Bharatiya Nagarik Suraksha (Second) Sanhita Act, 2023

Why in news?

The Bharatiya Nagarik Suraksha (Second) Sanhita, 2023 (BNSS2) seeks to replace the Criminal Procedure Code, 1973 (CrPC).

What are the key provisions of Bharatiya Nagarik Suraksha (Second) Sanhita, 2023?

Key aspects	About
Forensic investigation	• It is mandated for offences punishable with 7 years of imprisonment or more. • Forensic experts will visit crime scenes to collect forensic evidence and record the process. • If a state does not have forensics facility, it shall utilise such facility in another state.
Use of technology	• 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
Evasion of trail	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
Samples for investigation	• 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.
Timelines for procedures	• It prescribes timelines for various procedures. - Medical practitioners who examine rape victims- Submit report to investigation officer within 7 days. - Giving judgements within 30 days of completion of arguments (extendable up to 45 days) - Informing the victims of progress of investigation within 90 days.
Use of handcuffs	• Handcuffs may only be used to arrest - A habitual or repeat offender who has escaped custody, or - A person who has committed offences such as rape, acid attack, organised crime, drug related crime, or offence against the State.

To know about Bharatiya Nagarik Suraksha Sanhita Bill 2023 click here

What is the difference between CrPC and BNSS2?

Key aspect	CrPC	BNSS2

Detention of undertrials	• 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.	• 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	• It allows medical examination of the accused in certain cases, including rape cases. • Such examination is done by a registered medical practitioner on the request of *at least a sub inspector level police officer*.	• It provides that *any police officer* can request such an examination.
Samples for investigation	• It empowers a ***Magistrate*** to order any person to provide specimen signatures or handwriting.	• It expands this to include finger impressions and voice samples. • It allows these samples to be collected from a person who has not been arrested.
Hierarchy of Courts	• It establishes hierarchy of courts for the adjudication of criminal matters in India. • These include - **Magistrate's Courts**- Subordinate courts responsible for the trial of most criminal cases. - **Sessions Courts**- It is presided over by a Sessions Judge and hear appeals from Magistrate's Courts. - **High Courts-** They have inherent jurisdiction to hear and decide criminal cases and appeals. - **Supreme Court-** They hear appeals from High Courts and also exercise its original jurisdiction in certain matters. • It empowers the State governments to notify any city or town with a population of more than 1 million as a metropolitan area. • Such areas have Metropolitan Magistrates.	• It removes the classification of metropolitan areas and Metropolitan Magistrates.
Procedure of police custody	• The Constitution and CrPC prohibit detention in police custody beyond 24 hours. • The Magistrate is empowered to extend it up to 15 days in case investigation cannot be completed within 24 hours. • The overall detention cannot exceed 60 or 90 days depending on the offence.	• It adds that the police custody of 15 days can be authorised in whole or in parts at any time during the initial 40 or 60 days out of the 60 or 90 days period

What are the cons of BNSS2?

- **Alteration of police custody procedure**- Extension in the police custody may lead to

denial of bail for the entire period if the police has not exhausted the 15 days custody.

- **Power to use handcuffs-** The Supreme Court has held that the use of handcuffs is inhumane, unreasonable, arbitrary, and repugnant to Article 21.
    - It has ruled that no prisoners undergoing trial can be handcuffed without obtaining judicial consent.
    - The use of handcuffs is permitted in the range of cases including organised crime, contradicting Supreme Court directions.
- **Data collection-** It allows collection of samples for investigation from persons who have not been arrested under any investigation, the need for retaining data collection provisions and expanding on them in the BNSS2 is unclear.
- **Limits the scope for bail-** The CrPC provides for bail for an accused who has been detained for half the maximum imprisonment for the offence. The BNSS2 denies this facility for anyone facing multiple charges.
- The power to attach property from proceeds of crime does not have safeguards provided in the Prevention of Money Laundering Act.
- **Public order**- The BNSS2 retains provisions of the CrPC related to maintenance of public order.
    - Since trial procedure and maintenance of public order are distinct functions, the question is whether they should be regulated under the same law or be dealt with separately.
- **Recommendations of high level committees**- It recommended changes to the CrPC such as reforms in sentencing guidelines and codifying rights of the accused have not been incorporated in the BNSS2.

Reference

PRS- Bharatiya Nagarik Suraksha (Second) Sanhita, 2023

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