

REFORMING CRIMINAL PROCEDURE: UNDERSTANDING THE BNSS

Dr. Neeraj Malik

A wooden gavel is positioned in the foreground, resting on a stack of books. In the background, a statue of Lady Justice is visible, holding a scale and a sword. The scene is set against a dark, textured background.

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BALANCING JUSTICE AND REFORM: THE BNSS IN CRIMINAL PROCEDURE

Salini C.

Abstract

The Bharatiya Nagrik Suraksha Sanhita (BNSS), introduced as part of a comprehensive overhaul of India's colonial-era criminal laws, aims to modernize and humanize the criminal justice process. This research paper explores how the BNSS seeks to balance the imperatives of justice, efficiency, and individual rights. By critically analyzing key reforms within the BNSS in the context of criminal procedure, the paper examines their potential to enhance the effectiveness of the justice system while preserving constitutional safeguards. It also contrasts the BNSS with the repealed Code of Criminal Procedure, 1973 (CrPC), and evaluates the implications for stakeholders such as law enforcement, judiciary, and citizens.²⁸

1. Introduction

India's criminal justice system, for decades, has functioned under the structural and procedural framework established by colonial British law, primarily through the Indian Penal Code, 1860, the Indian Evidence Act, 1872, and the Code of Criminal Procedure, 1973 (CrPC). These laws, though amended over time, retained their colonial underpinnings, prioritizing state control over individual liberties and procedural efficiency. The CrPC, in particular, often led to procedural delays, arbitrary arrests, and poor protection for victims and witnesses, contributing to low conviction rates and high pendency in courts (Law Commission of India, 239th Report, 2012). Recognizing these systemic failures and the urgent need for change, the Government of India in 2023 proposed and passed a transformative legislative framework aimed at decolonizing and democratizing criminal procedure.

²⁸ Baxi, U. (2015). Transformative constitutionalism and Indian democracy. *Journal of Indian Law and Society*, 6(1), 35–49.