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**INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH**

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**THE BHARTIYA NAGARIK SURAKSHA SANHITA- A  
COMPREHENSIVE GUIDE OF INDIA'S NEW PROCEDURAL CODE**

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**Abstract**

The Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023, is a landmark legislative act in India that replaces the previous Code of Criminal Procedure, 1973. The BNSS introduces comprehensive reforms to modernise and streamline the criminal justice system. The act's comprehensive provisions aim to balance the rights of the accused with the needs of victims and society, promoting a fair and just legal framework. The Bhartiya Nagarik Suraksha Sanhita, 2023, introduces a range of reforms to enhance the efficiency and fairness of the criminal justice system in India. Key provisions include measures to reduce frivolous complaints, streamline legal proceedings, and incorporate technology in judicial processes. This article delves into the critical elements of the BNSS, which looks to supplant the ancient Indian Penal Code.

**Keywords:-** justice, criminal, enforcement, courts.

**Introduction**

The BNSS, 2023, include the introduction of new definitions reflecting technological advancements in investigation, trial, and court proceedings, such as 'audio-video electronic means,' 'bail,' and 'electronic communication.' These definitions ensure the legal framework keeps pace with contemporary needs, facilitating processes like service of summons, audio-video conferencing for evidence deposition, and recording of search and seizure activities. Additionally, the BNSS broadens the definition of 'victim,' removing the requirement for formal charges against the accused, thus expediting victim compensation. The State Government now

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has the authority to appoint Special Executive Magistrates from police officers of Superintendent rank or higher, enhancing executive powers in maintaining public order. The BNSS mandates a 14-day notice to the State Government before appointing any person as an Assistant Public Prosecutor in the absence of one, ensuring due process. It also establishes a Directorate of Prosecution, detailing the roles and responsibilities of various prosecution authorities, including the Director, Deputy Director, and Assistant Director of Prosecution. This structure aims to enhance accountability and efficiency in prosecutorial functions. The fines that first-class and second-class Magistrates can impose have been significantly increased, reflecting the changing economic context. Moreover, the BNSS incorporates community service as punishment, emphasising rehabilitative and reformatory justice.

The act allows courts to order sentences to run concurrently or consecutively based on the gravity of offences. It protects aged and infirm persons, including exemptions from arrest and attendance requirements under certain conditions. In cases of arrest by private persons, the BNSS mandates the production of the arrested individual before a police officer within six hours, ensuring quick judicial oversight. It also includes specific provisions for using handcuffs during arrests of habitual or repeat offenders in serious crimes. Immediate seizure of offensive weapons post-arrest is mandated, and medical practitioners must promptly forward examination reports of arrested persons to investigating officers. The BNSS introduces technology compatibility for issuing and serving summons electronically, authenticated by digital signatures, and mandates the maintenance of detailed registers for summoned individuals' contact information. It establishes procedures for notifying relevant authorities about arrests, broadens the criteria for declaring individuals as proclaimed offenders, and includes provisions for producing and handling electronic communications and digital evidence.

To enhance transparency and accountability in search and seizure operations, the act mandates videography of these processes, potentially using mobile phones. The BNSS also introduces provisions for attaching and forfeiting property obtained through criminal activities to increase fugitive criminals' liability. In matters of maintenance of wives, parents, and children, proceedings can be initiated at the dependent parent's place. The act includes several provisions to protect victims' rights and streamline criminal proceedings, such as mandating that police

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officers inform victims about the progress of investigations within 90 days and ensuring timely submission and supply of police reports and other documents to the accused. It also sets specific timelines for completing preliminary inquiries, conducting further investigations, and processing cases, thereby reducing delays in the justice system. The BNSS, 2023, reflects a significant shift towards a more efficient, accountable, and victim-centric criminal justice system, leveraging technology to enhance transparency and expedite legal processes. The act's comprehensive provisions aim to balance the rights of the accused with the needs of victims and society, promoting a fair and just legal framework. The *Bhartiya Nagarik Suraksha Sanhita, 2023*, introduces a range of reforms to enhance the efficiency and fairness of the criminal justice system in India. Key provisions include measures to reduce frivolous complaints, streamline legal proceedings, and incorporate technology in judicial processes.

For instance, Sections 272 and 274 empower magistrates to discharge accused persons in cases where complaints appear groundless or complainants remain absent—section 283 mandates summary trials for less severe offences to expedite the process. The introduction of time-bound plea bargaining in Sections 290 and 293 aims to provide a more rehabilitative approach for first-time offenders. Technological integration is emphasised in Sections 308 and 316, allowing for video conferencing to examine the accused. Provisions like Section 346 limit the number of adjournments to reduce delays, while Section 360 ensures victims' voices are heard before the withdrawal of prosecution. Additionally, Section 356 addresses the issue of fugitive criminals by outlining a process for trial in absentia, and Section 108 mandates state governments to prepare witness protection schemes. The Sanhita also includes provisions for the expedited disposal of mercy petitions, liberalised bail for under-trial prisoners, and quick disposal of case properties, all aimed at fostering a more responsive and efficient criminal justice system.

## Historical Background

The need for reform in India's criminal justice system has been discussed for many years. The Code of Criminal Procedure, 1973, served as the backbone of procedural law in India for several decades. However, over time, it became evident that the legal framework needed updating to address new challenges, such as the increasing complexity of crimes, technological advancements, and the demand for more victim-centric approaches. Various committees and law

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commissions, including the Mali Math Committee and numerous Law Commission Reports, highlighted the necessity for these reforms. The BNSS, 2023, represents the culmination of these efforts, incorporating recommendations from these bodies and addressing the evolving needs of Indian society.

### **Comparative Analysis with Other Legal Frameworks**

The BNSS Law stands out by incorporating several progressive elements compared to its predecessors and other international legal frameworks. Key differences and advancements include-

- 1) **Technology Integration:** Unlike the earlier Code of Criminal Procedure, the BNSS explicitly incorporates electronic communication and audio-video conferencing in legal processes, aligning with practices in countries like the United States and the United Kingdom.
- 2) **Victim-Centric Approaches:** The BNSS broadens the definition of ‘victim’ and mandates timely updates to victims about investigation progress, reflecting a shift towards greater victim rights and involvement in the justice process, similar to reforms seen in European legal systems.
- 3) **Summary Trials and Plea Bargaining:** By mandating summary trials for minor offences and introducing time-bound plea bargaining processes, the BNSS aims to expedite justice, a feature commonly seen in the legal systems of many Western countries.
- 4) **Executive Powers and Public Order:** The BNSS empowers the State Government to appoint Special Executive Magistrates from police officers of a certain rank, enhancing executive authority in maintaining public order. This is a unique feature tailored to India’s administrative structure.
- 5) **Rehabilitative Justice:** Including community service as a form of punishment and a more lenient approach for first-time offenders emphasises rehabilitative justice, aligning with practices in Scandinavian countries known for their progressive criminal justice systems.

### **Critical Components of BNSS Law**

Business law under the BNSS encompasses corporate governance, compliance, regulation, and international trade. Corporate governance involves a set of rules and practices for managing and overseeing corporate entities to ensure accountability, fairness, and transparency in a company’s relationship with its stakeholders. It emphasises the structure and responsibilities of the board of directors, the protection of shareholder rights, and the necessity of accurate and timely disclosure

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of financial and operational information. Compliance and regulation under the BNSS require businesses to adhere to various standards, including legal compliance with applicable laws and regulations such as labour and environmental standards. It also promotes ethical business practices, including measures against bribery and corruption, and outlines the role of regulatory bodies in enforcing these standards. International trade under the BNSS addresses the legal frameworks governing cross-border commerce, including trade agreements that India is part of, customs and tariffs regulations, and legal mechanisms for resolving trade disputes. It analyses the impact of bilateral and multilateral agreements, tariff reductions, trade barriers, and the role of arbitration and international courts in dispute resolution.

National security law within the BNSS covers counter-terrorism, cybersecurity, and defence and military law. Counter-terrorism laws focus on preventing and responding to terrorist activities through measures such as surveillance, intelligence-gathering, and exceptional legal procedures for handling terrorism-related cases. These laws also emphasise international cooperation, including extradition treaties and shared intelligence efforts. The case of **Huawei v. United States (2020)** provides essential insights into the implications of national security measures under the BNSS. This case involved the US government imposing restrictions on Huawei, a Chinese telecommunications giant, citing national security threats and intellectual property theft. The US government's actions included placing Huawei on a trade blacklist and restricting its access to American technology. Huawei challenged these actions, arguing that they were unjustified and constituted an abuse of power. The Huawei case has significant implications for BNSS law, particularly regarding how national security considerations are integrated into legal frameworks. The case illustrates the need for the BNSS to address security concerns while ensuring that such measures do not unduly restrict business activities or violate legal norms. The BNSS must establish clear guidelines for handling national security and international business cases, ensuring that security measures are justified and proportionate.

Cybersecurity laws under the BNSS address the protection against cyber threats, including legal definitions and penalties for cybercrimes like hacking and identity theft. They include data protection regulations to safeguard personal and sensitive information and guidelines for businesses and government entities to secure their IT infrastructure and respond to cyber

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incidents. Defence and military law under the BNSS governs the conduct and use of military power. It includes the military justice system for dealing with offences committed by military personnel, rules of engagement for military operations, and regulations on defence procurement, arms control, and military technology.

Sovereignty law within the BNSS encompasses state sovereignty, human rights, and diplomatic relations. State sovereignty laws define the principles of territorial integrity, non-interference, and self-determination. These laws ensure the recognition of a state's borders and authority over its territory, prohibit external interference in domestic affairs, and uphold the right of people to determine their political status and pursue development.

Human rights laws balance state sovereignty with the protection of individual rights. They set national and international standards for fundamental rights and freedoms, outline state obligations to uphold these rights and provide legal avenues for individuals to seek justice for human rights violations.

Diplomatic relations under the BNSS are guided by legal frameworks that ensure diplomatic duties' safe and effective performance through diplomatic immunity. These frameworks also cover the processes for negotiating, ratifying, and enforcing international treaties and mechanisms for peacefully resolving disputes between states, including mediation, arbitration, and adjudication by international courts.

### **Importance of BNSS Law**

The Bharatiya Nagarik Suraksha Sanhita (BNSS) Law of 2023 is paramount in maintaining global stability. By introducing comprehensive reforms to modernise and streamline the criminal justice system, the BNSS ensures that India's legal framework is equipped to handle contemporary challenges, including technological advancements. This modernisation aligns India with international standards, fostering greater cooperation and trust between nations. Consequently, BNSS Law plays a crucial role in upholding international order, as a robust legal system is essential for the peaceful resolution of disputes and the enforcement of laws that transcend borders.

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Economically, the BNSS Law is instrumental in encouraging investment and fostering a healthy business environment. By reducing procedural delays and enhancing transparency through technological integration, the BNSS makes the legal process more efficient and predictable. This reliability attracts domestic and international investors seeking stable and secure investment environments. Incorporating community service as a form of punishment and establishing a Directorate of Prosecution further demonstrate India's commitment to reformative justice and accountability, which are vital to sustaining economic growth.

The BNSS Law significantly bolsters national security through its robust legal measures. The act's provisions for the immediate seizure of offensive weapons post-arrest, the use of videography in search and seizure operations, and the expedited handling of digital evidence ensure that law enforcement can effectively address and mitigate threats. By enhancing the powers of Special Executive Magistrates and broadening the criteria for declaring individuals as proclaimed offenders, the BNSS ensures swift action against those who pose risks to national security.

The BNSS Law also plays a crucial role in protecting sovereignty while respecting international norms. The act's detailed provisions for victim compensation, witness protection, and the maintenance of detailed registers for summoned individuals' contact information reflect a commitment to upholding human rights and due process. By aligning its legal practices with international standards, India strengthens its sovereignty, ensuring its legal system is respected and influential globally. Therefore, The BNSS Law is a significant domestic reform and a vital instrument in enhancing India's role on the world stage.

### **Challenges and Future Directions**

The Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023, represents a significant shift in India's criminal justice landscape. However, several pressing challenges and evolving future directions will likely shape its implementation and efficacy.

Technological Changes pose one of the most dynamic challenges. As technology rapidly advances, the legal framework must keep pace to address issues such as digital evidence, cybersecurity, and electronic communication. The BNSS introduces provisions for technology

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integration, such as electronic summons and video conferencing, but continuous technological evolution necessitates ongoing updates to ensure that these provisions remain relevant and practical. For instance, handling digital evidence and electronic communications must adapt to new forms of cybercrime and digital manipulation. The challenge lies in maintaining the BNSS's adaptability to new technological developments while safeguarding the integrity and security of legal processes.

Globalisation introduces additional complexities. The increasing interconnectedness of global economies and societies impacts the BNSS, particularly in managing cross-border crimes and ensuring international cooperation. The act must address extradition challenges, mutual legal assistance, and international legal standards. As global criminal networks become more sophisticated, India's legal framework must be aligned with international norms to combat transnational crime effectively. This includes creating robust mechanisms for collaboration with foreign law enforcement agencies and integrating global best practices into domestic legislation.

Balancing Interests involves navigating the intersection of business, national security, and sovereignty. The BNSS must strike a delicate balance between safeguarding national security and fostering a business-friendly environment. There is a risk that stringent security measures could impede business operations or infringe on individual rights. For instance, surveillance and data privacy concerns must be carefully managed to prevent abuses of power while ensuring that security measures are effective. The challenge is to craft policies that protect national interests without stifling economic growth or violating fundamental rights.

Emerging Issues such as artificial intelligence (AI), climate change, and global health crises present new challenges for the BNSS. AI, with its potential for positive and negative impacts on law enforcement, requires the BNSS to address issues like algorithmic bias and the ethical use of AI in criminal investigations. Climate change introduces complexities related to environmental crimes and the legal frameworks needed to address them. Global health crises, such as pandemics, affect criminal justice operations and may necessitate procedure adjustments to handle health-related challenges. The BNSS must proactively anticipate and address these emerging issues to ensure that the legal system remains responsive and effective.

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## Conclusion

The analysis of BNSS, 2023, reveals a significant shift towards India's more modern and efficient criminal justice system. Key findings include the successful integration of technological advancements, such as video conferencing for hearings and electronic communication for summons. These reforms have led to a reduction in procedural delays and enhanced transparency in judicial processes. Broadening victim definitions and streamlined compensation processes have also contributed to a more victim-centric legal framework. The implications for future research include exploring the long-term impacts of these reforms on judicial efficiency and victim satisfaction, as well as assessing the potential for further technological integration. In conclusion, the BNSS represents a pivotal development in criminal justice reform, setting a precedent for other jurisdictions and underscoring the importance of evolving legal frameworks to meet contemporary needs.

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