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Manuu Law School, Maulana Azad National Urdu University Hyderabad conducted the Panel Discussion on Criminal Laws 2023 session Chaired by Prof.(Dr.) Tabrez Ahmad Dean Manuu Law School along with Speakers Dr. Tausif Ur Rehman Assistant Professor Law, Mohammad Tabish Assistant Professor Law, Mr. R. Sameer Ahmed Advocate Telengana High court Discussed as follows:-

Colonial Era:

- * Regulating Act of 1773: The British East India Company established a legal system under the Regulating Act, introducing English law and creating courts to administer justice.
- * Indian Penal Code (IPC), 1860: Drafted by Thomas Babington Macaulay, the IPC was enacted and came into effect on January 1, 1862. It remains one of the foundational criminal statutes in India, providing a comprehensive list of offenses and their punishments.
- * Code of Criminal Procedure (CrPC), 1898: The CrPC established procedures for the administration of criminal justice. It outlined the powers of the police, the conduct of trials, and the role of the judiciary.

Post-Independence Period:

- * Constitution of India, 1950: The Constitution of India guarantees certain fundamental rights and principles of criminal justice, emphasizing fair trial and protection against arbitrary arrest and detention.
- * Amendments and New Legislation: Over the years, the IPC and CrPC have been amended to adapt to changing societal needs. New laws, such as the Narcotic Drugs and Psychotropic Substances Act (1985) and the Prevention of Corruption Act (1988), have been enacted to address emerging challenges.
- * Courts have also de-criminalized certain offenses such as consensual intercourse between same-sex adults, adultery, and attempts to commit suicide.

Recent Reforms:

- * Criminal Law (Amendment) Act, 2013: Enacted in response to the Nirbhaya case, this amendment strengthened laws related to sexual offenses, introducing new offenses and enhancing penalties.
- * Juvenile Justice (Care and Protection of Children) Act, 2015: This law addresses offenses committed by juveniles and aims to rehabilitate and protect children in conflict with the law.
- * The Criminal Law (Amendment) Act, 2018: This amendment introduced changes to the IPC and CrPC, including stricter provisions for crimes against women and children.

Bharatiya Nyaya Sanhita, 2023

The Indian Penal Code (IPC), 1860 is the principal law on criminal offenses in India. Offenses covered include those affecting:

- * human body such as assault and murder,
- * property such as extortion and theft,
- * public order such as unlawful assembly and rioting,
- * public health, safety, decency, morality, and religion,
- * defamation, and
- * offences against the state.

The Bharatiya Nyaya Sanhita (BNS) retains most offences from the IPC. It adds community service as a form of punishment.

- * Sedition is no longer an offence. Instead, there is a new offence for acts endangering the sovereignty, unity, and integrity of India.
- * The BNS adds terrorism as an offence. It is defined as an act that intends to threaten the unity, integrity, security, or economic security of the country, or strike terror in the people.
- * Organised crime has been added as an offence. It includes crimes such as kidnapping, extortion and cyber-crime committed on behalf of a crime syndicate. Petty organised crime is also an offence now.
- * Murder by a group of five or more persons on grounds of certain identity markers such as caste, language, or personal belief will be an offence with a penalty of life imprisonment or death, and with a fine.

Key changes in the BNS include:

Offences against the body: The IPC criminalizes acts such as murder, abetment of suicide, assault, and causing grievous hurt.

* The BNS retains these provisions. It adds new offences such as organised crime, terrorism, and murder or grievous hurt by a group on certain grounds.

Sexual offences against women: The IPC criminalises acts such as rape, voyeurism, stalking, and insulting the modesty of a woman. The BNS retains these provisions.

* It increases the threshold for the victim to be classified as a major, in the case of gang rape, from 16 to 18 years of age.

* It also criminalises sexual intercourse with a woman by deceitful means or making false promises.

Sedition: The BNS removes the offence of sedition. It instead penalises the following:

* exciting or attempting to excite secession, armed rebellion, or subversive activities,

* encouraging feelings of separatist activities, or

* endangering the sovereignty or unity and integrity of India.

These offences may involve the exchange of words or signs, electronic communication, or the use of financial means.

Terrorism: Terrorism includes an act that intends to:

* threaten the unity, integrity, security, or economic security of the country, or

* strike terror in the people or any section of people in India.

* Punishment for attempting or committing terrorism includes:

* death or life imprisonment, and a fine, if it results in the death of a person, or

* imprisonment between five years and life, and a fine.

Organised crime: Organised crime includes offences such as kidnapping, extortion, contract killing, land grabbing, financial scams, and cybercrime carried out on behalf of a crime syndicate.

* Attempting or committing organised crime will be punishable with:

* death or life imprisonment and a fine of Rs 10 lakh, if it results in the death of a person, or

* imprisonment between five years and life, and a fine of at least five lakh rupees.

Mob lynching: The BNS adds murder or grievous hurt by five or more people on specified grounds, as an offence.

* These grounds include race, caste, sex, language, or personal belief. The punishment for such murder is life imprisonment or death.

Rulings of the Supreme Court: The BNS2 conforms to some decisions of the Supreme Court.

* These include omitting adultery as an offence and adding life imprisonment as one of the penalties (in addition to the death penalty) for murder or attempt to murder by a life convict.

The Bharatiya Nagarik Suraksha Sanhita, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 seeks to replace the Criminal Procedure Code, 1973 (CrPC).

* The BNSS 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.

* If a proclaimed offender has absconded to evade trial and there is no immediate prospect of arresting him, the trial can be conducted and judgment 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.

The BNSS retains most of the provisions of the CrPC. Key changes proposed include:

Detention of undertrials: As per the CrPC, if an accused has spent half of the maximum period of imprisonment in detention, he must be released on personal bond.

* This does not apply to offences punishable by death.

* The BNSS adds that this provision will also not apply to:

* offences punishable by life imprisonment, and

* persons against whom proceedings are pending in more than one offence.

Medical examination: The CrPC allows medical examination of the accused in certain cases, including rape cases.

* Such examination is done by a registered medical practitioner at the request of at least a sub-inspector-level police officer.

* The BNSS provides that any police officer can request such an examination.

Forensic investigation: The BNSS mandates forensic investigation for offences punishable with at least seven years of imprisonment.

* In such cases, forensic experts will visit crime scenes to collect forensic evidence and record the process on a mobile phone or any other electronic device.

* If a state does not have a forensics facility, it shall utilise such a facility in another state.

Signatures and finger impressions: The CrPC empowers a Magistrate to order any person to provide specimen signatures or handwriting.

* The BNSS expands this to include finger impressions and voice samples.

* It allows these samples to be collected from a person who has not been arrested.

Timelines for procedures: The BNSS prescribes timelines for various procedures.

* It requires medical practitioners who examine rape victims to submit their reports to the investigating officer within seven days.

* Other specified timelines include: (i) giving judgment within 30 days of completion of arguments (extendable up to 45 days), (ii) informing the victim of the progress of the investigation within 90 days, and (iii) framing of charges by a sessions court within 60 days from the first hearing on such charges.

Hierarchy of Courts: The CrPC establishes a hierarchy of courts for the adjudication of criminal matters in India.

* These courts include: (i) Magistrate's Courts: subordinate courts responsible for the trial of most criminal cases, (ii) Sessions Courts: presided over by a Sessions Judge and hear appeals from Magistrate's Courts, (iii) High Courts: have inherent jurisdiction to hear and decide criminal cases and appeals, and (iv) Supreme Court: hear appeals from High Courts and also exercise its original jurisdiction in certain matters.

* The CrPC empowers the state governments to notify any city or town with a population of more than one million as a metropolitan area. Such areas have Metropolitan Magistrates.

* The BNSS removes the classification of metropolitan areas and Metropolitan Magistrates.

The Bharatiya Sakshya Adhiniyam 2023

The Bharatiya Sakshya 2023 (BSA) replaces the Indian Evidence Act, 1872 (IEA).

* The IEA provides two kinds of evidence – documentary and oral. Documentary evidence includes primary (original documents) and secondary (that prove the contents of the original). The BSB2 retains the distinction. It classifies electronic records as documents.

* Under the IEA, electronic records are categorized as secondary evidence. The BSB2 classifies electronic records as primary evidence. It expands such records to include information stored in semiconductor memory or any communication devices (smartphones, laptops).

* The BSA expands secondary evidence to include: (i) oral and written admissions, and (ii) the testimony of a person who has examined the document and is skilled in the examination of documents.

Key changes of the BSA are:

Documentary evidence: Under the IEA, a document includes writings, maps, and caricatures. The BSB2 adds that electronic records will also be considered as documents.

* Documentary evidence includes primary and secondary evidence.

* Primary evidence includes the original document and its parts, such as electronic records and video recordings.

* Secondary evidence contains documents and oral accounts that can prove the contents of the original. The BSA retains this classification.

Oral evidence: Under the IEA, oral evidence includes statements made before Courts by witnesses about a fact under inquiry.

* The BSA allows oral evidence to be given electronically.

* This would permit witnesses, accused persons, and victims to testify through electronic means.

Admissibility of electronic or digital records as evidence: Documentary evidence includes information in electronic records that have been printed or stored in optical or magnetic media produced by a computer.

* Such information may have been stored or processed by a combination of computers or different computers.

* The BSA provides that electronic or digital records will have the same legal effect as paper records.

* It expands electronic records to include information stored in semiconductor memory or any communication devices (smartphones, laptops).

* This will also include records on emails, server logs, smartphones, locational evidence, and voice mails.

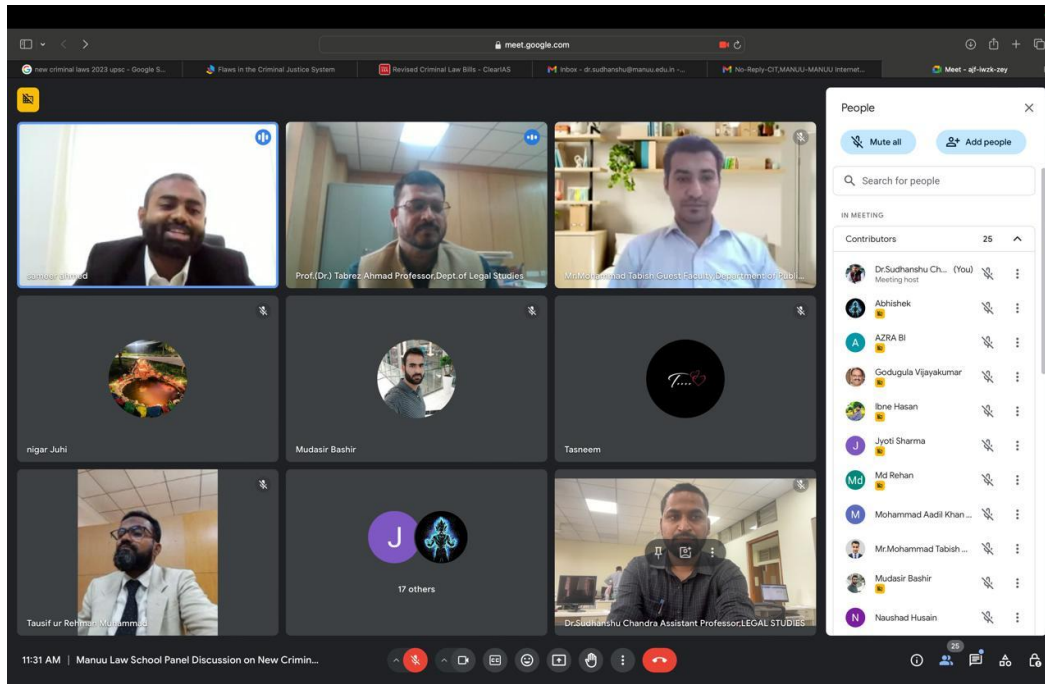
Secondary evidence: The BSA expands secondary evidence to include: (i) oral and written admissions, and (ii) the testimony of a person who has examined the document and is skilled to examine the documents.

Joint trials: A joint trial refers to the trial of more than one person for the same offence.

* The IEA states that in a joint trial, if a confession made by one of the accused which also affects the other accused is proven, it will be treated as a confession against both.

* The BSA adds an explanation to this provision. It states that a trial of multiple persons, where an accused has absconded or has not responded to an arrest warrant, will be treated as a joint trial.

Session concluded with the question & answer in which Students, Faculty participation was there. Session was so engaging all the participants, students, Faculty Members enjoyed and enhanced their knowledge.



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