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**UNDERSTANDING THE PROVISIONS AND CONTROVERSIES
SURROUNDING THE BHARATIYA NAGRIK SURAKSHA SANHITA
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ABSTRACT

The new bill was filed in order to implement significant amendments to the Criminal Procedure Code, 1898 that were suggested by the Lok Sabha on August 11, 2023. The CPC has undergone numerous revisions and additions, including the addition of nine new sections and adjustments to 533 and 160 existing parts. The administration's goal of bringing the law into line with 21st-century demands is reflected in the new guidelines, which prioritize legal frameworks that prioritize the interests of citizens, uphold gender equality, embrace digital modernity, and give justice a higher priority than punitive measures.

KEYWORDS: *Legal, Citizens, Justice, Punitive Measures.*

1. INTRODUCTION

On August 11, 2023, Mr. Amit Shah, the Minister of Cooperation and Home Affairs, introduced three ground-breaking laws in the Lok Sabha, taking a significant step in strengthening and modernizing India's legal system.¹

In the Lok Sabha, the union home minister introduced three new bills to modernize India's criminal laws, emphasizing justice above punishment. The Criminal Procedure Code is set to be replaced by the new bill.

With 533 parts, the new bill offers major revisions and attempts to remove the Criminal Procedure Code of 1973. It's noteworthy that the measure adds nine new parts, alters 160 existing sections, and removes nine.

2. KEY FEATURES OF THE BILL

The Bill is aimed at replacing the existing Criminal Procedure Code. The main elements of the code following an analysis are as follows:

- It encourages the use of electronic devices for deposition recording, hearings, appeals, and video conferencing during trials.
- Videotaping survivors' statements is required by law, which can aid in evidence preservation and guard against coercion or manipulation.²
- The law requires police to provide a complainant with an update on the case's progress within ninety days, which can enhance accountability and openness.
- From now on, Section 35 will be referred to as Section 41A of the CrPC. A new safety precaution introduced by this amendment prohibits arrests without the consent of an officer holding the rank of Deputy Superintendent of Police (DSP), especially in cases where the suspect is older than 60 or the maximum penalty is less than three years.

¹ Available at: <https://primelegal.in/2023/08/15/bharatiya-nagarik-suraksha-sanhita-bill-2023-an-overview/> [Last Accessed on 3rd November 2023].

² Available at: <https://www.drishtias.com/current-affairs-news-analysis-editorials/news-editorials/2023-08-17> [Last Accessed on 03rd November, 2023].

- The legislation requires that police consult with the victim before dismissing a case that carries a sentence of seven years or more in order to prevent the obstruction or withholding of justice.
- It enables judges to charge and sentence criminals who are on the run in absentia, which may discourage them from avoiding punishment.
- It could make it easier to gather and verify evidence because it gives magistrates the authority to determine that an infraction has been committed based on electronic records like as emails, SMSs, and WhatsApp conversations.
- When the death penalty is involved, requests for mercy must be made to the President and the Governor, respectively, within 30 and 60 days.
- The President's decision cannot be appealed.

3. THE MAJOR MODIFICATIONS THAT THE CRPC RECOMMENDS

A variety of major amendments to the Criminal Procedure Code (CrPC), which governs the criminal justice system, are suggested in the bill. These represent a few of the main changes suggested by the CrPC; they cover anything from technology developments that allow trials through video conferencing to approving the use of handcuffs for arrests in specific situations, such rape, murder, and fake currency.³

- *Networking technologies*: Courts and law enforcement agencies can obtain digital evidence for investigations thanks to the bill's coverage of communication devices and electronic communication.
- *Use of technology has increased*: Technology allows legal documents to be delivered electronically and allows for online trials, appeals, and depositions.
- *Samples taken without being detained*: Without making an arrest, magistrates have the authority to require witnesses to give voice, fingerprint, signature, or handwriting samples for investigations.
- *Absentee jury trial*: Tight anti-terror laws, like the UAPA, require an absentee jury trial, which places the onus of proof on the accused to prove their innocence.

³ Available at: <https://vajiramias.com/article/the-bharatiya-nagrik-suraksha-sanhita-bill-2023/64d73404f75d3861afd8167e/#::~:~:text=The%20Bill%20adds%20electronic%20communication,the%20purpose%20of%20an%20inquiry.> [Last Accessed on 03rd November 2023].

- *Arrest by the police*: Police have the authority to detain or remove anyone who is resisting, denying, disobeying, or ignoring instructions issued as part of a preventive measure.
- *Applying handcuffs*: When capturing escapees, serial offenders, or individuals implicated in serious crimes, handcuffs may be employed.
- The Criminal Procedure Code's Section 35, which in certain circumstances requires the approval of an elected official, replaces Section 41A.
- *Sanction to prosecute*: Within 120 days, the government must determine whether to allow the investigation of a public employee.
- *A parade of arms*: Under Section 144A of the CrPC, the district magistrate is empowered to prohibit the carrying of firearms throughout any parade, mass drill, or mass training in order to preserve public order. The ban on carrying weapons is not stated in Section 144 of the CrPC, even if the clauses giving the DM authority are still in place.
- *Mercy inquiries*: There is a law about the amount of time people have to file mercy petitions when they are facing the death penalty. When learning from jail officials how their petition was handled, a death row convict, his legitimate heir, or a relative may submit a mercy petition to the governor within 30 days. If the request is turned down, the applicant has 60 days to petition the President. Any court cannot hear an appeal against the President's directives.

4. CONCLUSION

Ultimately, even though the Bharatiya Nagarik Suraksha Sanhita Bill is a commendable attempt to modernize and simplify India's criminal justice system, it is important to be aware of any possible negative effects that such extensive reforms may have. Finding a balance between ensuring individual rights are protected and delivering justice quickly is a difficult issue. When discussing these proposed changes with the legal community and the general public, it is imperative that these concerns are appropriately addressed. The maintenance of the rule of law and the protection of citizens' rights will be aided by this. The Bharatiya Nagarik Suraksha Sanhita Bill has brought about substantial changes to the criminal justice system, but it is still important to consider any potential drawbacks and safety concerns. Risk of Abuse, Privacy Issues, Quick Trials, and Fairness No Comprehensive Torture Prevention, No Judicial Oversight, and Zero FIR

Implementation Challenges are some of the disadvantages that could raise questions about the effectiveness and relevance of the proposed improvements.