

LEGALISED VANISHING: BNSS LOOPHOLES THAT ENABLE SECRET  
DETENTION

---

*Bhuvaneswari Gullapudi<sup>1</sup>*

VOLUME 1, ISSUE 1 (JANUARY- JUNE 2025)

**ABSTRACT**

*The evolution of criminal procedure often reflects a state's balancing act between investigative efficacy and the protection of fundamental liberties. In India, the transition from the Code of Criminal Procedure (CrPC) to the Bharatiya Nagarik Suraksha Sanhita (BNSS) represents a significant overhaul aimed at modernisation. However, this shift has engendered serious concerns regarding the potential for procedural law to be weaponised against citizens. This paper examines the disquieting phenomenon of "legalised vanishing" under the BNSS, a process where individuals are not abducted but are instead rendered invisible through the manipulation of legal mechanisms. It deconstructs how the triad of extended police remand under Section 187, the strategic use of sequential FIRs, and the erosion of physical oversight via digital court production collectively create an architecture for secretive detention. Grounded in an analysis of post-BNSS incidents and pre-existing patterns of custodial abuse from regions like Assam and Tamil Nadu, the study argues that the new code does not merely contain loopholes but actively institutionalises a framework that legitimises disappearance under a veneer of legality, thereby posing a grave threat to constitutional democracy.*

**Keywords:** Legalised Vanishing, BNSS, Extended Police Remand, Sequential FIRs, Custodial abuse.

---

<sup>1</sup> Bhuvaneswari Gullapudi, VITAP University, Amravati.

## INTRODUCTION

In a democracy, the legal systems are designed to protect citizens from the abuse of power. But when the same law becomes a tool for making individuals disappear, not secretly, but rather through legal means, it creates a paradox here. The Bharatiya Nyaya Suraksha Sanhita (BNSS), introduced in 2023 as a replacement for the decades-old CrPC, aims to modernise criminal procedures, but certain provisions have raised concerns regarding their potential misuse.<sup>2</sup> The new procedural powers granted by BNSS come with serious risks. One of the main troubling risks is the wider scope of the extended police custody, sequential FIRs, and remote judicial productions, which can be manipulated to secretly detain people still within the legal limits. The Orissa High Court has recently held that failure to produce an accused within 24 hours is a violation of the Constitutional safeguards, but these are often sidestepped through procedural loopholes.<sup>3</sup>

This paper argues that BNSS creates a legal architecture for “vanishing” - a hidden process by which detainees are held under the guise of law through extended remands, repetitive FIRs, and weakened judicial oversight.<sup>4</sup> Unlike traditional enforced disappearances, this vanishing happens openly within the legal system itself and often escapes public and judicial scrutiny.

## DEFINING LEGALISED VANISHING: DISTINCTION AND CONTEXT

The term “Legalised Vanishing” is not any specific clause mentioned explicitly in any law, but rather a process and a consequence that emerged from the manipulation of legal procedures. Unlike traditional enforced disappearances, where the perpetrators refute the custody or location of a person, legalised vanishing happens within the purview of legal systems.<sup>5</sup> Although the individual in question is acknowledged to be arrested or detained, their effective invisibility is a result of various reasons, such as procedural postponements, prolonged custody, and insufficient judicial scrutiny. This distinction is very crucial. According to the International Committee of the Red Cross (ICRC) report on enforced disappearances, enforced disappearances are characterised

<sup>2</sup> Comparison Table: Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 vs. Code of Criminal Procedure (CrPC) 1973, *Latest Laws*, <https://www.latestlaws.com/comparison/bnss-to-crpc/> (last visited Nov. 4, 2025).

<sup>3</sup> Jyoti Prakash Dutta, S.58 BNSS Bail Must Be Granted to Accused If Not Produced Before Magistrate Within 24 Hrs of Arrest: Orissa High Court, *LiveLaw* (Aug. 11, 2025), <https://www.livelaw.in/high-court/orissa-high-court/orissa-high-court-ruling-production-of-accused-within-24-hours-illegal-arrest-and-section-58-bnss-300588> (last visited Nov. 4, 2025).

<sup>4</sup> Margaret J. Frossard, *The Detainer Process: The Hidden Due Process Violation in Parole Revocation*, 52(3) *Chi.-Kent L. Rev.* 550 (1976).

<sup>5</sup> About Enforced Disappearance, *Office of the High Comm’r for Hum. Rts.*, <https://www.ohchr.org/en/special-procedures/wg-disappearances/about-enforced-disappearance> (last visited Nov. 3, 2025).

by the state or non-state actors routinely denying an individual's detention or whereabouts, thus making the act furtive and illegal. On the other hand, legalised vanishing occurs "in plain sight," shrouded behind the veil of legitimacy through formal written arrests and court remands by magistrates, but essentially operates to exclude detainees from accessible legal protections and wider awareness.<sup>6</sup>

This gap arises from the failure of the Indian legal system to criminalise disappearances explicitly, as mentioned in the lapsed 2017 bill, which was intended to address the enforced disappearances.<sup>7</sup> This legislative vacuum has allowed procedural mechanisms under laws like BNSS to facilitate vanishing without clear accountability.

This paper examines the phenomenon of legalised vanishing by exploring three primary mechanisms that collectively form the foundation of this hidden detention. The first mechanism is the pretextual arrest and bait-and-switch strategy, wherein individuals are detained for minor offences but subsequently subjected to more serious charges- often through the application of statutes such as the Unlawful Activities (Prevention) Amendment Act, 2019 (UAPA 2019). The second mechanism pertains to the temporal black hole created by prolonged police remand, as permitted by BNSS provisions, which can extend up to 60 or 90 days, thereby allowing extended detainment with minimal judicial oversight. The third component is the facade of digital or remote judicial processes, exemplified by video conferencing for appearances before magistrates, which complicates the ability of courts to evaluate the physical and mental well-being of detainees, thereby facilitating the concealment of abuse.

### **THE BNSS ARCHITECTURE OF DISAPPEARANCE: DECONSTRUCTING THE PROVISIONS**

The Bharatiya Nagarik Suraksha Sanhita (BNSS) enables "legalised vanishing" through three key procedural mechanisms. They are:

#### **The Pretext and the Pivot: Weaponizing Sequential FIRs**

A key method through which BNSS gives a way for secretive detention is the use of sequential FIRs. It enables the authorities to arrest individuals for minor or pretextual charges and then

<sup>6</sup> Int'l Comm. of the Red Cross, *The Right to a Remedy for Enforced Disappearances in India: A Legal Analysis of International and Domestic Law Relating to Victims of Enforced Disappearances* (2023), <https://missingpersons.icrc.org/library/right-remedy-enforced-disappearances-india-legal-analysis-international-and-domestic-law> (last visited Nov. 5, 2025).

<sup>7</sup> *The Prevention of Enforced Disappearance Bill*, No. XXXI of 2017, <https://sansad.in/getFile/BillsTexts/RSBillTexts/Asintroduced/enforced-E-151217.pdf> (last visited Nov. 5, 2025).

move them to harsher offences. There is no particular section in the BNSS that explicitly prohibits the police from registering a new FIR for a different offence against the same person, even while an earlier one is being investigated. This established practice, carried over from the CrPC, creates the loophole.

A notable post-BNSS example is from Uttar Pradesh, where journalists were booked more than once for minor and trivial offences such as tweeting about mob lynching acts.<sup>8</sup> Such a case is an example of the pretext strategy, i.e., the first arrest on what appears to be a minor charge or everyday offence is merely the opening to a completely different legal procedure, which might end with a long and harsh remand and stiff penalties under harsh laws such as UAPA, to which BNSS clauses add.

### **The Temporal Black Hole: Analysing Extended Police Remand**

Section 187 of the BNSS allows police custody for investigation purposes to extend up to 60 days, with a magistrate-controlled judicial custody up to 90 days, much more than the thresholds set by the old CrPC.<sup>9</sup>

The Commonwealth Journalists' Protection (CJP) article "Police Custody under CrPC & BNSS: A Paradigm Shift" highlights how BNSS represents a paradigm shift, allowing police to hold an accused in custody for longer, fragmented periods legally authorised over many weeks.<sup>10</sup> This extension in the custodial period, especially under police control rather than jail, creates a legal black hole. It is because the person isn't formally charged or physically produced in court. During this time, the risk of torture and abuse is relatively high, and they will be isolated. This is how 'vanishing' works. The person is invisible to the judicial system can't even see them to help. The BNSS unwittingly creates a system that normalises secretive detention or detention that is unaccountable, by structurally accommodating extended periods of custody. This can be done by increasing the durations of custody and permitting sequential remands tied to separate FIRs or large-scale investigations.

### **The Judicial Smokescreen: Erosion of Oversight through Digital Protection**

<sup>8</sup> Sarasvati NT, UP Police Book Journalists Under Bharatiya Nyaya Sanhita for Tweeting About Mob Lynching Incident, What's Worrying?, *Medianama* (July 8, 2024), <https://www.medianama.com/2024/07/223-up-police-book-journalists-bharatiya-nyaya-sanhita-tweeting-mob-lynching/> (last visited Nov. 3, 2025).

<sup>9</sup> *Bharatiya Nagarik Suraksha Sanhita*, No. 45 of 2023, Acts of Parliament, 2023 (India), <https://www.indiacode.nic.in/bitstream/123456789/20099/1/eng.pdf> (last visited Oct. 28, 2025).

<sup>10</sup> Citizens for Justice & Peace, *Police Custody Under CrPC & BNSS: A Paradigm Shift in Balancing Liberty and Investigation* (2025), <https://cjp.org.in/police-custody-under-crpc-bnss-a-paradigm-shift-in-balancing-liberty-and-investigation/> (last visited Nov. 5, 2025).

With BNSS replacing the old CrPC, many new legal provisions have been introduced to modernise the justice system and speed up the court processes, and one of them is the adoption of video conferencing and electronic procedures for the judicial production of detainees. Even though the intention behind it is to increase efficiency, the practicality of it can be moulded into being considered as one of the loopholes.

The Orissa High Court, in its ruling in 2025, powerfully addresses this issue. The Court has held that the failure to produce an accused physically before a magistrate within 24 hours invalidates the arrest itself as unconstitutional and a violation of BNSS section 58 and Article 22(2).<sup>11</sup> Yet, this basic safeguard is routinely violated, with digital production often substituting physical court appearances. This substitution puts the person who was detained at a loss, because this digital production prevents the magistrates from observing the detainee's physical and mental state, permitting coercion, torture or neglect to go unnoticed. If the basic rule of 24-hour production is being disregarded, it shows that more complex remote procedures in the BNSS will likely be misused as well. This turns the legal process into a smoke screen, making it easier for people to vanish inside the system.

## LEX MENTE REAL - LIFE CASES

This section demonstrates how the architecture of disappearance, outlined in the previous chapter, is not theoretical; it is already being operational across India. While the BNSS has only recently come into force, patterns of procedural misuse have long existed under the CrPC. These cases demonstrate how the same mechanisms, now reinforced by extended custody provisions and rebooking powers, can enable 'legalised vanishing'. The examples below are organised by patterns rather than by individual cases, highlighting recurring methods through which law is used to conceal rather than protect.

### **Pattern A: The “Questioning” Pretext and Custodial Abuse**

Across India, the Police merely justify detention as “questioning”. However, once the person is taken into custody, they often face torture, prolonged confinement or even death, and all of this without the official acknowledgement of wrongdoing by the police. These incidents demonstrate how *questioning* serves as a legal cover for unrecorded detention.

---

<sup>11</sup> Dutta, supra note 3.



In **Tamil Nadu** (2024), a temple security guard was taken for questioning in connection with a theft and was later found dead in custody. Post-mortem reports revealed severe internal injuries, yet the FIR registered only “unnatural death”, illustrating how legal processes obscure accountability.<sup>12</sup> Similarly, in **Delhi** (July 2025), a young man was taken into custody for questioning in connection with a complaint of theft made against him by a woman supervisor. There were signs of physical torture; the victim had injury marks on his body. He was also given electric shocks, due to which there was swelling in his ear. The absence of CCTV footage, explained as a “technical glitch”, erased any trace of police responsibility.<sup>13</sup>

The problem extends even within the police force itself. In **Jammu and Kashmir**, a police constable was allegedly tortured by fellow officers during an internal investigation, which showcases the fact that custodial violence has become institutional rather than exceptional.<sup>14</sup> In Madhya Pradesh, four juveniles accused of petty theft were detained overnight without documentation and beaten before release, with no disciplinary action taken against the officers involved.<sup>15</sup>

These incidents reveal how temporary custody becomes a zone of unaccountable control. Under BNSS, which allows longer periods of police custody within the first 40 or 60 days of investigation, such practices gain further legitimacy. What was once an abuse of procedure under the CrPC could now become procedure itself under the BNSS framework. This marks the beginning of legalised vanishing - where disappearance occurs not by denying the law, but through its deliberate use.

### **Pattern B: Targeting Journalists and Activists**

The second pattern illustrates the manner in which the government utilises detention legislation to target journalists, activists, and dissenters- individuals who question state narratives. These persons do not face secret abductions; instead, they are rendered to "disappear" through a legal

<sup>12</sup> Harshita Das, Gagged and Beaten: Family Alleges Custodial Death of Tamil Nadu Temple Guard, *India Today* (June 29, 2025), <https://www.indiatoday.in/india/tamil-nadu/story/gagged-and-beaten-family-alleges-custodial-death-of-tamil-nadu-temple-guard-2748053-2025-06-29> (last visited Nov. 5, 2025).

<sup>13</sup> *Id.*

<sup>14</sup> Nazir Masoodi, After Supreme Court Order, 6 J&K Cops Arrested for Brutal Torture of Policeman, *NDTV* (Aug. 21, 2025), <https://www.ndtv.com/india-news/after-supreme-court-order-6-jammu-and-kashmir-cops-arrested-for-brutal-torture-of-policeman-9128770> (last visited Nov. 8, 2025).

<sup>15</sup> Press Release, National Human Rights Comm’n, NHRC Notice to the Government of Madhya Pradesh over Reported Illegal Detention and Torture of Four Juveniles in Police Custody in Tikamgarh (May 7, 2022), <https://nhrc.nic.in/media/press-release/nhrc-notice-to-the-government-madhya-pradesh-over-reported-illegal-detention-an-torture-four-juveniles-in-police-custody-in-tikamgarh> (last visited Nov. 7, 2025).

framework characterised by repeated arrests, rebooking, and the implementation of digital hearings that restrict judicial scrutiny.

**Aasif Sultan**, a Kashmiri journalist, was repeatedly arrested under different FIRs even after being granted bail, reflecting how sequential rebooking neutralises judicial relief.<sup>16</sup> In Assam, journalist **Dilwar Hussain** was detained for covering a demonstration about alleged corruption at Assam Co-operative Apex Bank Ltd; his family was unaware of his location for over two days.<sup>17</sup>

**Mohammad Zubair**, co-founder of Alt News, faced multiple arrests across jurisdictions for old social media posts - each time bail was granted, a new FIR emerged elsewhere, extending his detention in a technically “lawful” manner.<sup>18</sup>

Human Rights Watch and Civicus (2023) note that over 67 Indian journalists faced detention<sup>19</sup> or arrest between 2019 and 2023. India's civic sphere is described by these papers as "repressed", and the increasing pattern for laws aimed at public order to be used within the criminalisation of dissenting voices. Use of the BNSS to allow digital or video-conference hearings prior to magistrates further erodes judicial checks - judges rarely view the physical condition of detainees and thus further reduce the ability to detect coercion or abuse. These instances demonstrate the way vanishing ceases to be physical but institutional. By legal-appearing arrests and successive remands, the state is eliminating the voices of dissent from the public arena and effectively muffling them without any explicit violation of the law

### **Pattern C: The Assam Blueprint - Covert Detentions and Enforced Disappearances**

Assam exemplifies a pronounced instance of legalised disappearance in practical terms. Following the National Register of Citizens (NRC) verification initiatives, various accounts have emerged detailing instances of Bengali-speaking Muslims being forcibly removed from their residences during nocturnal operations under the guise of "identity verification." In many cases,

<sup>16</sup> Kashmiri Journalist Aasif Sultan Rearrested Days After Release, *Al Jazeera* (Mar. 2, 2024), <https://www.aljazeera.com/news/2024/3/2/kashmiri-journalist-aasif-sultan-re-arrested-days-after-release> (last visited Nov. 8, 2025).

<sup>17</sup> Press Release, Int'l Fed'n of Journalists, India: Digital Journalist Arrested for Corruption Reporting (Apr. 1, 2025), <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/india-digital-journalist-arrested-for-corruption-reporting> (last visited Nov. 6, 2025).

<sup>18</sup> India: Arbitrary Detention of Journalist and Rights Defender Mohammad Zubair, *World Org. Against Torture* (July 12, 2022), <https://www.omct.org/en/resources/urgent-interventions/india-arbitrary-detention-of-journalist-and-rights-defender-mohammad-zubair> (last visited Nov. 5, 2025).

<sup>19</sup> Geetika Mantri, 67 Journalists Arrested, Detained, Questioned in India in 2020 for Their Work, *The News Minute* (Jan. 6, 2021), <https://www.thenewsminute.com/news/67-journalists-arrested-detained-questioned-india-2020-their-work-140963> (last visited Nov. 5, 2025).

families were not furnished with arrest documentation, and local law enforcement subsequently disclaimed any awareness of the individuals in custody.

“Disappeared in the Night” is the name of a report filed by the Citizens for Justice and Peace (CJP) in 2022 on dozens of similar instances where people had been picked up and returned after several days with different charges/FIRs.<sup>20</sup> Sabrang India's follow-up report in 2023 established that many were subsequently booked under preventive detention acts and documentation filed after the fact to regularise their detention. Amnesty International also reported in 2023 on “informal detention centres” functioning outside court orders, where detainees remained detained indefinitely until confirmation.

This framework reveals how a sequential process - encompassing inquiry, rebooking, and bureaucratic validation generates a legally unrecognised domain. Although it is officially stated that no individuals are “disappeared,” in reality, persons are excluded from legal acknowledgement for prolonged durations. Under the BNSS, the protracted remand duration and adaptable custody regulations facilitate the rationalisation of such detentions, potentially normalising the Assam model across the country.

### **Cross-pattern analysis**

These patterns collectively reveal that legalised vanishing operates not as a sudden rupture, but through a sinister continuity within the system. The pretext of questioning serves as the gateway to unrecorded detention, while sequential FIRs and extended remands then sustain an individual's invisibility under a cloak of legality. This process is completed by remote hearings and relaxed controls, which normalise a lack of bodily accountability. Across diverse contexts- from security forces and juveniles to journalists and the marginalised- the same architectural pattern persists. Under the BNSS, procedural rationales have expanded, transforming formerly unlawful practices into legitimate ones. Consequently, the law no longer merely permits disappearances; it now actively enables them.

## **ANALYSIS**

While the Bharatiya Nagarik Suraksha Sanhita (BNSS) was introduced with the professed aim of modernizing and streamlining India's criminal justice system, its procedural architecture contains significant regressive drawbacks. BNSS's discretion on long police remand under Section 187,

<sup>20</sup> Citizens for Justice & Peace, “Disappeared in the Night”: CJP’s Memorandum to NHRC on Assam’s Secretive Detentions and Illegal Pushbacks (2025), <https://cjp.org.in/disappeared-in-the-night-cjps-memorandum-to-nhrc-on-assams-secretive-detentions-and-illegal-pushbacks/> (last visited Nov. 5, 2025).



authorising detention until 60 days (police) and 90 days (judicial),<sup>21</sup> statutorily brings about a temporal black hole. Paradoxically, this is antithetical to the constitutional protections since the Bombay High Court held that the extension of remand without a reasoned hearing is inconsistent with Article 21 on the right to life and liberty.<sup>22</sup> Nevertheless, such judicial acknowledgement has not prevented BNSS from extending these powers that the judiciary has criticised to be susceptible to abuse and authorising long detention with limited checks.

Additionally, the development of digital and video-conference proceedings inhibits actual judicial examination. The Orissa High Court highlighted the constitutional requirement for physical production to magistrates within 24 hours of detention.<sup>23</sup> However, this protection is constantly breached or evaded by distant appearances, where detainees actual physical and mental state is not observable by the judges. This virtual smokescreen obscures coercion or torture that often accompanies prolonged remand, and which is hardly redressed by the courts. FIRs in quick succession and rebooking strategies also exacerbate the disappearance. Like in the case of the Uttar Pradesh journalists, individuals are detained on trivial grounds that turn into grave offences by special laws such as the UAPA through the procedural might of the BNSS to prolong detention and quell dissent. This bait-and-switch is a manifestation of the interaction between BNSS and stringent special laws.

The BNSS establishes a framework characterised by extensive remand authority, digital processing capabilities, and adaptable FIR protocols that, despite being constructed within a legal context, enable covert detention methods. The judiciary's opposition to prolonging remands and requirements for the presentation of detainees frequently becomes ineffectual due to procedural deficiencies and an increasing reliance on technology, underscoring an immediate necessity for reform to safeguard essential liberties effectively.

## RECOMMENDATIONS

The cases discussed earlier vividly illustrate how the BNSS framework operates in practice. These incidents show a consistent, systemic pattern enabled by the BNSS's procedural structure. Section 187, for instance, grants the police expansive remand powers, which are up to 60 days of police custody and 90 days of judicial custody for investigative purposes. Even though these

<sup>21</sup> *Bharatiya Nyaya Sanhita*, supra note 9.

<sup>22</sup> Ruchi Sharma, HC Declares: Extension of Remand Without Hearing or Reasoned Order Violates Article 21, *Latest Laws* (Oct. 13, 2025), <https://www.latestlaws.com/high-courts/hc-declares-extension-of-remand-without-hearing-or-reasoned-order-violates-article-21-230538/> (last visited Nov. 11, 2025).

<sup>23</sup> Dutta, supra note 3.

provisions are intended to ensure a thorough investigation. In practice, however, they often result in extended periods of detention during which individuals remain largely outside the purview of meaningful judicial oversight.

Courts such as the Bombay High Court have repeatedly criticised the routine extension of remand without proper hearings, identifying such actions as a direct threat to the constitutional right to liberty enshrined in Article 21. In the 2025 decision of *Ranganath Tulshiram Galande & Anr. v. State of Maharashtra*, the court firmly held that extending judicial remand beyond 60 days under the BNSS, absent a hearing or a reasoned order, violates fundamental constitutional protections. This ruling underscore the necessity of procedural safeguards and indicates that perfunctory extensions of custody cannot withstand constitutional scrutiny.<sup>24 25</sup>

Additionally, the adoption of digital and video-conference procedures under the BNSS, while ostensibly aimed at efficiency, further diminishes judicial oversight. The Orissa High Court has emphasised the constitutional requirement for the physical production of detainees within 24 hours of arrest. Failure to comply with this requirement undermines the very foundation of judicial review. Remote hearings hinder magistrates from properly assessing the physical and mental condition of detainees, creating conditions in which coercion or abuse may be obscured behind procedural compliance. This digital intermediation risks enabling a form of legalised disappearance, where the true circumstances of detainees remain concealed even as the process appears formally correct.<sup>26</sup> Moreover, the use of sequential FIRs and rebooking compounds the risk of such disappearances. Authorities may first arrest individuals on minor charges, only to escalate to more serious allegations—often invoking draconian statutes like the UAPA. This exploitation of BNSS’s extended remand provisions allows for prolonged detention and the suppression of dissent. The experiences of journalists and activists demonstrate how these procedural flexibilities may be manipulated to facilitate extended, legally sanctioned

---

<sup>24</sup> Dipak Shakya, HC Declares: Extension of Remand Without Hearing or Reasoned Order Violates Article 21, *Latest Laws* (Aug. 26, 2024), <https://www.latestlaws.com/latest-news/hc-declares-extension-of-remand-without-hearing-or-reasoned-order-violates-article-21-230538/> (last visited Nov. 6, 2025).

<sup>25</sup> Snehalata D., Bombay High Court Rules Extension of Judicial Remand Without Hearing Opportunity Illegal, *LiveLaw* (Nov. 21, 2024), <https://www.livelaw.in/high-court/bombay-high-court/bombay-high-court-rules-extension-of-judicial-remand-without-hearing-opportunity-illegal-section-187-bnss-306679> (last visited Nov. 5, 2025).

<sup>26</sup> Shivendra Pratap Singh, Orissa High Court Rules Delay in Filing Compassionate Appointment Application Can Be Condoned, *LiveLaw* (Nov. 25, 2024), <https://www.livelaw.in/high-court/orissa-high-court/orissa-high-court-ruling-compassionate-appointment-limitation-period-307280> (last visited Nov. 4, 2025).

confinement.<sup>27</sup>

BNSS codifies a legal structure with broad remand powers, flexible FIR protocols, and digital processing mechanisms that, while lawful on paper, enable secret detentions. Judicial safeguards against arbitrary custody extensions and inadequate production are frequently bypassed due to procedural loopholes and technological mediation. This gap between law and practice highlights an urgent need for reforms to ensure that procedural justice aligns meaningfully with constitutional liberties.

### CONCLUSION

This paper has shown that the BNSS, despite aiming to modernise criminal procedure, creates conditions for legalised vanishing. Extended police and judicial remands, sequential FIRs, and digital procedures have enabled the proliferation of secret detentions that often evade effective judicial scrutiny. Cases involving custodial abuse, the targeting of journalists, and the surveillance of minority communities make clear that these are issues that involve the system, not isolated incidents.

Even measures that are intended as safeguards, such as video-conference production or fixed custody periods, can be exploited, coerced or abused while maintaining a face of legality. Comparisons with pre-BNSS practices under the CrPC suggest that the risk of legal disappearance has grown under the new framework. To address these problems, strict enforcement of production requirements, reasonable limits on police custody, mandatory physical oversight, and robust civil society monitoring are essential. Reforming the BNSS to close procedural gaps is critical to ensuring that the law serves as a genuine protector of individual rights and constitutional freedoms, rather than permitting their erosion.

---

<sup>27</sup> *Bharatiya Nyaya Sanhita*, supra note 9.