
THE PRINCIPAL DIFFERENCES AND SIMILARITIES BETWEEN THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 (BNSS) AND THE CODE OF CRIMINAL PROCEDURE, 1973 (CRPC), ALONG WITH THE BHARATIYA NYAYA SANHITA (BNS)

Aziz Anturkar, B.L.S., LL.B., Shree LR Tiwari College of Law, Mira Road East, Thane,
Maharashtra, India

ABSTRACT

This paper examines the principal differences and similarities between the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) and the Code of Criminal Procedure, 1973 (CrPC). It presents an overview of the revised section numbers, compares Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) with the Bharatiya Nyaya Sanhita (BNS), and analyzes recent cases adjudicated under BNSS. The study highlights reforms aimed at modernizing India's criminal justice system.

Keywords: “The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), Code of Criminal Procedure, 1973 (CrPC), The Bharatiya Nyaya Sanhita (BNS), New legislation intends, Citizen-centric, Technology-enable shift, Victim rights, and Expedited justice”.

Research Methodology

The work is fully relied upon the secondary forces which include various books, articles published in journals, magazines and internet services

Introduction

The Criminal Procedure Code (CrPC), enacted in 1973, had long governed India's criminal procedural law. In December 2023, Parliament passed the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), with the law taking effect on July 1, 2024. This new legislation intends to address procedural delays, low conviction rates, insufficient use of technology, and inefficiencies in investigations and trials. BNSS represents a citizen-centric, technology-enable shift, underlining transparency, victim rights, and expedited justice.^{[1][2][3]}

Key Similarities and Differences Between BNSS 2023 and CrPC 1973

Similarities

- **Structural Continuity:** BNSS largely retains the procedural framework and hierarchy of courts, trial types, and stages of investigation and prosecution from CrPC. Many existing CrPC case laws remain relevant unless specifically overruled.^{[4][5]}
- **Classification of Offenses:** Cognizable/non-cognizable and bailable/non-bailable categories are preserved.^[1]
- **Procedural Safeguards:** Fundamental guarantees like presumption of innocence, right to legal representation, and bail procedures are continued.

- **Differences**

BNSS Section	CrPC Section	Change
2(1)(a)-(i)	Various	New definitions: “audio-video electronic means”, “electronic communication”, “bail bond”, etc. ^[5]
41(7)	41	No arrest without higher officer approval for minor offenses involving elderly or infirm persons ^[5]

223	200	Magistrate must give accused an opportunity to be heard before cognizance is taken, broadening procedural fairness ^[6]
173	154	FIRs can be filed and signed electronically within three days ^[2]
37	41C	Designated police officer for digital recordkeeping of arrests ^[2]
106, 184	164A	Forensic investigation and digital recording required for serious offenses ^{[2][5]}
144	125	Maintenance orders for wife, children, parents (renumbered) ^[4]

Additional BNSS Features

- Forensic investigation made mandatory for offenses punishable from 7 years imprisonment.
- Digital procedures for FIRs, summons, trials, and evidence.
- Victim-centric reforms: free FIR copies, timely progress reports, right to participate in proceedings.
- Introduction of community service and summary trials for minor offences.
- Time-bound trial and bail disposal mandates.

Revised Section Numbers: Sample Comparison

CrPC Section	BNSS Section	Subject
1	1	Short title, extent and commencement
2	2	Definitions
154	173	Information in cognizable cases (FIR)
200	223	Examination of complainant
125	144	Order for maintenance of wives, children, and parents

41A	35(3)	Notice of appearance before police
41C	37	Designated police officer
164A	184	Medical examination of victim of rape

(See detailed tables in the comparative law resources cited below for full mapping)^{[7][5]}

Landmark Case Under BNSS

1. Basanagouda R. Patil v. Shivananda S. Patil (Karnataka High Court, 2024)

This was among the first major cases interpreted under BNSS. The respondent filed a private complaint, alleging defamation during an election rally under Section 223 BNSS. Whether Magistrate's issuing of notice to the accused aligned with the new procedural safeguards was a central issue here.

- **Key Holding:** The court clarified that under BNSS, notice to the accused and opportunity to be heard must be given after the Magistrate records sworn statements from the complainant and witnesses, not immediately on complaint filing. This procedural change from CrPC ensures robust scrutiny before criminal proceedings commence, reflecting BNSS’s intent to increase fairness and transparency in pre-cognizance stages.^[6]
- **Impact:** The judgment is shaping early judicial adaptation to BNSS and setting precedents for future cases.

2. Hyder Ali v. State of Karnataka:

BNSS Provisions:

The BNSS permits for a total of 15 days of police custody, which can be authorized in parts during the initial 40 or 60 days of the overall 60 or 90 days of (JC) Judicial Custody.

In Hyder Ali v. State of Karnataka:

A recent Supreme Court case upheld the Karnataka High Court's decision that 15-day

police custody must be sought within the first 40 days for offenses punishable up to ten years of imprisonment.

Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS) vs Bharatiya Nyaya Sanhita (BNS) Overview

Compares with the Bharatiya Nyaya Sanhita (BNS)

- **BNSS (2023):** Governs the procedure for investigation, prosecution, trial, and enforcement in criminal cases.
- **BNS (2023):** Defines criminal offenses, prescribes punishments and, replacing the substantive provisions of the Indian Penal Code, 1860.^{[8][9]}

Law	Purpose
BNSS	Criminal procedure
BNS	Substantive criminal law

While BNSS is procedural, BNS is substantive. Both were overhauled together to modernize India’s criminal justice system.^{[9][1]}

What are the fundamental similarities between BNSS 2023 and CrPC in safeguarding citizens' rights

BNSS 2023 and CrPC are fundamentally similar in their core commitment to safeguard citizens' rights through established procedural guarantees, judicial oversight, and the balancing of state power with individual liberty.^{[14][15]}

Key similarities include:

- **Procedural Safeguards:** Both codes uphold vital protections such as the presumption of innocence, mandatory presentation before a magistrate within 24 hours of arrest, and the

right to legal representation, directly aligning with constitutional guarantees under Article 22.^[14]

- **Judicial Oversight:** The requirement for prompt judicial review of arrests and detention remains a cornerstone, serving to prevent arbitrariness in police action under both regimes.^{[15][14]}
- **Bail and Classification:** BNSS and CrPC continue the system of categorizing offences as bailable/non-bailable, ensuring fair bail hearings and preventing unnecessary detention.^[15]
- **Equality Before Law:** Both codes are designed for universal procedural application, upholding equal protection and accessibility regardless of social background, echoing Article 14 of the Constitution.^[14]
- **Victim Rights and Participation:** Though BNSS strengthens these provisions, both frameworks recognize victims' roles, particularly during FIR registration and evidence stages.^{[15][14]}
- **Prevention of Abuse:** Mandatory written reasons for arrest (more explicit in BNSS), oversight of police powers, and restrictions on preventive detention exist in both codes to mitigate misuse and protect against coerced confessions or custodial abuse.^[14]

BNSS modernizes and clarifies implementation (e.g., mandatory digital FIR registration and victim notifications), but retains the foundational legal principles from CrPC, thus preserving the rights and due process historically guaranteed to citizens.^{[16][15][14]}

Conclusion

The BNSS 2023 modernizes and streamlines criminal procedure in India, keeping foundational elements from CrPC but introducing crucial reforms in technology use, victim rights, digital process, and procedural fairness. The core difference lies in its citizen-centric, technology-driven approach and increased protection for victims and accused. Similarities exist in the law's structure and basic procedural safeguards. Early judicial interpretations, such as in *Basanagouda R. Patil*, show BNSS already influencing the justice system.

References

1. NCERT, “BNSS Module”^[1] https://ncert.nic.in/pdf/module/New_Laws_2023/BNSS-2023E.pdf
2. Overview of BNSS, AZB Partners^[2] <https://www.azbpartners.com/bank/overview-of-the-bharatiya-nagarik-suraksha-sanhita-2023/>
3. <https://cdnbbsr.s3waas.gov.in/s3ae1eaa32d10b6c886981755d579fb4d8/uploads/2024/03/202403181642666092.pdf>
4. <https://www.alec.co.in/show-blog-page/httpswwwaleccoincomparative-study-of-crpc-bnss-2023>
5. Comparative Table CRPC & BNSS, W.B.L.L.R.O.A^[5] <https://sheokandlegal.com/comparative-chart-of-criminal-procedure-crpc-and-bharatiya-nagarik-suraksha-sanhita-bnss-2023/>
6. Demystifying Section 223 BNSS, Cyril Amarchand^[6] <https://disputeresolution.cyrilamarchandblogs.com/2025/06/demystifying-section-223-of-the-bharatiya-nagarik-suraksha-sanhita-2023/>
7. Comparative Table CRPC & BNSS, W.B.L.L.R.O.A^[7] <https://wblroa.in/wp-content/uploads/2024/07/COMPARATIVE-TABLE-OF-CRPC-1973-BHARTIYA-NAGARIK-SURAKSHA-SANHITA-2023-ADV-GURENDER-RANA.pdf>
8. Bharatiya Nyaya Sanhita Summary, BPRD^[8] <https://bprd.nic.in/uploads/pdf/COMPARISON SUMMARY BNS to IPC .pdf>
9. Bharatiya Nyaya Sanhita Summary, BPRD^[9] <https://p39ablog.com/2024/07/annotated-comparison-of-bharatiya-nyaya-sanhita-2023-and-indian-penal-code-1860/>
10. Annotated Comparison: BNSS & CrPC, P39A Blog^[10] <https://p39ablog.com/2024/07/annotated-comparison-of-bharatiya-nagarik-suraksha-sanhita-2023-and-the-code-of-criminal-procedure-1973/>
11. Ministry of Home Affairs, New Criminal Laws^[11]

<https://www.mha.gov.in/en/commoncontent/new-criminal-laws>

12. Comparative Table: BNSS, LexisNexis^[12] <https://store.lexisnexis.in/COMPARATIVE-BOOKS-ON-THE-NEW-CRIMINAL-LAWS-SET-THE-BHARATIYA-NAGARIK-SURAKSHA-SANHITA-2023-THE-BHARATIYA-NYAYA-SANHITA-2023-THE-BHARATIYA-SAKSHYA-ADHINIYAM-2023>
13. Legal Bites, BNSS vs CrPC Analysis^[13] <https://www.legalbites.in/bharatiya-nagarik-suraksha-sanhita/a-comparative-analysis-bharatiya-nagarik-suraksha-sanhita-v-code-of-criminal-procedure-1014623>
14. <https://ijirl.com/wp-content/uploads/2025/06/A-COMPARATIVE-STUDY-OF-THE-BHARATIYA-NAGARIK-SURAKSHA-SANHITA-2023-AND-THE-CODE-OF-CRIMINAL-PROCEDURE-1973-CONTINUITY-CHANGE-AND-CONSTITUTIONAL-BALANCE.pdf>
15. <https://www.alec.co.in/show-blog-page/httpswwwaleccoincomparative-study-of-crpc-bnss-2023>
16. <https://www.centurylawfirm.in/blog/indias-2023-legal-reforms-bharatiya-nagarik-suraksha-sanhita-bnss-bharatiya-nyaya-sanhita-bns-and-bharatiya-sakshya-sanhita-bss/>