

UNIT – V (EXPANDED) | BNS 2023

Mischief, Criminal Trespass, Marriage Offences & Defamation

Updated as per Bharatiya Nyaya Sanhita, 2023

Criminal Law Series | BNS

Detailed Topic-wise Coverage

01

Mischief

BNS 324 (IPC 425) – Destruction of property

02

Criminal Trespass

BNS 329 (IPC 441) – Entry into property

03

Document & Property Marks

Forgery and related offences (BNS 336+)

04

Offences relating to Marriage

BNS 81–86 area (IPC 493–498A)

05

Defamation

BNS 356 (IPC 499–502)

06

Criminal Intimidation & Annoyance

BNS 351 onwards (IPC 503–511)

Definition & Essentials [IPC 425]

Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits mischief.

Intent / Knowledge

Must intend or know that wrongful loss or damage is likely.

Destruction or Change

Destruction of property OR change that diminishes value/utility.

Wrongful Loss / Damage

The loss or damage must be wrongful (not authorised by law).

Example

A deliberately breaks B's motorcycle mirror in anger → Mischief.

Higher Punishment Situations

Mischief by Fire / Explosive

Causing damage by fire or explosive substance attracts enhanced punishment.

Mischief to Public Property

Damage to public roads, bridges, navigation works, etc. is treated more seriously.

Mischief affecting Irrigation / Supply

Destroying or damaging works of irrigation or water supply.

Mischief to Animals

Killing, poisoning or maiming cattle or other animals of another person.

Real Example

Setting fire to a neighbour's haystack or damaging electric poles during a protest.

Key Point

The value of damage and the nature of property determine the gravity and punishment.

Definition & Essentials [IPC 441]

Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered, unlawfully remains there with such intent, commits criminal trespass.

Entry or Unlawful Stay

Either entering with the forbidden intent, or remaining after lawful entry with that intent.

Property in Possession of Another

The property must be in someone else's possession.

Intent

Intent to commit an offence, or to intimidate, insult or annoy the person in possession.

Example

A enters B's house at night intending to steal → Criminal trespass (and potentially house-breaking / theft).

Escalation of Criminal Trespass

House-trespass

Criminal trespass into a building, tent or vessel used as a human dwelling or as a place for custody of property.

Lurking House-trespass

House-trespass committed by taking precautions to conceal the trespass from the person in possession.

House-breaking

House-trespass by entering or quitting through any passage not intended for human entrance, or by scaling, unlocking, etc.

House-breaking by Night

House-breaking committed after sunset and before sunrise – more serious.

Example 1

A climbs through a window at night to enter B's house intending to steal → House-breaking by night.

Example 2

A enters B's shop during day by breaking the lock with intent to annoy → House-trespass / house-breaking.

Forgery & Related Offences [BNS 336 onwards]

Forgery essentially means making a false document or false electronic record with intent to cause damage or injury, to support any claim or title, to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud.

False Document

Making a document that purports to be what it is not, or altering a genuine document.

Intent

Intent to cause damage, support a claim, cause parting with property, or commit fraud.

Using as Genuine

Knowingly using a forged document as genuine is also an offence.

Property Marks

Counterfeiting property marks or using false property marks to deceive buyers.

BNS 81–86 Area [IPC 493–498A]

Mock / Deceitful Marriage

Deceiving a person into believing they are lawfully married when they are not (old IPC 493).

Bigamy

Marrying again during the lifetime of husband or wife when such marriage is void (BNS corresponding to IPC 494).

Bigamy with Concealment

Concealing the fact of former marriage from the person with whom subsequent marriage is contracted.

Cruelty by Husband or Relatives

Subjecting a woman to cruelty by husband or his relatives (old 498A – now under BNS provisions).

Enticing / Taking Away Married Woman

Taking or enticing away a married woman with intent that she may have illicit intercourse.

Key Focus Today

498A-type cruelty cases and bigamy remain the most litigated marriage-related offences.

BNS Provisions corresponding to IPC 498A

Whoever, being the husband or relative of the husband of a woman, subjects such woman to cruelty shall be punished. 'Cruelty' means wilful conduct likely to drive the woman to suicide or cause grave injury, or harassment to coerce her or her relatives to meet unlawful demands for property/dowry.

Two Forms of Cruelty

1. Wilful conduct likely to drive woman to suicide or cause grave injury/danger to life/limb/health.
2. Harassment to meet unlawful demand for property or valuable security.

Who can be Accused

Husband and relatives of the husband. Relatives of the wife are not covered under this provision.

Important Safeguards

Courts have cautioned against misuse. Specific allegations and prima facie material are expected before process is issued.

Example

Continuous demands for dowry coupled with physical and mental harassment of the wife by husband and in-laws.

Definition & Essentials [IPC 499]

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said to defame that person (subject to exceptions).

Imputation

Any allegation or statement that lowers a person in the estimation of others.

Publication

The imputation must be made or published (communicated to at least one person other than the victim).

Intent / Knowledge

Intention to harm reputation or knowledge/reason to believe that it will harm.

Exceptions

Truth for public good, fair comment on public conduct, privileged communications, etc. are protected.

When Imputation is Protected

Truth for Public Good

It is not defamation to impute anything which is true and published for the public good.

Fair Comment

Fair comments on the conduct of public servants or on public questions are protected.

Privileged Communication

Statements made in good faith to authorities, or in judicial proceedings, may be protected.

Example of Defamation

Publishing a false statement on social media that a person is corrupt, intending to harm reputation.

Example of Exception

A newspaper reports true facts about a public official's misconduct for public good – protected.

Punishment

Imprisonment up to 2 years, or fine, or both (simple imprisonment in most cases).

Definition & Scope [IPC 503 / 506]

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm or to cause that person to do any act which he is not legally bound to do, or to omit any act which he is legally entitled to do, commits criminal intimidation.

Threat of Injury

Threat must be of injury to person, reputation or property.

Intent

Intent to cause alarm, or to make the person do/omit something.

Aggravated Form

Threat to cause death, grievous hurt, or destruction of property by fire etc. attracts higher punishment.

Example

A threatens B that he will publish private photos unless B pays money → Criminal intimidation.

Related Provisions & BNS 62 (Attempt)

Word, Gesture or Act to Insult Modesty

Intentionally insulting the modesty of a woman by word, gesture or act.

Criminal Intimidation by Anonymous Communication

Threatening through anonymous communication is specifically covered.

Attempt (BNS 62)

Whoever attempts to commit an offence punishable with imprisonment and in such attempt does any act towards the commission of the offence, is punished.

Key Principle of Attempt

There must be an act that crosses the stage of preparation and moves towards commission (proximity test).

Quick Distinctions for Exams

Mischief vs Theft

Mischief focuses on destruction/damage to property. Theft focuses on dishonest taking of movable property out of possession.

Criminal Trespass vs House-breaking

Trespass is entry with forbidden intent. House-breaking is a form of house-trespass with specific modes of entry/exit.

Defamation vs Insult

Defamation requires publication and harm to reputation. Mere insult may not amount to defamation unless reputation is harmed.

Criminal Intimidation vs Assault

Intimidation is threat of future injury. Assault is gesture/preparation causing apprehension of immediate criminal force.

Unit-V – Consolidated Points

01

Mischief (BNS 324)

Destruction or injurious change to property with intent/knowledge of wrongful loss or damage.

02

Criminal Trespass (BNS 329)

Entry or unlawful remaining on another's property with intent to offend, intimidate, insult or annoy.

03

Marriage Offences

Bigamy, deceitful marriage and cruelty by husband/relatives remain important. 498A-type cruelty is frequently litigated.

04

Defamation (BNS 356)

Imputation + publication + intent/knowledge to harm reputation, subject to exceptions (truth, fair comment, privilege).

05

Criminal Intimidation (BNS 351)

Threat of injury to person, reputation or property with intent to cause alarm or compel action/omission.

06

Attempts (BNS 62)

Act must go beyond preparation and move towards commission of the offence.

Thank You

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