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Positive & Negative Changes in the Transition from the Code of Criminal Procedure, 1973 to the Bharatiya Nagarik Suraksha Sanhita, 2023

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ABSTRACT

We focus on the broad ranging impacts of Bharatiya Nagarik Suraksha Sanhita, 2023 in relation to Code of Criminal Procedure, 1973, with an aspect-to-aspect analysis of both laws. We discuss fundamental features of both laws. Special focus is given to salient features of the new Sanhita like, integration of modern technology, enhancement of victims rights, and truncated timelines for various procedures. In regard to possible merits, the note also discusses enhanced operational efficiency, greater supportive measures toward victims, and potential criticisms and drawbacks. Especially those pertaining to civil liberties, discretionary enforcement, and defense of the enforcement paradigm. After reviewing available expert and practitioner analyses, this study balances the narrative in the shifting landscape of India's criminal justice system and the heralded implications for the long term.

Victims' rights are significantly enhanced in the new Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) when compared to the Code of Criminal Procedure, 1973 (CrPC).

As a final remark, the Bharatiya Nagarik Suraksha Sanhita, 2023, marked a greater shift towards a more victim-friendly Indian criminal justice system regarding active and passive participation as well as information disclosure, compensation, and support while moving away from the Code of Criminal Procedure, 1973.

Keywords: *Bharatiya Nagarik Suraksha Sanhita, 2023, clear shift, Code of Criminal Procedure, 1973, Indian law, rights, increased integration of technology, shift in criminal system, victim centric approach.*

INTRODUCTION

India's criminal justice system grew in response to social needs along with the Constitution of India, which was very conspicuous with the establishment of regional Codes of Criminal Procedure in 1973. It is "legislative adventure" in Post Independence India aimed at creating equitable and rational frameworks of criminal procedures by abolishing the colonial code. The 1973 Constitution sought to provide balanced justice to the people of this nation by order and equity in investigation and prosecution of crimes. It wanted law and order enforced while breaches of law should not disrupt civilized living of citizens. The Code sought balance between criminal justice and excess of power wielded by state agents and abused framework with which due process had been defined by replacing presumption with assumption eradicating presumption of innocence returned to affirming presumption of innocence and assuring equality to all participants in a criminal proceeding both the accused and victims.

This marks a significant transformation in the country since the Bharatiya Nagarik Suraksha Sanhita was last passed in 2023, as it unifies the criminal procedure system in India under one umbrella. The law seeks to reform the Indian criminal procedural laws by replacing them with a more orderly one that meets the needs of today's society.

The Bharatiya Nagarik Suraksha Sanhita aims to facilitate and automate the advancement of pre-independence colonial-era criminal laws, which were most recently revised during the mid-19th century, for the radical change in the country's criminal justice system through equitable, transparent, and prompt investigation and trial processes. Such a model tends to support a rising bias for reform of out-dated system to integrate the sophistication, new technology etc, in the contemporary multi-faceted crime, which is aimed towards better administration of the justice system in the country.

BHARATIYA NAGARIK SURAKSHA SANHITA, 2023: OBJECTIVES AND MAIN PROVISIONS:

The introduction of The Bharatiya Nagarik Suraksha Sanhita, 2023, has been brought about with the intention to modernize and change the structure of the criminal justice system of India. This law seeks to resolve the legal system's perennial challenges such as court case backlogs, limited technology used in legal services, investigation delays, and the sparse application of forensic science in crime resolution. The primary goal of The Sanhita is to ensure effective justice whereby investigations and trials of criminal offenses are undertaken in a balanced, open, and efficient manner. A shift in focus from punitive measures to rights such as the protection of people's rights and better legal support services from the state aim to empower citizens as important legal provisions have actively been put in place to ensure access to justice.

In addressing modern forms of crime, The Bharatiya Nagarik Suraksha Sanhita touches upon the rise of cybercrime which includes "crimes committed on or against computers or similar technology." Alongside this, it seeks to promote the admissibility of electronic evidence and facilitate the integration of technology into the entire trial, appeal, and other procedures such as video conferencing.

The main inclination that underscores the Sanhita is the notion suraksha, or safeguarding the citizens from being exploited due to lapses in current criminal procedural safeguards. Ultimately, the Sanhita seeks to build an effective legal framework that gains the trust and serves the welfare of the people of India.

POSITIVE IMPACTS AND BENEFITS OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023:

As with every law passed, Bharatiya Nagarik Suraksha Sanhita, 2023 will also have some potential impacts and advantages for the Indian criminal justice system. The primary anticipated impact is faster justice and greater efficiency in the system. To begin reversing the system's perpetual delays, The SanSita attempts to set deadlines for investigation, trial, and judgment among other processes. In addition to the set timelines, the use of technology will contribute significantly in meeting the timeliness and efficiency targets, for example: e-filing FIRs, digital evidence, summons issued electronically, and the possibility of electronic proceedings is bound to reduce time taken to complete tasks.

As with any creative work, there are positive impacts such as giving aid to victims while focusing on accompanying victim's rights. This will greatly structure regions by compensating the victims in a high form which enables BTNS to be more complete than compensatory provisions on whole under BPNSS. The various steps put in place like the right for victims to be heard before a case is withdrawn, the provision of free medical services for some crimes, and the obligation to provide victims with regular updates indicate some level of effort aimed at empowering victims within the criminal justice system.

The importance of technology and its application in criminal investigation processes is one of the most important changes of the BNSS. Also, the implementation of the electronic FIR system will not only enhance the ease with which citizens report crimes to police agencies, but will also revolutionize the approach employed by police agencies toward crime reporting and volume management. Another paradigm for the reliability of evidence in court is the use of communication and audio-visual recording as evidence and the growing acceptance of digital evidence strengthens the dependence of evidence in court. They are used to record search and seizure operations and will increase the transparency and accountability of law enforcement and proof for contesting claims of police misconduct made by the defenders.

The forensic investigation of items used in serious crimes which carry a penalty of seven years imprisonment and above seek to be more scientific and reliable in evidence collection, which, I hope, itemizes successful conviction rates in crimes of such magnitude. The forensic examination provision seeks to make sure that there is greater focus on the scientific approach of an investigation with the end result being evidence whose accuracy and reliability can be presented in court.

The new forms of punishment for crimes of a lesser degree which involve community service as an example offers an alternative to incarceration that may aid in rehabilitation and socially useful activity whilst also easing the strain on the jail and prison populace. This shift towards restorative justice may have viable long-term benefits for both perpetrators and victims.

These benefits are subject to appropriate conditions, as previously outlined, regarding the complete technological system and trained personnel within the criminal justice framework. Further emphasis on a victim's rights creates a need to address restorative justice and enhanced satisfaction regarding the victim's need to heal the harm done by crime in a more integrated manner.

POTENTIAL NEGATIVE CONSEQUENCES, DRAWBACKS, AND CRITICISMS OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023:

The Bharatiya Nagarik Suraksha Sanhita, 2023 might have some advantages, however, it has faced tremendous backlash for the possible drastic and societal risks that it may impose. One such area of concern is around civil liberties along with the potential of heightened abuse of newly instituted legislation. The provisions of increasing custodial time, broader scope of the powers of arrest, handcuffing in more circumstances, and sample collection from non-arrestees have raised fundamental concerns of potential encroachment of law enforcement's predefined bounds within a democratic society. In addition, the absence of definition for the phrase the term for imprisonment of people who resist arrest heightens alarm.

Another major concern incorporates issues readiness and implementation that have been brought to attention. The degree of coverage given to the national boundaries within the Sanhita deem it fit to ask whether the existing infrastructure and technology resources coupled with the proper training of personnel will ensure successful implementation given the country's diverse and sometimes resource-deprived regions. Mobile phones as the official video recording device for search seizures poses a regularity risk that reflects at the reliability of the videographed evidence.

Every claim made above indicate possible tension between the domestic objectives of the Bharatiya Nagarik Suraksha Sanhita with the purpose of efficiency for surveillance and defending the effectiveness of the state in civil liberties protection

Weaving together legal frameworks, judicial strategies for conflict resolution, and timely modifications will be essential for obtaining optimal result where Sanhita is concerned.

CONCLUSION

The BNS (Bharatiya Nagarik Suraksha Sanhita) 2023 introduces several measures aimed at modernizing and benefiting the Indian criminal justice system. This reform includes new legislative frameworks for the integration of technology to increase the accuracy and transparency of probes and trials, a greater emphasis on the supporting roles and rights of victims, and more comprehensive legislation on serious crimes that require forensic investigations to ensure reliable evidence procurement. These reforms should help in systematically addressing the victimological lags in the criminal procedure and moving towards a victim-centric criminal justice system. Furthermore, they are designed to resolve longstanding issues, like the halting of judicial progress during court processes.

Change from Code of Criminal Procedure, 1973 to BNS is not without criticisms regarding liability and overreach. There's deep concern due to additional police powers with unilateral civil rights repercussions, failing implementation of the law in an under-resourced and overpopulated country, broad scope of some ill-defined provisions, and disproportionate application of the law, and the practical cap on bail for certain accused offenders with multiple charge categories.

These worries highlight the dilemma which must be managed when balancing enhancing the efficiency and effectiveness of the criminal justice system with safeguarding every individual's fundamental rights.

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