

**REPLACEMENT OF THE THREE CRIMINAL LAWS OF THE BRITISH ERA BY BHARTIYA LAWS
– A MOCKERY ACT OF PRESENT GOVERNMENT**

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Abstract

Passing of new laws raised several queries in the mind of authors, if we go through them it found that these Laws are broadly based on the same principles as the existing codes. Phraseology is almost same in both laws, however, some provisions which are introduced in new one are poorly worded, while others have been confusingly in terms of explanations which includes without any assessment of the need for such inclusion. This article is neither a comprehensive assessment of the three Laws nor a complete analysis of the provisions; it is an attempt to raise some issue on the act of present government.

Does to change the name may get change the history of British Era, which is an established fact and have to be accepted. We cannot put the pioneer work and contribution in a side line; they give us secular and uniform laws which bind together peoples as well as land. The new name (title) of laws itself making a mockery; the term used in title 'nayay' raise the question does a book itself provide 'nayay to a person'? Or to penalize 'the act of a person'. Does a book give 'suraksha to nagrik'? Or it is 'procedural law' as a part of criminal laws, if answer is in affirmative sense then a procedural law deals with procedure or provides 'suraksha to a common person'. And also forget, that, the present Cr.P.C. is not of a British Era, it was replaced in year 1973 from 1898. Now came to Evidence Law we all called it sakshya adhiniyam in hindi. This clearly shows the ill mentality of present government.

Currently, till date there are lakhs number of cases pending in courts of India which will be handle and settle through old laws & procedure and it will take more than a decade to settle, as the functioning of our judicial courts in the matters, is more time taking. In such situation, dealing with both laws creates the situation of confusion in criminal justice system.

These laws are nothing but a reshuffling of old laws section only. As just like old things in new package, to be feel good that we do something and praise own self in the lack of praises

Keywords: Nayay Sahita, Nagrik Suraksha, Criminal Law.

INTRODUCTION:

New criminal Laws were passed in the year 2023 by the parliament of India and got assent of President on 25th December, 2023 through this step, there is replacement of the three criminal laws of the British Era by the Bhartiya Laws. Passing of new laws raised several queries in the mind of authors, some of them are – firstly, do

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there is need to replace the criminal laws? Secondly, do change the name can change the history of British Era, which is an established fact and have to be accepted. We cannot put the pioneer work and contribution in a side line, as we all knows that they gave us secular and uniform law which bind together; peoples of this country as well as land.

If we go through them we found that all are broadly based on the same principles as the existing codes. Phraseology is almost same in both laws, however, some provisions which are introduced in new one are poorly worded, while others have been confusingly in terms of explanations which includes without any assessment of the need for such inclusion. This article is neither a comprehensive assessment of the three Laws nor a complete analysis of the provisions; it is an attempt to raise some issue on the act of present government.

BRIEF ANALYSIS:

The new name (title) of laws itself making a mockery; the term used in title 'nyaya' raise the question does a book itself provide 'nyaya to a person'? Or to penalize 'the act of a person'. Does a book give 'suraksha to nagrik'? Or it is 'procedural law' as a part of criminal laws, if answer is in affirmative sense then a procedural law deals with procedure or provides 'suraksha to a common person'. And also forget, that, the present Cr.P.C. is not of a British Era, it was replaced in year 1973 from 1898. Now came to Evidence Law we all called it sakshya adhiniyam in hindi. This clearly shows the ill mentality of present government.

The Indian Penal Code, 1860

Versus

The Bharatiya Nyaya

Sanhita, 2023

The Indian Penal Code, 1860 is a hard work of Lord Macaulay, Macleod, Anderson, and Millet. It takes about twenty seven years to study and observation of the act of crime which was happened in the different part of land of India. Under IPC,1860 a principles are set up in which condition, as well as elements of a particular act is define and explain, then after the act falls within the definition of offence and then punishment is stated, to offender on the act which doer do. IPC, 1860 is a great landmark in the history of codification in India. By the enforcement of IPC, 1860; uniformity must be maintain first time under Criminal Law in India.

On the other hand BNS,2023 ; specially first of all the title is misleading / mismatched with the basic principle of criminal law. Beside 'Penal' the 'Nyaya' word is used in title of the law. The term 'Nyaya' is abstract noun which never been seen, only matter of understanding. The thing which is seen is judgment on record. Another one how could a book itself decide 'Nyaya'. So, the selection of title as author's think was selected intoxication condition having least knowledge and information about the criminal jurisprudence. this shows that present government has the allergy with lord Macaulay and his magnificent work.

The Code of Criminal Procedure, 1973 2023

Versus

The Bharatiya Nagrik

Suraksha

Sanhita,

The Code of Criminal Procedure, 1973 had been passed in independent India. So again the question rises in author's mind that what is emergency need to replace it, without telling the lack in procedure. The present government forgot that CrPC,1973 already replaced the code of 1898 and this code of 1898 was also the replacement of the code of 1882 which give first time a uniform law of procedure for whole India, and code,1898 was supplanted of it. Before CrPC, 1973 came into existence a big exercise had been done in the country; suggestion and opinion were taken from various judges and bar association in different parts of the country.

Now BNSS, 2023 the word 'Nagrik' 'Suraksha' is used in the title of sanhita which is no were define under the sanhita; so what does it mean? Does a procedure can provides "Suraksha to Nagrik" ; how can it be possible

though the law mention under the said 'sanhita' another question arises about the person who is not a 'nagrik' of bharat who reside in the country.

However the phraseology used in BNSS, 2023 is very similar to the code of 1973. It is again a reshuffling of sections only; done to change their name only, under condition of consumption of pschopathic substance during replacement.

The Indian Evidence Act, 1872**Versus****The Bharatiya Sakshya****Adhiniyam, 2023**

The Indian Evidence Act introduce a standard set of law applicable to all Indian Laws mainly based upon the firm work by Sir James Fitzjames Stephen who could be called the founding father of this comprehensive piece of legislation. The duration taken for this admirable work was near about two years and four months. The term evidence used in IEA, 1872 had been derived from the latin word "evidens" or "evidere" which means 'to show clearly'; 'to ascertain'; 'to prove'. The word evidence also well explained in interpretation clause under the Act which clearly covers statement, facts, and documents whatever produces to the court.

Now BSA, 2023 the term 'sakshya' neither defines nor explains; and also forgets that in Hindi it is already spoken as sakshya adhiniyam, then what efforts this present government did. If there is too much affection showing towards hindi term then why used English terminology under this sanhita? Neither pointing out the defects under the IEA, 1872; the only interest shown was on replacement. Thus it clearly shows the mental illness of administrative peoples in present government.

CONCLUSION:

Concluding the mockery act of the present government; form three laws one is already of independent time now remain two, under them the phraseology and terminology can't be change in new laws. The term sanhita used in each new laws but not define or explain in any of them. However some new provision also introduce in these law, which is welcome but the selection of title should be done improper & unhealthy state; it may be done through criminal law (amanedment) acts as previously had been done example CrPC, 1973. Likewise, replace it with Bharatiya Dand Shainta, 2023 ; Bhartiya Dand Prakariya Sahinta, 2023.

Currently, till date there are lakhs number of cases pending in courts of India which will be handle and settle through old laws & procedure and it will take more than a decade to settle, as the functioning of our judicial courts in the matters, is more time taking. In such situation, dealing with both laws creates the situation of confusion in criminal justice system. Another thing about those peoples who raise the question on framers of Constitution of India that provision of Constitution were taken from here and there, which means from different nations and they just compiled them; now how will they defend themselves when question asked of these laws what they did? Just used brush on name plate. It is just like a eye wash.

These laws are nothing but a reshuffling of old laws section only. As just old things is presented in new package, to be feel good for themselves and fool to citizens, that we did something and praise own self in the lack of praises.

At last ending with this words – “अगर ‘न्याय सहिता’ ही ‘नागरिक सुरक्षा’ प्रदान करने में सक्षम है तो ‘साक्ष्य’ की क्या जरूरत है”

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