of the doctor; had he been careless in treatment, S.31 would not save him. On these facts the only causal link is the truthful disclosure, which the section squarely protects.

Conclusion. The doctor is not liable; the good-faith communication is protected under S. 31, and the unfortunate death does not convert lawful, well-intentioned advice into an offence.

P1.3 — [Prob] A is carried off by a tiger; B fires at the tiger knowing the shot may kill A; A is killed. Has B committed an offence?

> *Asked: 2012(100), 2013(100); BNS 2025(100); 2021(80) · ★★ · Notes: Unit 1 Risk Alert*

Issue. Is B guilty of culpable homicide for firing to save A, knowing the shot might kill A instead?

Rule. Section 19 (necessity) — an act done *without criminal intent, in good faith, to prevent or avoid greater harm* to person or property is no offence; the actor may choose the lesser evil.

Application. A faced *certain* death in the jaws of the tiger. B fired *to save A's life*, acting in good faith and choosing the lesser risk (a chance of death from the shot) over the greater

certainty (death by the tiger). The decoy — that B *knew* the shot might kill A — does not make the act an offence, because B had no criminal intention; his sole purpose was to avert the greater harm. This is precisely the situation S.19 is designed to excuse, and the illustration to that exception covers it. Necessity is distinguished from the murder cases (such as the shipwreck problems) because here B did not *choose to take* A's life; he accepted a risk to A in a genuine attempt to *save* it, the greater harm being otherwise inevitable.

Conclusion. B has committed no offence; the act is justified necessity under S.19, even though A unfortunately died.

P1.4 — `[Prob]` A surgeon, knowing an operation is likely to cause Z's death (Z having a painful complaint) but not intending death and acting in good faith for Z's benefit, operates with Z's consent. Offence?

> *Asked: BNS 2026(80) · ★ · Notes: Unit 1 → Consent*

Issue. Is a surgeon liable where a consented, good-faith operation is likely to, and does, cause death?

Rule. Section 26 — an act done *in good faith for the benefit of a person, with that person's consent*, is no offence even if it is *known to be likely to cause death*, provided death is not *intended*.

Application. The surgeon does *not intend* Z's death; he acts *in good faith for Z's benefit* to relieve a painful complaint, and Z, an informed adult, has given *free consent*. The decoy is the surgeon's *knowledge* that death is likely — but S.26 expressly tolerates such knowledge so long as death is not the object and the act is beneficial and consented. Z's consent is valid because it is free and informed (S.28 not attracted). Were the surgeon unskilled or reckless, the good-faith condition would fail (*Sukaroo Kobiraj*), but on these facts he is competent and bona fide. The exception reflects the policy that beneficial medical treatment, freely consented to, must not be deterred by the fear of prosecution whenever an inherently risky operation fails.

Conclusion. The surgeon commits no offence even if Z dies; he is protected by the consent and good-faith exception in S.26.

P1.5 — `[Prob]` X and Y agree to fence for amusement; in the course of it X pierces Y's stomach causing grievous injury. Is X liable?

> *Asked: 2020(100), 2021(100)* · ★★ · *Notes: Unit 1 → Consent*

Issue. Does Y's consent to a fencing match excuse the grievous injury X caused him?

Rule. Section 25 — harm *not intended and not known to be likely to cause death or grievous hurt*, suffered by an adult who *consents*, is no offence; but the consent extends only to the *ordinary risks* of the activity, not to harm intended or known to be grievous.

Application. Y consented to fence and thereby to the *ordinary risks* of fair play. If the stomach wound resulted from a normal, accidental incident of the bout without foul intent, X is protected. The decoy, however, is the *grievous* character of the harm: S.25's shelter is lost where the harm was *intended* or *known to be likely to be grievous*. So if X delivered a foul or reckless thrust going beyond the ordinary risks of fencing, the consent does not cover it and X is liable for voluntarily causing grievous hurt. The decisive question for the court is therefore whether the thrust fell within the normal give-and-take of the sport or crossed into intentional or reckless harm; only the former is protected.

Conclusion. X is not liable if the injury was an ordinary accident of fair sport; X is liable for grievous hurt if it resulted from a foul or reckless act beyond the consented risk.

P1.6 — `[Prob]` Drunk before bed, A mistakenly gives his ailing wife a poisonous photographic solution kept beside the medicine; she dies. Decide.

> *Asked: 2015(100)* · ★ · *Notes: Unit 1 → Intoxication*

Issue. Can A's voluntary intoxication excuse the death he caused by giving the wrong bottle?

Rule. Section 24 — voluntary intoxication gives the offender the *knowledge he would have had if sober* and is no defence; causing death by a *rash or negligent act* not amounting to culpable homicide is punishable under S.106.

Application. A's drinking was *voluntary*, so the law imputes to him the knowledge a sober man would have had — that the bottle beside the medicine held poison. The decoy — that he was drunk and "mistook" the bottle — therefore does not excuse him, because a sober person exercising ordinary care would have checked. His conduct was negligent and caused death, though he had no intention to kill his wife. This is a textbook case of death caused by a negligent act under the influence of self-induced intoxication. Had a sober,

careful person in his position checked the label before administering the contents, the death would have been avoided, which is the very test of criminal negligence.

Conclusion. A is liable for causing death by negligence under S.106; voluntary intoxication is no shield and merely fixes him with a sober man's knowledge.

P1.7 — `[Prob]` Three adults and a boy are cast away at sea with no food; the adults kill the boy to survive. Decide.

> *Asked: 2015(100)* · ★ · *Notes: Unit 1 → Necessity*

Issue. Does the defence of necessity excuse killing an innocent boy for the survivors' self-preservation?

Rule. Section 19 (necessity) excuses an act done in good faith to avoid a greater harm, but the settled rule is that necessity is no defence to the murder of an innocent — ***R v. Dudley & Stephens (1884)***.

Application. However genuine the survival pressure (the decoy of extreme hunger and impending death), the deliberate killing of an innocent boy who posed *no threat* falls outside S.19. The boy's life was not forfeited, and one innocent life cannot be sacrificed to preserve others by private choice; to allow it would license killing under the cover of necessity. The lesser-evil calculus does not extend to choosing whose innocent life to take. The proper course, however desperate, was to await rescue or death by misfortune rather than to kill; the law sets its face against private killing dressed up as necessity. Even genuine extremity gives the survivors no authority to constitute themselves judges of who shall live and who shall die.

Conclusion. The adults are guilty of murder; the plea of necessity fails, as it cannot justify the killing of an innocent.

P1.8 — `[Prob]` A, father of an 8-year-old, butchers the child "to propitiate a deity" and pleads insanity. Can A plead insanity?

> *Asked: 2019(100)* · ★ · *Notes: Unit 1 → Insanity*

Issue. Does S.22 exempt A, who killed his child believing it would propitiate a deity?

Rule. Section 22 exempts only *legal* insanity — incapacity, by reason of unsoundness of mind, to know the *nature* of the act or that it is *wrong* or contrary to law (***M'Naghten's Case (1843)***). Mere medical illness or an irrational motive is not enough; the burden lies on the accused.

Application. The decoy is the *religious/delusional motive*. A strange or fanatical motive does not by itself establish legal insanity. The real question is whether, at the time, A *knew*

he was killing his child and *that killing is wrong/illegal*. If he did, S.22 fails however deluded his purpose; only if a disease of the mind had destroyed that knowledge would he be exempt. Such cases (akin to religious-sacrifice killings) usually show the accused knew the nature and wrongfulness of the act, so the defence ordinarily fails on medical and conduct evidence. Concealment of the act, awareness that it was unlawful, or rational planning around it are all strong indicators that the accused retained the capacity S.22 requires, defeating the plea.

Conclusion. Unless A proves legal insanity under S.22, he is guilty of murder; a delusional or religious motive, without incapacity to know nature or wrongfulness, does not exempt him.

P1.9 — `[Prob]` A is at work with a hatchet; the head flies off and kills a bystander. Decide A's liability.

> *Asked: 2012(100); BNS 2026(100); 2021(80)* · ★★ · *Notes: Unit 1 → Accident*

Issue. Is A liable for a death caused when the hatchet-head flew off during his lawful work?

Rule. Section 18 (accident) — nothing is an offence done *by accident or misfortune, without any criminal intention or knowledge, in the doing of a lawful act, in a lawful manner, by lawful means, and with proper care and caution*.

Application. A was doing a *lawful act* (his work) by *lawful means* and in a *lawful manner*. The death of the bystander was an *accident* — unforeseen and unintended. The decoy — that a death resulted — does not by itself create liability, *provided* A exercised proper care and caution. The crucial inquiry is whether the hatchet was reasonably maintained: if A had checked his tool and used it carefully, S.18 fully protects him; but if the head was loose and he used it negligently, the "proper care" condition fails and he is liable for causing death by negligence (S.106). The outcome thus turns entirely on the standard of care: a properly maintained tool used carefully attracts S.18, while a foreseeably defective one used heedlessly attracts S.106.

Conclusion. A has committed no offence if he exercised proper care (S.18); he is liable under S.106 only if the death resulted from his negligence.

P1.10 — `[Prob]` A police constable, ordered by a superior to fire on a violent mob, fires; a citizen is killed. Is A liable?

> *Asked: 2022(100)* · ★ · *Notes: Unit 1 → General Exceptions*

Issue. Is a constable who fires on a superior officer's order, killing a citizen, protected from criminal liability?

Rule. Section 14 protects an act done by a person *bound by law* to do it; but obedience protects only a *lawful* order, and the force used must be *necessary and proportionate* (Ss 37–38). A manifestly illegal order is no defence.

Application. If the mob posed a *real and grave* threat to life or property and firing was a *necessary and proportionate* response, the constable is protected, since he acted under a lawful order in discharge of duty. The decoy — "I was only obeying orders" — is not a complete answer: if the order was *manifestly unlawful* (e.g. firing on a peaceful gathering) or the force *excessive*, the shield is lost and the constable shares liability. Liability thus depends on the lawfulness of the order and the proportionality of the firing. A subordinate is bound to obey only lawful commands; an order to use deadly force is lawful only where deadly force was itself necessary to meet the threat.

Conclusion. A is protected if the order was lawful and the firing proportionate; he is liable for the death if the order was manifestly unlawful or the force excessive.

P1.11 — `[Prob]` A entrusts a transport company with goods to carry by land; the carrier dishonestly misuses them. What offence?

> *Asked: 2011(100) · ★ · Notes: cross-ref Unit 5 (CBT)*

Issue. What offence does a carrier commit by dishonestly misusing goods entrusted to it for carriage?

Rule. Section 316 (criminal breach of trust) — a person *entrusted with property, or with dominion over it*, who *dishonestly misappropriates it or uses or disposes of it in violation of the trust*, commits criminal breach of trust.

Application. The goods came into the carrier's hands *lawfully and by entrustment*, for the limited purpose of carriage. The carrier's *dishonest use or conversion* of them violates that trust — and it is the prior *entrustment* (the fiduciary relationship) that distinguishes this from theft, which involves taking without consent. The decoy of "mere misuse" does not help the carrier, because dishonest user in breach of the entrusted purpose is itself the gist of the offence. Theft is ruled out precisely because the carrier obtained possession lawfully and with consent, the dishonesty arising only afterwards in the misuse. The carrier's liability is therefore for criminal breach of trust, which attracts enhanced punishment where the entrustment was in the way of the offender's business as a carrier or warehouse-keeper.

Conclusion. The carrier is guilty of criminal breach of trust under S.316. (Full treatment of CBT: Unit 5, P5.3.)

P1.12 — `[Prob]` An Indian citizen commits murder abroad (variant: a serving soldier commits murder in Nepal). Can he be tried in India?

> *Asked: 2014(100), 2015(100), 2022(100) · ★★ · Notes: Unit 1 → Jurisdiction*

Issue. Can Indian courts try an Indian citizen (or a government servant) for an offence committed wholly outside India?

Rule. Section 1(4)–(5) — the BNS applies to an offence committed *by any citizen of India in any place beyond India*, and reaches government servants in the course of their duties; the offence is then triable in India as if committed within it.

Application. The offender is an *Indian citizen*, so the extra-territorial reach of S.1(4) squarely applies. The decoy — that the act occurred *abroad* (England, Bangladesh or Nepal) — does not defeat jurisdiction, because the Code follows the citizen across borders. In the soldier variant, he is *additionally* covered as a person in the service of the Government committing the offence during service. Prosecution proceeds in India, subject only to obtaining any required sanction of the appropriate authority. The trial proceeds in India under Indian law, and the offence is treated for all purposes as though it had been committed within the country. The foreign nationality of the victim, or the fact that the act was also an offence under the foreign law, does not bar the Indian prosecution of its own citizen.

Conclusion. Yes — the citizen (and the serving soldier) can be tried and convicted in India under the BNS's extra-territorial jurisdiction.

End of Unit 1 Question Bank.