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# **ZERO FIR TO ZERO ACCESS: EXAMINING WHETHER DISABLED VICTIMS CAN MEANINGFULLY NAVIGATE INDIA'S NEW CRIMINAL JUSTICE FRAMEWORK UNDER BNSS 2023**

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## **ABSTRACT**

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), operative from July 1, 2024, codifies Zero FIR and introduces disability-specific procedural protections under Section 173. On paper, these represent a meaningful departure from the silence of the old Code of Criminal Procedure, 1973. In practice, however, the question of whether persons with physical, sensory, intellectual, or psychosocial disabilities can meaningfully navigate India's reformed criminal justice architecture remains deeply troubled. Drawing on National Crime Records Bureau Crime in India 2023 data, the Rights of Persons with Disabilities Act, 2016 (RPwD Act), and the UN Convention on the Rights of Persons with Disabilities (UNCRPD), this article argues that structural inaccessibility, an interpreter crisis, digital barriers in e-FIR design, and systemic attitudinal failures collectively render BNSS's disability provisions aspirational rather than operative. Genuine access to justice for disabled victims is not a matter of charity; it is a constitutional imperative rooted in Articles 14, 21, and 39A of the Constitution of India.

**Keywords:** BNSS 2023, Zero FIR, persons with disabilities, access to justice, RPwD Act 2016, e-FIR, UNCRPD, Section 173

## **I. Introduction**

When Parliament enacted the three new criminal laws in December 2023, replacing colonial-era legislation with the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhinyam (BSA), much of the commentary focused on definitional changes and technology adoption. Less examined was a quieter question: what do these reforms mean for the approximately 2.68 crore persons with disabilities recorded in the 2011 Census: a figure widely acknowledged by independent researchers as a significant undercount, given the exclusion of psychosocial and certain intellectual disabilities from the enumeration methodology.

The answer is not merely academic. Data from the National Crime Records Bureau's Crime in India 2023 report records cases registered for rape of women with mental or physical disability under Section 376(2)(1) of the Indian Penal Code: a provision tracking offences against disabled victims specifically: totalling approximately 130 cases at the national level in 2023. Rajasthan accounted for the highest number (32), followed by Assam (18) and Maharashtra (12). Yet this figure almost certainly represents a fraction of actual victimisation, given the well-documented structural barriers that prevent disabled victims from reaching the first step of the criminal justice process at all. A provision like Zero FIR under BNSS Section 173 could, in theory, transform this landscape. Whether it does so in practice is the central inquiry of this article.

The article proceeds in five parts. Part II surveys the relevant legal framework: constitutional, statutory, and international. Part III presents a data-grounded analysis using NCRB figures. Part IV examines the specific gaps between Section 173's promise and its practical operation. Part V identifies the minimum reforms required for genuine access. The article concludes with the argument that access to justice for disabled victims is not a discretionary policy preference but a constitutional obligation, one that the State is presently failing to discharge.

## **II. The Legal Framework: What the Law Promises**

### ***A. Constitutional Foundation***

Access to justice is not a statutory luxury conferred by legislative grace; it is a

fundamental right embedded in the constitutional architecture. Article 14 of the Constitution guarantees equality before the law and equal protection of the laws: a guarantee that must be substantive, not merely formal, to have meaning for persons with disabilities. Article 21 protects the right to life and personal liberty, which the Supreme Court has consistently construed to include the right to live with dignity and the right to access remedies when that dignity is violated. In *Jeeja Ghosh v. Union of India*<sup>1</sup>, the Court affirmed that the right to dignity necessarily includes the right of disabled persons to be treated as equal members of society, free from discrimination and indignity.

Article 39A, a Directive Principle of State Policy, specifically mandates that the State ensure that the operation of the legal system promotes justice on the basis of equal opportunity. For disabled persons, these guarantees acquire operational meaning only when the infrastructure, personnel, and procedures of the justice system are genuinely accessible. A right that exists on paper but cannot be exercised in practice is not a right at all, it is a promise the State has made to itself.

### ***B. The Rights of Persons with Disabilities Act, 2016***

The Rights of Persons with Disabilities Act, 2016 (RPwD Act), enacted to give domestic effect to the UNCRPD (ratified by India in 2007), is India's most comprehensive disability rights legislation. Two provisions are of particular relevance to criminal justice access. Section 12 expressly provides that persons with disabilities have the right to access any court, tribunal, authority, or quasi-judicial body without disability-based discrimination, and further mandates that the National Legal Services Authority (NALSA) and State Legal Services Authorities ensure reasonable accommodations to facilitate such access. Section 2(x) defines 'public facilities and services' to expressly include 'access to justice' and 'law enforcement agencies', meaning police stations, courts, and the broader criminal justice apparatus are legally obligated to be accessible.

The RPwD Amendment Rules of 2024, notified in June 2024, extended accessibility standards explicitly to police stations, requiring adherence to the accessibility guidelines notified by the Ministry of Home Affairs. Section 84 of the RPwD Act mandates the establishment of special courts for the speedy trial of offences against persons with disabilities. These provisions, taken together, create a statutory framework of considerable strength, the problem, as the subsequent analysis demonstrates, lies in enforcement.

### ***C. BNSS 2023: Section 173 and the Disability Proviso***

Section 173 of the BNSS, which governs the registration of First Information Reports, contains three elements of direct relevance to disabled victims.

First, Section 173(1) codifies the principle of Zero FIR: any police station may register an FIR for a cognizable offence irrespective of territorial jurisdiction. This is a statutory codification of the Supreme Court's ruling in *Lalita Kumari v. Government of Uttar Pradesh*<sup>2</sup>, which established mandatory FIR registration for cognizable offences. For a person with a locomotor disability, Zero FIR eliminates the previous absurdity of being directed to travel to a distant jurisdictional station.

Second, and most significantly, Section 173 contains a disability-specific proviso applicable where the alleged offence falls within enumerated sections of the BNS (including sexual offences under Sections 64–79 and Section 124) and the informant or victim is temporarily or permanently mentally or physically disabled. In such cases, the law mandates three specific procedures: (a) information shall be recorded at the residence of the person or at a place of their choice; (b) recording shall occur in the presence of an interpreter or special educator, as required; and (c) the entire process shall be videographed. Additionally, the police officer is required to ensure that a Judicial Magistrate records the person's statement as soon as possible under Section 183(6)(a).

Third, Section 173(1)(ii) introduces e-FIR, permitting information to be provided through electronic communication, formalised by the complainant's signature within three days of filing.

### ***D. The UNCRPD Framework***

India's obligations under the UNCRPD add an international dimension to these domestic standards. Article 13 of the Convention specifically requires States Parties to ensure effective access for persons with disabilities to the justice system on an equal basis with others, including through the provision of procedural and age-appropriate accommodations. Article 12 guarantees legal capacity, the right to be recognised as a person before the law, a protection especially significant for persons with intellectual or psychosocial disabilities, who are frequently, and unlawfully, presumed incapable of giving a valid statement.

### III. Data Analysis: The Empirical Dimension

The National Crime Records Bureau's Crime in India 2023 report provides the closest available empirical snapshot of criminal victimisation of disabled persons in India. Table 3A.11 of the report, which tracks cases registered under rape provisions (Section 376 IPC) broken down by sub-category, includes a column for Section 376(2)(1): rape of a woman with mental or physical disability. The data reveals that approximately 130 such cases were registered nationally in 2023, distributed across states with significant variation.

Rajasthan reported the highest number at 32 cases, followed by Assam with 18, Maharashtra with 12, and Uttar Pradesh recording figures across its districts. Several states, including several Union Territories, reported zero cases under this provision, a figure that almost certainly reflects non-registration rather than absence of crime. The all-India total of approximately 130 cases under a provision specifically tracking sexual violence against disabled women, in a country of over 140 crore people with a disabled population conservatively estimated at 2.68 crore, represents a number that strains credibility as an accurate reflection of actual victimisation.

The underreporting is not incidental. It is structurally produced by the very barriers this article examines: police stations that are physically inaccessible, the absence of sign language interpreters, attitudinal dismissal by officers, and digital exclusion from e-FIR systems. NCRB crime statistics for disabled victims thus measure not incidence but the limited reach of the reporting infrastructure itself. To treat these figures as a reliable index of actual crime would be both methodologically indefensible and, from a policy standpoint, dangerously misleading. The data is valuable precisely because it reveals the floor, not the ceiling, of disabled victimisation in India.

### IV. Why the Promise Falls Short: Structural and Operational Gaps

#### *A. Physical Inaccessibility of Police Stations*

Despite the RPwD Amendment Rules of 2024 mandating accessibility standards in police stations, implementation remains deeply and pervasively uneven. The Supreme Court's ruling in *Rajive Raturi v. Union of India*<sup>3</sup> (decided November 2024) is instructive: the Court struck down Rule 15 of the RPwD Rules as unconstitutional on the ground that it created

aspirational rather than mandatory, enforceable standards, observing that a structure without a solid foundation cannot provide reliable shelter. If the Court found the general accessibility standards themselves to be unconstitutionally aspirational, it is difficult to imagine that police stations, among the most poorly maintained category of government infrastructure in India, are compliant.

The practical consequence is that many police stations continue to lack ramps, accessible counters, Braille signage, and accessible sanitation facilities. A victim with a locomotor disability who approaches a police station only to find no ramp, no wheelchair-accessible counter, and no accessible toilet is effectively denied the first step in the criminal justice process, regardless of what Section 173 says on paper.

### ***B. The Interpreter Crisis: A Provision Without Personnel***

Section 173's requirement for an interpreter or special educator is admirable in principle. In practice, there is a catastrophic gap between the provision and the practical availability of qualified persons to fulfil it. India does not have a standardised, nationally recognised certification system for sign language interpreters in legal proceedings. There is no mandatory panel of certified interpreters at police stations. Indian Sign Language (ISL) received formal recognition as a language only relatively recently, and its formal integration into law enforcement processes remains far from realised.

When a deaf victim arrives at a police station, already frightened and traumatised, the officer on duty typically has no training in ISL, no interpreter on call, and, in many cases, no awareness that the law requires one. Section 173 presupposes a support infrastructure that does not exist at scale across most of India. The situation for persons with intellectual disabilities is equally troubled: 'special educator' is undefined in legal enforcement contexts, there is no standardised protocol governing the qualifications of such a person or how their involvement is documented, and there is no mechanism to summon one. A right without a mechanism to exercise it is, in substance, no right at all.

### ***C. The Videography Requirement: Accountability Without Safeguards***

Mandatory videography of statement recording under Section 173 is, in principle, an important accountability tool: it creates a record that can be used in court and deters officer

misconduct. In practice, however, it raises significant concerns that the BNSS does not address. Victims with psychosocial disabilities may find the presence of recording equipment deeply distressing. For victims from marginalised communities, and disabled persons in India are disproportionately drawn from such communities, there are legitimate fears that footage will not be handled with sensitivity or will be accessed by persons beyond the investigation.

The provision is not inherently harmful. It needs to be accompanied by clear protocols on informed consent prior to videography, a data protection framework governing the storage and access of footage, and trauma-sensitive recording guidelines. None of these are provided by the BNSS. Without these safeguards, the videography requirement carries a real risk of secondary victimisation.

#### ***D. E-FIR and the Digital Divide***

The e-FIR provision under Section 173(1)(ii) assumes that digital access translates to equal access. For many disabled persons, this assumption is deeply problematic. E-FIR portals require internet connectivity, digital literacy, and interfaces compatible with screen readers and other assistive technology. India's broader e-governance infrastructure has repeatedly been criticised for failing to comply with Web Content Accessibility Guidelines (WCAG), and there is no specific assurance that police e-FIR portals meet these standards. The assumption that a portal designed for the general public is also accessible to a person with a visual impairment or a motor disability is unwarranted absent evidence.

The three-day signing requirement for e-FIR under Section 173(1)(ii) creates a further practical barrier. For victims who are hospitalised, who have motor impairments limiting their ability to sign documents, or who require assistance to navigate the process, this requirement may effectively nullify the digital option. An access mechanism that is technically available but practically unusable offers only illusory inclusion.

#### ***E. The Transfer Problem and Continuity of Care***

Zero FIR ensures that a victim can register a complaint at any police station. Once registered, the FIR is transferred to the jurisdictional station. But for a disabled victim, this transfer creates a distinct and underappreciated vulnerability. The investigation shifts to officers who were not present when the complaint was recorded, who have no familiarity with

the victim's communication needs, and who may have no awareness of the accommodations previously arranged. There is no provision in the BNSS for continuity of care, no requirement that disability-related notes accompany the case file, or that an officer who has built rapport with a disabled victim remains involved in any capacity.

The Ministry of Home Affairs Standard Operating Procedure on Zero FIR and e-FIR under BNSS 2023, issued by the Bureau of Police Research and Development, is, by its own explicit terms, a 'suggestive guideline', not a binding mandate. For disabled victims navigating this process, the difference between a suggestion and a legal obligation is the difference between procedural justice and procedural abandonment.

## **V. Systemic and Attitudinal Barriers: The Root Problem**

### ***A. The Missing Link: Police Training***

No provision of law, however precisely drafted, can substitute for trained, sensitised, and accountable law enforcement personnel. The disability rights movement has long identified attitudinal barriers, the condescension, disbelief, and presumption of incapacity with which police officers routinely treat disabled victims, as among the most significant obstacles to justice. A deaf woman may be told to bring a hearing family member. A person with an intellectual disability may be assumed incapable of making a valid complaint. A person with a psychosocial disability may be dismissed as unreliable or delusional. These are not isolated anecdotes; they are documented patterns that reflect a systemic failure to train law enforcement personnel in disability awareness, rights-based approaches, and alternative communication.

Critically, the BNSS does not mandate disability-sensitivity training for police officers, and the RPwD Act does not specify enforcement mechanisms for the training obligations it implies. Until the first responders in the criminal justice system are equipped and required to handle disabled victims with both dignity and legal compliance, even the best-drafted provisions will remain dead letters.

### ***B. The Compounded Vulnerability of Disabled Women***

Disabled women in India occupy a position of compounded structural vulnerability, facing both gender-based and disability-based discrimination simultaneously. Independent research consistently shows that their rates of victimisation, particularly for sexual violence,

are disproportionately high relative to both non-disabled women and disabled men. The NCRB data on Section 376(2)(1) cases represents only the tip of a much larger iceberg of unreported and unrecognised victimisation.

Section 173's disability-specific proviso and its provisions for women victims of sexual offences create some textual overlap, but the intersection of gender and disability is not addressed holistically anywhere in the new criminal laws. A disabled woman who is a survivor of sexual violence needs not merely a home visit and a special educator, she needs a trauma-informed interviewer, a gender-sensitive investigation process, and a support person of her own choosing. The BNSS is not entirely silent on support persons, but it does not create a comprehensive, mandatory framework for this specific and vulnerable population.

### ***C. Special Courts: Promised But Not Established***

Section 84 of the RPwD Act mandates the establishment of special courts for the speedy trial of offences against persons with disabilities. Yet, as legal researchers and judicial monitoring reports have repeatedly noted, many states have not complied with this mandate despite over seven years since the RPwD Act's commencement. The Supreme Court's monitoring orders have observed persistent non-compliance in the appointment of Public Prosecutors designated for disability-related cases under Sections 84 and 85 of the Act. If the specialised institutional infrastructure mandated by the RPwD Act itself is not in place, the broader promise of disability-inclusive justice under BNSS 2023 is built on an even more uncertain foundation.

## **VI. Towards Meaningful Reform: What Genuine Access Requires**

It is easier to identify failure than to propose remedy. The following proposals represent, at a minimum, what is required to render Section 173's disability provisions operationally meaningful rather than textually decorative.

First, courts must treat non-compliance with the disability proviso of Section 173 as a violation of fundamental rights under Articles 14 and 21 of the Constitution, actionable under Articles 32 and 226. Failure to arrange a special educator, failure to conduct a home visit, and failure to video-graph the recording process are not mere procedural irregularities, they are constitutional violations. Judicial treatment consistent with this understanding will create the

enforcement incentive that the BNSS itself lacks.

Second, a national panel of certified sign language interpreters and special educators for use in criminal proceedings must be created at the district level. Every district should have at least one accessible panel of such persons available on short notice. This is not a radical demand: it is the minimum required to give Section 173's interpreter requirement any operational meaning whatsoever.

Third, disability-sensitivity training for police personnel must be made mandatory, regularly updated, and assessed. The Bureau of Police Research and Development and state police training academies must incorporate disability awareness, communication techniques, and legal obligations under the RPwD Act and BNSS into their standard training curriculum, not as a one-time awareness module but as an ongoing, assessed component with measurable outcomes.

Fourth, all e-FIR portals must be audited for compliance with WCAG 2.1 accessibility standards, and modifications must be made to ensure that persons with visual, motor, and cognitive disabilities can use them independently. The three-day signing requirement under Section 173(1)(ii) must be made flexible by amendment or by judicial interpretation, it should not apply rigidly to victims who are hospitalised or otherwise physically unable to comply within the specified period.

Fifth, the special courts mandated under Section 84 of the RPwD Act must be operationalised in every district as a matter of urgency. The Supreme Court's existing monitoring jurisdiction should be employed to hold non-compliant states accountable, and consequences for persistent non-compliance should be imposed.

Sixth, India should consider developing a national Disability Justice Protocol, modelled on similar instruments in Canada, Australia, and the United Kingdom, setting out minimum mandatory standards governing how disabled victims and witnesses are to be treated at every stage of the criminal justice process, from FIR registration through trial and sentencing.

## **VII. Conclusion**

The Bharatiya Nagarik Suraksha Sanhita, 2023 is a significant, if imperfect, step forward in India's criminal procedural law. The disability-specific provisions of Section 173:

home-based recording, mandatory presence of an interpreter or special educator, videography, and the codification of Zero FIR: represent genuine improvements over the old CrPC, which was largely silent on the needs of disabled victims seeking to engage with the criminal justice system. These are improvements worth acknowledging.

However, a law that protects on paper while failing in practice is not justice: it is performance. NCRB data showing approximately 130 rape cases registered under Section 376(2)(1) IPC nationally in 2023 offers a number that, far from reassuring, reveals the depth of systemic failure in capturing and responding to disabled victimisation. For the lakhs of disabled persons in India who are victims of crime, the distance between the BNSS's provisions and their experience of the criminal justice system is not a gap to be bridged incrementally, it is a chasm that demands urgent structural intervention.

The issue, at its core, is one of political will combined with institutional capacity. India has ratified the UNCRPD. It has enacted the RPwD Act. It has passed the BNSS. The legal vocabulary of disability rights is in place. What is missing is the commitment to build the infrastructure, train the personnel, enforce the standards, and hold the State accountable when it fails. Zero FIR was designed to ensure that no victim would be turned away at the door. For persons with disabilities, access to justice involves many more doors: the accessible police station, the interpreter, the legal aid lawyer, and the court that treats their testimony without prejudice. Until all those doors are open, not in legislative text, but in practice, the promise of BNSS 2023 remains, for too many disabled victims, permanently out of reach.

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**ENDNOTES:**

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