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TODAY'S ANALYSIS

(02 July 2024)

TOPICS TO BE COVERED

- **BHARTIYA NAGRIK SURAKSHA SANHITA, 2023**
- **BHARTIYA SAKSHYA ADHINIYAM, 2023**
- **PROJECT NEXUS**

New avatar

The Bills seek to replace the criminal laws that have been in force for more than a century in the country

| NEW BILL | OLD LAW |
|--|------------------------------------|
| ■ Bharatiya Nyaya (Second) Sanhita Bill (BNSS) | ■ Indian Penal Code, 1860 |
| ■ Bharatiya Sakshya (Second) Bill (BSS) | ■ Indian Evidence Act, 1872 |
| ■ Bharatiya Nagarik Suraksha (Second) Sanhita Bill (BNSSS) | ■ Code of Criminal Procedure, 1898 |



This is a pure Indian law after removing all the British imprints

AMIT SHAH, Union Home Minister

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BHARTIYA NAGRIK SURAKSHA SANHITA, 2023

The **Bhartiya Nagrik Suraksha Sanhita, 2023** is one among the three criminal laws which has been passed by the Parliament.

It has been passed by both the houses and has come into force on 1 July, 2024.

The **Bhartiya Nagrik Suraksha Sanhita, 2023** is going to **replace the Criminal Procedure Code (CrPC), 1898.**

The CrPC provides for the **procedure for arrest, prosecution, and bail.**

KEY PROVISIONS

- The BNSM mandates **forensic investigation** for offences punishable with **seven years of imprisonment or more.** Forensic experts will visit crime scenes to collect forensic evidence and record the process.
- **All trials, inquiries, and proceedings** may be held in **electronic mode.** Production of electronic communication devices, likely to contain **digital Evidence, will be allowed for investigation, inquiry, or trial.**

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- If a **proclaimed offender has absconded** to evade trial and there is no Immediate prospect of arresting him, the trial can be conducted and **Judgement pronounced in his absence**.
- Along with specimen signatures or handwriting, finger impressions and voice Samples may be collected for investigation or proceedings. Samples may be taken from a person who has not been arrested.

CRITICISMS

- The BNSS allows up to **15 days of police custody**, which can be authorised In parts during the initial **40 or 60 days of the 60 or 90 days period of Judicial custody**. This may lead to denial of bail for the entire period if the police has not exhausted the 15 days custody.
- The power to **attach property from proceeds of crime** does not have safeguards rovided in the Prevention of Money Laundering Act.
- The **CrPC provides for bail** for an accused who has been **detained for half The maximum imprisonment** for the offence. The **BNSS denies this facility** for anyone facing multiple charges. As many cases involve charges under multiple sections, this may limit such bail.
- The **use of handcuffs** is permitted in a range of cases including organised Crime, contradicting Supreme Court directions.

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THE BHARATIYA SAKSHYA BILL, 2023

The Bharatiya Sakshya bill is the third bill among the three criminal laws.

The Bharatiya Sakshya Bill, 2023 (BSB) replaces the **Indian Evidence Act, 1872 (IEA)**.

It **retains most provisions of the IEA** including those on **confessions, relevancy of facts, and burden of proof**.

PROVISIONS

- The IEA provides for **two kinds of evidence** - documentary and oral. Documentary evidence includes primary (original documents) and secondary (that proves the contents of the original). The BSB retains the distinction. It **includes electronic records** in the definition of documents.
- Under the IEA, **electronic records are categorised as secondary evidence**. The **BSB classifies electronic records as primary evidence**. It expands such records to include information stored in semiconductor memory or any communication devices (smartphones, laptops).

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- Under the IEA, secondary evidence may be required under various Conditions, such as when the original is in the possession of the person against whom the document is sought to be proved or has been destroyed.

The BSB adds that secondary evidence may be required if the genuineness of The document itself is in question.

ISSUES

- The Supreme Court has recognised that **electronic records may be tampered** with. while the BSB provides for the admissibility of such records, there are **no safeguards to prevent the tampering and contamination** of such records during the investigation process.
- Under the IEA, a fact discovered due to information received from an Accused in police custody may be provable. The BSB retains this provision.

Courts and Committees noted that facts may be discovered in police custody By coercion, and without adequate safeguards.

- The IEA (and the BSB) allows such information to be admissible if it was obtained when the accused was in police custody, but not if he was outside. The Law Commission recommended to remove this distinction.

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PROJECT NEXUS

The **Reserve Bank of India (RBI)** has joined **Project Nexus**, a **multilateral International initiative to enable instant cross-border retail payments by Interlinking domestic Fast Payments Systems (FPSs).**

The linkage:

India's **Unified Payments Interface (UPI)** and **FPSs of Malaysia, the Philippines, Singapore and Thailand will be interlinked through Nexus.**

Going ahead, the platform can be extended to more countries.

ABOUT PROJECT NEXUS

- Project Nexus is conceptualised by the **Innovation Hub** of the **Bank for International Settlements (BIS).**
- It seeks to enhance cross-border payments by connecting multiple domestic Instant payment systems (IPS) globally.
- It is the first BIS Innovation Hub project in the payments area to move Towards live implementation.

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WASN'T INDIA COLLABORATING WITH OTHER COUNTRIES FOR PAYMENTS?

- The Reserve Bank of India has been **collaborating bilaterally** with various countries to link **India's Fast Payments System (FPS)** – UPI, with their respective FPSs for cross-border Person to Person (P2P) and person to Merchant (P2M) payments.

WHAT WOULD HAPPEN TO THESE BILATERAL MECHANISMS AFTER WE HAVE BECOME PART OF PROJECT NEXUS?

While India and its partner countries can continue to benefit through such Bilateral connectivity of FPS, a multilateral approach will provide further impetus to the RBI's efforts in expanding the international reach of Indian payment systems.

HOW MUCH TIME DOES THE PAYMENT TAKE TO GET TRANSFERED?

In over **70 countries** today domestic payments reach their destination in seconds at near-zero cost to the sender or recipient. This is thanks to the growing Availability of instant payment systems. **Connecting these ips to each other can enable cross-border payments from sender to recipient within 60 seconds** (in most Cases), **according to the bis.**

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BENEFITS OF NEXUS

- Project Nexus is designed to **standardise the way IPS connect to each other.**
- Rather than a payment system operator building custom connections for every new country that it connects to, **the operator can make one connection to the Nexus platform.**
- This single connection **allows a fast payments system** to reach all other countries on the network.
- Nexus could **significantly accelerate the growth of instant cross-border payments.**

MEMBER COUNTRIES OF NEXUS

- Project Nexus aims to connect the FPSs of **four Association of Southeast Asian Nations (ASEAN) —**
 - **Malaysia,**
 - **Philippines,**
 - **Singapore, and**
 - **Thailand;** and
- **India,** who would be the **founding members** and first mover countries of this platform.
- Indonesia is expected to join this platform in the future.

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MCQs

1. For which of the following, there are provisions in the Bhartiya Nagrik Suraksha Sanhita, 2023?

1. Procedure for arrest
2. Prosecution
3. Bail

(A) Only 1

(B) 1 & 2 Only

(C) 2 & 3

(D) All of the above

Ans. (D)

2. Consider the following statements & mark the correct one:

1. The BNSS mandates forensic investigation for offences punishable with five years of imprisonment or more.

2. According to BNSS, if the convict has absconded, judgement can be Pronounced.

(A) Only 1

(B) Only 2

(C) Both 1 & 2

(D) Neither 1 nor 2

Ans. (B)

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3. Consider the statements and mark the correct one:

1. The Bharatiya Sakshya Bill has no distinction between the primary & the secondary evidence.
2. Electronic records were classified as secondary evidence under the Indian Evidence Act.

- (A) Only 1
- (B) Only 2
- (C) Both 1 & 2
- (D) Neither 1 nor 2



Ans. (B)

4. Which agency in India is part of the Project Nexus?

- (A) Ministry of Finance, GOI
- (B) Reserve Bank of India
- (C) National Payment Corporation of India
- (D) None of the above

Ans. (B)

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5. Which of the following countries are founding members of Project Nexus?

1. India
2. Malaysia
3. Indonesia
4. Thailand

(A) 1 & 2 only

(B) 1, 3 & 4

(C) 1, 2 & 4 only

(D) All of the above

Ans. (C)



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