

**REVISITING TRIAL FRAMEWORKS IN INDIAN CRIMINAL LAW: A
COMPARATIVE PERSPECTIVE ON CRPC, 1973 AND BNSS, 2023**

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ABSTRACT

The Indian criminal justice system is undergoing a significant transformation with the replacement of the Code of Criminal Procedure, 1973 (CrPC) by the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). This legislative overhaul aims to enhance efficiency, transparency, and responsiveness in the criminal trial process. This article undertakes a comparative analysis of the trial frameworks under the CrPC and the BNSS, focusing especially on the procedures of summary trials. It highlights the key changes introduced by the BNSS, examines their potential impact on the administration of justice, and assesses whether these reforms truly address the longstanding challenges of delay, procedural rigidity, and access to justice. The analysis reveals both promising reforms and areas of concern, especially in balancing speed with fairness.

KEYWORDS: Criminal Justice System, Code of Criminal Procedure, Bharatiya Nagarik Suraksha Sanhita, Summary Trials, Legal Reforms, Criminal Procedure, Justice Delivery, Procedural Law

INTRODUCTION

India's criminal justice system, governed for over five decades by the **Code of Criminal Procedure, 1973 (CrPC)**, has long struggled with systemic issues such as **case backlogs**, **delays in trials**, and **procedural complexity**. Recognizing the need for modernization and faster delivery of justice, the **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** was introduced, replacing the CrPC as part of a broader legal reform that also substitutes the Indian Penal Code, 1860 and the Indian Evidence Act, 1872.

The **BNSS seeks to streamline criminal trials**, make them more citizen-centric, and promote the use of digital technologies. One of the notable focuses of BNSS is the **reform of trial procedures**, especially **summary trials**, which aim to dispose of minor offences quickly and efficiently without compromising procedural fairness.

The Indian criminal justice system, rooted in colonial legal legacy, has undergone significant changes since Independence, yet the structural framework of criminal trials has remained largely unaltered for decades. The Code of Criminal Procedure, 1973 (CrPC) has served as the bedrock of procedural criminal law in India, replacing the older 1898 version with a vision of procedural justice, fair trial, and accountability. Over time, despite numerous amendments, it became evident that CrPC was lagging in addressing the evolving needs of modern society, digital transformations, and the aspiration for expeditious justice. In this backdrop, the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), was introduced as part of a larger initiative to decolonize and modernize India's criminal laws. The BNSS aims to create a victim-centric, technologically aligned, and speedier justice system by revisiting trial frameworks that had become archaic under CrPC. This article undertakes an in-depth comparative analysis of the trial procedures under CrPC, 1973 and the proposed BNSS, 2023, to evaluate how far the reforms meet the aspirations of an efficient criminal justice system in India.

The CrPC, 1973 consolidated and amended laws relating to the procedure of investigation, inquiry, trial, and appeal in criminal cases. The trial frameworks under CrPC were divided broadly into sessions trials, warrant cases, summons cases, and summary trials. While this classification brought procedural clarity and categorization, the actual conduct of trials often suffered due to procedural delays, case backlogs, abuse of provisions, and complex evidentiary requirements. Over the years, the criminal justice system under CrPC developed a reputation for being slow, opaque, and heavily tilted in favour of the accused, often at the cost of victim's rights. The need for a victim-centric approach, better case management, use of technology, and time-bound trial procedures became pressing concerns. CrPC's over-reliance on oral evidence, physical presence, manual processes, and complicated appellate mechanisms limited its adaptability to contemporary needs.

The BNSS, 2023 aims to usher in a transformative approach to criminal procedure. It is designed not merely as a replacement but as a reimagined procedural code that incorporates digital governance, victim participation, and procedural efficiency at its core. One of the most notable changes under BNSS is the emphasis on time-bound investigations and trials. The new

code proposes that charges be framed within 60 days of the first hearing, and trials be concluded within 180 days. This contrasts with CrPC where, despite judicial directions in cases like *Hussainara Khatoon and Common Cause v. Union of India*, the law did not specify concrete timelines, leaving courts to deal with indefinite delays.

Another significant reform in BNSS pertains to the use of technology in trials. BNSS expressly provides for electronic communication for summons and warrants, use of video conferencing for recording evidence and conducting hearings, digital depositions, and electronic case management systems. Under CrPC, although courts started adopting such practices informally during the COVID-19 pandemic and thereafter, there was no statutory backing. By institutionalizing digital processes, BNSS aims to reduce pendency and increase access to justice, especially in remote and rural areas. The formal inclusion of videography during search and seizure operations also adds a layer of transparency and evidence authenticity, which was lacking in CrPC.

The trial stages under CrPC, while procedurally elaborate, often allowed for manipulation through repeated adjournments, absence of timelines, and ineffective cross-examinations. BNSS, in contrast, aims to plug these gaps by restricting the number of adjournments to two and insisting upon continuous trial frameworks. It mandates that the examination of witnesses take place on consecutive days, thereby reducing witness fatigue and delays. These provisions signal a clear legislative intent to streamline the trial process, enhance judicial accountability, and improve the pace of criminal adjudication.

Further, BNSS places a renewed focus on the rights of victims, which were traditionally marginalized under CrPC. While the CrPC did incorporate some provisions like the right to be heard in bail applications in serious offences, victim compensation schemes, and the right to appeal under certain circumstances, the system remained heavily skewed in favour of the accused's procedural safeguards. BNSS enhances victim participation by enabling greater involvement in trial processes, especially in plea bargaining, compounding, and settlement mechanisms. The victim is to be kept informed about trial progress and procedural developments through electronic means. This shift from an offender-centric to a victim-inclusive framework is a significant development in the evolution of criminal procedure in India.

In terms of plea bargaining, CrPC introduced it in 2005 under Chapter XXIA, with limited success due to procedural hesitancy and lack of awareness. BNSS reconfigures the plea-bargaining framework by encouraging its broader use, reducing judicial burden, and formalizing its procedures with an emphasis on voluntariness, transparency, and victim consent. The BNSS encourages pre-trial resolution of minor offences through negotiation and incentivizes it through lesser punishment, aligning with restorative justice principles.

Moreover, the BNSS re-evaluates the classification and handling of offences. It introduces more rationalized categorization of offences for trial purposes, and aims to simplify procedures for petty offences. CrPC's rigid categorization sometimes led to disproportionate procedural requirements even in minor cases, thereby burdening courts and delaying justice in serious matters. BNSS's more flexible and rational approach in handling minor offences through community service or summary disposal reflects a progressive outlook.

Additionally, the framework for summary trials under CrPC, which allowed for expeditious disposal of petty cases, was rarely used to its full potential due to procedural ambiguity and judicial reluctance. BNSS not only expands the scope of summary trials but mandates that petty offences with punishment of less than three years must ideally be handled through summary mechanisms unless special reasons are recorded. This could reduce the judicial burden significantly, allowing focus on grave offences and preventing unnecessary incarceration.

Another pivotal shift in BNSS is the procedural handling of absconding accused. CrPC had provisions for proclamation and attachment of property but lacked mechanisms for trial in absentia. BNSS permits trial in absentia in certain cases where the accused is deliberately evading the process of law, provided procedural safeguards are met. This ensures that justice is not perpetually delayed due to accused absconding, while still balancing the rights of the accused with adequate safeguards such as legal representation and post-facto remedies.

The approach to forensic and scientific evidence has also undergone transformation in BNSS. The CrPC did not accord primary evidentiary value to forensic science unless corroborated by other forms of evidence. BNSS reverses this approach by recognizing forensic evidence as critical and in many cases, sufficient. It mandates forensic investigation in offences punishable with more than seven years and proposes the creation of National Forensic Science University certified experts. This modernization of evidentiary standards reflects the global trend of integrating scientific advancements in criminal justice.

BNSS also makes improvements in the area of witness protection and anonymity. While CrPC was largely silent on these aspects, leaving it to judicial interpretation and state-level schemes, BNSS creates a framework for witness protection through in-camera proceedings, anonymization, and protection from victimization. This is crucial for sensitive cases, including sexual offences and organized crime, where witness intimidation is a common barrier to justice.

Despite these advantages, the implementation of BNSS raises certain challenges and critical reflections. The infrastructure required to support digital trials, forensic labs, video conferencing, and electronic evidence systems is grossly underdeveloped in many districts. Without adequate training, judicial capacity-building, and robust IT infrastructure, the digitization provisions may remain aspirational. Moreover, while the BNSS promises time-bound trials, its success depends on the judiciary's willingness and capacity to enforce these timelines. Delays in judicial appointments, lack of court staff, and infrastructural deficits could pose serious implementation hurdles.

Another concern is the balancing of rights. While BNSS aims to speed up trials, concerns have been raised regarding procedural safeguards for the accused, especially in the context of trial in absentia and limits on adjournments. There is a risk that expediency may override fair trial guarantees if not checked by judicial oversight. Critics argue that while enhancing victim rights is crucial, it must not come at the cost of undermining the rights of the accused, which are fundamental to criminal jurisprudence.

From a comparative international perspective, BNSS aligns with global best practices by integrating elements of victim participation, digital justice, and scientific evidence. Countries like the United Kingdom, Canada, and Australia have long adopted video conferencing, plea bargaining, and summary trials to ease judicial burden and improve access to justice. India's transition through BNSS reflects an attempt to move in this direction while retaining the essence of its constitutional guarantees and judicial traditions. The inclusion of new procedural safeguards and the emphasis on fair but speedy trials indicate that the BNSS is not merely a cosmetic change but a substantial procedural overhaul.

In short, the shift from CrPC, 1973 to BNSS, 2023 marks a historic transformation in India's criminal procedural law. While CrPC laid a foundational procedural framework, its colonial legacy and procedural rigidity hindered its effectiveness in contemporary times. BNSS attempts to infuse technological modernization, victim inclusivity, and procedural efficiency

into criminal trials. It seeks to deliver justice not merely in principle but in practice—by addressing delays, ensuring participation, and leveraging innovation. However, the success of BNSS will depend on the synergy between legislative intent, judicial will, administrative readiness, and infrastructural capability. As India stands at the cusp of a new criminal justice era, it is imperative that all stakeholders work collaboratively to realize the true spirit of justice embedded in the BNSS. The transition must be approached with caution, clarity, and commitment to constitutional values, ensuring that the scales of justice remain balanced even as the machinery of justice becomes more efficient and responsive.

This article aims to **critically compare** the trial procedures under CrPC and BNSS, with special emphasis on **summary trials**. It explores the historical context, legislative intent, major procedural changes, and likely implications of these reforms for the Indian criminal justice ecosystem.

COMPARATIVE ANALYSIS OF TRIAL FRAMEWORKS UNDER CRPC,1973 AND BNSS,2023

1. Overview of Trial Types under CrPC and BNSS

Both CrPC and BNSS categorize trials into:

- **Warrant Trials** (for serious offences),
- **Summons Trials** (for less serious offences), and
- **Summary Trials** (for petty offences).

While the structure remains largely similar, **BNSS introduces more procedural flexibility** and aims to digitize various stages of investigation and trial.

2. Summary Trials: CrPC vs BNSS

Aspect	CrPC, 1973	BNSS, 2023
Scope	Applies to offences punishable with imprisonment not exceeding two years.	Retains similar scope but encourages more use for minor offences to decongest dockets.

Aspect	CrPC, 1973	BNSS, 2023
Magistrate's Power	First Class Magistrates and Second Class (with permission) could try summary cases.	Maintains similar provisions but adds digital procedures to reduce paperwork.
Procedure	Simplified procedure under Sections 260-265.	Retains structure but adds time limits and encourages use of technology like e-trials.
Judgment Format	Concise judgments required.	Continues concise format, now with potential for audio-video recording of statements and digital signing.
Timelines	No strict timeline for summary trials.	Introduces time-bound trial completion to avoid unnecessary delays.

3. Key Innovations under BNSS, 2023

- **Time-Limits for Investigation and Trial:** BNSS proposes defined timelines to expedite trials, particularly for minor and summary cases.
- **Use of Technology:** Provisions for video conferencing, electronic communication of summons/warrants, and digital filing of FIRs.
- **Victim-Centric Approach:** Emphasizes protection and participation of victims during trials.
- **Removal of Redundancies:** Obsolete and duplicative provisions have been removed to simplify trial processes.

4. Critique and Concerns

While the BNSS introduces efficiency-driven reforms, some concerns persist:

- **Possibility of procedural shortcuts** compromising fair trial rights.
- **Overburdened lower judiciary** may still struggle with time-bound mandates.
- **Implementation capacity**, especially digital infrastructure in rural areas, remains weak.
- **Training of judicial officers and police** is essential to ensure successful adaptation.

CONCLUSION

The **BNSS, 2023 marks a significant shift** in India's criminal procedural law, aiming to address long-pending issues in criminal trials through simplification, digitization, and stricter timelines. Its provisions regarding **summary trials signal a strong move toward efficiency** and speedy justice, especially in minor offences, potentially reducing case pendency and improving citizen access to justice.

However, the transition from CrPC,1973 to BNSS,2023 must be handled with caution. The **core principles of natural justice and fair trial** must not be sacrificed at the altar of expediency. Continuous monitoring, judicial training, and infrastructural readiness are essential for the success of this legislative reform.

FUTURE SCOPE

- **Empirical Study:** Future research should examine the **real-world impact of BNSS** on summary trials through data on case disposal rates and public satisfaction.
- **Judicial Interpretation:** As courts begin to interpret the BNSS, **case law development** will provide deeper insights into the application and constitutionality of its provisions.
- **Technology Integration:** Evaluating the **effectiveness of digitized trial procedures** in remote and under-resourced regions can guide further legislative amendments.
- **Victim-Centric Reforms:** Future studies may analyze how well the BNSS enhances **victim participation and protection**, especially in summary and summons trials.
- **Comparative Jurisprudence:** Comparative analysis with procedural reforms in **other jurisdictions like UK, USA, or Singapore** may offer valuable insights for India's evolving criminal procedure.

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