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Offences Against Property Under The Bharatiya Nyaya Sanhita, 2023: A Doctrinal Analysis

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Abstract

This paper critically examines offences against property under the Bharatiya Nyaya Sanhita, 2023, with particular reference to structural reform, conceptual clarity and technological adaptation. Property remains central to economic security and social order, and criminal law plays a pivotal role in safeguarding proprietary interests. The study analyses the statutory framework governing theft, cheating, robbery, dacoity, criminal breach of trust and criminal misappropriation, while comparatively evaluating the transition from the Indian Penal Code, 1860, to the Bharatiya Nyaya Sanhita, 2023. The research highlights the modernisation of criminal jurisprudence through simplified drafting, rationalised punishments, recognition of digital and electronic evidence, and inclusion of cyber-enabled economic offences. Judicial precedents under the IPC are examined to demonstrate continuity in interpretative principles, particularly regarding mens rea and dishonest intention. The paper concludes that while the Bharatiya Nyaya Sanhita represents a progressive and justice-oriented reform, its long-term efficacy depends upon institutional training, forensic capacity, digital infrastructure and consistent judicial interpretation.

Keywords: *Bharatiya Nyaya Sanhita 2023, Indian Penal Code 1860, Offences Against Property, Criminal Misappropriation, Criminal Breach of Trust, Cheating and Fraud, Cyber Crime, Mens Rea, Digital Evidence, Community Service, Criminal Law Reform*

I. Introduction

Property has historically been regarded as one of the most significant pillars of individual autonomy, economic stability and societal order. The protection of proprietary rights is not merely a matter of private interest but also of public importance, as commercial confidence, contractual reliability and institutional trust depend upon the security of ownership and possession. Offences directed against property therefore disrupt not only individual entitlements but also the broader economic framework within which trade, finance and personal security operate. The criminal law, consequently, plays a central role in safeguarding proprietary interests and deterring unlawful interference.

For more than a century, offences against property in India were governed by the Indian Penal Code, 1860 (IPC), a colonial-era legislation that codified theft, robbery, extortion, cheating, criminal breach of trust and related offences systematically. While the IPC proved remarkably durable, profound socio-economic transformations—including liberalisation, digitisation of banking systems, the rise of electronic commerce, online payment platforms and virtual assets, gradually exposed the limitations of a nineteenth-century statutory framework. Contemporary forms of economic crime, particularly cyber-enabled fraud and digital misappropriation, require clearer recognition and modern legislative responses. These developments ultimately led to the enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the IPC as India's principal criminal statute.¹

The BNS seeks not merely to renumber or reorganise provisions but to recalibrate criminal law in accordance with present-day realities. It aims to simplify statutory language, rationalise punishments, eliminate obsolete provisions and explicitly recognise emerging forms of criminal conduct. Within this framework, offences against property are primarily codified under Chapter XVII (sections 303–334) of the BNS.² These provisions encompass a broad spectrum of proprietary offences, including theft, extortion, robbery, dacoity, criminal misappropriation, criminal breach of trust and cheating.³ By integrating traditional offences with modern economic and digital dimensions, the BNS attempts to strengthen legal responses to both conventional and technologically facilitated property crimes.

¹ Bharatiya Nyaya Sanhita 2023.

² *ibid* ch XVII, ss 303–334.

³ *ibid* ss 303, 308–310, 314, 316, 324.

II. Objectives of the Study

The present study is undertaken with multiple interrelated objectives. First, it seeks to examine the statutory framework governing property offences under the Bharatiya Nyaya Sanhita, 2023, with particular attention to structural and substantive reforms. Second, it aims to conduct a comparative analysis between the IPC, 1860 and the BNS, 2023, to evaluate whether the new code introduces conceptual clarity, procedural efficiency and enhanced penal mechanisms.

Third, the study focuses specifically on criminal misappropriation, an offence that has acquired renewed importance in an era characterised by fiduciary relationships, digital transfers and entrusted financial assets. Fourth, it analyses relevant judicial interpretations, drawing upon established precedents under the IPC to understand how principles such as mens rea, dishonest intention and entrustment may influence interpretation under the BNS. Finally, the study proposes reformative and implementation-oriented recommendations to ensure that the legislative objectives of the BNS translate into effective enforcement and equitable justice delivery.

III. Research Questions

In furtherance of the above objectives, the study is guided by certain core research questions. It seeks to determine the precise scope and ambit of offences against property under the BNS, 2023, and whether the legislative restructuring has altered the substantive ingredients of such offences. It further questions whether the BNS provides a more effective and contemporary framework than the IPC in addressing economic and cyber-related crimes. Additionally, the study critically examines whether the provisions relating to criminal misappropriation are sufficiently clear, comprehensive and practically enforceable in the context of modern commercial and digital transactions. These questions collectively aim to assess both doctrinal coherence and practical applicability.

IV. Concept and Nature of Property

In legal theory, the concept of property extends beyond mere physical possession of tangible objects. Jurisprudentially, property includes both movable and immovable assets, as well as tangible and intangible interests capable of ownership and transfer.⁴ Traditional categories such as land, buildings, money and goods have gradually been supplemented by modern forms of

⁴ K D Gaur, Textbook on Indian Penal Code (6th edn, Universal Law Publishing 2016) 785.

proprietary interests. In the contemporary era, property law recognises bank deposits, shares, digital wallets, electronic data, intellectual property rights, virtual currencies and other intangible economic assets as legally protected interests.⁵

This expansion of the notion of property has profound implications for criminal law. Offences such as criminal misappropriation, breach of trust and cheating are no longer confined to physical conversion of goods but increasingly involve digital diversion of funds, unauthorised access to electronic accounts, manipulation of data and fraudulent online inducements. The rise of fintech platforms, cryptocurrency transactions and remote banking has blurred traditional distinctions between physical and intangible property. Consequently, criminal law must address not only physical dispossession but also economic manipulation, cyber intrusion and technologically mediated deception.

The broadened understanding of property necessitates a dynamic and adaptive legal framework. The BNS, 2023 reflects an attempt to respond to these complexities by recognising digital and economic offences within the broader scheme of property crimes. As proprietary interests continue to evolve alongside technological innovation, the interpretation and enforcement of property offences will increasingly depend upon judicial sensitivity to both traditional legal principles and contemporary economic realities.

V. Research Methodology

The present study is grounded in the doctrinal method of legal research, which focuses on the systematic analysis of statutory provisions, judicial interpretations and established legal principles. The doctrinal approach is particularly suitable for examining legislative reform, as it enables a comparative and interpretive evaluation of the Bharatiya Nyaya Sanhita, 2023, in relation to the Indian Penal Code, 1860. The research primarily relies on textual analysis of statutory provisions governing property offences, tracing continuity and departures in structure, terminology and penal consequences.⁶

Primary sources for this research include the Bharatiya Nyaya Sanhita, 2023 and the Indian Penal Code, 1860. These enactments form the core normative framework for analysing offences against property. Judicial precedents delivered by the Supreme Court of India and various High Courts have been examined to understand the evolution of interpretative doctrines

⁵ *ibid.*

⁶ Law Commission of India Reports on Criminal Law Reform.

such as dishonest intention, entrustment, wrongful gain and conversion. In addition, Law Commission reports, parliamentary debates, academic commentary, and scholarly writings have been consulted to contextualise the rationale for reform and assess its practical implications. Secondary literature has also been used to evaluate comparative criminal jurisprudence and the broader socio-economic dimensions of property crimes in the digital era.

The methodology is analytical and comparative in nature. It identifies doctrinal continuities between the IPC and the BNS while critically examining areas of structural reform, modernisation and conceptual expansion. The study does not involve empirical data collection but instead seeks to provide a normative and interpretative assessment of legislative transformation.

VI. Concept of Offences Against Property

Offences against property constitute a distinct category of crimes directed at proprietary interests and economic rights. At their core, these offences involve unlawful interference with another's legally recognised right to possess, use or enjoy property. The criminality of such acts lies not merely in physical dispossession but in the presence of dishonest intention that results in wrongful gain to the offender or wrongful loss to the victim.⁷

The essential elements of property offences generally include the existence of legally recognised property, the absence of lawful consent from the rightful owner, and the presence of mens rea in the form of dishonest intention. Dishonesty serves as the central mental element, distinguishing criminal conduct from civil wrongs or contractual disputes. Without proof of mens rea, many proprietary disputes would remain within the realm of civil liability rather than attracting penal consequences.

Wrongful gain and wrongful loss serve as statutory indicators of dishonesty. Wrongful gain refers to acquisition of property by unlawful means to which the person is not legally entitled, while wrongful loss refers to deprivation of property by unlawful means to which the victim is legally entitled. The dual emphasis ensures that criminal liability is grounded in economic harm or unjust enrichment.

Offences traditionally classified under this category include theft, robbery, extortion, criminal breach of trust, cheating and criminal misappropriation. While their factual matrices differ,

⁷ Indian Penal Code 1860, s 23.

they share a common thread: the protection of proprietary security as an essential component of social order. In contemporary contexts, the concept of property has expanded to include digital assets, electronic funds, data and virtual resources, thereby requiring a dynamic interpretation of these foundational elements.

VII. Property-Related Offences under the Bharatiya Nyaya Sanhita, 2023

A. Theft (Section 303 BNS)

Theft continues to occupy a central position among offences against property under the Bharatiya Nyaya Sanhita, 2023. Section 303 substantially retains the classical elements that characterised the offence under the IPC: the existence of movable property, dishonest intention, and the taking of such property out of the possession of another without consent.⁸ The essence of the offence lies in the intention to cause wrongful gain to oneself or wrongful loss to another, thereby disrupting proprietary security.

However, the contemporary legislative framework under the BNS reflects an expanded understanding of property and appropriation. While the conceptual core remains consistent with traditional doctrine, the recognition of electronic and digital modes of transfer implies that theft is no longer confined to the physical removal of tangible objects. Unauthorised transfer of digital funds, manipulation of electronic wallets, or diversion of online account balances may fall within the evolving interpretative scope of dishonest taking. In this sense, Section 303 must be read in conjunction with broader definitions of property and evidence in modern criminal law, ensuring adaptability to digital commerce and financial technology.

B. Cheating (Section 324 BNS)

Cheating under Section 324 of the BNS continues to revolve around deception, fraudulent inducement and dishonest intention.⁹ The gravamen of the offence lies not merely in the ultimate loss suffered but in the initial act of deceit that induces a person to deliver property, consent to retention, or act in a manner causing harm. The jurisprudential emphasis remains on the presence of fraudulent intent at the inception of the transaction.

The BNS, however, operates within a significantly digitised economic landscape. Online fraud schemes, phishing attacks, credit card cloning, identity theft, and Unified Payments Interface

⁸ Bharatiya Nyaya Sanhita 2023, s 303.

⁹ *ibid* s 324.

(UPI) scams have become prevalent modes of economic crime. The statutory formulation of cheating is sufficiently broad to encompass these technologically mediated deceptions. The legislative intent is clearly to integrate digital fraud within the mainstream framework of property offences rather than treating it as an isolated or exceptional category. This harmonisation reflects a recognition that economic deception in the digital sphere poses risks equal to, if not greater than, conventional forms of fraud.

C. Criminal Breach of Trust (Section 316 BNS)

Criminal breach of trust arises where property is entrusted to a person and is subsequently dishonestly misappropriated or converted in violation of the terms of entrustment.¹⁰ The concept of “entrustment” remains central and distinguishes this offence from simple theft or misappropriation. Judicial precedent has consistently emphasised that entrustment coupled with dishonest intention constitutes the core of liability.¹¹ The prosecution must establish that the accused had dominion over property in a fiduciary or representative capacity and dishonestly dealt with it contrary to legal or contractual obligations.

The BNS reinforces the seriousness of breach of trust by prescribing enhanced punishment in aggravated circumstances, particularly where public servants, bankers, agents or fiduciaries abuse positions of confidence. In a commercialised and financialised society, fiduciary relationships underpin corporate governance, banking systems and professional services. The protection of trust-based transactions is therefore indispensable for economic stability. By strengthening penal consequences, the BNS signals an intention to deter large-scale financial defalcation and institutional corruption.

D. Robbery and Dacoity (Sections 309–310 BNS)

Robbery and dacoity represent aggravated forms of theft or extortion, distinguished by the presence of violence, threat, or collective participation.¹¹ Robbery involves the use of force or fear to accomplish unlawful taking, whereas dacoity requires participation by five or more persons. The element of violence elevates the gravity of these offences, transforming them from economic transgressions into crimes against personal security.

¹⁰ *ibid* s 316.

¹¹ *Ramaswami Nadar v State of Madras* AIR 1958 SC 56.

The BNS prescribes stringent punishments, especially where organised crime, use of deadly weapons or targeting of vulnerable persons such as women, senior citizens or children is involved. This reflects a broader policy objective of curbing violent property offences that destabilise public order. In contemporary contexts, organised gangs and technologically coordinated criminal networks pose heightened risks. The legislative emphasis on enhanced penalties aims to address both deterrence and public protection.

E. Mischief

Mischief consists of intentional or knowing destruction of, or damage to, property with the intention of causing wrongful loss or damage.¹² Unlike theft or breach of trust, the offence does not necessarily involve unlawful gain but focuses on deliberate harm to proprietary interests. Under the BNS, particular emphasis is placed on damage to public property, infrastructure and essential services.

The increased penal sensitivity toward destruction of public property reflects concerns over vandalism, riots, political unrest and sabotage of civic assets. Public property embodies collective ownership and serves social welfare functions. Damage to such assets undermines public resources and imposes economic burdens on the state and citizens. The BNS therefore treats such conduct with heightened seriousness.

F. Criminal Misappropriation (Section 314 BNS)

Criminal misappropriation occurs when a person dishonestly converts property for personal use after lawfully acquiring possession.¹³ Unlike breach of trust, the offence does not necessarily require entrustment in a fiduciary capacity; the key element is dishonest conversion after lawful possession. Judicial interpretation under the IPC remains instructive in determining the contours of dishonest intention and conversion.¹⁴ Courts have consistently held that mere retention without dishonest intention does not suffice; there must be demonstrable appropriation inconsistent with the owner's rights.

In the context of digital banking, electronic transfers and fiduciary financial arrangements, misappropriation may occur through unauthorised diversion of funds, manipulation of entrusted digital assets or misuse of electronic credentials. The BNS clarifies punishment and

¹² Bharatiya Nyaya Sanhita 2023, ss 309–310.

¹³ *ibid* s 314.

¹⁴ Ramaswami Nadar (n 11).

implicitly broadens coverage in light of modern financial transactions, ensuring that evolving modes of economic wrongdoing do not escape liability.

VIII. Comparative Study: IPC 1860 and BNS 2023

A. Structural Reform

The IPC, enacted in 1860, comprised 511 sections arranged in a comprehensive but often complex framework.¹⁵ Over time, numerous amendments added layers of procedural and substantive modifications, occasionally resulting in structural redundancy. The BNS consolidates and restructures the criminal code into 358 sections, eliminating obsolete provisions, merging related offences and simplifying statutory language.¹⁶ This structural streamlining is intended to enhance clarity, accessibility and coherence.

B. Philosophical Shift

The IPC was drafted within a colonial context, with objectives largely centred on maintaining order and administrative control. While it evolved, its foundational philosophy reflected nineteenth-century governance priorities. In contrast, the BNS purports to embody a justice-centric framework aligned with constitutional values, including dignity, equality and social welfare. The shift reflects a normative transformation from punitive governance to rights-oriented criminal justice.

C. Sedition

Section 124A of the IPC, which criminalised sedition, has been repealed. The BNS introduces a new provision—Section 152—addressing acts endangering the sovereignty, unity and integrity of India.¹⁷ The legislative reframing indicates a recalibration of national security offences within contemporary constitutional discourse, though its practical interpretation will depend on judicial scrutiny.

D. Renumbering of Key Offences

Several prominent offences have been renumbered and reorganised. Murder, previously codified under Section 302 IPC, now appears under Section 103 of the BNS. Dowry death,

¹⁵ Indian Penal Code 1860.

¹⁶ Bharatiya Nyaya Sanhita 2023.

¹⁷ *ibid* s 152.

earlier Section 304B IPC, is now Section 80 BNS.¹⁸ While the substantive ingredients largely remain consistent, renumbering reflects systematic reclassification and consolidation.

E. Introduction of Community Service

One of the notable innovations of the BNS is the introduction of community service as a sentencing alternative for minor offences. This reflects reformatory penology and aligns with contemporary sentencing theory that prioritises rehabilitation, proportionality and restorative justice over incarceration in less serious cases. The move signals an attempt to humanise criminal sanctions while reducing burdens on the prison system.

F. Technological Modernisation

The BNS demonstrates a conscious effort toward technological modernisation. It recognises the evidentiary significance of electronic records and mandates forensic investigation in serious offences. This evidentiary strengthening enhances reliability in prosecution, particularly in cases involving cybercrime, financial fraud and digital property offences. By integrating forensic standards and electronic evidence into mainstream criminal procedure, the BNS aligns statutory law with twenty-first-century investigative realities.

IX. Judicial Perspective

Judicial interpretation has historically played a decisive role in shaping the contours of property offences in India. The courts, particularly under the regime of the Indian Penal Code, 1860, consistently emphasised that the essence of property-related crimes lies in the presence of mens rea or dishonest intention. The mere existence of loss or transfer of property was considered insufficient to attract criminal liability unless accompanied by a culpable mental state.

In *State of Maharashtra v Mohd Yakub*¹⁹, the Supreme Court underscored that criminal liability cannot be inferred solely from the outcome of an act; the prosecution must establish the existence of intention or knowledge consistent with statutory requirements. Although the case arose in a different factual context, its articulation of criminal intent remains instructive in property-related offences under both the IPC and the BNS. The principle affirms that intention remains the dividing line between civil wrong and criminal culpability.

¹⁸ *ibid* ss 80, 103.

¹⁹ *State of Maharashtra v Mohd Yakub* (1980) 3 SCC 57.

Similarly, in *Ramaswami Nadar v State of Madras*²⁰, the Supreme Court clarified that for the offence of criminal breach of trust, dishonest intention at the time of misappropriation or conversion is decisive.²³ The Court observed that entrustment alone does not suffice; the subsequent dishonest use or disposition of property constitutes the gravamen of the offence. This judicial reasoning continues to guide the interpretation of section 316 of the BNS, particularly in cases involving financial transactions, fiduciary relationships and corporate mismanagement.

Although jurisprudence directly interpreting the BNS is still evolving, precedents developed under the IPC retain persuasive value. Given the continuity of essential ingredients in many property offences, courts are likely to rely upon established interpretative doctrines while adapting them to the modernised statutory framework. The development of BNS jurisprudence will therefore represent a blend of doctrinal continuity and contextual evolution, particularly in relation to digital assets and cyber-enabled offences.

X. Findings and Analysis

A careful analysis of the *Bharatiya Nyaya Sanhita, 2023*, reveals that the statute represents a significant modernisation of the law governing property offences. While retaining foundational principles such as dishonest intention and wrongful gain or loss, the BNS reorganises and rationalises the statutory framework in clearer and more structured language. The consolidation of provisions enhances accessibility and interpretative coherence.

One of the most notable advancements lies in the explicit recognition of cyber and financial crimes. Digital transactions, electronic transfers, online fraud and data manipulation now fall squarely within the ambit of property offences. This legislative acknowledgement reflects the transformation of the Indian economy into a digitally integrated financial system. By recognising electronic evidence and mandating forensic investigation in serious offences, the BNS strengthens prosecutorial capability and evidentiary reliability.

The introduction of community service as a sentencing option marks a philosophical shift toward reformatory penology. For minor property offences, the law now contemplates corrective rather than purely retributive sanctions. This reflects a balance between deterrence

²⁰ *Ramaswami Nadar* (n 11).

and rehabilitation, aligning criminal justice with constitutional values of proportionality and restorative justice.

However, the effectiveness of the BNS depends not merely upon statutory text but upon institutional implementation. Adequate training of investigative agencies, expansion of forensic infrastructure, and judicial familiarity with digital evidence remain essential. Without robust enforcement mechanisms, even well-drafted legislation risks underperformance.

XI. Conclusion

The Bharatiya Nyaya Sanhita, 2023, constitutes a progressive and modern statutory framework regulating offences against property. By updating the colonial architecture of the IPC and integrating contemporary realities such as cybercrime, electronic transactions and forensic standards, the BNS seeks to align criminal law with present-day socio-economic conditions.

The statute preserves core doctrinal elements, dishonest intention, wrongful gain and wrongful loss, while refining structural coherence and sentencing philosophy. Its recognition of digital evidence, technological investigation and alternative punishments demonstrates an effort to create a justice-oriented and future-ready criminal code.

If implemented effectively, supported by adequate technological infrastructure and professional training, the BNS has the potential to enhance public confidence in the criminal justice system. It can strengthen regulatory control over cyber and financial crimes while promoting rehabilitative justice in appropriate cases.

The long-term success of the BNS will depend upon sustained public awareness, institutional capacity-building and expansion of forensic facilities at the district level. Legislative reform, while necessary, must be complemented by administrative efficiency and judicial sensitivity to ensure that the protection of property rights continues to serve the broader goals of economic stability and social order.

Bibliography

Primary Legislation

Bharatiya Nyaya Sanhita 2023.

Indian Penal Code 1860.

Prohibition of Child Marriage Act 2006.

Muslim Personal Law (Shariat) Application Act 1937.

Cases

Independent Thought v Union of India (2017) 10 SCC 800 (SC).

Ramaswami Nadar v State of Madras AIR 1958 SC 56.

State of Maharashtra v Mohd Yakub (1980) 3 SCC 57.

Yunusbhai Usmanbhai Shaikh v State of Gujarat 2015 SCC OnLine Guj 11036.

Secondary Sources

Law Commission of India, *Report No 42: Indian Penal Code* (1971).

K D Gaur, *Textbook on the Indian Penal Code* (6th edn, Universal Law Publishing 2016).

Ratanlal & Dhirajlal, *The Indian Penal Code* (35th edn, LexisNexis 2020).

S Sarkar, *Sarkar on Criminal Law* (12th edn, LexisNexis 2022).