

**PAPER PRESENTATION ON -
DECIPHER THE BHARATIYA
NAGARIK SURAKSHA SANHITA :
EXPLORE CHANGES AND BEYOND**

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INTRODUCTION

- **Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter called BNSS) replaced the age old Criminal Procedure Code, 1973 as it came into force on July, 1st, 2024.**
- **BNSS was introduced to crub with societal changes, advancement in techonology and evolving legal standards.**
- **BNSS aims to crub delay in justice delivery, shorten complex legal procedures and large pendency, delay in investigation and inadequcies in use of forensic methods.**



KEY OBJECTIVES

Transparency

- *Increased Trust
- *Fairness and Equity
- *Oversight Mechanisms

Technology

- * Video Conferencing
- * Digital Records
- * e- Chargesheet

Investigation

- * Timely Justice
- * reduce pendency



KEY OBJECTIVES

Community Policing

Encouraging community policing initiatives to foster better relations between the police and the public.

Witness Protection

- i. Establishing robust witness protection programs to ensure the safety and security.
- ii. testify without fear of retaliation.



MAIN CHANGES

- **Simplification and Modernization of Language.**
- **Technological Integration.**
- **Speedy Investigation and Trial.**
 - Timelines are fixed.
- **Availability of Legal Aid to accused in all courts.**
- **Strengthened Witness Protection.**



MAJOR CHANGES

- **FIRST INFORMATION REPORT(S. 173)**
 - Zero FIR
 - e-FIR – Needs to be signed within 3 days.
 - Conducting of Preliminary enquiry, in offences punishable with imprisonment between 3 to 7years.
 - Conducting of time bound preliminary inquiry within 14 days.
- **Exemption of person with acute illness to attend Police station.**



MAJOR CHANGES

- No arrest of aged above 60 or infirm person without prior permission of DySP offences punishable with less than 3 years imprisonment [S. 35 BNSS]
- Designated Police Officer to be responsible for maintaining the record of arrest in every Dist. Including in digital mode. [Sec. 37 BNSS]
- Information of arrest to Designated Police Officer Relatives, friends and such other nominated persons and also to designated Police officer. [S. 48 BNSS]
- In case of arrest by private person, the arrested person must be handed over to the police within 6 hours of arrest.[Sec. 40 BNSS]
- Handcuffing allowed only in certain cases- Habitual / repeated offender, person escaped from custody etc.

New criminal laws in force; Cr.PC, IPC applicable only for old cases

Till BNS gets new section on sexual crimes against men and transgender persons, police can invoke allied charges such as wrongful confinement and physical hurt, if they get such complaints; Central officials say States free to amend BNSS

Vijaita Singh
NEW DELHI

Three new criminal laws come into effect across the country from Monday despite objections from States ruled by non-BJP parties. Union government officials said here on Sunday that the States were free to bring in their own amendments to some provisions of the Bharatiya Nagrik Suraksha Sanhita (BNSS) that replaces the Code of Criminal Procedure (Cr.PC). The BNSS prescribes the procedure and conditions for arrest, bail, and custody, among other things.

The Bharatiya Nyaya Sanhita (BNS), which replaces the Indian Penal Code, 1860, may also be amended soon to incorporate a section on sexual

Crime and punishment

The new Bharatiya Nyaya Sanhita has 358 Sections against the 511 in the Indian Penal Code that it replaces. The Bharatiya Nagrik Suraksha Sanhita replaces the Code of Criminal Procedure, and the Bharatiya Sakshya Adhinyam comes in place of the Indian Evidence Act



INTOPIX/PHOTO

What is new?

- Provision for Zero FIR allowing filing of a first information report at any police station, regardless of jurisdiction
- Online registration of police complaints and mandatory videography of crime

scenes for all heinous crimes

- A person can now report incidents by electronic communication, without the need to visit a police station
- Judgment in criminal cases has to come within 45 days

of completion of the trial

- Provisions against false promise of marriage, gang rape of minors and mob lynching
- Statement of a woman rape victim will be recorded by a woman police officer

In the presence of her guardian or relative

- Death sentence or life imprisonment for gang rape of a minor
- Sedition has been replaced with 'secession' or 'act against the country's sovereignty, unity and integrity'

crimes against men and transgender persons. A senior government official said that police officers were being asked to invoke other allied sections under the BNS, such as wrongful confinement and physical hurt, if they get such complaints, until an amend-

ment is brought to correct this anomaly. The Bharatiya Sakshya (BS), which replaces the Indian Evidence Act, 1872, is the third law which will come into force. From 00:00 hours on July 1, more than 650 district courts and 16,000 police

stations across the country will have no option but to migrate to the new system. Cognisable offences will be registered under Section 173 of the BNSS, instead of Section 154 of the Cr.PC. The IPC and Cr.PC will run concurrently along

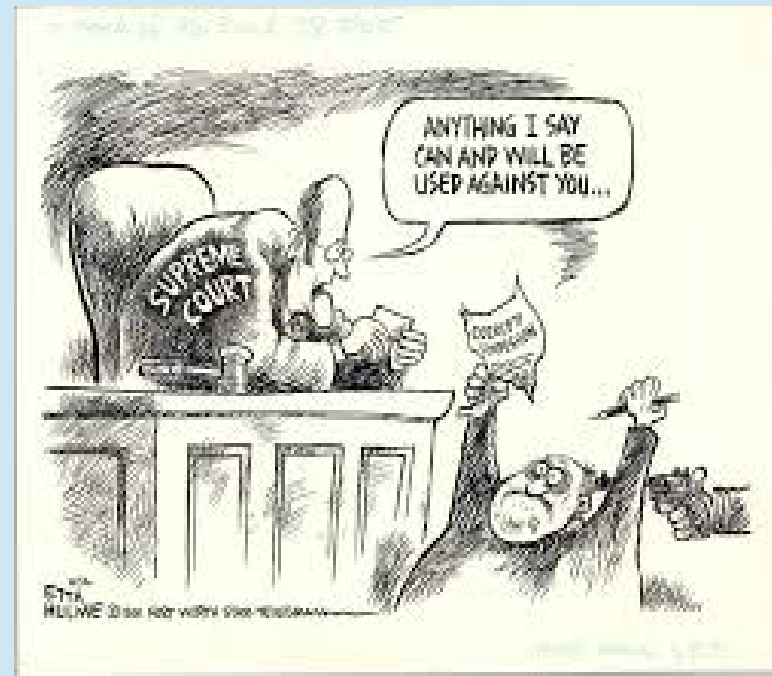
with the new laws as several cases are still pending in courts and some crimes that took place before July 1 that are reported later will have to be registered under the IPC.

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MAJOR CHANGES

RECORDING OF STATEMENT AND CONFESSIONS. [S. 176, 179-183 BNSS]

- Recording of rape victim statements can also be made by audio, video electronic means including mobile phone.
- Introduction of the mandate that the statement of the rape victim shall be recorded by female magistrate and in her absence by male magistrate but in presence of women.
- Now the statement or the confession shall be recorded by the magistrate of district where the offence has been registered within 24 hours of the lodging of the FIR (R. 87A, CG Rules and Orders (Criminal)).



MAJOR CHANGES

REMAND [Sec. 187 (2) BNSS]

- Introduction of 15 days police remand even after the expiry of initial 15 days.
- Total remand days of the accused has been reduced to 40 days of arrest in case of offence punishable within 10 years and upto 60 days in offence punishable for more than 10 years.



MAJOR CHANGES

PROCEDURE DURING SEARCH-

- i. Mandate of recording the whole process of search by audio, video electronic means including through mobile phones. (S. 105)
- ii. Refusal to become search witness amounts to an offence U/s 222 BNS.
- iii. Sending of search record to the nearest magistrate empowered to take cognizance within 48 hrs, along with the reasons for conducting search and details thereof.



MAJOR CHANGES

ATTACHMENT OF PROPERTY -

- i. Application by IO before the competent magistrate for attachment of property obtained from criminal activity.**
- ii. Issuance of show cause notice within 14 days.**
- iii. Re-distribution of property among aggrieved person on direction of magistrate by DM who shall do so within 60 days.**



POLICE REPORT

- Investigation of sexual offences under POCSO and BNS to be completed within 2 months after first recording of the information.
- The IO shall submit copies of police report through electronic means to the magistrate having jurisdiction.
- The IO shall inform the victim about the progress of the investigation through electronic means within 90 days . No further investigation after 90 days, without the leave of the Court.
- Victim to be heard before withdrawal of a case.



SPEEDY TRIAL (S. 175)

i. Trial in-absentia of Proclaimed Offender [S. 356 BNSS]

- it allows the trial and pronouncement of judgment in absence of proclaimed offender.
- it also specifies mandatory waiting period of 90 days from date of charge framing.

ii. Framing of Charge within 60 days from date of first hearing.

Iii. Judgment to be pronounced within 45 days after completion of trial.

iv. Judgment by session court to be given within 30 days of argument, further expandable to 45 days.

v. Examination of a witness by audio-video electronic means [S. 265 BNSS]

vi. Prosecution of Judges and public servants [S. 218 BNSS]

- respective govt shall take decision within 120 days for sanction prosecuting the public servant, failure to do so would amount to deemed sanction.

OTHER KEY CHANGES

- i. There has been introduction of forensic expert during the stage of investigation in order to collect forensic evidences if the offence is punishable for 7 years or more.**
- ii. Service of summons through electronic communication.**
- iii. Community service as form of punishment has been incorporated.**
- iv. Sentencing power of imposing fine of magistrate has been increased.**
- v. Serving of summons has been made gender neutral.**
- vi. Power to try Summarily has been modified, now it gives power to JMFC to try case summarily without being empowered by High Court.**
- vii. The offence punishable under 3 years and offence against property not exceeding Rs. 20,000/- can be tried summarily. No appeal is allowed.**

OTHER KEY CHANGES

- viii. On framing of charges, the charge shall be read and explained to accused who can be present either physically or through audio, video electronic means. (S. 251)**
- ix. Evidence of witnesses may be recorded by audio, video electronic means. (S. 254)**
- x. Deposition of evidence of any public servant may be taken through audio, video electronic means. (S. 254)**

BAIL (S. 478-496)



i. Special provision of bail has been provided for first time offender who has undergone 1\3rd of maximum imprisonment of the offence.

ii. Bail shall not be denied to the accused on the ground that he may be required to be identified by witness during investigation or his police custody will be required beyond 15 days provided he is otherwise entitled to bail.

iii. Bail cannot be granted to an accused whose been charged with multiple offences

iv. No anticipatory bail shall be granted to accused of gang rape on women under 18.

APPEAL (S. 413- 422)

- i. No appeal in petty cases, where HC passes imprisonment not exceeding 3 months and fine not exceeding Rs. 1,000/- or both.**
- ii. The Central Government is empowered to file an appeal against a sentence when the investigation was done by an agency under any Central legislation other than BNSS through the Public Prosecutor – S. 418(2), BNSS.**
- iii. The Central Government is empowered to file an appeal against an acquittal when the investigation was done by an agency under any Central legislation other than BNSS through the Public Prosecutor – S. 419(2), BNSS.**

PRACTICAL CHALLENGES OF BNSS

- 1. Implementation and Transition- Training and Capacity Building; Transition Period.**
- 2. Technological Integration- Infrastructure, Technical Expertise.**
- 3. Resource Allocation- Financial Resources, Human Resources.**
- 4. Victim and Witness Protection- Effective Implementation, Security Concerns.**
- 5. Public Awareness and Education- Awareness Campaigns, Legal Literacy.**
- 6. Judicial Efficiency- Case Backlog, Fast-Track Courts.**
- 7. Resistance to Change- Institutional Resistance, Cultural Shifts.**
- 8. Monitoring and Evaluation- Continuous Monitoring, Feedback Mechanisms.**
- 9. Legislative and Procedural Clarity- Clarity in Provisions, Harmonization with Existing Laws.**
- 10. Capacity to Handle Increased Workload- Increased Caseload, Efficient Case Management.**

EXCLUDED SECTIONS OF CrPC IN BNSS

- Metropolitan areas.
- Subordination of Assistant Sessions Judges.
- Courts of Metropolitan Magistrates.
- Chief Metropolitan Magistrate and Additional Chief Metropolitan Magistrate.
- Special Metropolitan Magistrates.
- Jurisdiction in the case of juveniles.
- Sedition and related offences.
- Adultery
- Anti begging Provisions.
- Interrogation nad Confession.



TIME LINE FOR STAGES OF TRIAL UNDER BNSS

- **CHARGE -**
- Framing of charge by Magistrate - **Within 60 days** from first hearing on charge (Sec. 263(1), BNSS).
- Procedure for an accused to file for application for discharge - **Within 60 days from committal** (Sec. 250(1), BNSS).
- Procedure for discharge by the Magistrate in case of absence of complainant on date fixed for hearing - **30 days** to be granted for the complainant to appear before the Court (Sec. 272, BNSS).

TIME LINE FOR STAGES OF TRIAL UNDER BNSS

- **PLEA BARGAINING -**
 - Procedure for application for plea bargaining by the accused in court for said trial - **Within 30 days** from the date of framing of charge (Sec. 290(1), BNSS).
- **TRIAL -**
 - Procedure for admission and denial of genuineness of documents by the defence and prosecution- As soon as the documents are supplied and **no later than 30** days unless the court allows with written reasons (Sec. 330 (1), BNSS).
 - Procedure for examination of accused in custody, through electronic means - **Signature of accused** to be taken **within 72 hours** of such examination (Sec. 316, BNSS).

TIME LINE FOR STAGES OF TRIAL UNDER BNSS

- Commencement of absentia trial against proclaimed offenders by the court - After a **period of 90 days** has lapsed from the framing of charge (Sec. 356(1), BNSS).
- Issuance of two consecutive arrest warrant by a court against proclaimed offenders, before commencing in absentia trials - Execution of 2 consecutive arrest warrant **within the interval of 30 days** (Sec. 356(2)(1), BNSS).
- Publication of notice of proclaimed offender to appear before the court, in a newspaper - Notice of **period of 30 days** (Sec. 356(2)(ii), BNSS).
- **JUDGEMENT AND SENTENCE -**
- Pronouncement of Judgement after the termination of Trial, by any criminal court - **Not later than 45 days** (Sec. 392 (1), BNSS).
- Judgement of Acquittal or Conviction by Court of Sessions - **30 days from completion of arguments**. Extendable upto 45 days for reasons given in writing (Sec. 258(1), BNSS).

TIME LINE FOR STAGES OF TRIAL UNDER BNSS

- **UPLOADING OF JUDGEMENT -**
- Copy to upload a digital Copy of Judgement - 07 days from pronouncement as far as practicable (Sec. 394 (4) BNSS).
- **DISPOSAL OF PROPERTY -**
- Procedure for custody or disposal of property before a Court/Magistrate during investigation, inquiry or trial. The court is bound to prepare a statement of property produced before it - Within 14 days of production of the property before the Court (Sec. 497 (2), BNSS).

XXX vs State of UT Chandigarh

- **If an FIR had been registered prior to July 1, 2024 under the CrPC, but a petition was filed after July 1, 2024 for quashing that FIR, the BNSS would apply to govern that petition.**
- **The memorandum contemplates the situation and states that when the date of the occurrence of the crime is prior to July 1, 2024, but the date of registration of the crime is after July 1, 2024, the provisions of the IPC would apply as the substantive law and the provisions of the BNSS would apply as the procedural law.**

Abdul Khader vs S/o Kerala

If an appeal filed after 01/07/2024 would be governed by the procedure under BNSS, while all applications filed and steps taken in the appeals filed prior to 01/07/2024 shall be under CrPC.

Krishna Joshi Vs S/o Rajasthan

- **Trial/ Investigation for FIR lodged before enforcement of new Criminal Laws to be governed by CrPC, not BNSS.**
- **S. 531 (2) (a) is a saving clause that mandates that ongoing legal proceedings under CrPC must continue until the BNSS provisions can be applied.**

THANK YOU ALL HAVE A PLEASANT DAY AHEAD

