
ECONOMIC OFFENCES UNDER THE BHARATIYA NYAYA SANHITA

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ABSTRACT

The Bharatiya Nyaya Sanhita, 2023 (BNS) transforms India in terms of criminal law, particularly the treatment of economic crime. The BNS replaces the colonial Indian Penal Code of 1860 and establishes a contemporary and holistic system to cope with such white-collar and financial crimes as forgery, counterfeiting, hawala transactions, and organised financial fraud. This paper conducts a historical study of the current state of India's framework of the illegal enforcement of the laws governing economic violations, specifically comparing the fragmented pre-BNS framework with the new uniform, technology-oriented manner in which the existing laws are conducted. It reviews crucial sections, such as Section 111, which defines “organized crime” as a distinct national crime with complex types of economic fraud, and Section 316, which redefines what constitutes a criminal breach of trust as extending to fiduciary abuse both publicly and privately. The study explores the extent to which BNS integrated modern features such as extraterritorial jurisdiction, digital evidence, electronic summons, and trials in absentia, which provide an insight into how India has responded to global financial crime. It illustrates how law has evolved from a system of reactive prosecution to a system of preventive deterrence by promoting mandatory minimum sentences and tougher fines alongside acknowledgment of cyber-enabled economic crime. The study also discusses treatment of nonviolent offenders: how community service, probation, and compensating victims can simultaneously serve the dual purpose of punishment and rehabilitation. The BNS enhances coordination with enforcement entities such as the ED, CBI, and SEBI through the unification of those key components of the IPC, PMLA, FEMA, and state law. The paper argues that the BNS is technologically driven, innovative, victim-centered, and the legal solution which is forward-thinking. It also helps India to combat financial crimes more complex in nature, while rendering the justice system more open, fair, and honest.

Introduction

White-collar crimes, also known as economic offences, are complex illegal activities that people do to make money. They can seriously hurt the country's economic integrity and stability. These crimes, which include money laundering, tax evasion, banking fraud, and cybercrimes, are not violent but cost the government, businesses, and people a lot of money. The increasing digitisation of finance and global interconnectedness have made these kinds of crimes even more widespread and clever in recent years, making it even harder to enforce and regulate them.

People who commit economic crimes usually do so on purpose by lying, manipulating, or abusing systems to make money. This includes things like forgery, embezzlement, insider trading, and using "hawala" channels to move money illegally. The bad effects go far beyond losing money directly; they also affect market stability, investor confidence, and the quality of governance in the country. As organized financial fraud becomes more common, India's economy is at risk of losing tax revenue, having weak financial institutions, and having more people lose faith in the regulatory system.

The Enforcement Directorate (ED), the Central Bureau of Investigation (CBI), the Income Tax Department, the Goods and Services Tax (GST) authorities, and the Securities and Exchange Board of India (SEBI) are all strong enforcement agencies in India. These organizations are responsible for finding, investigating, and prosecuting a wide range of economic crimes. They do this by attaching assets, imposing fines, and bringing criminal charges.

Before the Bharatiya Nyaya Sanhita (BNS), India's laws on economic crimes were a mix of old and new laws from the central and state levels, such as the Indian Penal Code (IPC), the Prevention of Money Laundering Act (PMLA), and state laws for organized crime. The BNS was passed into law in 2023, which was a big change in the law. It updated definitions, punishments, and fixed problems that the colonial-era system had left behind.

For the first time, Section 111¹ of the BNS explicitly recognizes organized crime on a national level. It does this by including a broad, all-encompassing definition of "economic offenses." These now include criminal breach of trust, forgery, counterfeiting money, hawala transactions, large-scale financial fraud, and other schemes made to steal money from banks, financial

¹ Section 111 Bharatiya Nyaya Sanhita, 2023

institutions, or the public. The goal is to make sure that new and more complex types of economic crime, especially those done by organized groups, get a lot of legal attention. Cases of organized crime should get harsher punishments than single incidents.

The BNS also brings about legal changes, like extraterritorial jurisdiction, which acknowledges India's need to deal with crimes that have international implications. It also includes provisions that allow trials in absentia to speed up the prosecution of economic offenders who escape justice by fleeing the country. The BNS makes the country better able to deal with the complicated realities of financial crime by making these mechanisms law.

The Bharatiya Nyaya Sanhita (BNS) has made big improvements in how India deals with new economic crimes. This is because financial crimes and technology are changing so quickly. The BNS has clear and detailed definitions that are meant to protect against modern financial threats like complex investment fraud, Ponzi schemes, hawala transactions, and coordinated attacks on digital payment systems. This is different from the old Indian Penal Code (IPC).

The BNS has added new types of cheating, such as mass-marketing fraud and organized defrauding of financial institutions, to the list of recognized economic crimes. These include criminal breach of trust, forgery, counterfeiting of currency, government stamps, and banknotes. The law now specifically talks about hawala transactions and coordinated schemes that target banks or multiple people. This shows that regulators are paying more attention to large-scale, organized financial fraud.

One of the BNS's most important new ideas is the difference between "organized crime" and "isolated financial fraud." The law says that when criminal groups plan economic crimes, the punishments are much worse. For example, there are mandatory minimum prison terms of five years that can last up to life in prison, and big fines starting at five lakh rupees. The government wants to stop complicated groups from using technology and global networks to commit large-scale fraud, which is why this escalation is happening.

The BNS also knows that cyber-enabled economic crimes are common. These include crimes that use fake Aadhaar cards, voter IDs, or digital signatures. These crimes now carry longer sentences, up to seven years in prison, showing that lawmakers are serious about dealing with digital crime and its effects on personal and national identity.

The new law also allows for digital-first investigations and prosecutions, such as issuing electronic summonses and allowing electronic records to be used as evidence. This speeds up the prosecution of high-tech economic crimes. This modernization is meant to close gaps in prosecution that smart criminals use to move money across borders or hide their identities online.

Another important thing is to encourage police, specialist economic agencies (like SEBI, SFIO, and ED), and the courts to work together on investigations. This will make sure that all the criminal and regulatory aspects of financial crime are fully dealt with. This multi-pronged strategy shows how complicated new economic crimes are and how important it is to look into them in detail.

Scenario of economic offences before and after the introduction of BNS

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Prior to the implementation of the Bharatiya Nyaya Sanhita (BNS), India's regulatory framework for economic offenses was predominantly governed by the Indian Penal Code (IPC) of 1860, supplemented by various specialized laws and state enactments. For the first time, organized economic crime is legally recognized as criminal breach of trust and counterfeiting. However, it did not fully cover the complexity or scale of modern economic crimes like money laundering, cyber fraud, and organized financial deception. This patchwork approach, which used a lot of different laws, made it hard to enforce and prosecute. These laws included the Prevention of Money Laundering Act (PMLA), the Information Technology Act for cybercrimes, and state-specific laws like the Maharashtra Control of Organised Crime Act (MCOCA). There was no standardization, jurisdictions overlapped, and definitions were unclear.

The number of economic crimes has gone up a lot in the last ten years. The National Crime Records Bureau (NCRB) said that there were almost 2 lakh cases in 2022 alone, which is 11% more than the year before. Because the IPC didn't have a clear, all-encompassing definition of economic crimes, it was hard to prosecute complex crimes like hawala transactions, mass-marketing frauds, Ponzi schemes, bank fraud, and identity theft crimes consistently, and they often got away with less severe punishment unless they were covered by other laws. The punishments for these crimes were often too lenient and didn't take into account how they affected society and the economy. For example, someone who broke the law by stealing money or committing fraud could only get 1 to 3 years in prison, even if they lost a lot of money or did it again and again.

Also, crimes that happen in the digital age, like stealing data, skimming, or using the internet to commit financial fraud, were not covered by the IPC. This made police and courts rely more on laws that weren't part of the IPC and made things harder for them. This broken system caused delays in procedures and made it harder for different agencies to work together, which made the system less effective and made people less trusting of it.

The BNS has made a big change to how India deals with economic crime. Starting in July 2024, the BNS will give a full and complete definition of economic crimes. These include

criminal breach of trust, forgery, counterfeiting of currency or government stamps, hawala transactions, organized schemes to defraud banks or individuals, and new types of fraud that use digital tools. For the first time, organized economic crime is recognized and prosecuted at the national level, rather than relying on a patchwork of state-specific laws.

The punishments have become a lot harsher. For example, sentences for criminal breach of trust now last at least five years, and for organized group offenses, they can last up to life in prison. The maximum sentence for cheating and impersonation has doubled, and crimes involving the use of fake digital documents (like Aadhaar or voter ID) now carry up to seven years in prison. This is because digital fraud is becoming more common. The new definition of "movable property" includes crimes like data theft, identity theft, and credit card skimming that weren't covered by the IPC before. This makes it easier to prosecute modern cyber-enabled financial crimes.

The BNS is different because it focuses on deterrence and reform. The law allows for community service, probation, and counseling for non-violent economic crimes, which balances strict punishments with options for reform.

BNS makes the prosecution and punishment of economic crimes more consistent and nationalized, filling in gaps that let big-time criminals get away with it under old or broken laws. It makes it easier for different agencies to work together, gives the courts new definitions and digital tools, and helps victims of white-collar crime trust that the justice system is fair and open to everyone.

Various economic offences under the BNS

Under the Bharatiya Nyaya Sanhita (BNS), economic offences have been distinctly categorised and given expanded scope compared to previous frameworks. Major economic offences specifically mentioned under the BNS are:

- Criminal breach of trust
- Forgery
- Counterfeiting of currency-notes, bank notes, and government stamps

- Hawala transactions
- Mass-marketing fraud or running any scheme to defraud several persons
- Acts to defraud banks or other financial institutions or organizations for monetary benefit

These offences are codified to address India's current financial crime landscape, with provisions for severe punishments and recognition of organized syndicates.

1. Criminal breach of trust

The crime of criminal breach of trust (CBT) comes from the Indian Penal Code of 1860, which was written during the colonial period. Section 405² defines the crime, and Section 406³ sets the punishment. Historically, it dealt with cases where a person who has been given property (either the property itself or control over it) dishonestly takes it for themselves or uses it or gets rid of it in a way that breaks any law that says how the trust should be fulfilled. The main historical importance is that as India's economy and business and government sectors grew, there were more cases of fiduciary relationships (like public servants, contractors, agents, and bankers). This made CBT a common white-collar crime. In the important case *State of Gujarat v. Jaswantlal Nathalal* (1968), the Supreme Court said that the word "entrusted" means that the person giving up property stays the owner (or keeps a beneficial interest) and the person who is entrusted must accept a fiduciary relationship. A simple sale does not count as entrustment. Recently, courts have made it clear that a simple disagreement over money owed or failing to pay back a loan does not by itself lead to CBT if there is no element of trust and dishonest theft. Section 316⁴ of the BNS, called "Criminal breach of trust," redefines CBT.

The BNS also gives different punishments: up to 5 years for regular people, up to 7 years for carriers, wharfingers, and warehouse keepers, and life in prison or up to 10 years plus a fine for public servants, bankers, agents, and merchants. When CBT is part of organized crime, the BNS also sees it as a "economic offense." In cases of large-scale, syndicate, or organized breaches of trust, especially in business, government, or banking, the BNS rules allow for harsher punishments and stricter enforcement. The change in BNS puts more emphasis on both

² Section 405 Indian Penal Code, 1860

³ Section 406 Indian Penal Code, 1860

⁴ Section 316 Bharatiya Nyaya Sanhita, 2023

the trust element and the organized crime aspect. This means that abusing fiduciary positions in today's financial system will be punished more harshly than it was under the old IPC system.

2. Falsification

Sections 463-471⁵ of the IPC have long made forgery a crime. It is the act of making or changing documents with the intent to deceive or hurt someone. In the past, as transactions that involved documents (like property transfers, certificates, bank loans, and identity documents) became more common, courts had a hard time telling the difference between a simple misrepresentation and a full-fledged forgery with criminal intent. The case *Nathu Singh v. State of Rajasthan* (1977)⁶ made it clear what the difference is between lying and having criminal intent in a forgery. The decision *Central Bureau of Investigation v. Duncans Agro Industries Ltd.* (1996)⁷ dealt with the use of fake documents to get bank loans in business settings, like the banking industry. The BNS includes forgery in its broad definition of "economic offences." This includes forgery of digital records (IDs, property documents, digital certificates) as well as paper documents. The BNS does not (in publicly available commentary) have a separate section just for traditional forgery like the IPC does. However, the overall structure shows that making or using forged documents with the intent to defraud or hurt someone falls under the category of economic offenses. The BNS legislative note makes it clear that "economic offense" includes things like forgery, counterfeiting money, hawala transactions, and mass-marketing fraud. So, under BNS, someone who commits forgery in high-value financial transactions or digital identity or document forgery linked to syndicate operations can get a harsher punishment as part of organized crime charges (see Section 111⁸ on organized crime). The exact punishment schedule for forgery offenses under BNS requires comprehensive departmental analysis; however, the practical consequence is that forgery, especially in connection with extensive fraud or financial institutions, is subject to significantly stricter scrutiny, with prosecutorial focus on digital and documentary manipulation as well as traditional paper forgery.

⁵ Section 463-471 Indian Penal Code, 1860

⁶ *Nathu Singh v. State of Rajasthan* AIR 1977 SC 2401

⁷ *Central Bureau of Investigation v. Duncans Agro Industries Ltd.* (1996) 5 SCC 591

⁸ Section 111 *Bharatiya Nyaya Sanhita*, 2923

3. Making fake money, banknotes, and government stamps

For a long time, counterfeiting operations have put India's financial system at risk. Sections 489A–489E⁹ of the IPC dealt with making or passing off fake money, banknotes, or government stamps. In the past, prosecutions were limited by how well they could find criminals and how well they could operate across borders. *State of Maharashtra v. Bharat Fakirbhai Vaghela* (2011)¹⁰ is a landmark case in this area. It is about cross-border currency counterfeiting operations. *Brij Bhushan v. State of Delhi* (1957)¹¹ is another earlier case that made the difference between attempt and completion in counterfeiting clearer. The BNS specifically lists counterfeiting as one of the "economic offenses" (see the definitional clause in BNS). The BNS text that is available to the public does not have a separate section number for counterfeiting, which is what most people use. However, the definition says that making, having, or passing off fake money or stamps will be punished more harshly under BNS economic crime, especially if it is part of organized crime (Section 111). The practical effect is that large-scale syndicate-based counterfeiting now carries life imprisonment (if death results) or long imprisonment (minimum 5 years) and high fines under organized-crime laws.

In other words, by replacing IPC with BNS, counterfeiters will be prosecuted under a law that sees their actions as more than just individual crimes; they are also threats to national security and financial integrity. This means that the punishment will be harsher and the tools available to prosecutors will be broader.

4. Transactions with Hawala

Hawala, an informal way to send money, became a major focus of Indian law enforcement, especially after the 1990s when it was linked to terrorism financing, tax evasion, and large-scale illegal cross-border money transfers. In the past, India's IPC didn't clearly say that "hawala" was a crime, so laws like the Prevention of Money Laundering Act, 2002¹² (PMLA) and the Foreign Exchange Management Act, 1999¹³ (FEMA) filled the gap. The BNS clearly includes hawala transactions in the definition of "economic offense," along with criminal breach of trust, forgery, counterfeiting, and mass-marketing fraud. So, the "economic offense"

⁹ Section 489A-489E Indian Penal Code, 1860

¹⁰ *State of Maharashtra v. Bharat Fakirbhai Vaghela* (2011) 5 SCC 618

¹¹ *Brij Bhushan v. State of Delhi* AIR 1957 SC 216

¹² Prevention of Money Laundering Act, 2002

¹³ Foreign Exchange Management Act, 1999

clause in Section makes hawala a crime instead of just a regulatory issue. The BNS gives law enforcement the power to treat hawala as a crime, not just a regulatory violation, especially when it is done through organized crime groups. Although there isn't a lot of landmark case law on hawala under BNS yet, the fact that hawala is included in organized crime provisions (Section 111) means that networks can be prosecuted to the fullest extent of the law, which includes asset forfeiture, heavy fines, and long prison sentences. The new law shows that the lawmakers want to bring hawala into the mainstream penal law instead of having it be regulated by a bunch of different rules. They know that it hurts financial systems and national security in a big way.

5. Schemes to defraud banks, financial institutions, or other groups and mass-marketing fraud

In India, mass-marketing frauds like Ponzi schemes, pyramid schemes, and high-yield deposit schemes, as well as large-scale fraud against banks and other financial institutions, have become major economic crimes in the last few decades. In the past, these kinds of crimes were prosecuted under broad cheating laws like Section 420 ¹⁴IPC or trust-breach laws. However, the way the law was set up didn't always work well for big syndicate operations that crossed borders and digital platforms. The Sahara India Real Estate Corp Ltd. v. SEBI (2012) case and the Sharada Chit Fund Case (1989)¹⁵ looked into big deposit-fraud schemes and who is responsible for them. The BNS has made it clear that these kinds of schemes are now part of the definition of "economic offence" (mass-marketing fraud or scheme to defraud). "Defrauding banks or financial institutions" is now a separate crime when done in an organized syndicate. The BNS's definition of economic crimes includes mass-marketing fraud, schemes to defraud multiple people, and defrauding banks and other financial institutions for money. When these kinds of fraud are part of organized crime (Section 111 of the BNS), the punishment is especially harsh: at least five years in prison, high fines, the loss of assets, and stronger evidentiary and procedural tools. The law's goal is to keep up with new ways that fraud happens (like digital fraud, cross-border syndicates, and multiple victims) and to make sure that prosecution isn't limited to old cheating/trust frameworks but also includes scale, organization, and systemic harm. The BNS is a new way of doing things: it goes after not only individual

¹⁴ Section 420 Indian Penal Code, 1860

¹⁵ Subrato Chattoraj v. Union of India (2014) 8 SCC 768

fraudsters but also networked schemes, with stronger deterrents and more ways to enforce the law.

Future of economic offences under the BNS

The Bharatiya Nyaya Sanhita (BNS) says that the future of economic crimes will be more adaptable, tech-savvy, and focused on victims than anything we've seen in the past few decades. The BNS aims to not only stop and punish economic crime but also set up frameworks that will be useful in the future as things get more complicated.

One of the most important things about the BNS is that it has been updated for the digital age. The BNS deals directly with crimes that happen online, frauds that happen through mass marketing, digital forgery, and the wrong use of financial technologies. The Indian Penal Code (IPC) does not. Criminals in the future are likely to use internet-based payment systems, cryptocurrencies, and digital identification tools more and more. Because of this, the BNS's clear acceptance of digital evidence, E-FIRs (electronic First Information Reports), and simpler rules for prosecuting cybercrime are all important steps toward giving authorities more power to fight technological manipulation. This digital readiness is seen as necessary for quickly finding, looking into, and prosecuting high-tech economic crimes that cross national borders and are hard to catch with traditional police methods.

The BNS has a broad definition of economic crimes that includes organized fraud, forgery, counterfeiting, and financial crimes committed by groups or syndicates. The law is meant to keep up with the quickly changing methods of economic criminals by including specific sections for "organized crime," which includes cyber and technology-related crimes. As new financial technologies come out faster, the BNS's regulatory frameworks are likely to grow even more. They might even include new types of fraud, like cryptocurrency fraud and advanced financial engineering schemes.

A significant advancement in the BNS is the implementation of harsher penalties for economic crimes, particularly when committed within organized or transnational networks. There are mandatory minimum prison sentences and high fines, and for serious crimes, there is even the possibility of life sentences. The goal is to stop both small and large-scale economic crime by closing gaps that let criminals take advantage of loopholes or get away with light punishments under the IPC.

Reforms that focus on the victim and restorative justice

The BNS is tough on organized crime, but it also brings about a new way of doing justice that is both reformatory and restorative. Community service, restorative justice for minor offenses, and victim compensation mandates indicate a transition from a solely retributive framework to one that incorporates victim rights, social reintegration, and offender rehabilitation within the justice system. In the future, there will probably be more use of alternative punishments for first-time economic offenders who don't hurt anyone, along with harsher punishments for people who commit crimes over and over or in groups.

Using digital evidence, quick investigations, and digital record-keeping is likely to greatly reduce the time and effort needed to prosecute economic crime. E-FIRs make it easier to get to court faster, and online case tracking gives both victims and detectives more power. As India's economy goes more digital, these tools will be very important for both stopping crime and punishing it.

In the future, central agencies (like the Enforcement Directorate, SEBI, and SFIO), state police, and courts will work together closely to make sure that no part of complicated economic crimes falls through the cracks of jurisdiction. The BNS system is likely to keep changing, with sections being updated on a regular basis to keep up with new technologies, international criminal networks, and new ways of misusing money.

Even though the BNS has some good points, there will still be big problems. Criminals are always changing, using new digital platforms and financial products. To keep people from committing crimes and build public trust, the future will need flexible judicial interpretation, coordinated regulatory policies, and quick investigative methods. The BNS's strong foundations—technology-forward, flexible, and focused on victims—give India a good chance of continuing to fight economic crime.

Conclusion

The Bharatiya Nyaya Sanhita (BNS) is a key moment in India's legal development against economic crimes. It replaces a broken, colonial system with a single, modern, and tech-savvy law. It brings together different types of financial crime, from simple ones like forgery and criminal breach of trust to more complicated ones that involve digital fraud, hawala networks,

and corporate dishonesty. The BNS not only updates the substantive definitions of these crimes by putting them under the larger umbrella of "organised crime," but it also makes the procedures for finding, investigating, and prosecuting them better. This makes sure that the justice system keeps up with the sophistication of economic criminals.

One of the BNS's best accomplishments is that it understands that economic crimes today are not just one-time acts of fraud, but are often done by organized, cross-border networks that take advantage of digital systems and regulatory gaps. By setting obligatory minimum penalties, life in prison for egregious cases, and substantial fines, the law shifts the focus from reactive enforcement to forceful deterrent. Additionally, the inclusion of provisions like trials in absentia, the use of digital evidence, and extraterritorial jurisdiction shows a practical understanding of the realities of globalized financial crime, where criminals often flee jurisdictions or use complicated cross-border strategies to avoid getting caught.

The BNS also solves a long-standing problem with the IPC: it can't cover new sorts of technology-based and cyber-enabled offenses. The law is headed in the correct direction since it makes digital forgeries, identity theft, phony digital records, and fraud through online banking or e-commerce platforms all crimes. The BNS makes it easier to go after cybercriminals by adding data, digital assets, and credentials to the list of things that can be moved. This means that crooks who used to be able to get away with their crimes are suddenly being caught. This digital readiness, along with plans for electronic summons, E-FIRs, and online evidence management, is a big step toward a justice system that is more technologically advanced.

The BNS's nuanced approach to punishment and reform is just as important. The law punishes organized and large-scale crimes very harshly, but it also allows for reformatory justice measures like community service, probation, and counseling for minor, non-violent economic crimes. This balance between punishment and rehabilitation shows that you have a mature understanding of justice. Its goal is not just to punish but also to rebuild trust and honesty in the financial system. It demonstrates that you recognise that real justice is punishing people who do bad things and giving people who make mistakes a chance to get back into society.

The BNS shows that India is serious about keeping its economic independence, investor trust, and the trustworthiness of its institutions. By giving agencies like the ED, CBI, SFIO, and SEBI additional power to work together, the law encourages an integrated enforcement structure.

This cuts down on procedural delays and jurisdictional overlap. But the real test of the BNS will be how effectively it works in real life. This is how well judges, prosecutors, and police can follow the rules, apply them consistently, and make sure that justice is both speedy and fair.

The BNS improves the way we handle economic crimes from an outdated, reactive paradigm to a new, proactive, and tech-savvy one. It knows that India's economy and government can only be stable if they punish people who do wrong and also stop them from doing wrong in the first place via robust, flexible legal systems. The BNS is a forward-looking framework that keeps India's judicial system firmly entrenched in the realities of the 21st-century economy while safeguarding its essential ideals of fairness, accountability, and openness.