



ORIGINAL RESEARCH PAPER

Law

INDIAN PENAL CODE 1860 AND THE BHARATIYA NYAYA SANHITA BILL-2023.

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Dr. Samir A. Runja

LL.M., GSET, Ph.D., Assistant Professor, @ Sheth D. L. Law College, College Road, Bhuj – Kachchh. 370001.

ABSTRACT

The Indian Penal Code 1860 is official criminal law of the India. It is complete code which includes the definition of crime and punishment for them. It was come into force in 1862. The source of the IPC was first law commission, chaired by Thomas Babington Macaulay. After the enforcement of the constitution of India, the IPC was continuous in India as a major criminal law of India to till date. On 11 the August, 2023, Honourable the home minister of India, Mr. Amit Shah, introduce the Bharatiya Nyaya Sanhita Bill-2023, the bill No. 121 of 2023 in the Parliament of India. It going to be historical and magnificent changes in Penal law of India. It will be also effect on Indian criminal justice system.

1. INTRODUCTION:

The Indian Penal Code – 1860 is still working as a major criminal act in India as well as Indian criminal justice system. Thomas Babington Macaulay, was play major role for draft IPC-1860. In IPC there are definitions of crimes and punishment for them. IPC is sub-divided in 23 chapters and 511 sections. There are 78 amendment has been initiated till date. It is a comprehensive code that addresses all the substantive aspects of criminal law in India. i.e. it is define Theft, Cheating, Murder, Defamation etc. Each and every offences are defines very well in IPC, whenever requirement for some explanation and illustration it is given with the definitions.

The Constitution of India, was enforce on 26 January, 1950. As per Part-III, Article-13 of the Constitution of India is deals with “Laws inconsistent with or in derogation of the fundamental rights” sub clause (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void, it is clear indicating that before 26 January, 1950 if any law is existing and who will fulfil the desire of the Constitution of India, then it will be valid or enforceable in India or it will be called Constitutional Law, and at that time IPC-1860, comes in this category and come into force after the enforcement of the Constitution of India. It is working as a substantive criminal law in India till date.

Historical movement again start on 11 August, 2023 in the Parliament of India (Lok Sabha), by the Honorable Home Minister of India, Mr. Amit Shah was introduce the bill No. 121 of 2023 name “The Bharatiya Nyaya Sanhita, 2023”. These steps towards the repeals of IPC-1860 in to Bharatiya Nyaya Sanhita-2023. The following are the major changes by the Bharatiya Nyaya Sanhita 2023 for the Indian Criminal Justice:

- It repeals the sedition law, which has been criticized for being used to stifle dissent.
- It introduces new provisions to protect women and children from violence.
- It makes it easier for victims of crime to get justice.
- It strengthens the independence of the judiciary

2. The Indian Penal Code - 1860:

The Indian Penal Code is the official criminal code of India. The Indian Penal Code, 1860 consists of 23 chapters, 511 sections. (V-A; IX-A and XX-A were added) The code was passed on 6th. October, 1860, but came into effect from 1-1-1862. This codified statute is a substantive general law of crimes in India, and is exhaustive in respect of matters covered by it.

The Indian Penal Coe – 1860, major ingredients are as below:-

1. General Principles

- Territorial Operation of the Code (Ch.1- Ss1 to5)-Intra -

territorial and Extra –territorial

- General Explanations (Ch-II)- Definitions- (Ss 6-33, 39-52A)-Joint or Constructive or Group Liability.(Ss 34-39)
- Punishments- (Ch-III Ss 53-75)
- General Exceptions- (Ch-IV Ss 76-106)

2. Specific Offences- Divided Into-

- a). Affecting the State
- b). Affecting the Common or Public weal
- c). Affecting the Human Body
- d). Affecting Property
- e). Affecting Reputation

3. Inchoate Offences

- Abetment – (Ch.V) Ss-107 to 120
- Criminal Conspiracy – (Ch.V-A) Ss-120-A, 120-B
- Attempts to commit offences – (Ch. XXIII) S-511.

As per the data given by Law Commission of India¹, below mention reports are published by Law Commission of India regarding Indian Penal Code-1860.

No. of Report	Title of Report	Year of Submission
29.	Proposal to include certain Social and Economic Offences in the Indian Penal Code	1996
35.	Capital Punishment	1966
39	Punishment of imprisonment for life under the Indian Penal Code	1968
42	Indian Penal Code	1971
43	Offences against the National Security	1971
50	The Proposal to include persons connected with Public examination within the definition of “public Servant” in the Indian Penal Code	1972
109	Obscene and Indecent advertisements and Displays: sections 292-293, Indian penal Code	1985
146	Sale of Women and Children: Proposed Section 373-A, Indian Penal Code	1993
156	The Indian Penal Code	1997
172	Review of Rape Laws	2000
187	Mode of Execution of Death Sentence and Incidental Matters/	2003
202	Proposal to Amend Section 304-B of the Indian Penal Code	2007
210	Humanization and Decriminalization of Attempt to Suicide	2008

226	The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime	2009
241	Passive Euthanasia – A Relook	2012
243	Section 498 A, IPC	2009
262	The Death Penalty	2015
264	The Criminal law (Amendment) Bill, 2017 (Provisions and Dealing with Food Adulteration)	2009
227	Hate Speech	2017

3. The Bharatiya Nyaya Sanhita Bill - 2023 :

The Bharatiya Nyaya Sanhita Bill – 2023 was introduced in the Lok-Sabha on 11 August, 2023 by the Union Home Minister, Mr. Amit Shah.

The Bharatiya Nyaya Sanhita is subdivided into 19 chapters consisting of 356 sections. The structure of code is similar to the Indian Penal Code. The outline of the Sanhita is as follows²:-

Chapters	Sections	Classification of Offences
Chapter 1	Sections 1 to 3	Preliminary
Chapter 2	Sections 4 to 13	Of Punishments
Chapter 3	Sections 14 to 44	General Exceptions of the Right to Private Defence (sections 34 to 44)
Chapter 4	Sections 45 to 62	Of Abetment, Criminal Conspiracy and Attempt
Chapter 5	Sections 63 to 97	Of Offences against Women and Children Ÿ Of Sexual Offences (63 to 72) Ÿ Of Criminal force and Assault against Women (73 to 78) Ÿ Of Offences relating to Marriage (79 to 85) Ÿ Of the Causing of Miscarriage, etc. (86 to 97)
Chapter 6	Sections 98 to 144	Of Offences affecting the Human Body Ÿ Of Offences affecting Life (98 to 111) Ÿ Of Hurt (112 to 125) Ÿ Of Criminal Force and Assault (126 to 134) Ÿ Of Kidnapping, Abduction, Slavery and Forced Labour (135 to 144)
Chapter 7	Sections 145 to 156	Of Offences Against the State
Chapter 8	Sections 157 to 166	Of Offences Relating to the Army, Navy and Air Force
Chapter 9	Sections 167 to 175	Of Offences Relating to Elections
Chapter 10	Sections 176 to 186	Of Offences Relating to Coins, Bank Notes, Currency Notes and Government Stamps
Chapter 11	Sections 187 to 195	Of Offences Against the Public Tranquility
Chapter 12	Sections 196 to 203	Of Offences by Or Relating to Public Servants
Chapter 13	Sections 204 to 224	Of Contempt of Lawful Authority of Public Servants
Chapter 14	Sections 225 to 267	Of False Evidences and Offences against Public Justice.
Chapter 15	Sections 268 to 295	Of Offences affecting the Public Health, Safety, Conscience, Decency and Morals
Chapter 16	Sections 296 to 300	Of Offences Relating to Religion

Chapter 17	Sections 301 to 332	Of Offences against Property Ÿ Of Theft (301 to 305) Ÿ Of Extortion (306) Ÿ Of Robbery and Dacoity (307 to 311) Ÿ Of Criminal Misappropriation of Property (312 and 313) Ÿ Of Criminal Breach of Trust (314) Ÿ Of the Receiving of Stolen Property (315) Ÿ Of Cheating (316 and 317) Ÿ Of Fundamental Deeds and Disposition of Property (318 to 321) Ÿ Of Mischief (322 to 326) Ÿ Of Criminal Trespass (326 to 332)
Chapter 18	Sections 333 to 348	Of Offences Relating to Documents and to Property Marks Ÿ Of Documents (333 to 343) Ÿ Of Property Marks (344 to 348)
Chapter 19	Sections 349 to 356	Of Criminal Intimidation, Insult, Annoyance, Defamation, Etc Ÿ Intimidation, Insult and Annoyance (349 to 353) Ÿ Of Defamation (354) Ÿ Of breach of contract to attend on and supply wants of helpless person (355) Ÿ Repeal and Savings (356)

4. CONCLUSION:

The huge changes going to be done in Indian Criminal Justice System. There are three major acts are going to be replaced by Indian Criminal Justice System. Name like, First, Indian Penal Code-1860 will be replaced by Bharatiya Nyaya Sanhita Bill 2023, Second, The Code of Criminal Procedure Code 1973 will be replaced by Bharatiya Nagarik Suraksha Sanhita Bill 2023 and Third, Indian Evidence Act 1972 will be replaced by Bharatiya Sakshya Bill – 2023. We hope for New India definitely will be friendly with our society and Indian Government will succeed in running very smoothly Indian Criminal Justice System.

REFERENCES:-

1. https://lawcommissionofindia.nic.in/cat_Indian_Penal_Code/
2. https://en.wikipedia.org/wiki/Bharatiya_Nyaya_Sanhita.
3. Taxmann's, New Criminal Laws, 1st Ed., Taxman Publication (P.) Ltd., 2023.