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# **A COMPARATIVE STUDY OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 AND THE CODE OF CRIMINAL PROCEDURE, 1973: CONTINUITY, CHANGE, AND CONSTITUTIONAL BALANCE**

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## **ABSTRACT**

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), replaces the colonial-era CrPC and aims to modernize India's criminal procedure by promoting faster, more efficient justice and stronger protection of citizen rights. This research examines whether BNSS brings real reform or simply rebrands old practices. It compares key areas like arrest procedures, use of technology, and time-bound trials, analyzing how well the BNSS balances state power with individual liberty. By looking at both the text and its practical context, the study explores if the new law truly meets constitutional values and improves everyday access to justice for the people of India.

**Keywords:** Criminal Procedure Reform, Constitutional Rights, Comparative Legal Analysis, Judicial Accountability, Police Discretion, Legal Modernization, Access to Justice, Colonial Legacy in Law

## **Introduction**

The procedural arm of any criminal justice system is its backbone defining how power is exercised, rights are protected, and justice is delivered. In India, this backbone has long rested on the foundation of the Code of Criminal Procedure, 1973 (CrPC) a framework designed to balance the duties of law enforcement with the rights of individuals. However, over the decades, this framework has often been criticized for being slow, complex, and still tinged with colonial overtones. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) has emerged in this context as an ambitious legislative attempt to modernize criminal procedure.

Introduced as part of a broader effort to decolonize Indian criminal law alongside the Bharatiya Nyaya Sanhita (replacing the Indian Penal Code) and the Bharatiya Sakshya Adhiniyam (replacing the Indian Evidence Act) the BNSS aims to be more citizen-centric, transparent, and efficient in its application. From mandating digital recording of procedures to placing time-bound limits on investigations and trials, the BNSS promises a reinvention of how justice is administered in India.

Yet, the question remains: Does the BNSS signify genuine reform, or is it a continuation of older procedural traditions in a new language? This research article engages with this question through a comparative legal analysis, critically evaluating both laws in key areas such as arrest procedures, police powers, victims' rights, digital governance, and constitutional compatibility. By weaving doctrinal examination with real-world implications, this study not only dissects legal texts but also reflects on their impact on everyday justice on how a victim files a complaint, how an accused is protected, and how a citizen feels when confronted by the power of the state.

## **Historical Background: From CrPC to BNSS**

The history of criminal procedure in India is deeply intertwined with its colonial past. The Code of Criminal Procedure, 1898, was a British creation, designed primarily to maintain colonial control rather than ensure justice for the Indian population. Although India gained independence in 1947, the 1898 Code continued to be in force until it was replaced by the Code of Criminal Procedure, 1973. This new code was enacted in a post-colonial spirit, attempting to address the need for a more democratic and rights-sensitive criminal process.

Yet, the 1973 Code, despite being more progressive in its orientation, retained many features of the colonial structure. Provisions granting wide discretionary powers to the police, procedural delays, a weak victim support framework, and a cumbersome trial process meant that access to justice often remained elusive for ordinary citizens<sup>1</sup>. Moreover, despite various amendments, the CrPC struggled to keep pace with technological changes and societal evolution.

It was against this backdrop that the Bharatiya Nagarik Suraksha Sanhita, 2023 was introduced. The stated purpose of the BNSS was to repeal archaic laws, simplify procedures, and infuse modern technologies to deliver speedy justice<sup>2</sup>. Its introduction was not merely about drafting a new law but was framed as a symbolic and structural departure from colonial legal inheritance.

Interestingly, while the BNSS has been projected as a complete overhaul, a line-by-line reading reveals that a large part of the structure and many procedural provisions remain either retained or only slightly modified. Critics have argued that much of the BNSS is a re-enactment with edits, suggesting more continuity than change<sup>3</sup>.

Nonetheless, where the BNSS does diverge particularly in areas like electronic recording of procedures, time-bound investigation, and expanded police authority the changes are substantial enough to merit critical examination. These alterations signal a shift not only in how justice is administered but also in the state's approach to power, accountability, and civil liberties.

Thus, this historical evolution from the colonial rigidity of 1898, to the reformist posture of 1973, and now the nationalistic ambition of 2023 offers a unique lens to assess whether India's criminal procedure laws are finally aligning with the democratic and constitutional ideals that the country has long aspired to uphold.

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<sup>1</sup> Law Commission of India, *154th Report on the Code of Criminal Procedure, 1973*, Government of India (1996).

<sup>2</sup> Statement of Objects and Reasons, *Bharatiya Nagarik Suraksha Sanhita, 2023 Bill*, available on the PRS Legislative Research website

<sup>3</sup>Gautam Bhatia, "The Three New Criminal Laws: A Continuation, Not a Revolution", *Indian Constitutional Law and Philosophy Blog* (2023).

## Important Changes Introduced in the BNSS

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) brings with it a host of structural, procedural, and technological reforms that aim to modernize India's criminal justice process. While some provisions mirror the earlier Code of Criminal Procedure, 1973 (CrPC), others mark a significant departure in both spirit and substance. This section outlines the key changes introduced by the BNSS that form the foundation of the comparative analysis that follows.

### 1. Time-Bound Procedures for Speedier Justice

One of the central promises of the BNSS is to streamline and expedite criminal investigations and trials. The Sanhita mandates that police must file a charge sheet within 90 days of arrest, extendable up to 180 days in cases involving serious offences, especially those related to national security or terrorism<sup>4</sup>. Similarly, judgments must be delivered within 45 days of the conclusion of trial, a measure designed to combat delays that have long plagued the criminal justice system<sup>5</sup>.

While time limits existed in the CrPC as well, their enforcement was weak and often diluted through judicial interpretation or administrative inefficiencies. The BNSS aims to turn these deadlines into binding procedural obligations.

### 2. Enhanced Role of Technology

The BNSS incorporates digital procedures at every stage of the criminal process. For instance:

- FIRs may now be registered electronically<sup>6</sup>.
- Statements of witnesses and accused can be recorded via video conferencing.
- The Sanhita formalizes the electronic transmission of summons and warrants.

These changes are intended to increase transparency and reduce opportunities for procedural manipulation. In contrast, the CrPC did not provide a clear framework for using electronic

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<sup>4</sup> BNSS, 2023, s 193.

<sup>5</sup> BNSS, 2023, s 258.

<sup>6</sup>BNSS, 2023, s 173.

modes, leaving such developments to case-by-case judicial discretion or executive circulars.

### 3. Victim-Centric Reforms

The BNSS places increased emphasis on victim rights and participation in criminal proceedings. Victims are now allowed to be heard at the stage of bail hearings in certain categories of offences<sup>7</sup>, an approach more sensitive to the impact of crime on the aggrieved party.

Furthermore, mandatory provision of case updates to victims through digital platforms signals a shift toward participatory justice something that was largely absent in the CrPC's framework.

### 4. Community Policing and Preventive Powers

A more controversial area of change is the enhancement of preventive policing powers. The BNSS continues and, in some areas, expands provisions for preventive detention, dispersal of unlawful assemblies, and enforcement of public order through executive magistrates. Critics argue that such provisions may be prone to misuse and may not always align with constitutional protections of liberty and due process<sup>8</sup>.

Additionally, the BNSS introduces the concept of community service as a form of punishment for petty offences a novel development not present in the CrPC. While this signals a progressive turn in criminal sentencing, it is yet to be seen how effectively such measures will be implemented.

### 5. Provision for Zero FIR and Uniform FIR Registration

One welcome clarification is the codification of the Zero FIR principle allowing FIRs to be filed in any police station, regardless of jurisdiction<sup>9</sup>. Although courts had previously affirmed this doctrine, the CrPC lacked explicit recognition of this flexibility. The BNSS formalizes this important victim-friendly measure.

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<sup>7</sup> BNSS, 2023, s 481

<sup>8</sup> Amnesty International India, "Preventive Detention and the Abuse of Law", 2020

<sup>9</sup> BNSS, 2023, s 173(3); see also *Lalita Kumari v. Govt. of U.P.*, (2014) 2 SCC 1.

## 6. Merging of Minor Procedural Provisions

The BNSS consolidates several provisions for simplification. For example, processes regarding the issuance of warrants, attachment of property, and proclamation of offenders are more cohesively organized. While these are not radical reforms, they help enhance clarity and accessibility, especially for non-lawyers interacting with the system.

In essence, while the BNSS claims to be a bold new framework for criminal procedure in India, a closer reading reveals a more complex picture. Some provisions are indeed progressive and timely, particularly those promoting efficiency and digital transformation. Others especially those expanding police discretion may raise red flags for civil liberties. The next section provides a side-by-side comparison of these changes with the CrPC to evaluate the extent of continuity and reform.

### Comparative Analysis: CrPC, 1973 vs. BNSS, 2023

This section offers a thematic comparison between the Code of Criminal Procedure, 1973 (CrPC) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). Rather than reviewing provisions in isolation, the analysis focuses on five critical areas that affect both the process and experience of criminal justice in India.

#### 1. Procedural Safeguards and Rights of the Accused

A cornerstone of criminal procedure is the protection of the accused, who remains innocent until proven guilty. The CrPC enshrined several safeguards including the right to legal aid, protection against arbitrary arrest, and a fair and open trial<sup>10</sup>.

The BNSS retains many of these protections but introduces new procedural timelines to expedite trials. For example, under BNSS Section 258, courts must deliver judgments within 45 days of the conclusion of the trial<sup>11</sup>. While this could reduce prolonged litigation, there is concern that speed should not compromise due process.

Also, the BNSS increases the power of police custody from 15 days (in the CrPC) to 15 days

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<sup>10</sup> CrPC, 1973, ss 41–60

<sup>11</sup> BNSS, 2023, s 258

spread over 60 or 90 days, depending on the nature of the offence<sup>12</sup>. This flexibility may improve investigation quality but also heightens the risk of coercion and custodial abuse, particularly in the absence of strong judicial oversight.

## **2. Police Powers and Preventive Detention**

The CrPC already granted the police wide-ranging powers of arrest without warrant under Section 41, provided certain conditions were met. The BNSS replicates these powers under Section 35 but adds mandatory recording of reasons for arrest, a step toward transparency<sup>13</sup>.

However, critics point out that the expanded use of preventive provisions especially relating to public order and assembly under the BNSS may embolden arbitrary state action<sup>14</sup>. The Sanhita does not significantly reform Section 144-type powers, which have been frequently used to restrict peaceful gatherings.

Moreover, the discretionary nature of arrest under BNSS, while framed in procedural language, may still lead to over-criminalization, especially of marginalized communities, unless accompanied by robust judicial checks.

## **3. Victim Rights and Role in Criminal Proceedings**

One of the more progressive developments in the BNSS is its victim-sensitive orientation. For instance, the right of the victim to be heard at the stage of bail is now codified, ensuring their concerns are considered before granting pre-trial liberty to the accused<sup>15</sup>.

In contrast, the CrPC offered minimal engagement for victims beyond the FIR and evidence stage. With the BNSS, electronic updates, direct notifications, and enhanced compensation measures mark a deliberate shift toward restorative justice.

However, critics argue that these provisions, while well-intentioned, lack clarity on enforcement mechanisms. Without proper victim support cells or digital infrastructure, such

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<sup>12</sup> BNSS, 2023, s 187

<sup>13</sup> BNSS, 2023, s 35(3).

<sup>14</sup> People's Union for Civil Liberties, "Repealing Colonial Laws: Not Without Human Rights", Policy Brief (2023).

<sup>15</sup> BNSS, 2023, s 481

changes may remain symbolic rather than substantive<sup>16</sup>.

#### 4. Use of Technology and Digital Evidence

Technology is a defining feature of the BNSS. It permits:

- FIRs to be registered electronically.
- Witness statements to be recorded via video conferencing.
- Digital signature-based warrants and summons.
- Electronic delivery of case status updates<sup>17</sup>.

These features stand in contrast to the CrPC, which was mostly silent on digital tools, leaving their use to judicial or executive experimentation. By explicitly codifying digital processes, the BNSS aims to enhance efficiency, transparency, and traceability.

That said, technology also introduces new risks: data breaches, manipulation of digital evidence, and digital illiteracy among litigants and law enforcement officers. The absence of comprehensive data protection laws in India leaves these provisions vulnerable to misuse<sup>18</sup>.

#### 5. Time-Bound Investigation and Trial Provisions

Delay is one of the most chronic issues in India's criminal justice system. Under the CrPC, there was no strict limit on trial duration, and chargesheets were often filed late, especially in complex cases.

The BNSS addresses this by:

- Mandating that investigations be completed within 90 days, extendable to 180 days.
- Requiring judgments to be delivered within 45 days.

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<sup>16</sup> National Judicial Data Grid, "Backlog of Criminal Cases in District Courts", 2023

<sup>17</sup> BNSS, 2023, ss 173–178

<sup>18</sup> Rahul Matthan, "Data Protection and the New Criminal Codes", *The Hindu*, October 2023



- Ensuring copies of judgments are sent to victims and complainants within 7 days<sup>19</sup>.

These reforms are commendable in spirit. However, their practical effectiveness depends heavily on existing infrastructure, which remains burdened with vacancies, poor digital integration, and lack of trained personnel<sup>20</sup>. Without significant investment in court and police capacity, deadlines may become aspirational rather than enforceable.

### **Constitutional Analysis: Civil Liberties vs. Security Concerns**

Any procedural criminal law must be examined not just for its operational mechanics but for how it aligns with constitutional principles especially Article 21 (right to life and personal liberty), Article 22 (protection against arbitrary arrest), and Article 14 (equality before the law). The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), while introduced as a modernization tool, raises important constitutional questions when juxtaposed with these rights.

#### **1. Article 21 and the Right to Life and Personal Liberty**

The CrPC, despite its colonial undertones, provided for judicial safeguards against arbitrary state power. Over the years, Indian jurisprudence under Article 21 has expanded the understanding of "personal liberty" to include the right against illegal detention, custodial violence, delayed trials, and lack of legal representation<sup>21</sup>.

The BNSS retains these protections on paper, but the enhancement of custodial powers allowing 15 days of police custody spread across 60 or 90 days may dilute these safeguards. Though meant to aid complex investigations, such flexibility can be misused without robust judicial monitoring, thereby increasing the risk of custodial torture or prolonged detention without trial<sup>22</sup>.

Moreover, the emphasis on speedy trials while a step forward is constitutionally effective only if due process is not sacrificed for speed. In the absence of sufficient judges, prosecutors, and forensic infrastructure, the deadlines could pressure courts to prioritize closure over

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<sup>19</sup> BNSS, 2023, ss 193, 258

<sup>20</sup> India Justice Report, "State of Policing and Judiciary in India", 2022

<sup>21</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

<sup>22</sup> Human Rights Watch, "Broken System: Dysfunction, Abuse and Impunity in the Indian Police", 2009

correctness, endangering the right to a fair trial<sup>23</sup>.

## 2. Article 22 and Arrest without Warrant

Article 22(1)– (2) guarantees that a person arrested must be informed of the grounds of arrest, allowed legal representation, and produced before a magistrate within 24 hours. The CrPC operationalized this through Sections 41 to 60, but practical abuse has been widely documented.

The BNSS introduces a requirement for police to record reasons for arrest in writing (Section 35), aligning with judicial guidelines from *Arnesh Kumar v. State of Bihar*<sup>24</sup>. However, critics argue that this safeguard lacks enforcement clarity, especially in rural or low-literacy regions where judicial scrutiny may be minimal.

Also, the Sanhita retains provisions that enable arrest without warrant in a wide variety of circumstances, echoing a “police-first” rather than “citizen-first” approach. While these powers are necessary in certain cases, their breadth could infringe on Article 22 rights unless tightly monitored.

## 3. Article 14 and Equality Before the Law

The procedural code must serve everyone equally be it the rich or the poor, the majority or the minority. The CrPC was often critiqued for being inaccessible to the marginalized, especially Dalits, tribals, women, and the poor. Procedural delays, lack of legal aid, and police bias further widened the justice gap.

The BNSS tries to bridge this by:

- Providing for digital communication of case updates to all stakeholders.
- Introducing community service as a non-custodial sentence for minor offences.
- Recognizing the victim’s voice at the bail stage.

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<sup>23</sup> India Justice Report, “Case Load and Case Disposal Data”, 2023

<sup>24</sup> *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273

However, access to technology, digital literacy, and unequal policing remain challenges. Without systemic reforms, procedural equality may become a theoretical aspiration. For instance, marginalized communities may struggle to file e-FIRs or track cases online due to digital divides<sup>25</sup>.

Thus, while the BNSS contains progressive clauses, their realization depends on how equally they are implemented across social and economic strata.

#### **4. Preventive Policing vs. Fundamental Freedoms**

The BNSS, like its predecessor, retains expansive provisions for preventive detention, dispersal of assemblies, and curfews. These are typically justified in the interest of national security and public order concerns that are indeed valid in the contemporary context. However, courts have repeatedly held that fundamental rights cannot be compromised disproportionately, even in the name of security. In *Anuradha Bhasin v. Union of India*, the Supreme Court emphasized the need for proportionality and transparency when imposing restrictions on liberty<sup>26</sup>.

The BNSS, while maintaining these powers, does not enhance safeguards or introduce fresh accountability mechanisms. This may fall short of the least intrusive means standard mandated under constitutional jurisprudence. In a democratic society, preventive mechanisms must be coupled with periodic judicial review, citizen oversight, and statutory checks all of which are underdeveloped in the current framework.

#### **5. Judicial Review and Institutional Checks**

Perhaps the biggest constitutional gap in both the CrPC and BNSS lies in the lack of institutional mechanisms for oversight. In theory, the judiciary is meant to act as a watchdog, ensuring procedural fairness. But India's overburdened judicial system often struggles to fulfill this role effectively.

The BNSS could have addressed this by

- Mandating independent oversight of police actions.

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<sup>25</sup> Medianama, "Digital Literacy in India: Bridging the Gap", 2022.

<sup>26</sup> *Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637

- Creating state-level procedural review boards.
- Ensuring automatic judicial review in prolonged pre-trial detentions.

Unfortunately, none of these systemic reforms find clear mention in the BNSS, leaving the onus on individuals to seek remedies a barrier that particularly affects the poor and underrepresented.

From a constitutional standpoint, the BNSS represents a blend of progressive ambition and structural conservatism. While it takes steps toward efficiency and inclusion, its silence on enforcement mechanisms, unequal implementation, and unaltered colonial policing powers pose serious constitutional dilemmas. True procedural justice demands more than new laws; it requires a transformation in how institutions interpret, implement, and internalize constitutional values in the delivery of criminal justice.

### **Challenges and Implementation Gaps**

While the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) appears to promise a modernized criminal procedure aligned with democratic values and technological efficiency, the real test lies in its implementation across India's diverse, often unequal legal ecosystem. A well-drafted law can fail if not accompanied by administrative preparedness, infrastructural support, and cultural change. This section explores the practical, institutional, and societal challenges that could undermine the intended impact of the BNSS.

#### **1. Infrastructure and Manpower Deficiencies**

India's criminal justice system faces an acute shortage of judges, prosecutors, and support staff. As per the India Justice Report 2022, the country has just 21 judges per million population, far below the required benchmark<sup>27</sup>. Courts continue to operate with vacant positions, dilapidated infrastructure, and limited access to digital tools. The BNSS imposes stricter timelines for investigation and trial, including the delivery of judgments within 45 days post-trial<sup>28</sup>. However, without sufficient manpower and digital courtrooms, these timelines may create

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<sup>27</sup> India Justice Report 2022, "Judicial Staffing and Infrastructure", p. 33

<sup>28</sup> BNSS, 2023, s 258

more pressure than productivity. Judges may feel compelled to dispose of cases hastily, which could compromise the quality of justice.

## **2. Digital Divide and Technological Readiness**

Although the BNSS mandates digital FIRs, video recordings, electronic summons, and online victim updates, a significant digital divide persists across Indian states. According to NITI Aayog, nearly 43% of Indian police stations lack reliable internet access, and only 25% of judicial officers have received formal training in digital tools<sup>29</sup>. This raises doubts about the equitable implementation of technology-based reforms. Rural, tribal, and remote populations may find themselves excluded from these processes, making access to justice even harder. Moreover, cybersecurity threats, data breaches, and digital evidence tampering are emerging risks that remain unaddressed by the BNSS, especially in the absence of a dedicated data protection framework.

## **3. Training and Sensitization of Police and Judiciary**

India's law enforcement agencies, especially at the grassroots level, often function with limited legal training, colonial-era mindsets, and deeply ingrained biases. While the BNSS introduces more procedural checks such as recording reasons for arrest it does not provide a roadmap for police sensitization or capacity-building<sup>30</sup>.

This is a significant omission. For instance, empowering victims or digitalizing evidence means little if police officers do not understand or respect these rights. Similarly, magistrates and public prosecutors must be trained to adapt to digital filings, video testimonies, and expedited timelines. The absence of a parallel human resource development policy could lead to the BNSS becoming just another unread statute on paper.

## **4. Ambiguities and Overlaps in Legal Provisions**

Several provisions in the BNSS retain vague and discretionary language. For example, police can still arrest without warrant for any cognizable offence under "reasonable suspicion," and

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<sup>29</sup> NITI Aayog, "Digital Governance in Law Enforcement", Policy Paper, 2023

<sup>30</sup> Commonwealth Human Rights Initiative, "Status of Police Training in India", 2022

magistrates continue to enjoy wide discretion in issuing preventive orders<sup>31</sup>. Such ambiguity, unless checked, may perpetuate the very arbitrariness the BNSS claims to end.

Moreover, the overlap between central procedural laws and state-specific criminal regulations may cause confusion in operational hierarchies. Some states have already raised concerns about federal overreach and lack of consultation in finalizing the BNSS.

## **5. Lack of Public Awareness and Legal Literacy**

A legal system can be transformative only if citizens understand their rights and duties. Unfortunately, legal literacy in India remains alarmingly low. Most people are unaware of basic procedural protections, let alone reforms like Zero FIR, victim rights during bail, or community service as punishment. The BNSS does not lay out a communication strategy or public outreach plan. Without massive awareness campaigns, these reforms risk becoming elite-driven changes that bypass the very communities they are meant to protect.

## **6. Continuity of Colonial Policing Culture**

Perhaps the most deeply rooted challenge is the persistence of colonial policing culture a culture based on control, coercion, and hierarchy rather than service. Merely changing the law cannot uproot decades of systemic power misuse. Although the BNSS repeals the CrPC in form, it retains several colonial philosophies in substance, including,

- Wide police discretion.
- Preventive detention powers.
- Executive magistrate-led law and order enforcement.

This structural continuity risks undermining the promise of a people-centric criminal justice system unless followed by robust police and procedural reform.

## **7. Financial and Institutional Constraints**

Implementing the BNSS requires financial investments in digital infrastructure, training,

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<sup>31</sup> BNSS, 2023, ss 35, 144–151

monitoring systems, and grievance redressal mechanisms. But the Union Budget 2024–25 allocated less than 1% of total expenditure to the Ministry of Law and Justice, indicating limited fiscal priority<sup>32</sup>. Without sustained investment, key elements of the BNSS especially its digital and victim-sensitive reforms may remain underfunded and under-implemented.

The BNSS introduces important reforms that are theoretically sound and normatively progressive. Yet, in the absence of institutional, financial, and social readiness, these changes may fall short of their intended impact. The law can set the stage, but the actors judges, police, lawyers, and citizens must be prepared and empowered to play their roles effectively.

Implementation is not just about enacting new codes. It is about transforming the lived reality of justice, ensuring that procedural law does not become another empty promise but a genuine bridge between law and liberty.

### **Conclusion and Recommendations**

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) signifies a long-awaited legislative reform that attempts to decolonize and modernize India's criminal procedure law. Positioned as a replacement for the Code of Criminal Procedure, 1973 (CrPC), it seeks to align with constitutional mandates, improve efficiency, digitize court and police processes, and refocus the system toward citizens' rights and participation. However, when studied in comparative and constitutional perspective, the BNSS emerges as a complex legal text progressive in vision but restrained in execution.

On the one hand, the BNSS introduces commendable features such as:

- Statutory recognition of Zero FIR and e-FIR.
- Provision for victim participation at the bail stage.
- Time-bound investigation and trial deadlines.
- Introduction of community service and digital documentation.

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<sup>32</sup> Union Budget 2024–25, Ministry of Law and Justice Expenditure Summary, Government of India.

These innovations, if effectively implemented, could humanize criminal procedure and restore public trust in the legal system. On the other hand, however, the law retains several vestiges of colonial authority structures such as unchecked police discretion, preventive powers, and broad arrest provisions. While digital reforms are being highlighted, their success depends entirely on infrastructure, training, and equitable access, all of which remain underdeveloped in many regions of India. The BNSS, thus, marks continuity as much as change. Its real impact will be determined not by the clauses it carries, but by how the system evolves to deliver rights with dignity and justice with speed.

### **Recommendations for Holistic Reform**

To ensure the BNSS fulfills its promise of a modern, just, and people-centric criminal justice system, the following steps are recommended:

#### **1. Institutional Accountability Mechanisms**

Introduce independent oversight bodies at the state and district levels to review police procedures, arrests, bail denials, and prolonged detentions. A judicial review board, possibly chaired by retired judges or human rights experts, could issue monthly performance and compliance reports.

#### **2. Comprehensive Police and Judicial Training**

Mandatory capacity-building programs should be rolled out to train police officers, prosecutors, magistrates, and public defenders on the procedural changes introduced under the BNSS. Training should emphasize human rights, digital evidence management, and victim sensitivity.

#### **3. Public Awareness Campaigns**

Create multi-lingual awareness drives through radio, television, digital platforms, and local governance units explaining key citizen rights under the BNSS such as:

- Right to be informed of arrest reasons.
- Availability of Zero FIR.



- Right to victim updates and representation.
- Protection against arbitrary detention.

This would empower communities and help democratize access to justice.

#### **4. Strengthening Digital and Physical Infrastructure**

Fast-track investment in e-courts, forensic labs, video-conferencing tools, and secure data management systems. Ensure rural and tribal regions are not left behind by offering mobile legal vans, community legal centers, and tech-enabled grievance portals.

#### **5. Legislative Clarity and Uniformity**

Address ambiguities and overlaps in language across multiple provisions. Terms such as “reasonable suspicion” or “urgent preventive action” must be defined in statutory rules or clarified through judicial guidelines. Additionally, ensure synchronization with allied laws like the Bharatiya Nyaya Sanhita (BNS) and Bharatiya Sakshya Adhiniyam (BSA) to avoid interpretative conflicts.

#### **6. Victim-Centric Justice Model**

Ensure timely disbursement of victim compensation, especially in cases of sexual violence, domestic abuse, or custodial torture. Consider assigning victim rights officers at the district level to guide complainants through procedural complexities.

#### **7. Periodic Review and Feedback Mechanism**

Establish a BNSS Review Commission to monitor implementation, document citizen feedback, and suggest periodic amendments. This could include representatives from the judiciary, police, civil society, academia, and victims' associations.

The journey from the Code of Criminal Procedure, 1973 to the Bharatiya Nagarik Suraksha Sanhita, 2023 is not merely a legislative transition it is a symbol of India's evolving constitutional morality. It reflects a democratic ambition to shift from punitive colonial rule to a system that values liberty, fairness, transparency, and accountability. Yet, law alone cannot reform society. For the BNSS to bring real change, India must pursue legal reform hand-in-

hand with institutional reform. Policymakers, judges, lawyers, law enforcement, and citizens must collaboratively build a culture of procedural justice, where the process itself becomes a safeguard, not a punishment.

In this light, the BNSS is not an end but a beginning an opportunity to redefine justice not just as punishment, but as restoration, inclusion, and human dignity.