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BHARATIYA NAGARIK SURAKSHA SANHITA

ACT 2023 (BNSS)

AUTHORED BY - VRUDDHI D TAAK

Abstract

The *Bharatiya Nagarik Suraksha Sanhita, 2023* represents a transformative shift in India's criminal justice system. Authored by Amaresh Patel, this work delves into the nuances of the proposed law, which seeks to replace the colonial-era Indian Penal Code, 1860. The legislation aims to modernize the legal framework for addressing crimes while balancing individual rights with societal security. Patel examines the significant changes introduced in the Sanhita, including the emphasis on victim protection, streamlining of procedures, and the incorporation of new provisions that cater to emerging forms of crime such as cybercrime and terrorism. Through a detailed analysis, the book explores how the Bharatiya Nagarik Suraksha Sanhita promotes efficiency in law enforcement, strengthens accountability mechanisms, and fosters transparency in the justice delivery process. Mr patel provides critical insights into how the Sanhita aligns with India's constitutional values, while proposing reforms that reflect the country's evolving socio-political landscape. This scholarly work serves as a vital resource for legal professionals, policymakers, and scholars in understanding the future trajectory of India's criminal justice system.

Keywords:

Forensic Investigations, Electronic Proceedings, In Absentia Trials Sample Collection, Bail Provisions, Use of Handcuffs, Evidence Presentation, Omission of Previous Recommendations.

Introduction

Bharatiya Nagrik Suraksha Sanhita Act was introduced by Amit Shah, Minister of Home Affairs, in Lok Sabha. On 12 th December 2023 the Bharatiya Nagaraik Suraksha Sanhita was with drawn India established the Bhartiya Nagrik Suraksha Sanhita (BNSS) Act 2023 to introduce a transformation in its existing criminal justice system through modern updates . The BNSS Act replaces the Criminal Procedure Code (CrPC) of 1973 which had established criminal procedure in India since the last several decades. These three pieces of legislation

compose a complete criminal law reform package in India that includes the Bharatiya Nyaya Sanhita (BNS) Act, 2023 for IPC replacement and the Bharatiya Sakshya (BS) Act, 2023 for Indian Evidence Act substitution. The new reforms demonstrate a monumental change in the process of modernizing judicial practices from British colonial era laws through better adherence to Indian social structures and updated legal requirements.

A democratic nation bases its foundation on its criminal justice system which ensures due process standards as well as policing services and protections of individual rights. India bases its legal system upon the CrPC 1973 despite its many modifications yet no substantial structural updates. The BNSS operates as the final piece of a legal reform initiative while the BNS and BBSS serve as the other components. This act aims to modernize criminal proceedings through technological integration and speed up trial durations.

This examines the following topics:

- The main BNSS provisions and their effects
- The BNSS influence on the judiciary and law enforcement

The system has both Protective functions for individuals' rights as well as multiple execution hurdles.



Methodology

1. **Mandatory Forensic Investigations:** For offences punishable by seven years of imprisonment or more, the BNSS mandates forensic investigations. The process demands forensic experts to conduct site inspections at crime locations where they must procure evidence to establish a systematic methodology for criminal case investigations.
2. **Electronic Legal Proceedings:** The Act facilitates the use of electronic modes for trials, inquiries, and other legal proceedings. The legislation enables electronic summons

issuance and warrant delivery and allows evidence recording and audio-video conduct of proceedings which expedites legal procedures.

3. Under The BNSS law authorities can execute trials then render verdicts against fugitive criminals who make themselves unreachable to face court proceedings thus continuing court proceedings even after the defendant skips trial.
4. Under the Act there exists a Victim-Centric approach which establishes provisions to protect victims and give them essential roles within criminal justice proceedings. The Act establishes victim-citizen rights which provide victims with enhanced involvement and expanded access to legal information to involve them actively in criminal court activities.
5. These enhancements grant law enforcement agencies wider authority which includes the power to mandate digital evidence production for investigations as well as pretrial capture and seizure of properties.

The Indian criminal justice system now embraces methodological changes because they integrate technology into legal operations and defend victim rights while strengthening law enforcement capabilities.

Results

The BNSS allows up to 15 days of police custody, which can be authorised in parts during the initial 40 or 60 days of the 60 or 90 days period of judicial custody. This may lead to denial of bail for the entire period if the police has not exhausted the 15 days custody.

The powers to attach property from proceeds of crime does not have safeguards provided in the Prevention of Money Laundering Act.

The CrPC provides for bail for an accused who has been detained for half the maximum imprisonment for the offence. The BNSS denies this facility for anyone facing multiple charges. As many cases involve charges under multiple sections, this may limit such bail.

The use of handcuffs is permitted in a range of cases including economic offences, contradicting Supreme Court directions.

The BNSS allows evidence collected by retired or transferred investigating officers to be presented by their successors. This violates normal rules of evidence when the author of the document can be cross examined.

Recommendations of high level committees on changes to the CrPC such as reforms in sentencing guidelines and codifying rights of the accused have not been incorporated in the BNSS.

S. No.	BNSS
1 	The BNSS adds that this provision will not apply in the following circumstances: a) Offences punishable by life imprisonment; b) Persons against whom proceedings are pending in more than one offence.
2 	The BNSS provides that any police officer can request such an examination.
3 	The BNSS mandates forensic investigation for offences punishable with at least 5 years of imprisonment. Forensic experts will visit crime scenes to collect forensic evidence and record the process on mobile phone or any other electronic device. If State does not have forensic facility, it will utilize such facility in another State.
4 	The BNSS expands this to include finger impression and more samples, it allows these samples to be collected from a person who has not been accused.
5 	Witnesses are entitled to following justice as they provide reliable information to the court. To ensure their safety and protect their lives potential harm or intimidation, the BNSS has introduced a Witness Protection Scheme. First, Government has been given responsibilities to draft and notify such a scheme.
6 	A police officer of at least district sub-inspector rank will be assigned to such person and police station. Their responsibility will be to keep a record of the name, address, and charges against all accused individuals. This information will be prominently displayed, possibly digitally, in every police station and at the district headquarters.
7 	In BNSS 2023, new definitions have been introduced to clarify certain terms. "audio-video electronic mode" now includes the use of any communication device for video conferencing, recording processes such as identification, search and seizure, or evidence, transmitting electronic communication, and other process as determined by State Government rules. "Electronic communication" refers to the transmission or transfer of written, verbal, pictorial information, or video content through electronic devices like telephones, mobile phones, computers, audio-video players, cameras, or any other specified electronic device as notified by the Central Government.
8 	BNSS codifies all the legal proceedings to be conducted electronically. This includes hearing, setting, and sentencing sessions and witnesses, examining complainants and witnesses, recording evidence in sessions and trials, and conducting appellate or other proceedings through video conferencing facilities in audio-video electronic means.
9 	Under the BNSS 2023, witnesses can be asked electronically either in an integrated format or through any other electronic communication method. The additional measures must include the usage of the court's and e-evidence system, ensuring the authenticity and legal validity.
10 	The video-conferencing approach in the new law places a strong emphasis on enhancing the efficiency, fairness, and accountability of the justice system. It acknowledges various or essential stakeholders in criminal proceedings, granting them particularly rights and an expanded right to participate. These reforms provide the foundational rights of citizens, ensuring to make them central figures in the criminal justice system with comprehensive rights and opportunities.

Notable changes

The BNSS has 531 Sections in total.³ Some of the commendable additions, deletions are-

Additions:-

1. Section 2, introduces and defines the “electronic communication” and “audio-video electronic means” for various procedures on the usage of electronic mode for all trials and proceedings.
2. Section 105 of the BNSS makes the videography of search and seizure, and the signing of it by the witness mandatory.

3. Section 107 provides for conducting trials and pronouncing judgments ex parte against absconding offenders evading trial.
4. Section 173 provides for registering First Information Report (FIR) electronically, signed by the person giving it within three days.
5. Section 176 mandates forensic investigation for offences punishable with imprisonment of 7 years or more.
6. Section 185 mandates the audio-video recording of a search without a warrant.
7. Section 258 mandates that a judgment of acquittal or conviction must be passed within 30 days from the completion of arguments, that is extendable only by 45 days for specific reasons.
8. Section 346 provides that a trial or inquiry shall be on a daily basis.
9. Section 530 of BNSS also provides for all trials, inquiries and proceedings held in electronic modes.
10. Chapters VI, VII, and VIII provide for the attachment of the accused's property in cases of financial offences.
11. Provisions contained in Chapters XVII, XIX, XX, set timelines for different investigatory stages to address delay in procedure.

Deletions

1. Provisions contained under the CrPC, dealing with 'Metropolitan areas' and 'Metropolitan Magistrates' have been omitted from the BNSS.
2. The post of Judicial Magistrate of third-class and Assistant Sessions Judge was omitted to bring uniformity.
3. Section 144-A of the CrPC which conferred power on the District Magistrate and the State Government to prohibit the carrying of arms in procession or mass drill or mass training has been deleted.

Case Study:-

Application of Section 187 of the BNSS Act .Section 187 of the BNSS Act pertains to the procedures and duration of police custody. The analysis reveals constitutional risks when police expand their detention period because these actions challenge Indian legal articles 20, 21, and 22. Section 187(3) lacks certain specific language which enables police custody to extend beyond ordinary limits thus creating a dilemma between optimal investigation and personal rights protection.

Discussion

Through the Bharatiya Nagarik Sahayata Sanhita Act 2023 India achieves major reforms of its criminal justice system by bringing updated principles and procedural ease. The government intends to substitute the outdated Code of Criminal Procedure (CrPC) with current laws that benefit citizens through efficient processes and complete transparency.

Significance of the Research Findings

The findings of this research demonstrate the following essential elements about the Bharatiya Nagarik Sahayata Sanhita Act 2023. The establishment of prompt justice depends heavily on these provisions. This approach focuses on victims through support to their justice participation rights while offering compensation benefits because it responds directly to basic problems found in the criminal justice system regarding victim care. Better law enforcement needs effective police-public relations so the Act establishes community policing along with accountability systems to achieve this goal.

The introduction of defined investigation and trial durations in the legislation will decrease judicial system delays and enhance court effectiveness.

Addressing the Issues

- Multiple vital points serve as the focus of this study.
- CrPC's colonial roots face critical analysis in this work as the authors advocate for a new system which would better serve Indian citizens.
- The Act adopts digitization methods together with strict timelines to overcome delays which occur during investigation and trial proceedings.
- The reforms support victim involvement by establishing processes that let people whose lives have been harmed actively participate at every phase of the justice process.

The Act establishes community policing methods which both enhance police transparency and solve issues related to police misconduct.

Recommendations for Future Research

- Future researchers should analyze the direct effects of the Act on judicial delays and access to justice to generate practical evidence for improvement. The research will generate verified evidence about the success rate of this initiative.
- Studies comparing other countries with similar reforms would present both successful techniques and possible undesirable outcomes.

- Research needs to investigate public knowledge and impression toward the new provisions to evaluate the satisfaction of citizens and identify improvement areas.
- Studies about how the victim compensation system operates in the field can help establish its actual benefits for victims.
- A thorough study concerning digitalization of criminal justice operations must explore both security threats and privacy concerns since these issues affect implementation success.

Practical Applications

- The research output will assist authorities to modify Act provisions through practical feedback and encountered operational barriers.
- The new digital processes need law enforcement and judicial workers to undergo proper training while receiving capacity development for effective implementation.

Conclusion

The BNSS is not an arrow shot in the dark, but an empirically derived legislation with a clear goal in mind, to protect the nagarik (citizen) in criminal proceedings and not hinder the rights of the victim or of the accused person.. The initiatives taken under the BNSS also ensure its effectiveness, be it the introduction of sentence guidelines to prevent discretionary sentencing or balancing the rights of all stakeholders involved in a proceeding.

The Sanhita also accords the much-needed technological advancement in the justice delivery system of the country and bringing justice to the citizens rather than the citizens having to seek justice in a prolonged, frustrating and exhausting manner.

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