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CODE OF CRIMINAL PROCEDURE 1973 AND BHARATIYA NAGARIK SURAKSHA SANHITA 2023

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ABSTRACT

The code of criminal procedure 1973 is the procedural law in India. The criminal law is the basic need of society. Criminal legal system works mainly in two parts, one is substantive law and another is procedure law. The code of criminal procedure is also known in short as Cr.P.C. It is procedural law in nature but in this act some substantive provision are also there. On 11the August, 2023, Honourable the home minister of India, Mr. Amit Shah, introduce the Bharatiya Nagarik Suraksha Sanhita Bill-2023, the bill No. 122 of 2023 in the Parliament of India. It going to be historical and magnificent changes in criminal procedure law of India. It will be also effect on Indian criminal justice system. In this article, the researcher would dissect the statutory changes done to The Code of Criminal Procedure, 1973 which will be rechristened as The Bharatiya Nagarik Suraksha Sanhita, 2023. Hereinafter referred as CrPC and BNSS respectively in this piece.

"If we do not maintain justice, justice will not maintain us".

Francis Bacon

1. INTRODUCTION :

The Criminal proceeding v/s. civil proceeding is very difference with each other. Civil wrong / proceeding suppose to mostly against private persons, and criminal wrong / proceeding effects private person as well as society. Criminal proceeding, represented by the state by the prosecutor. The Cr. P. C. includes 484 Section in to 37 Chapters with two schedules. Cr. P. C. gives guarantee for the fair trials for both parties of the case. The Criminal procedure code is not wholly procedural law in its natural condition. It is a cross between an adjective and substantive law. The majority of the code is procedural law, however, there is some substantive law, albeit little.

Historical movement again start on 11 August, 2023 in the Parliament of India (Lok Sabha), by the Honarable Home Minister of India, Mr. Amit Shah was introduce the bill No. 122 of 2023 name "The Bharatiya Nagarik Suraksha Sanhita, 2023". These steps towards the repeals of Cr. P. C. - 1973 in to Bharatiya Nagarik Suraksha Sanhita-2023. The following are the major changes by the Bharatiya Nagarik Suraksha Sanhita 2023 for the Indian Criminal Justice :

- Removal of archaic and insensitive terms.
- Clarity in some procedure.
- Progressive safeguard and / or changes.
- Electronic / Digital alternatives for existing process.
- Expediting process and or making process time-bound.

2. The Code of Criminal Procedure Code, 1973 :

The Cr. P. C. is the basic procedural law in India. The role of Cr. P. C. which reflection the journey between Crime and Punishment. The entire procedure for criminal act which ends to punishment with the support of the Cr.P.C. Under the IPC the offices are defines / detected or reported, but in Cr. P.C. the procedure and principals are laid down.

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 India[1], 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 introduce 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 follows[2] :-

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 • Of Sexual Offences (63 to 72) • Of Criminal force and Assault against Women (73 to 78) • Of Offences relating to Marriage (79 to 85) • Of the Causing of Miscarriage, etc. (86 to 97)
Chapter 6	Sections 98 to 144	Of Offences affecting the Human Body • Of Offences affecting Life (98 to 111j • Of Hurt (112 to 125) • Of Criminal Force and Assault (126 to 134) • 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, Convince, Decency and Morals
Chapter 16	Sections 296 to 300	Of Offences Relating to Religion
Chapter 17	Sections 301 to 332	Of Offences against Property • Of Theft (301 to 305) • Of Extortion (306) • Of Robbery and Dacoity (307 to 311) • Of Criminal Misappropriation of Property (312 and 313) • Of Criminal Breach of Trust (314) • Of the Receiving of Stolen Property (315) • Of Cheating (316 and 317) • Of Fundamental Deeds and Disposition of Property (318 to 321) • Of Mischief (322 to 326) • Of Criminal Trespass (326 to 332)
Chapter 18	Sections 333 to 348	Of Offences Relating to Documents and to Property Marks • Of Documents (333 to 343) • Of Property Marks (344 to 348)
Chapter 19	Sections 349 to 356	Of Criminal Intimidation, Insult, Annoyance, Defamation, Etc • Intimidation, Insult and Annoyance (349 to 353) • Of Defamation (354) • Of breach of contract to attend on and supply wants of helpless person (355) • 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 replace for Indian Criminal Justice System. Name like, First, Indian Penal Code-1860 will be replace by Bharatiya Nyaya Sanhita Bill 2023, Second, The Code of Criminal Procedure Code 1973 will be replace by Bharatiya Nagarik Suraksha Sanhita Bill 2023 and Third, Indian Evidence Act 1972 will be replace by Bharatiya Sakshya Bill – 2023. We hope for New India definitely will friendly with our society and Indian Government will successes to rum very smoothly Indian Criminal Justice System.

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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.