



INTEGRITY
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AN INQUISITION INTO THE PHILOSOPHY BEHIND THE NEW CRIMINAL LAWS OF INDIA

Prof. (Dr.) Rajesh Bahuguna
Mr Amit Kumar Sirohi
Dr. Vaibhav Uniyal

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Authors:

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FOREWORD

The enactment of the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA) represents a significant moment in the evolution of India's legal framework. These laws, replacing colonial-era statutes, reflect a transition toward a system that aligns more closely with India's ethos, emphasizing justice, swaraj, and the welfare of all citizens.

This book provides an in-depth exploration of the principles and practical aspects of these legislative reforms. It examines how these laws integrate the ideals of justice and self-reliance with the demands of a changing society. By addressing areas such as victim welfare, community services, and the role of technology in delivering justice, the book underscores the transformative intent behind these reforms.

Each chapter takes a focused approach to key themes, from the philosophical foundations of swaraj and nationhood to the contemporary challenges of terrorism, mob violence, and organized crime. The discussion on innovations such as zero FIRs and e-FIRs, alongside efforts to ensure speedy and accountable justice, demonstrates how these laws are designed to meet modern requirements while remaining firmly rooted in ethical principles.

The book also highlights the broader implications of these reforms. By emphasizing societal progress, victim support, and inclusivity, it reminds us that justice is not only about punishment but also about restoration and community well-being. These perspectives provide valuable insights for understanding the scope and potential of the BNS, BNSS, and BSA.

This work is both timely and relevant, offering a comprehensive analysis for policymakers, legal professionals, academics, and citizens committed to strengthening India's criminal justice system. The author's effort to connect the philosophical and practical dimensions of these reforms is commendable.

I am confident that this book will serve as a significant contribution to ongoing discussions on justice, equity, and societal progress. It is an invitation to reflect, understand, and act in the pursuit of a more fair and inclusive legal system for our nation. Jai Hind.

Lt Gen Gurmit Singh
PVSM, UYSM, AVSM, VSM (Retd)

PROLOGUE

The first day of the month of July 2024 will be remembered as a big milestone in the reforms of the Criminal Justice System in India. On this day a comprehensive legal framework got introduced by the Government of India to replace the three major criminal laws- The Indian Penal Code, 1860, The Indian Evidence Act, 1872 and The Code of Criminal Procedure, 1973. India's Criminal Justice System was running mainly on these three criminal Acts. These criminal laws were codified almost 160 years ago in British era. The Indian Penal Code 1860 was enforced on 01.01.1862 and The Indian Evidence Act, 1872 was enforced on 01.09.1872. Although, The Code of Criminal Procedure, 1973 was enacted in 1973 and came into force on 1 April 1974 but, the roots of this code were also found in the same British period. The CrPC was created for the first time ever in 1861 and then in 1872 & 1898. After that, in independent India, according to the 41st Law Commission report, The Code of Criminal Procedure, 1973 was enacted and enforced in 1974.

While these three laws have been the foundation of our criminal justice system, they have struggled to address the complexities of modern India. These Acts were fitted out by the British rulers according to their convenience. Although these Acts were prepared in the context of British India, but while preparing these laws, the needs of Indians were not considered much. For this reason, the need for Indian cause of Criminal laws was felt. Apart from this, along with the changing times, there have also been changes in the technology and manner of crimes. Therefore, the nature of offences and the sort of evidence has also been changed and new challenges have emerged. Somehow, the former laws were not able to find solutions to these challenges. This was also one of the main reasons for implementing the new criminal laws. A new era has dawned, and India has taken great steps towards evolution in the field of law with introduction of new criminal laws.

The legal system is the strength of a country, the social organization's truth; it captures the dreams, the progress, and even the growing chaos of civilization. India being a diverse nation and culturally antedated- the criminal justice system of the country has been influenced by colonial codes. The key primary sources of criminal law have been the Indian Penal Code (1860), Code of Criminal Procedure (1898/1973) and the Indian Evidence Act (1872) and are more than a century old. Although these laws provided a strong foundation, they began to lack adequate provisions to meet societies' and the nation's changing social, technological, and

subsequently, cultural realities. The newly incorporated BNS, BNSS and BSA have brought about a revolutionary change in Indian policies on criminal justice. These laws are not simple swaps of the colonial codes; they are a response to ensure that the concept of justice in modern India reflects its diversity and move synonymous with restorative justice.

The Promulgation of these three Acts gave birth inter alia to a question i.e. why new law? To answer this question or we may say to defend the action of the Parliament of India number of responsible persons came forward and replied with different logic and philosophy they believed. One must believe that it is time, place and circumstance responsible to decide future course of action. At the same time whatever intelligent a man may be, there is a limit of his foresight. He may think and plan for a considerable period, but not for generations. In calling for reform, one was not only to do with statutes being archaic, but also to do with statutes failing to address new crimes; new social realities; and principles of modern governance. The problems which evidently emerged before the new Indian legal system include terrorism, mob lynching, cybercrimes, and organized offences under the criminal code. Also, new procedural techniques like the zero FIR, e-FIR, as well as the growing focus on a victim-driven approach imply the growing culture of access to justice.

This book does not limit its concern to the legal requirements. It also provides a worldview perspective of the moral and ethical dimensions surrounding the making of these laws. Topics under civics include the common good, crime and punishment, and self or society is discussed in depth. This book places these laws in this narrative to chronicle the trajectory of democratic republic of India's overtures towards modernity and innovation.

These laws are indicators of the understanding of society's evolution, of change. The provisions for community services, absence of concentration on anthology and the calls for speedy trials seek to strike a transition from retributive justice system to the reformative justice system. Furthermore, these reforms involve the objectivity of the institutions – which is another very important thing to achieve people's confidence in the justice system.

The BNS, BNSS and BSA are not just pieces of legislation; they are tools of nation building. They are meant to empower the citizens with swaraj in context of justice delivery system, where justice will be available, understandable and enforceable. It will be seen that while many of these laws are couched in tradition, they are not backward looking but should be able to respond to the needs of a globally competitive and technologically enhanced world economy.

Before we set out on this journey let us bear in mind that law is not a stagnant discipline. It is, in fact, a real living organism that grows and changes just like the population it is serving and servicing. Justice as a quest, like that of a nation, is also a process— a process that this book endeavors to explain.

Finally, whereas law is for the society; And whereas it is needed to regulate the conduct of the people in the society; And whereas nature of the society is dynamic; And whereas rapid changes are taking place in the society; And whereas public opinion is inter alia responsible to make law when it is in favour of it; And whereas it is capable to repeal an enacted law when it goes against it, And whereas contemporary public opinion is in favour of legislative reforms And whereas it is time, place and circumstances to decide every future course of action.

Therefore, adoption of new criminal laws is at the right time, at right place, under right circumstances and of course reflection of the conscience of BHARAT.



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