BLOGS

Decoding the BNSS 2023: Key Provisions, Changes & More

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Introduction

For nearly half a century, the Code of Criminal Procedure, 1973 (CrPC) has been the bedrock of procedural law for India's criminal justice system. Now, in a landmark legislative overhaul, it has been replaced by the **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**, which officially came into force on **July 1, 2024**.

The Digital Leap: From Judicial Activism to Statutory Mandate

A glaring gap in the CrPC was its silence on modern technology. While courts had permitted electronic processes, the BNSS now formally integrates them into law.

- Electronic Proceedings: The CrPC was an analog-era law. While High Court rules and judicial orders, especially post-COVID-19, allowed for virtual hearings, there was no uniform statutory provision. The BNSS changes this fundamentally. It explicitly allows for trials, inquiries, service of summons (Sec. 63), and recording of evidence to be conducted electronically, providing a clear legal foundation that was absent in the CrPC.
- Digital Evidence Collection: While the Evidence Act dealt with admissibility, the CrPC was limited in its scope for collecting digital evidence. Section 311A of the CrPC empowered a Magistrate to order a person to provide specimen signatures or handwriting. The corresponding Section 349 of the BNSS expands this power significantly, allowing magistrates to also order the collection of finger impressions and voice samples, even from a person not under arrest.
- Mandatory Videography: Under the CrPC, search and seizure procedures (like under Section 100) lacked a mandatory audio-visual recording requirement, often leading to disputes. Section 105 of the BNSS introduces a crucial new safeguard: the videography of any search and seizure is now mandatory. This is a direct development aimed at enhancing transparency

and curbing procedural malpractices.

Mandating Speed: From Guideline to Law

The CrPC had some timelines, like the 60/90 day period for filing a charge sheet under Section 167. However, many stages lacked strict statutory deadlines, contributing to delays. The BNSS introduces a culture of speed by making timelines mandatory across the board.

- Framing of Charges: Under the CrPC, no strict timeline was prescribed for framing charges after the first hearing. The BNSS now mandates that a Sessions Court must frame charges within 60 days from the first hearing.
- Judgment Delivery: While judicial pronouncements urged speedy judgments, the CrPC did not set a deadline. The BNSS mandates that a judgment must be pronounced within 30 days of the completion of arguments (extendable up to 45 days for specific reasons).
- Informing the Victim: The CrPC did not have a provision making it a duty for the police to update the victim on the investigation's progress. Section 193(3) of the BNSS introduces a new right, mandating that the informant or victim must be informed of the progress of the investigation within 90 days.

Redefining Investigation: The New Forensic Imperative

This is one of the most significant departures from the previous regime.

The CrPC had no provision that made forensic investigation a compulsory part of the process. It was left to the discretion of the investigating officer. Section 176(3) of the BNSS introduces a revolutionary change: for any offence punishable with seven years of imprisonment or more, a forensic expert must visit the crime scene to collect evidence. This transforms the investigation of serious crimes from a confession-driven model to a modern, evidence-based one.

The Case of Zero FIR

The concept of a "Zero FIR" was a judicial innovation, most notably affirmed by the Supreme Court in *Lalita Kumari v. Govt. of U.P.,* to ensure victims were not turned away. However, it was not written into the CrPC's Section 154, which governed FIRs.

The BNSS rectifies this. **Section 173(1) of the BNSS** now gives this crucial judicial precedent a statutory home, making it a legal mandate for every police officer to register an FIR upon receiving information about a cognizable offence, regardless of their territorial jurisdiction.

New Concepts in Trial and Custody

The BNSS introduces several novel procedures that were either absent or existed in a much-limited form in the CrPC.

- Trial in Absentia: Section 299 of the CrPC only allowed for the recording of evidence against an absconding accused, but it did not permit the trial to conclude. Section 356 of the BNSS takes a massive leap forward. It allows for a full trial to proceed and a judgment to be pronounced in the absence of a person who is a “proclaimed offender,” ensuring that fugitives cannot stall the justice system indefinitely.
- Community Service: The CrPC framework primarily focused on punishments like fines and imprisonment. The BNSS introduces “community service” as a specific punishment for several petty offences, adding a reformative sentencing option that was not part of the old code.
- Police Custody Reimagined: This is a critical change. Under Section 167 of the CrPC, the maximum 15 days of police custody could only be granted within the first 15 days of remand. Section 187(2) of the BNSS fundamentally alters this. It allows the police to seek the total 15 days of custody in parts, at any time during the initial 40 or 60 days of detention. This gives investigating agencies more flexibility but is a significant departure from the stricter timeline of the CrPC.

Conclusion

The Bharatiya Nagarik Suraksha Sanhita, 2023, is not merely a renumbered CrPC. As highlighted, it represents a conscious effort to remedy the procedural gaps of the old code. By statutorily integrating technology, mandating stricter timelines, and introducing modern concepts like compulsory forensics and trial in absentia, the BNSS marks a clear and decisive evolution.