



FIVE-DAY CAPACITY BUILDING AND SENSITISATION PROGRAMME ON CRIMINAL LAW REFORMS IN INDIA

24th June to 28th June, 2024

COURSE REPORT



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Lal Bahadur Shastri National Academy of Administration
Mussoorie- 248179

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COURSE TEAM



Under the Mentorship
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Dr. Anju Choudhary
Course Coordinator



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Shri. Sachiv Kumar
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DIRECTOR'S MESSAGE

Embracing a New Era: The Bhartiya Nagrik Suraksha Sanhita 2023, The Bhartiya Nyaya Sanhita 2023, and The Bhartiya Sakshya Adhiniyam

It is a profound honour to address you on this momentous occasion marking the adoption of the Bhartiya Nagrik Suraksha Sanhita (BNSS) 2023, Bhartiya Nyaya Sanhita (BNS) 2023, and Bhartiya Sakshya Adhiniyam (BSA) 2023. As the Director of the Lal Bahadur Shastri National Academy of Administration (LBSNAA) in Mussoorie, my role is deeply intertwined with the mission of shaping future leaders who are dedicated to upholding the principles enshrined within these groundbreaking legislations.

The BNSS, BNS, and BSA represent a significant shift in our nation's approach to citizen security, judicial processes, and evidence management, respectively. These new codes replace the Criminal Procedure Code (CrPC), Indian Penal Code (IPC), and the Indian Evidence Act, all relics of a bygone era, with modern frameworks tailored to address the complexities of the 21st century. The emphasis on citizen-centricity in these codes profoundly resonates with the core values of the LBSNAA. At this esteemed institution, we have consistently endeavoured to instill in our probationers—a cohort of future administrators for India—a profound sense of public service and an unwavering commitment to upholding the rights and liberties of every citizen.

This comprehensive report serves as an essential guide to understanding the intricacies of the BNSS, BNS, and BSA. It meticulously unpacks the key provisions of these new codes, shedding light on the transformed landscape of criminal justice procedures in India. The streamlined processes delineated in these codes promise to enhance efficiency, transparency, and accountability within our legal system. This improvement, in turn, fosters public trust and empowers citizens to actively participate in the enforcement of the law.

A distinctive feature of the BNSS, BNS, and BSA is their renewed focus on

human rights and restorative justice. They prioritize swift investigation procedures, protection of victim rights, and rehabilitation over punitive measures alone. This balanced approach aligns perfectly with the LBSNAA's curriculum, which equips our probationers with the skills and temperament necessary to be empathetic and effective administrators. This alignment with the Karmayoggi Mission ensures that our future leaders are well-prepared for their roles.

The successful implementation of the BNSS, BNS, and BSA hinges on the dual pillars of a well-informed citizenry and a dedicated cadre of civil servants. As a premier training institute, LBSNAA takes immense pride in its pivotal role in this transformative process. Our commitment to capacity building through rigorous training ensures that our probationers are well-versed in these new codes, equipped with the requisite knowledge and skills to navigate the nuances of this new legal framework.

I am confident that the BNSS, BNS, and BSA will pave the way for a more just, equitable, and secure India. The LBSNAA stands resolutely committed to supporting this transformation by nurturing future leaders who will be instrumental in upholding the spirit of these codes and serving our nation with integrity and purpose. This commitment is part of our broader vision for a Viksit Bharat—a developed India where justice and security are foundational pillars.

In conclusion, the BNSS, BNS, and BSA are not merely legislative reforms but beacons of hope for a brighter, more secure future. The LBSNAA will continue to play its part in this historic journey, fostering a new generation of administrators who will lead with compassion, integrity, and a steadfast dedication to the principles of justice and equity.

Sachin Musale
1/01/2019

COURSE COORDINATOR'S MESSAGE

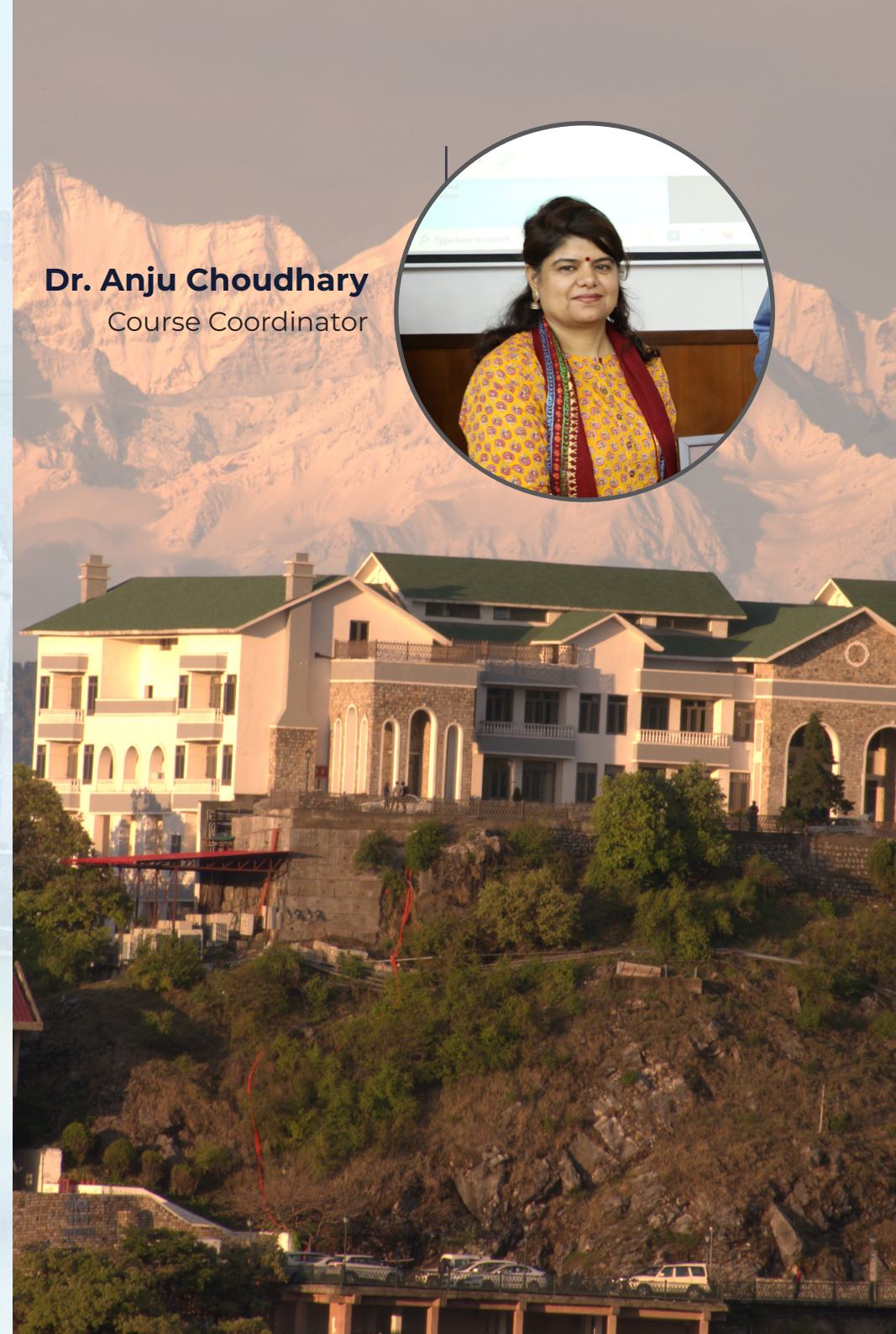
It is with immense pleasure that I present this report, dedicated to the recent introduction of new criminal laws in India. The landscape of criminal justice is continuously evolving, and the new statutes—Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Adhiniyam 2023, and Bharatiya Sakshya Adhiniyam 2023 represent significant milestones in this evolution. This report aims to provide an analysis of these new laws, offering insights into their implications and practical applications.

The Lal Bahadur Shastri National Academy of Administration (LBSNAA) has always been at the forefront of legal education and training, preparing our civil servants to meet the dynamic challenges of governance and law enforcement. The National Centre for Law and Administration (NCLA) recently organized a comprehensive One Week Capacity Building and Sensitization Programme on Criminal Law Reforms in India focusing on these new criminal laws. This course, attended by distinguished participants, delved into the nuances of the legislative changes and equipped attendees with the necessary skills and knowledge to implement these reforms effectively.

The Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Adhiniyam 2023, and Bharatiya Sakshya Adhiniyam 2023 signify a progressive step towards modernizing India's criminal justice system. These laws address contemporary issues, streamline procedures, and aim to enhance the overall efficiency of the legal process.

I extend my deepest gratitude to the eminent faculty and experts who contributed to the course and to this publication. Their insights and analyses are invaluable and provide a rich source of knowledge for our readers. I am confident that this report will serve as an essential resource for legal professionals, academics, and students, fostering a deeper understanding of the new criminal laws and their practical applications. As we navigate through these transformative times, I encourage our readers to engage with the content critically, reflect on the new legal frameworks, and contribute to the discourse on effective law enforcement and justice delivery. Together, we can build a more informed, just, and equitable society.

Dr. Anju Choudhary
Course Coordinator



CORE TEAM





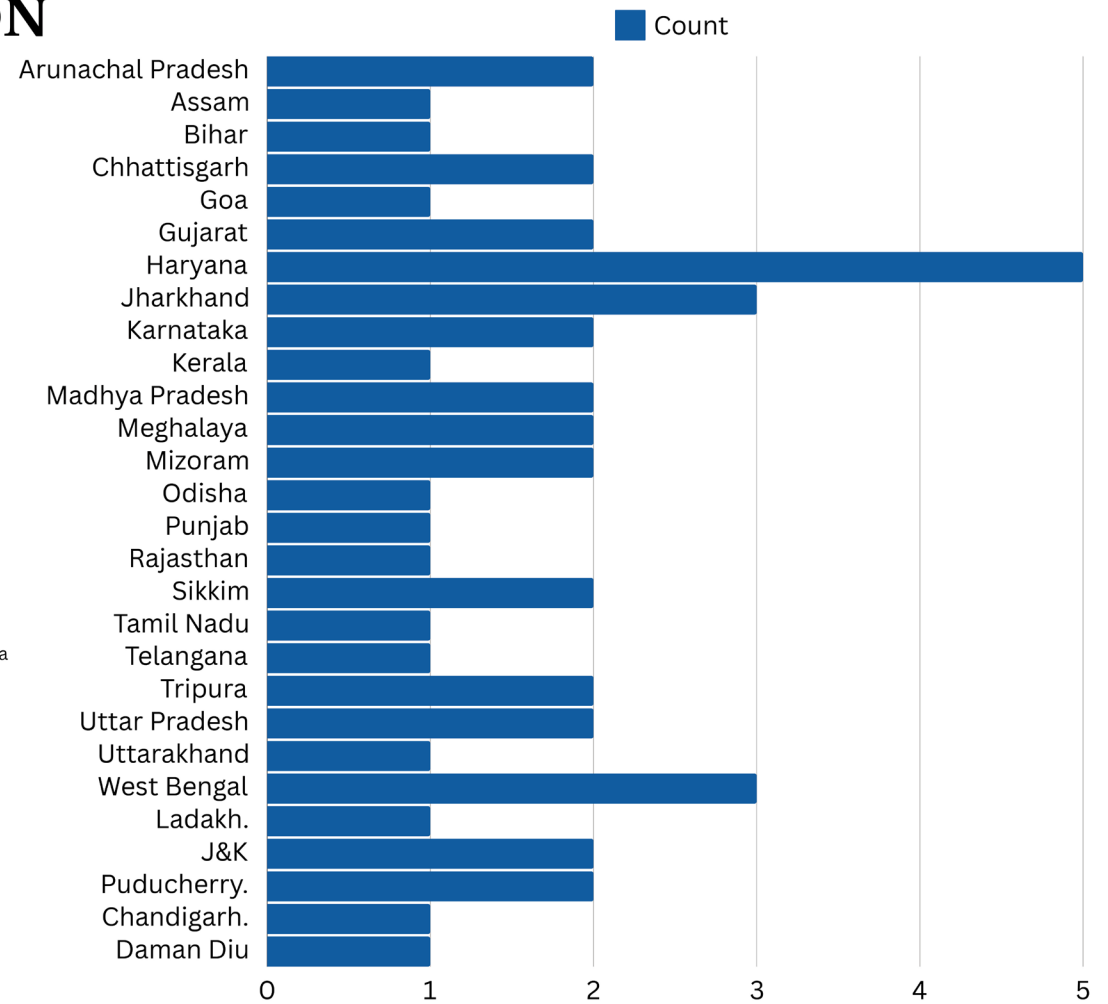
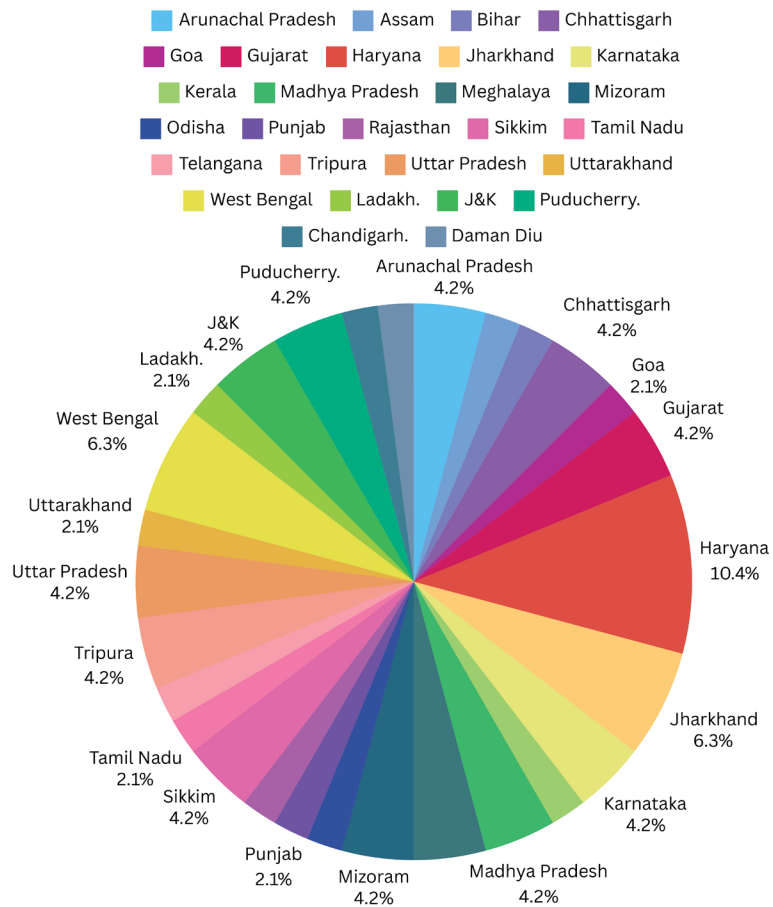
PARTICIPANTS- GENDER DISTRIBUTION

10 PARTICIPANTS

38 PARTICIPANTS

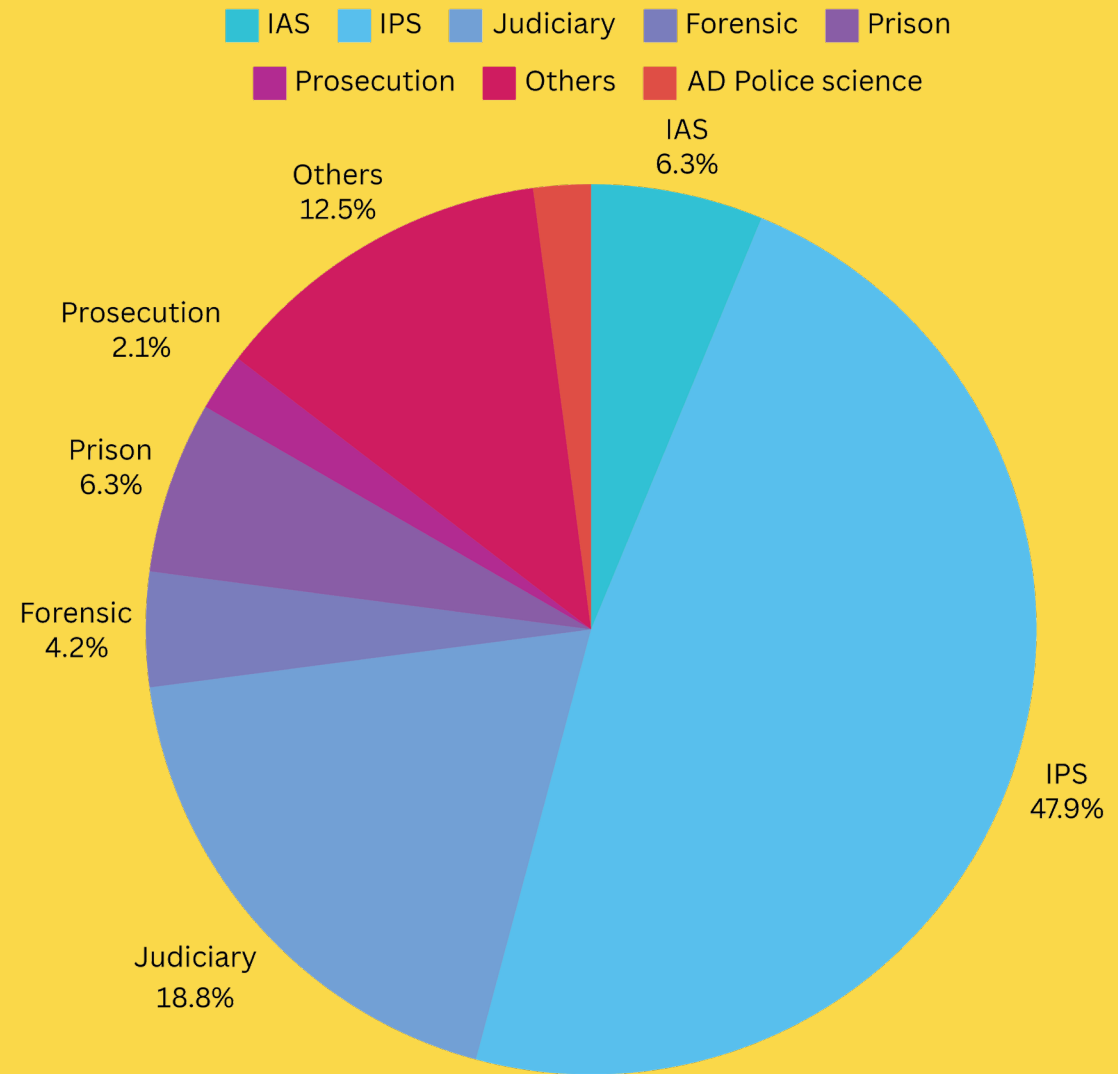


STATE WISE DISTRIBUTION





PARTICIPANTS- SERVICE WISE DISTRIBUTION



AIMS OF THE PROGRAMME

1. Provide a comprehensive overview about the current status of Criminal Law Reforms in India.
2. Explore the historical evolution and contemporary developments in the Indian Criminal Justice System.
3. Analyze the impact of recent legislative changes and judicial interpretation on the implementation of criminal law.
4. Equip participants with practical tools and strategies to navigate the challenges and opportunities in the field of criminal law reforms.
5. Foster a deeper understanding of the roles and responsibilities of various stakeholders in the criminal justice system.
6. Facilitate open dialogues and exchange of ideas among participants to promote effective collaboration and policy-making.



DELIVERABLES

By the end of this course, participants will be able to:

Demonstrate a thorough understanding of the current landscape of criminal law reforms in India.

Analyze the impact of recent changes in criminal law on the overall functioning of the criminal justice system.

Identify and address the key challenges and opportunities in the implementation of criminal law reforms.



DELIVERABLES

By the end of this course, participants will be able to:

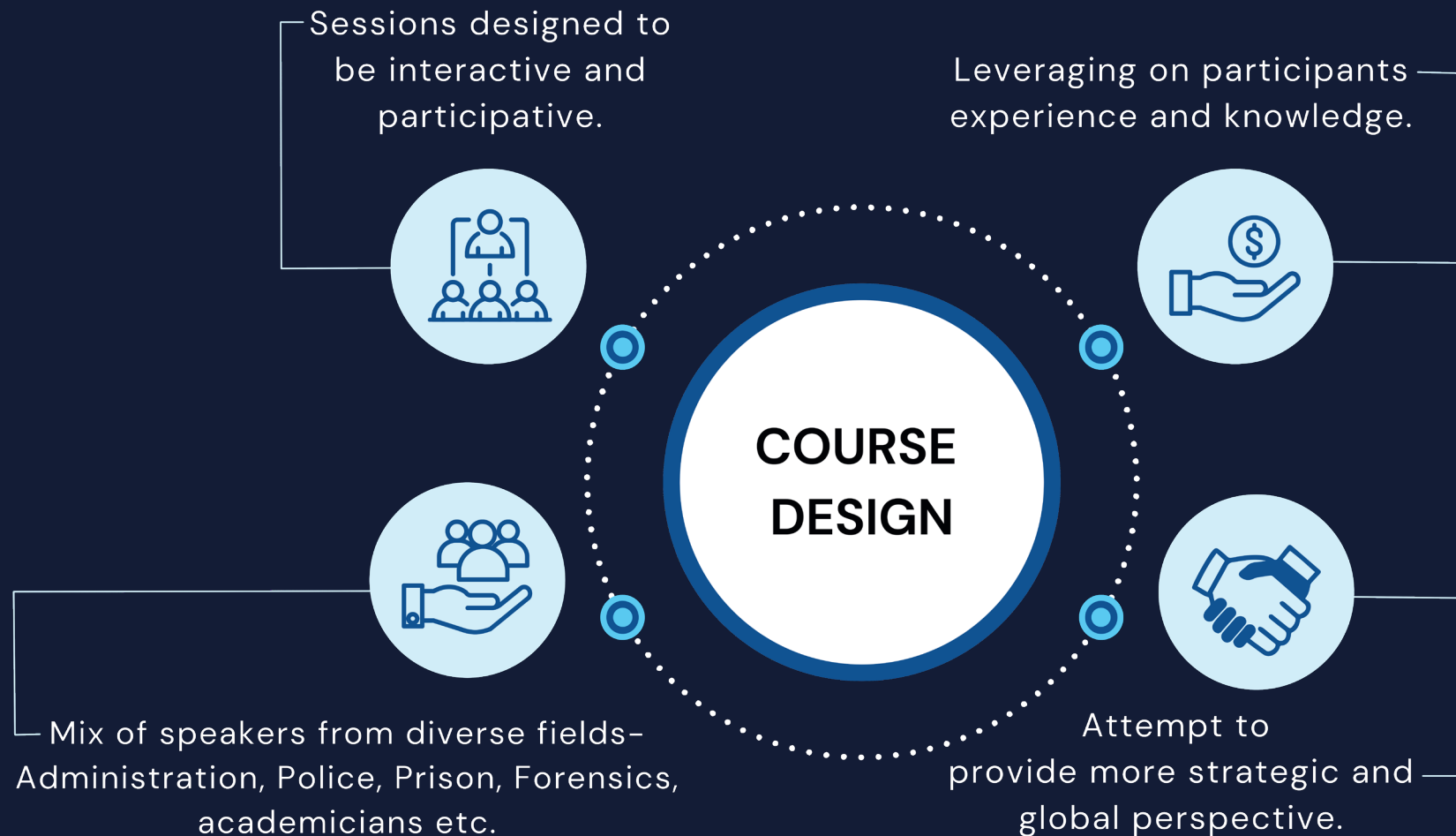
Develop effective strategies and policies to enhance the efficiency and fairness of the criminal justice system.

Foster collaborative relationships and networks among various stakeholders in the criminal justice ecosystem

Contribute to the ongoing dialogue and policy-making process in the field of criminal law reforms.



COURSE DESIGN





Interactions

**Moderated
Sessions**

Group Presentation

Panel Discussion

**Case Studies and
Simulations**

COURSE PEDAGOGY



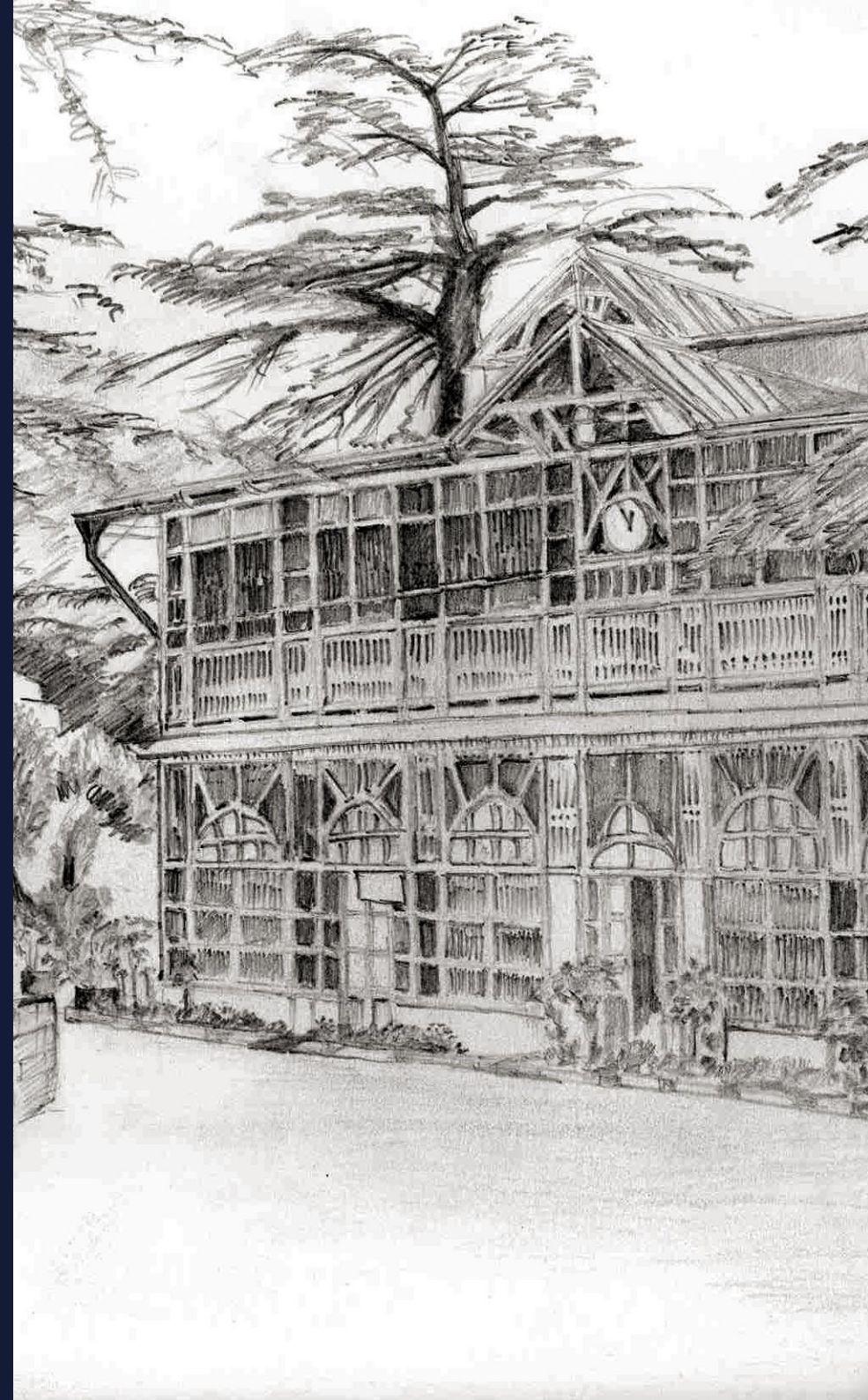
COURSE OUTLINE

JOURNEY OF FIVE DAYS



COURSE THEME

The thematic framework of the course aimed to provide a comprehensive understanding of the challenges associated with the implementation and interpretation of new criminal laws. It equipped participants with practical tools and strategies to address these challenges effectively in their respective roles. Emphasizing inter-agency coordination and desiloization, the program fostered collaboration among various departments to ensure a cohesive and unified approach to criminal law reforms.



1 DAY ONE

INAUGURAL SESSION:

The Five Day Capacity Building and Sensitization Programme on “Criminal Law Reforms in India” started on a bright sunny day. The carpet was rolled for the Chief Guest Shri Rajeev Kumar Sharma, IPS, Director General, Bureau of Police Research and Development, Ministry of Home Affairs, Govt. of India.

The Day One of the course stepped towards the Inaugural session as Dr. Sachiv Kumar welcomed the Chief Guest Shri Rajeev Kumar Sharma. Dr. Sachiv Kumar elaborated the life and service journey. Shri Rajiv Kumar, an IPS officer of the 1990 batch belongs to Rajasthan Cadre. Sir has served in CBI as Joint Director - Economic Offences Zone, Banking and Securities Fraud Zone, and Special Task Force. He also served as Deputy Inspector General of Police (Economic Offences), SP Special Unit, New Delhi and SP Jaipur in the CBI. An additional charge as the Director, Centre for Child Protection, and Director, Centre for Road Safety, in the Sardar Patel University of Police Security & Criminal Justice Rajasthan was held by him.

Dr. Sachiv kumar mentioned about the broad range of working experience of our esteemed Chief Guest in the domains of Administration, Law & Order, Capacity building and training, Child Protection and Anti Human Trafficking, Anti- Corruption Investigation, Crime prevention and detection, HR management, Humanitarian issues and Human rights, Community involvement in safeguarding their interests, Internal vigilance and ethical issues, and Human Security and Security issues.



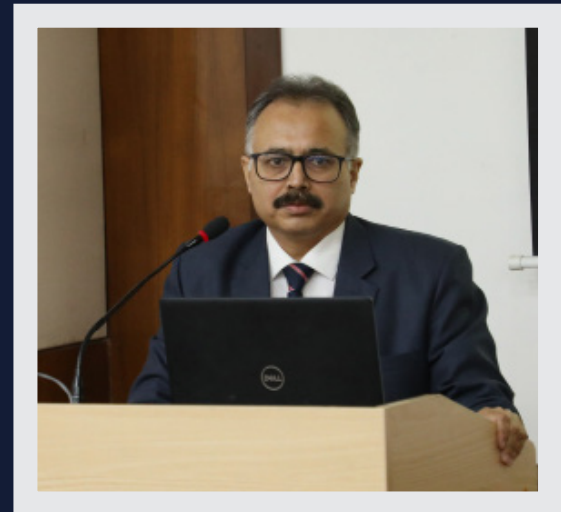
The three new criminal laws – Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita and the Bhartiya Sakshya Adhiniyam, 2023 are an endeavour to make the criminal justice system more accessible, accountable, credible, and justice driven. With over 600 amendments, additions, and deletions, the criminal laws have been pushed into a transparent, modern, and technologically adept framework, equipped to address contemporary challenges.

It's a momentous occasion as a country of 140 crore citizens adopts crucial new laws. For an independent nation that fought a prolonged, non-violent and principled fight for freedom, to still abide by laws that had colonial origins and intentions was a peculiar situation to be in. The colonial origins of the existing criminal laws are also evidence to the fact that these laws were created for a society that was vastly different for what the Indian society stands as today. They prioritized offences against the State over offences against citizens, imposed western morality on a people, and prioritized punishment over justice. Although the criminal justice system has from time to time incorporated in practice the wisdom provided by our Courts, yet the current framework of the criminal justice system is afflicted by major problems of delay, lack of credible evidence, low rate of conviction and lack of public trust in the system.

The process of overhauling the laws has taken more than 4 years to come to fruition. Consultations started in 2019, suggestions were sought from all Governors, CMs, administrators, Chief Justices, Bar Councils, law universities, all MPs, MLAs. BPR&D sought suggestions from all IPS officers, MHA from all Collectors. A Committee was constituted under the Chairmanship of Vice Chancellor, National Law University, Delhi which also held wide ranging consultation with various stakeholders including inviting suggestions from public. Most of the suggestions received during this process were accepted by the Government.

However, laws are only as effective as their implementation on the ground. This is why the Bureau of Police Research & Development (BPR&D) has undertaken a multi-pronged strategy to facilitate the seamless implementation of these new laws.

BPR&D has organized comprehensive training programs and workshops for police officers, prosecutors, judges, and legal professionals. The focus is on building a strong understanding of the new laws and fostering a collaborative approach to their implementation. So far, 35400 personnels, mostly master trainers have been trained across the five pillars by BPR&D and its affiliated training institutes.



Shri Rajeev Kumar Sharma,
IPS, Director General, Bureau of
Police Research & Development,
Ministry of Home Affairs, Govt. of
India

Nearly 5,85,000 personnel have been trained so far, which includes 8,172 Judicial officers, 3,642 prosecutors and 10,868 prison officials. Police officials number is more than 5,60,000.

Additionally, a nationwide capability enhancement program is underway by NFSU to upgrade forensics infrastructure, inculcate modern investigative techniques like cyber forensics, and deploy the latest technology tools for efficient policing. More than 1,600 forensic experts have been trained and the number is increasing.

The focus of the new laws has been on creating a transparent and accountable machinery. The essence of these new laws prioritizes 'justice' over 'punishment,' which is significant imprint of the Indian ethos on the legislations. Key reforms include placing the victim at the core of criminal proceedings, categorizing offenses based on severity, protecting vulnerable individuals from committing or being affected by crimes, reinforcing India's territorial integrity, enhancing public trust in law enforcement and judicial bodies, imposing time-bound responsibilities on public officials, and integrating technology into the criminal justice system.

These changes aim to gradually transform India's criminal justice landscape by ensuring prompt case resolution, fostering probity and transparency in law enforcement agencies and courts, and delivering justice to both the accused and the victim. However, for this, it is also crucial to adopt an effective strategy that encompasses the following components:

Coordination and Collaboration: All agencies involved in the criminal justice system must work together in a coordinated and collaborative manner to avoid any inconsistencies or confusion in the application of the new laws.

Monitoring and Evaluation: Regular monitoring and evaluation of the implementation process will help identify any challenges or bottlenecks and facilitate timely interventions to address them.

Feedback and Adaptation: Encouraging feedback from stakeholders and being open to adapting and refining the implementation strategy.

To conclude, I reiterate the firm resolve of Government to deliver on the promise of robust laws and raising justice delivery standards.



However, this can only be achieved through the active participation of all stakeholders. Therefore, I urge you all to proactively build capacities among rank and file, create awareness, develop a culture of learning and cooperate with the implementation process. Only then can we truly leverage the transformative potential of these new criminal legislations in scripting a safer future.

Thank you.



Criminal Law Reforms Objectives and Philosophical Perspectives for all Stakeholders

The speaker gave introduction about the three Acts which are going to come into force on 1 July 2024 and will play a major role in the modern society and Indian Criminal justice system. Electronic evidence is one of the major change in New Criminal Laws. The Parliament and RedFort Shootout cases were solved by detection through Mobile Phone device, and its forensics which was used to recover evidence in connection with criminal investigation. From then on Electronic Evidence has gone leaps and bounds. Today there is not even a single matter where electronic evidence is not included. Every matter requires Electronic Evidence, though the extent thereof differs, but electronic evidence is adduced nonetheless.

There will be critical impacts of the provisions of The Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred as BNSS), The Bharatiya Sakshya Adhiniyam, 2023 (hereinafter referred as BSA) and The Bharatiya Nyay Sanhita, 2023 (hereinafter referred as BNS) on the Criminal Justice System including on police, prosecution, accused, forensic and judiciary.

It needs to be pointed out that some minor tweaking in the provisions of Indian Penal Code to Bhartiya Nayaya Sanhita and in Code of Criminal Procedure to Bhartiya will Nagrik Suraksha Sanhita will create a huge impact on all the stakeholders.

In the BNS some provisions are clubbed and grouped together in a single section by adding subsections for example: Offences of Cheating under Sections 415-420 IPC have been clubbed under Section 318 BNS whereas offences relating to stolen property under Sections 410, 412 to 414, have been clubbed under Section 317 BNS. Most of the provisions in New Criminal Laws are verbatim the same provisions and only the section numbers and chronology have been changed. If the new provision are verbatim the same as the old provisions, then the earlier precedents of the Courts will apply.

In BNS, the preamble notes, "An Act to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto." Some provisions have been brought in BNS, though specific statutes still exist. Thus there is no consolidation of offences under one



Hon'ble Former Justice,
Smt. Mukta Gupta

statute. Some of the offences introduced are: Section 111 i.e. Organised crime; Section 112 i.e. Petty Organised crime and Section 113 i.e. Terrorist Act. Many states in India have special Acts like Maharashtra Control of Organised Crime Act, 1999 (MCOCA), The Gujarat Control of Terrorism and Organised Crime Act, 2015 (GCOCA). The definition of Organised Crime in Section 111 and 112 BNS, Has been verbatim taken from the definition of organised crime from MCOCA/GCOCA/APCOCA. The definition of offence of "Terrorist Act" under Section 113 BNS is same as the definition in The Unlawful Activities (Prevention) Act, 1967 (UAPA). Now the challenge is, in these special statutes, there were some presumptions available to the prosecution. These presumptions in special statutes are designed to streamline the judicial process by providing a legal framework within which certain facts are presumed, thereby shifting the burden of proof to the accused to disprove these facts. But in the New Criminal Laws there is no such presumption available. Under BNS, entire burden is on the prosecution to prove the guilt of accused beyond reasonable doubt. Further, once FIR is lodged under the general law i.e. BNS, one cannot take recourse to the Special Law. So, if FIR is lodged under Section 111, 112 or 113 BNS, one cannot resort to specific statutes. Supreme Court has held in its Judgments that if the language of the provisions of General and Special Law are different than the prosecution can proceed under both Acts, but in BNS the definition and ingredients being verbatim same, one won't be able to file another FIR after filing one for offence under Section 111, 112 or 113 BNS.

There are two fundamental principles of law while dealing with the Repeal in the statutes Firstly as laid down by the Hon'ble Supreme court in Shiv Bahadur Singh v. State of U. P. AIR 1953 SC 394, In this case be Hon'ble Supreme Court held that substantive law cannot be changed .be retrospectively. Thus no Penal Statue can be given a retrospective operation. A procedural Law can be retrospectively applicable only if it



does not create any new liability or disability to the Accused, as held in the decision reported as (AIR 1970 SC 1636) Nani Gopal Mitra v. State of Bihar.

The speaker iterated about the positive impacts of BNSS like the Sanhita has provided for a Uniform Courts system throughout the country under the Code of Criminal Procedure (hereinafter referred as CrPC) the classification of Criminal Court included Metropolitan Magistrate in any Metropolitan area now it is Judicial Magistrate, irrespective of the Area, Community service as a punishment has been introduced, use of technology has been allowed from investigation to trial proceedings, time frame and checks during search and seizure have been provided. Besides the positive impacts there are Nine additions and One omission which will have serious impact on all the stake holders of the Criminal Justice System.

Registration & F.I.R, investigation and place of trial ;-

Section 154 of the Criminal Procedure Code (CrPC), now re-numbered as Section 173 in the BNSS, addresses the registration of First Information Report (FIR). Sub section(1) of section 173 BNSS a phrase “irrespective of the area where the offence has been committed, “has been introduced allowing for registration of the F.I.Rs regardless of the area where the offence has been committed, Therefore, if an offence is committed at a place X, any person can lodge an FIR anywhere in the country beside for the said offence committed. This amendment though enhances accessibility to the Justice delivery system by removing geographical barriers, ensuring that FIRs can be registered nationwide however is prone to serious misuse.

In criminal law, it is a well-known principle that the locus standi of a complainant is generally unknown unless the statute specifically provides otherwise. There are only a few statutes that specify that the victim or their family members must file a complaint. Otherwise, any third party can file a complaint. This principle has not been abolished, so any person can go to any jurisdiction in the country and lodge the FIR for any offence allegedly committed under the BNS. The provision not only permits registration of FIR but also permits investigation to be carried out by non-jurisdictional police and therefore all processes incident to the investigation i.e. - search, seizure, arrest can be carried out by the non-jurisdictional police.

Further, contrary to the legal precedents such as the Supreme Court’s ruling in Lalita Kumari vs. Govt. of U.P. & Ors., which mandates compulsory registration of FIRs for cognizable offences, the concept of preliminary inquiry has been introduced under Section 173 (3) BNSS. Subsection 3 of Section 173 was not present under the original Section 154. This subsection provides for the conducting of a preliminary inquiry with the permission of a Deputy Superintendent of Police (DSP) for offences punishable with imprisonment for three to seven years. Firstly, this provision is not mandatory. Secondly, it is limited to offences punishable for imprisonment from three to seven years. Generally, offences punishable for less than three years are non-cognizable. Thus, as a general proposition, the police can conduct a preliminary investigation for offences punishable up to seven years, but only with the permission of the DSP.

The provision is silent on whether this preliminary inquiry is required to be conducted in complaints investigated by non-jurisdictional police only or any police officer. Once the preliminary inquiry is completed, FIR can be registered and the investigation can proceed.

However, the police can also register an FIR without conducting a preliminary inquiry, as the words provision uses “may” and not “shall.” While the provision is not mandatory, the scope of the preliminary inquiry is different than specified by the Hon’ble Supreme Court in Lalita Kumar’s case. Supreme Court clarified that a preliminary inquiry could be conducted only to determine whether the complaint discloses commission of a cognizable offence and not to ascertain the veracity of the allegations in the complaint. However, the current amendment allows the police to ascertain whether a prima facie case is made out, which is broader in the scope than merely determining if the complaint discloses cognizable offence. This gives the police officer power to verify the truth of the allegations to some extent.

The fact that non jurisdictional police can not only register but also arrest, conduct search and seizure is further supported by Section 183 of the BNSS, which states that confessions or statements can be recorded by the Judicial Magistrate of the jurisdiction where the FIR is registered. Thus, the Magistrate under whose local jurisdiction the FIR gets registered will be competent to record confessions. Additionally, Section 173 has been amended to include subsection 4, which states that in cases of cognizable offences, if an officer-in-charge does not register FIR, an application can be made to the Magistrate. However, the section

does not specify whether the application can be made to the jurisdictional Magistrate or even non-jurisdictional Magistrate. This ambiguity is clarified by Section 175 (4) BNSS which only empowers a Magistrate who is competent to take cognizance only to direct registration of F.I.R.

As pointed out earlier, FIR can be registered, investigation conducted & arrest made by the Police where even the offence has not taken, however in terms of Sections 197 to 204 BNSS which are Pari Materia same as Sections 177 to 184 Cr.P.C, the trial will take place where the offence was committed or the consequences thereof ensued or part offence took place. Therefore even if the F.I.R is registered and investigation conducted by the non-jurisdictional police officer, the trial will take place before the court where the offence took place or the consequences thereof flowed.

Further under section 185(5) BNSS case diary is required to be produced before the nearest magistrate empower to take cognizance.

Section 175 BNSS which is similar to Section 156 CrPC except for additions in Sub-Section (3) and Sub-Section (4) provides that no directions for FIR without calling for a report from the police and in case the proposed accused is a public servant than a report to be called from the Superior officer [Section 175(4)(a)] and proposed accused i.e. the public servant to be heard [Section 175(4)(b)] Before cognizance accused to be heard- Section 223 (i) - No cognizance by Magistrate unless accused is heard Police can register FIR on its own than even cognizance can be taken on the basis of deemed (under Section 218) sanction if

sanction is not given in 120 days. Add Sections: 223(1) therefore gives opportunity to accused before cognizance Section 223(2) - in case of public servant not only the public servant to be heard - but even a report to be called from senior officer.

Handcuffing: -

Section 46 of CrPC - materially similar to Section 43 BNSS except addition of sub-Section (3) in Section 43 BNSS-

- Section 43(3) - The police officer may, keeping in view the nature and gravity of the offence, use handcuff while making the arrest of a person or while producing such person before the court who is a habitual or repeat offender, or who escaped from custody, or who has committed offence of organized crime, terrorist act, drug related crime, or illegal possession of arms and ammunition, murder, rape, acid attack, counterfeiting of coins and currency- notes, human trafficking, sexual offence against children, or offence against the state.

- The Criteria in sub-section (3) are nature and gravity of offence and not the likelihood of escape or attack on the police officers.

- Law laid down by the 3-Judge bench of Supreme Court in AIR 1980 SC 1535: (1980) 3 SCC 526 Prem Shankar Shukla vs Delhi Administration – Guarantee of human dignity forms part of a Constitution Culture and is a Constitution guarantee. So handcuffing is violative of Article 14, 15, 21 of the Constitution of India.

- The concept of handcuffing is violative of fundamental rule of presumption of innocence till proven guilty.

- Supreme Court in Prem Shankar Shukla stuck down the classification for handcuffing on the basis of “better class prisoner” or “nature of offence” and held that only reason can the apprehension of running away which you should not mere subjective satisfaction of police officer.

Attachment and forfeiture of proceeds of crime can be done under section 107 BNSS by way of an ex-parte order, even before evidence is address before the trial court upheld by appellate court this is going to cause an irreparable loss – Because if third party rights are created the consequence will be serious.

- Investment – Number of startups take funding despite due diligence they will not know the source of income provided by the inventor. The consequence of Section 107 BNSS would be even to such innocent third parties as the alleged proceeds of crime will be their hands.

Section 176(1) of the BNSS mandates that witness statements must be recorded through audio, which aims to reduce inequality. However, ensuring the confidentiality of these statements remains a challenge. The accused is entitled to receive these statements and must provide them to their lawyer as part of pre-trial procedures. This raises concerns about maintaining the confidentiality of electronic evidence. The reliability of such evidence, its storage, and exhibition are also critical issues. It is essential to determine whether mirror

images will be taken and how the evidence will be stored, considering the rapid advancement of technology. There have been instances in past trials where CDs containing evidence were unreadable due to obsolete technology, highlighting the importance of compatibility in electronic evidence handling.

Deemed sanction under Section 218 BNSS – Sanction if not granted by competent authority within 120 days will be deemed sanction.

- This will cause serious prejudice to the accused as he cannot challenge on the basis of non-application of mind or that authority giving sanction was not competent to give sanction.

Section 356 BNSS- provides for enquiry, trial and judgment in absentia unlike Section 299 Cr.P.C which provided for separation of trial Section 356 provides that notwithstanding anything contained in this Sanhita and any other law for the time being when a person is declared proclaimed offender and has absconded to evade the trial, it shall be deemed to operate as a waiver of the right of such person to be present and tried in person and the Court after recording reasons in writing, in the interest of justice proceed with the trial in the like manner and with like affect as if he was present and pronounce the judgement.

- Even appeal is not maintainable if accused doesn't surrender.
- This will cause serious prejudice to the accused. Even now we have cases where accused is available but is declared P.O. We also have cases where the same accused is

appearing in one trial and in the order he is declared P.O without any knowledge – Many person who are tenant's migrants etc, may seriously effected by the provision.

This is significant given that a large portion of the population frequently changes address, making it easy for the police to declare someone a proclaimed offender without verifying their new address.

Section 230 BNSS – Similar to 207 Cr.P.C.

- To Supply those document relied by police in chargesheet.
- We all know during search voluminous document are collected and when chargesheets are filled the exculpatory document are kept back and are not even returned to the accused/person for whom it is recovered. Thus, Supreme Court in Suo moto W.P. (Crl) No. 1/2017 in para 11 noted: “ This court is of the this with furnishing list of document under section 207 & 208 Cr.P.C Magistrate must ensure that a list of other material i.e. document seized and not relied upon should be given so that if necessary, the accused may seek from the court such document during trial”
- However, this provision has not been added in 230 BNSS.

There is serious dichotomy in the scope of the various provision. Through the accused has been given a right to be heard even before cognizance is taken and summons issued but in a chargesheet, he is not entitled to claim the exculpatory document or show these impeccable documents or show these

impeccable document at the stage of charge .

Section 531 of the BNSS pertains to repeal, ensuring continuity with its earlier provision. It reaffirms that all acts previously performed remain valid further safeguarded by clause 6 of the general clauses Act. When applying this provision, it is curial to note that it should generally not be retrospective, though procedural changes may be permissible if they are beneficial and do not impose any new disabilities this principle ensures that legal amendments uphold fairness and do not unjustly disadvantage individual

Reforms in Criminal Laws (BNS, BNSS, BSA) 2023: Changes, Challenges, and Strategies for Implementing Technological Advancement in the Procedures for Collection, Preservation, Utilisation and Submission of Digital and Electronic Evidence for Effective Justice Delivery

Implementing new laws, especially those that replace long-standing colonial-era legislation, can pose several challenges. Here are some specific challenges that the state of Maharashtra may face and potential solutions to address them:

1. Resistance to change: Legal professionals and law enforcement agencies may be resistant to adopting new procedures and practices.

Solution: Conduct extensive training and sensitization programs to help stakeholders understand the benefits of the new laws and the importance of their effective implementation.

2. Interpretation and application: The new laws may be subject to varying interpretations, leading to inconsistencies in their application. Solution: Develop clear guidelines and explanatory notes to ensure uniform interpretation and application of the laws across the state.

3. Infrastructural constraints: Inadequate infrastructure, such as outdated forensic

labs and evidence storage facilities, may hinder the effective implementation of the new laws.

Solution: Allocate sufficient funds to upgrade existing infrastructure and establish new facilities as required.

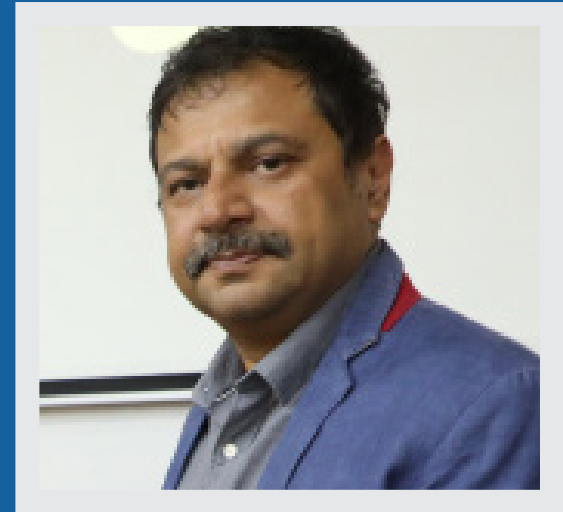
4. Backlog of cases: The transition to the new laws may lead to a temporary increase in the backlog of cases, putting additional pressure on the justice system.

Solution: Establish fast-track courts and implement case management systems to expedite the disposal of cases and reduce the backlog.

5. Lack of public awareness: Citizens may not be fully aware of their rights and responsibilities under the new laws, leading to confusion and misconceptions.

Solution: Launch extensive public awareness campaigns using various media channels to educate citizens about the new laws and their implications.

6. Capacity building: The state may face challenges in building the capacity of legal



Shri Brijesh Singh, IPS,
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professionals and law enforcement agencies to effectively implement the new laws.

Solution: Collaborate with legal education institutions and experts to develop comprehensive capacity-building programs and provide ongoing support.

7. Monitoring and evaluation: Ensuring effective monitoring and evaluation of the implementation process may be challenging, given the scale and complexity of the task.

Solution: Establish a dedicated monitoring and evaluation framework with clear indicators and regular reporting mechanisms to track progress and identify areas for improvement.

8. Coordination among stakeholders: Coordination among various stakeholders, such as law enforcement agencies, the judiciary, and legal aid services, may be challenging.

Solution: Establish a high-level coordination committee comprising representatives from all relevant stakeholders to ensure seamless coordination and communication.

By proactively addressing these challenges and implementing targeted solutions, the states can ensure the smooth and effective implementation of the new criminal laws. Regular monitoring, evaluation, and adaptation will be crucial to overcoming any hurdles that may arise during the implementation process.

Here is a summary of the key challenges in implementing the new laws regarding

evidence, evidential procedure, and substantive law, as well as other aspects:

1. Establishing clear criteria and standard operating procedures (SOPs) for identifying and certifying the expertise of the person filling the Part B form as per Section 63 of the Bharatiya Sakshya Adhiniyam, 2023.

2. Developing protocols for handling devices that cannot be seized by the investigating officer, such as taking live network flow captures or bitstream copies.

3. Ensuring the integrity of the search and seizure process through the use of body-worn cameras and a central server to store the recordings.

4. Coordinating and integrating the criminal justice system, including automatically making the FIR copy available to the Interoperable Criminal Justice System (ICJS).

5. Obtaining information from social media intermediaries, including the process of sending preservation requests and compelling disclosure without an FIR.

6. Identifying and tracing accused individuals in cyber-enabled crimes, while addressing the ethical implications of using tools like GRABIFY and tower dump analysis.

7. Establishing the expertise of the person filling the Part B form under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023 through SOPs and certifications.

8. Addressing the overlap between provisions


of the IT Act and the Bharatiya Nyaya Sanhita (BNS) 2023, including a Bombay High Court judgment being challenged in the Supreme Court.

9. Ensuring the admissibility of electronic evidence and the role of experts, including the importance of the Part A and Part B forms under Section 63 of the Bharatiya Sakshya Adhiniyam, 2023.

10. Preserving seized electronic devices using Faraday bags, metal boxes, and recording hash values to ensure integrity.

11. Compelling social media intermediaries to disclose information, potentially under Section 3(1)(d) An intermediary, upon receiving actual knowledge in the form of an order by a court of competent jurisdiction or on being notified by the appropriate Government or its agency under clause (b) of sub-section (3) of section 79 of the Act, shall not host, store or publish any information prohibited by any law in relation to the interests of the sovereignty and integrity of India: the security of the State; friendly relations with foreign States; public order; decency or morality; in relation to contempt of court; defamation; incitement to an offence, or information which violates any law for the time being in force.

12. Drafting effective notices to social media platforms, involving experts and seeking specific information.

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- A woman in a white sari and a man in a blue blazer are holding a framed certificate together. The woman is on the left, and the man is on the right. They are both smiling and looking at the camera. The certificate is framed in a dark frame and has a gold border. The background is a solid dark blue color.
13. Defining the scope and limitations of “electronic communication” for filing e-FIRs.
 14. Ensuring widespread awareness, accessibility, and acceptance of the e-FIR process among the public and law enforcement.
 15. Balancing privacy concerns with investigative needs in the e-FIR filing process, including obtaining signatures while respecting individual privacy.
 16. Establishing clear guidelines for the remote examination of victims and witnesses under Section 180 of the BNSS, 2023.
 17. Ensuring the reliability and integrity of bitstream copies and network flow captures as alternatives to seizing devices.
 18. Addressing the challenges of cross-border cybercrime investigations and coordinating with international law enforcement agencies.
 19. Developing comprehensive training programs for law enforcement and the judiciary on digital forensics, electronic evidence handling, and the application of the relevant legal provisions.
 20. Establishing specialized cybercrime investigation units and forensic laboratories at the state and national levels.
 21. Addressing the issue of encryption and the legal and technical frameworks for lawful access to digital evidence.
 22. Ensuring the admissibility of digital evidence obtained through ethical hacking or other novel investigative techniques.
 23. Developing standardized SOPs for the handling and preservation of digital evidence throughout the chain of custody.
 24. Continuously adapting the criminal justice system to rapidly evolving technologies and their impact on investigations.

Criminal Law Reforms Objectives and Philosophical Perspectives for all Stakeholders

In a curious twist of legislative fate, the recently enacted Bharatiya Nyaya Sanhita (BNS), Act 45 of 2023, bears the same numerical designation as its predecessor, the Indian Penal Code (IPC) enacted in 1860. This new enactment, separated by a gulf of 163 years, marks a potential shift in the legal landscape of the nation. The BNS will come into force on 1st July 2024, with the exception of Section 106(2), along with BNSS and BSA.

The Bharatiya Nyaya Sanhita (BNS) has 358 sections, a streamlined approach compared to the 511 sections of the Indian Penal Code (IPC). However, the IPC's number of sections grew over time with 64 supplementary sections amended, each designated with a capital letter following a base number. Additionally, 21 sections were repealed, primarily during the post-independence era, bringing the effective total number of sections to 554.

An analysis of the Bharatiya Nyaya Sanhita's (BNS) incorporation of the Indian Penal Code's (IPC) provisions unveils a consolidation and reorganization. While 19 sections of the 554-section IPC find no direct counterpart in the BNS, the remaining 535 sections are meticulously addressed. Interestingly, 286 sections translate into direct correspondences within the BNS comprise same number of sections demonstrating a continuity

of legal principles. However, the true innovation lies in the BNS's consolidation of the remaining 249 sections into a mere 62. This streamlining suggests a formal modernization of criminal law, with the Bharatiya Nyaya Sanhita (BNS) adeptly absorbing the essence of the IPC into a more refined framework.

In contrast to the Indian Penal Code's dispersal of definitions and general explanation dispersed across section 6 to 52A the BNS incorporates them in only two sections for definitions, thereby furthering the objective of streamlining the substantive law. Similarly, offenses related to coins and currency, are streamlined into just 4 sections within the BNS. This signifies a focus on clear and concise legal language.

The BNS effectively streamlines the 535 applicable sections of the Indian Penal Code (IPC) into a more concise 347 sections. This focus on efficiency is further underscored by the addition of 10 new sections within the BNS, addressing areas not previously covered by the IPC. Consequently, a direct comparison of the two codes yields a minimal numerical difference of only 9 sections (accounting for both excluded and introduced sections).

The Bharatiya Nyaya Sanhita (BNS) streamlines the chapter structure of the Indian Penal Code (IPC). Whereas the IPC



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presently comprises of 26 chapters, the BNS consolidates these into 19. Notably, Chapter 13 of the IPC, concerning weights and measures, is entirely omitted from the BNS due to the superseding authority of the Legal Metrology Act 2009. This legislative interplay demonstrates a keen awareness of avoiding legal inconsistencies.

The Bharatiya Nyaya Sanhita (BNS) exhibits a more radical approach to chapter reorganization compared to other revisions within the new criminal Acts. This restructuring is in a priority sequence, Notably, the BNS also reflects a streamlining of offenses. Whereas the Indian Penal Code (IPC) encompasses 483 offenses, the BNS reduces this total to approximately 467 Sections, representing a decrease of roughly 3.3%. This numerical change suggests a potential focus on clarity

and the consolidation of related offenses within the BNS.

The BNS takes a nuanced approach to offense classification compared to the IPC. Though total offenses decrease slightly, cognizable offenses drop from 314 (IPC) to 297 (BNS). Both codes share the same number of non-cognizable offenses. Bailable offenses see a minor reduction (264 in IPC to 255 in BNS), while non-bailable offenses see a slight increase (205 in IPC to 196 in BNS). Notably, the BNS expands Court of Sessions' jurisdiction by 12.4%, handling 118 offenses compared to 105 under the IPC.

The Bharatiya Nyaya Sanhita (BNS) exhibits identical provisions for offenses compoundable with court permission compared to the Indian Penal Code (IPC).

Both legal codes recognize 13 such offenses. However, a minor change exists regarding offenses compoundable by the parties themselves. The BNS allows for 42 offenses to be compounded in this manner, whereas the IPC permits 43. This slight difference can be attributed to overlapping of 497 IPC due to the Supreme Court's decision in Joseph Shine, which decriminalized adultery. Consequently, Section 320 of the CrPC and Section 359 of the BNSS have the same practical effect.

Number of Cognizable offences punishable with imprisonment for a term less than seven years or which may extend to seven years has decreased under BNS. It is important since the same allows police to arrest without arrest warrant. Further, sub-section 7 has been newly added to Section 35 of the BNSS. Total number of offences with punishment

Questions asked:

Q. Suppose a female is walking on a road with her purse. Suddenly, two people come and snatch her purse. As a result of the same, she fell down and injure herself. What is it, robbery or snatching?

A. This particular case is covered under Clause 6 of Section 309 which particularly deals with this specific case. This will also depend upon the interpreting court, as certain court may find it robbery, and some may not. There is a fine line present.

of seven years or more than seven years has been increased. This relates to forensic expert visit related provision under section 176 (3) BNSS.

The Bharatiya Nyaya Sanhita (BNS) ushers in a potentially significant shift regarding offenses punishable by ten years or more (often heinous crimes). Section 356 of the BNS radically revises the concept of proclaimed offenders, impacting future jurisprudence on trials in absentia. Previously, the Code of Criminal Procedure (CrPC) only allowed declaring proclaimed offenders for a limited set of 19 offenses. The BNSS expands this significantly, enabling authorities to declare anyone absconding from proceedings involving offenses with a minimum sentence of ten years, life imprisonment, or death as a proclaimed offender.

Section 84(4) of the Bharatiya Nagarika Suraksha Sanhita (BNS) expands the scope of declaring proclaimed offenders. This provision allows authorities to designate anyone absconding from proceedings involving offenses punishable by a minimum of ten years' imprisonment, life imprisonment, or death as a proclaimed offender. Notably, the BNS empowers respective state governments to further categorize acts and sections suitable for trial in absentia through executive notifications.

The number of offenses subject to the death penalty has been increased from 13 to 16. This revision includes the addition of provisions wherein murder has taken place, such as mob lynching, organised crime, terrorist

acts, additionally, according to section 70 (2) gang-rape of a woman below the age of 18 years, the scope has been expanded which is punishable upto death penalty too capital punishment.

New chapter addressing offenses against women and children has been created by amalgamating provisions from five distinct chapters of the Indian Penal Code (IPC). This innovative legal framework introduces novel sections, notably Section 69, which criminalizes sexual intercourse achieved through deceitful means, thereby ensuring enhanced protection of sexual autonomy and integrity. Additionally, Section 95 has been introduced to specifically address the reprehensible act of hiring, employing, or engaging a child in the commission of an offense, marking a critical step towards safeguarding vulnerable segments of society.

Section 124A, a contentious provision that criminalized seditious speech, has been excluded in its entirety. To address national security concerns traditionally addressed by Section 124A, a new provision has been enacted – Section 152 of the Bhartiya Nyaya Sanhita (BNS), the successor to the IPC. This novel section prohibits activities that imperil the sovereignty, unity, and integrity of the Indian nation.

Section 153AA IPC was introduced via Act 25 of 2005, this provision criminalizes the knowing possession of arms during processions or participation in armed drills within public spaces. Notably, the act lacked a specific enforcement date, leaving its activation

contingent upon executive notification.

Intriguingly, the very government responsible for its passage exhibited a lack of initiative in this regard. Section 153AA remained dormant until the first drafts of the BNS bills were presented for review. Scrutiny by the Ministry of Home Affairs (MHA) and the 31-member Parliamentary Standing Committee, led by BJP MP Brij Lal (ex IPS Officer UP Cadre), unearthed this legislative oversight. Recognizing the provision's continued relevance, the committee specifically recommended its inclusion within the BNS framework. This timely intervention, evidenced by the committee report submitted on November 10th, 2023, prompted the government to withdraw and revise the draft bills, ensuring the preservation of Section 153AA within the BNS.

The Bhartiya Nyaya Sanhita (BNS) notably excludes Section 309 of the Indian Penal Code (IPC), which criminalized attempted suicide. This follows a history of legal wrangling concerning its constitutionality. A Supreme Court case (P. Rathinam vs Union of India) initially deemed Section 309 unconstitutional, citing a violation of the right to life. However, a later landmark judgment of Hon'ble Apex Court in Gian Kaur vs State of Punjab, 1996 clarified that the right to life doesn't extend to self-termination.

Despite this legal clarity, Section 309 remained controversial. The Mental Health Act (MHA) ultimately eclipsed it with a presumption of mental illness for attempted suicide and a "non obstante" clause taking precedence over the IPC. This, along with changing

societal views on mental health, led to Section 309's complete removal from the BNS. The BNS prioritizes a rights-based approach, recognizing the complexities of suicide and the need for robust mental healthcare.

Section 310 IPC originally served to identify and penalize individuals habitually associated with thuggism. However, the sustained efforts of law enforcement agencies and societal reforms effectively eradicated this barbaric practice. Consequently, the BNS deems it unnecessary to retain a legal provision targeting a criminal phenomenon that is no longer a pressing concern within the Indian legal landscape.

Section 376DA, which pertains to gang rape with specific reference to victims under sixteen years of age, has been rendered obsolete following the enactment of an expanded provision under Section 376DB of the Indian Penal Code (IPC) [Clause 70(2) BNS]. The revised legislation under Section 376DB now extends the scope of protection to victims under eighteen years of age, thereby supplanting the previous delineation that exclusively addressed victims under sixteen years.

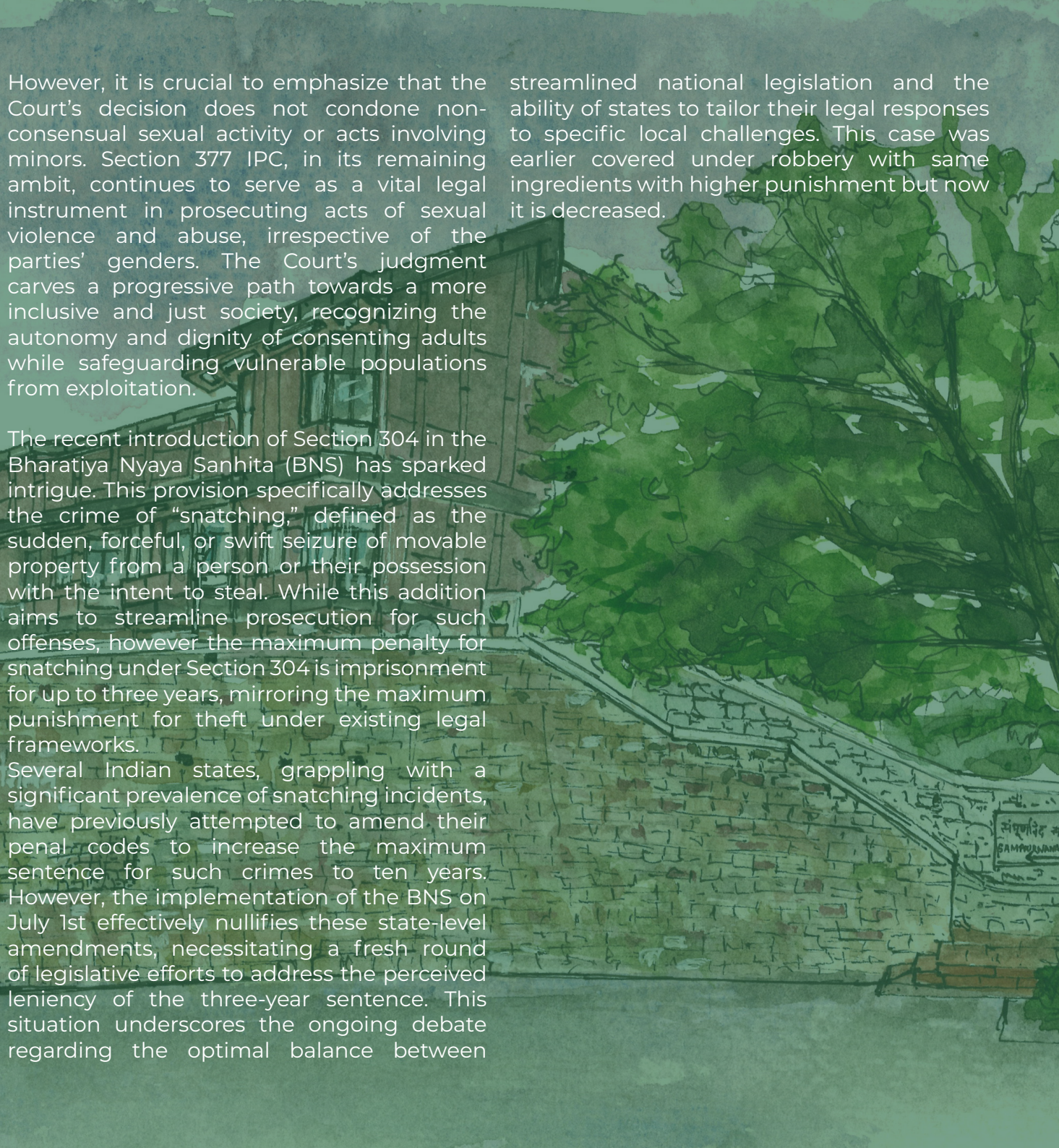
In a landmark judgment delivered on September 6th, 2018, the Supreme Court of India, in the case of *Navtej Singh Johar and Ors. vs. Union of India (UOI)*, partially struck down the controversial Section 377 of the Indian Penal Code. The Court's verdict recognized the right to privacy and equality enshrined in the Indian Constitution, declaring Section 377 unconstitutional insofar as it applied to consenting adult relationships.

However, it is crucial to emphasize that the Court's decision does not condone non-consensual sexual activity or acts involving minors. Section 377 IPC, in its remaining ambit, continues to serve as a vital legal instrument in prosecuting acts of sexual violence and abuse, irrespective of the parties' genders. The Court's judgment carves a progressive path towards a more inclusive and just society, recognizing the autonomy and dignity of consenting adults while safeguarding vulnerable populations from exploitation.

The recent introduction of Section 304 in the *Bharatiya Nyaya Sanhita (BNS)* has sparked intrigue. This provision specifically addresses the crime of "snatching," defined as the sudden, forceful, or swift seizure of movable property from a person or their possession with the intent to steal. While this addition aims to streamline prosecution for such offenses, however the maximum penalty for snatching under Section 304 is imprisonment for up to three years, mirroring the maximum punishment for theft under existing legal frameworks.

Several Indian states, grappling with a significant prevalence of snatching incidents, have previously attempted to amend their penal codes to increase the maximum sentence for such crimes to ten years. However, the implementation of the BNS on July 1st effectively nullifies these state-level amendments, necessitating a fresh round of legislative efforts to address the perceived leniency of the three-year sentence. This situation underscores the ongoing debate regarding the optimal balance between

streamlined national legislation and the ability of states to tailor their legal responses to specific local challenges. This case was earlier covered under robbery with same ingredients with higher punishment but now it is decreased.



2 DAY TWO

The Indian Evidence Act, 1872 to The Bhartiya Sakshya Adhiniyam, 2023: Changes, Challenges and Strategies

Participant of the course, Mr. Manish introduced the esteemed speaker for the session Dr. Aditi Choudhary. An introductory video of the speaker was played and she was welcomed.

Dr. Aditi Choudhary started her session by posing some general questions to the participants, such as how many of them had opened the Indian Evidence Act in the past one year, for this question 9-10 participants raised their hands. Next question she asked was how many of them had opened it in the past month, for this 3-4 participants responded in the affirmative. By this she understood the difference amongst the participants in their familiarity with law of evidence and the need to structure her talk accordingly.

She proceeded by showing a quote in her presentation which says:

“It is a trite saying that no reform touches a people so closely or has such a direct influence on their well being as an improvement in the system and machinery of administering justice.”

And in continuation she asked the participants whether they agree with

the same. The participants expressed their agreement. She emphasised the importance of the changes the new criminal laws were ushering in and stated that the new law of evidence that is The Bhartiya Sakshya Adhiniyam, 2023 (BSA) is a transition from the Indian Evidence Act (IEA) and would be touching the lives of multitudes in our country, so the importance of the role of stakeholders in the implementing the same, in the right spirit.

Rearrangement and Consolidation of Section:

The speaker emphasized that many sections of the IEA have been rearranged/ consolidated thereby making it more text friendly such as Sections 25, 26 and 27 of the IEA are now consolidated into Section 23 of BSA. She also stated that the same would be challenging because we were used to the scheme and section numbers which were there in the IEA.

Modernization Attempted:

She focused on the integration of technological aspects in The BSA which includes adapting to technological



Dr. Aditi Choudhary
Director (Academics) cum
officiating Chairperson,
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advancements, enhancing the acceptability of electronic evidence and introduction of procedures which will ensure fair and speedy justice. She also added that The BSA speaks about the recording of evidences by video conferencing / electronic mode which will enable speedy trial.

Further she mentioned that BSA contains 170 sections and 4 parts which includes 12 chapters and one schedule which is comparatively more than what BSA had.

The learned speaker for the basic understanding of participants gave an overview of the new evidence act that is BSA and how like the IEA it has a structure to it delineating the definitions, the Relevancy of facts, the rules of proof and the production and effect of evidence. The basic structure of the IEA had been retained by the BSA.

1. Relevancy of Facts

The speaker then proceeded by asking a question as to why a statute of evidence is required in the first place, for which one of the participant responded that during the process of investigation, it helps in the standardization of evidences which are to be collected and further presented before the court in a manner that they are admissible. The speaker completely agreed and further stated an example where if A murders B by a gun shot, then there will be a plethora of issues and facts surrounding the event and persons involved, the court cannot be flooded with all facts but only facts which are the facts in issue and the relevant facts which would be determined by the rules of evidence. She further added that the Evidence Act gives one an idea as to what are the facts in issue and what are the relevant facts connected to the main issue. She said that BSA like the IEA gives us various rules of evidence which tells us what evidence can be produced in the court on the basis of which the case can be decided. The facts in issue in a criminal case are the ingredients of the offence and the relevant facts are the facts which are connected with facts in issue in any of the ways referred to in the provisions of the BSA.



2. Proof

She mentioned what should be proved and what should not be proved in the court of law. Here she discussed the documentary and oral evidence. She also mentioned about the challenges which would be faced by the stakeholders because there is a change in the scope of electronic evidence in the new evidence law, and these electronic evidences would come under the documentary evidence.

3. Production & Effect of Evidence

The resource person mentioned how the burden of proof determines who shall produce the evidence in court and who are the witnesses who may testify so also the rules laid down in the new act for examination of witnesses to produce the evidence in the court.

Then she proceeded by describing all the above mentioned points in detail showing where the new act has changed the position.

Preamble:

The learned speaker then discussed the changes in the preamble of the BSA. She stated that there is addition of words “Fair trial” in the preamble of new evidence law which shall ensure that the rules of evidence shall aim at upholding the principles of fair trial.

Applicability:

The esteemed speaker stated that the IEA

applies to the whole of India. She then compared the same with the BSA and stated that the BSA does not mention about being applicable to India and also stated that the definition of India as in S.3 IEA is dropped in the new evidence law. She further mentioned that the IEA and the BSA apply to judicial proceedings in or before any court and courts martial however, they do not apply to Affidavits and Arbitration. In continuation of the same, she then posed a question asking the participants why the Evidence law does not mention mediation, then one of the participants responded that this is because mediation is not an adjudicatory process.

Terminology:

The speaker, while talking about terminology, mentioned Sec 2(2) BSA which talks about Words and Expressions. Here she mainly focused on the terminology which is relating to electronic evidence and said that the definitions of the words used herein if are not covered under the BSA their meaning shall be taken as mentioned in the IT Act, 2000, BNSS, 2023 and BNS, 2023.

Document:

The speaker then proceeded by mentioning that the definition of the term document in S.2(1)(d) BSA is amended majorly to include all kinds of electronic records. The additions in the definition relating to matter “otherwise recorded” and by “any other means” were already recommended by the 69th Law

Commission Report (1977).

Evidence:

The esteemed speaker stated that the definition of “evidence” in the BSA will also include statements which are given electronically or through video-conferencing etc. For this she has also asked the participants to refer to the Video Conferencing Rules framed by respective High Courts. She further stated that during and after the Pandemic holding court via Video-Conferencing, electronic means etc. has increased and this has brought great challenges for the stakeholders especially the judges with regard to, exhibition of documents, signing of evidence/statement recorded, storage of data etc.

She stated that since the provision relating to giving of statements electronically has now been statutorily recognised hence the court shall be resorting to this mode more frequently and will have to meet the challenges with regard to this process. She strictly suggested that from now on we should be very cautious about the saving and storage of data especially where the data pertains to any sensitive matter such as sexually explicit material etc. where the issues of confidentiality are involved.

Facts:

The speaker further discussed about the amendment in the definition of “fact” S.2(f) BSA. She stated that the BSA like the IEA recognizes two types of facts:



1. Physical

2. Psychological

She then talked about a change in the definition of fact . One of the illustrations i.e., “That a man has a certain reputation, is a fact” which was there in the IEA has been omitted in the BSA.

She then talked about the relevancy of facts closely connected to each other so as to forming part of the same transaction - Res Gestae (Section 4 of the BSA, 2023 and Section 6 IEA). She pointed out that the words “relevant facts” had been added in the new act in S.4 so now it meant that Facts which though not in issue are so connected with a fact in issue or a relevant fact as to form part of the same transaction are relevant. To explain Res Gestae she stated an example that if A stabs B, and B immediately while fleeing the site of attack comes across C to whom he tells that A stabbed him. So, if C goes to the court and states the same, it would generally not be admissible since it would be hearsay evidence and would not be allowed because this fact was not perceived or seen by the witness's/ C's own senses but he has heard it from B. Here Res Gestae is an exception to exclusion of hearsay evidence.

The speaker then came to situations where the opinions of third persons are relevant as expert evidence. She explained how the courts earlier were faced with the issue of what kind of expert evidence could be called for or admitted. She cited a case [State(Through CBI/New Delhi) v S. J. Choudhary AIR1996 SC 1491] where the issue came if the opinion of a typewriter expert was covered in the definition of expert evidence (S.45 IEA) The Supreme Court held that this would have come under the category of “Science” under s.45 IEA. She explained how in the new Act now with the addition of “any other field” in S.39 BSA the process is simplified and the court is not bound by the earlier categories of experts mentioned in S.45 IEA.

Then, she mentioned that Section 45 and Section 45A of the IEA 1872 have been consolidated into Section 39 of the BSA 2023.

Now, the discussion proceeded towards the issue of admissibility of confessions. In this regard, the speaker discussed the addition of the word “coercion” in the Section 22 of the BSA 2023 which increases the scope of its application. Now a confession made



by an accused person would be irrelevant in criminal proceedings if the making of the confession appears to the court to have been induced not only by inducement, threat or promise but also coercion. In continuation of the same, the speaker posed a question regarding the issue of non-admissibility of confession made to a police officer. One of the participants rightly responded by mentioning the existence of several external factors such as coercion, threat etc. while making of such statements due to which are the same are not admissible in the court of law. She added that this was also so that evidence was collected in a more scientific and proper manner than by eliciting confessions. She also discussed Section 23 of the BSA 2023 which deals with confessions made to a Police officer.

Confession in Joint Trial:

The speaker then proceeded towards the issue of confession in Joint Trial and described the same to the participants as in S.24 BSA and S.30 IEA, that "When more persons than one are being tried jointly for the same offense, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession."

The speaker also discussed the provisions about the Inquiry, trial or judgment in absentia of proclaimed offender which is now added in Section 356 of the BNSS. It states that if a proclaimed offender has absconded to evade trial and cannot be immediately arrested, it will be considered a waiver of their right to be present at the trial. In such a scenario, the Court shall record reasons in writing and proceed with the trial and judgment as if the offender were present. Now under the new Act by virtue of explanation II to S.24 BSA trial of more persons than one held in the absence of the accused who has absconded or who fails to comply with a proclamation issued under S. 84 of the BSA shall be deemed to be a joint trial for the purpose of S. 24, meaning thereby that the confession of the co-accused can be read against the proclaimed person or proclaimed offender where the trial has taken place in his absence.

Oral and Documentary Evidence:

The esteemed speaker stated that the IEA & BSA provide for two kinds of evidence – documentary & oral evidence.

Thereafter she mentioned the primary evidence given under section 57 of the BSA and talked in detail about Explanation 4, 5, 6 and 7 which were not mentioned in the IEA. These explanations majorly talk about the electronic and digital record being automatically stored simultaneously or sequentially being primary evidence.

The speaker stated following examples as to what kind of electronic and digital evidence can be considered as primary evidence:

1. If a recording is being done by CCTV camera, and it is simultaneously stored in a hard-drive and cloud storage without any human intervention, then both would be considered as Primary Evidence.

2. If a picture is taken from a mobile phone, and if to present that picture, the mobile is directly presented before the court, then it would be considered as primary evidence.

Hence, if there is any electronic and digital record presented before court where simultaneous storing has taken place in more than one place without any human intervention they shall be considered as primary evidence and for such category of evidence certificate of Section 63 of the BSA 2023 would not be required.

Further, she proceeded to the provision of secondary evidence which is defined under Section 58 of the BSA 2023. She mentioned that the scope of secondary evidence has been expanded under the new Act and now it

includes oral admissions, written admissions and evidence of a skilled person who has examined a document the original of which consists of numerous accounts or other documents which cannot be conveniently examined in court and to produce electronic evidence which cannot be classified as primary evidence, the certification of Section 63 would be required.

Presumptions:

The speaker defined presumption as the deduction which the court draws on the basis of common law, common practice and general laws. Further she explained the difference in the definitions of “conclusive proof”, “may presume” and “shall presume” as in the IEA and the BSA.

Further, she talked about presumption as to documents, which now comes under Section 80 of the BSA and stated some words which are deleted in the New evidence Act such as: “London Gazette, or the Government Gazette of any colony, dependency or possession of the British Crown, or to be a copy of a private Act of Parliament of the United Kingdom printed by the Queen’s Printer.”

Further, she also mentioned that Section 82 of the Indian Evidence Act which lays down “Presumption as to document admissible in England without proof of seal or signature” has been dropped. She also spoke about other changes in the sections relating to presumption regarding documents introduced by the BSA.

Accomplice evidence:

She stated that in the IEA, there was a contradiction between illustration (b) of Section 114 and Section 133.

S.114 Illustration (b) states that an accomplice is unworthy of credit, unless he is corroborated in material particular;

S.133 IEA Accomplice states that an accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

In continuation of this the speaker asked a question that why an “accomplice is unworthy of credit”. For this one of the participants responded that because a person concerned in a crime is likely to swear falsely to shift guilt from himself.

The speaker further stated that this controversy has been solved under Section 138 of the BSA 2023 which states that, “An accomplice shall be a competent witness against an accused person; and a conviction is not illegal if it proceeds upon the corroborated testimony of an accomplice.”

After this the speaker mentioned the changes brought in with section 162 of the IEA which is now section 165 of the BSA in which a proviso is added which states that the BSA bars Courts from inquiring into any privileged communication between Ministers and the President of India.

Further she mentioned the changes in

section 165 of IEA, 1872 which is section 168 of the BSA, 2023. In this section 'ask any question he pleases' has been replaced with 'ask any question he considers necessary'. She mentioned that this section helps the courts to move from a purely adversarial trial to a kind of inquisitorial trial where the Judge is not a mere spectator but has the power to ask questions from witness to get to the truth.

The speaker, to explain about the admissibility and production of the electronic evidence in the court gave a plethora of judgments which are as follows:

Firstly she mentioned the case of State v Navjot Sandhu @ Afsan Guru (2005) 11 SCC 600 in which the court held irrespective of compliance with the requirements of Section 65B IEA, there is no bar to adduce secondary evidence under Section 63 IEA and Section 65 IEA, of an electronic record. Later, she mentioned that the aforesaid case was overruled in the case of Anvar PV v PK Basheer (2014) 10 SCC 473 -In view of S. 59 and S. 65A IEA electronic record can be proved only in accordance with Section 65B and not S. 63 and S. 65 IEA.

After that, Navjot Sandhu's judgment was reiterated in the judgment of Tomaso Bruno v State of UP. (2015) 7 SCC 178. Further, she mentioned that in the case of Sonu v State of Haryana, (2017) 8 SCC 570 it was said that Call detail record without certificate of S. 65B of IEA 1872 can be relied upon as the issue of certificate u/s S.65B IEA related to the mode of proof and if no objection was raised about the certificate not being given with the

electronic evidence when it was produced then such an objection would be deemed to be waived and the electronic evidence would be admitted without the certificate.

In the case of Shafhi Mohammad v State of HP, (2018) 2 SCC 801 it was held that videography of scene of crime can be produced in the court even without the certificate of section 65 B IEA where interest of justice required for admissibility of electronic evidence and for the same procedure section 63 and section 65 of the IEA can be invoked.

Further, in the judgment of Arjun Panditrao Khotkar v Kailash Kushanrao Gorantyal (2020) 7 SCC 1 which came in the year 2022, the Supreme Court held that Section 65B certificate is mandatory for admissibility of electronic evidence. The speaker talked about the stage of admissibility of certificate of section 65B and stated that in Arjun Panditrao Khotkar and State of Karnataka v T Naseer 2023 SCC OnLine SC 1447 the Supreme Court allowed the S. 65B certificate to be produced later i.e after the electronic record was produced in court and stated that there was no particular stage mentioned for producing the certificate under S.65B.

She explained how the BSA has specifically laid down the format of the certificate in its schedule. The certificate is to be given in two parts - Part A and Part B certificates which now come under Section 63 of the BSA 2023. She explained the essentials of S.63 BSA and of the certificate in clause 4 thereof, especially the requirement of giving the hash value of the electronic record.

She pointed out the three major differences between S.65B IEA and S.63 BSA as

- Firstly, the definition of computer output in Sec .63(1) BSA has been expanded to include output from any communication device and semiconductor memory

- Secondly, S.65B(4) IEA, did not clarify the stage at which the certificate must be submitted, S.63(4) BSA mandates such a certificate shall be submitted along with the electronic record at each instance where it is being submitted for admission.

- Thirdly, S.63(4) BSA provides that the certificate shall be signed by 'a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert as per the format specified in the schedule. This marks a change from the position under S.65B(4) IEA which specified that the certificate may be signed by a person in an official position in relation to the operation of the device or in the management of relevant activities.

Challenges for Admissibility and Authenticity:

The esteemed speaker then proceeded by mentioning the following challenges for admissibility and authenticity.

1. Part B certificate under S. 63 of the BSA 2023 is to be given by an expert, so who should be an expert for the same. She stated that this is a grey area and we need to have some SOPs for the same. However she added that the

expert is not the one under S.79A IT Act.

2. In continuation of the same, the speaker told the participants about what is the Hash value as a layman and expert while submitting any electronic device has to give the Hash value of the electronic record. For this, NIC needs to develop a standard hashing algorithm.

3. The most challenging aspect is the storage of the electronic data in the courts as well as in the police station. For the same, a cautious approach needs to be adopted as the data may contain some sensitive matters such as recording of sexually explicit material.

4. She stated that it becomes a challenge before the courts where the data relied upon by the prosecution is a clipping from social media like was in a gang rape case –the witnesses have verified it by examining the video clippings and the prosecution is not in a position to tell as to how and from whose device, the video clippings were obtained. So the major concerns could be, Who prepared the video?, What is its source?, And how the authenticity of such recording could be determined.

5. The speaker then discussed the challenges in search of smartphones/laptops/e-mails etc. For elaborating the same, she mentioned the case of Virendra Khanna v State of Karnataka 2021 SCC Online Kar 5032 in which the accused was ordered to undergo Polygraph test for getting his mobile password and email accounts and against the same he filed a writ petition in the High Court and the High Court quashed the orders given by the lower

court.

Now, she proceeded with the session in a question-answer form, where she asked questions from the participants and they kept responding to the same, which are as follows:

1. Can a Court issue a suo moto order to the accused to furnish a password, passcode or Biometrics?

Answer: The Court by itself cannot issue a suo moto order for furnishing of the password, passcode or Biometrics. The Court can only act on an application being filed by either of the parties.

2. Can the IO change the password of Email ?

Answer: Investigating agency would be at liberty to block the access to the e-mail accounts once opened by changing the password so that no one else apart from the designated officers would have access to the said smartphone, computer equipment or e-mail accounts.

3. Would providing a password, passcode or Biometrics amount to self incrimination or testimonial compulsion?

Answer: Mere providing of an access to smartphone or e-mail account would not amount to being a witness or testimonial compulsion

4. Would providing a password, passcode or Biometrics to the investigating officer amount to breach of privacy?

Answer: Will come under exception under

the right to privacy so password has to be provided – duty upon judge to determine if can be made public by passing judicial order – IO cannot provide such information to third party without permission of court.

5. In the event of a direction being issued and the accused not furnishing the password, passcode or Biometrics, what is the recourse available to IO?

Answer: The IO could approach the concerned Court seeking for issuance of a search warrant to carry out a search of the smartphone and/or electronic equipment. If the accused does not give it then as per the above mentioned judgement the IO can take the help of the service provider if not successful then the Lab and if still not successful then help of an expert to hack and if still the phone cannot be opened then adverse inference shall be drawn against the accused.

Challenges in electronic evidence:

For the same, the esteemed speaker mentioned about the following challenges:

1. Section 230 of the BNSS 2023 which states that Supply of documents to the accused and for the same, she mentioned that Sexually explicit material and other sensitive material should not be given/supplied too the accused under this section and accused should be allowed only inspection of the electronic record.

2. There is a lack of expert examiners for giving expert opinion as per S.79A IT Act as we have only 15 Labs in India and some states do not have any of the labs and hence it would be



difficult to take the opinion of the expert examiner of electronic evidence.

3. For the collection and preservation of any electronic data, there is no uniformity or SOPs. The Ram Ramaswamy matter is before the Supreme Court in which the Central Government stated that central govt agencies will follow the CBI manual for collection and preservation of electronic evidence. The Supreme Court has asked for uniform rules to be framed for the entire country.

At the end, the esteemed speaker stated that the courts like with regard to the IEA need to treat the BSA as a Living Act and Ongoing Act the provisions of which were to be interpreted in consonance with changing technologies and needs of society. She requested all participants to interpret and implement the new Act in its true spirit so that it improved the justice delivery system. She wished all the participants great success and best wishes for their future endeavours.

Questions raised:

1. Why have the respective High Courts been given power to make their own VC rules instead of having a centralized authority to make consolidated VC Rules for the whole country ?

Answer: The Model VC Rules were framed by the Supreme Court. Based upon the same, the High Courts drafted their own VC rules for their





respective jurisdictions as the High Courts possess the power to lay down rules for their procedure as well as for lower courts in their jurisdictions. However, there is also a need to ensure uniformity across all the VC Rules that have been framed by different High Courts.

2. How should we identify whether electronic evidence would be classified as Primary and Secondary?

Answer: The speaker answered the question by giving an example that, If a recording is being done by CCTV camera, and it is simultaneously stored in a hard-drive and the cloud without any human intervention, then both the records will be considered as Primary Evidence. If the CCTV footage is copied on a pendrive and produced before the court it is secondary evidence and has to be given with a certificate u/S.63 (4) and the schedule of the BSA. If a photo is taken from a mobile phone, and the mobile is directly presented before the court with the said photo which is shown to the court, this photo is primary evidence. However if the printout of the photo is taken out from the mobile and produced before the court it has to be treated as secondary evidence and now a certificate as under S.63 (4) and the schedule has to be given with the electronic evidence. Hence, to put it simply if there is any electronic or digital record presented before court in its original form on the device which first recorded it, it will be considered as primary evidence.

The Criminal Procedure Code 1973 to Bharatiya Nagarik Suraksha Sanhita ,2023 : Reforms in Procedure of FIR, Arrest and Investigation (Changes and Challenges)”

Historical Context and Need for Reform

The Criminal Procedure Code of 1973 has long served as the backbone of the Indian criminal justice system. However, over the decades, it has become evident that the CrPC requires significant updates to address contemporary challenges and integrate technological advancements. The need for reform has been driven by several factors:

1. Technological Advancements: With the advent of digital technology, there is a pressing need to incorporate electronic methods in legal procedures to enhance efficiency and transparency.

2. Societal Changes: The evolving societal norms and increased awareness of human rights necessitate reforms that are more victim-centric and considerate of individual rights.

3. Judicial Backlog: The Indian judiciary faces a massive backlog of cases, and procedural delays have become a significant concern. Streamlining processes can help in reducing

these delays.

4. International Best Practices: Learning from international best practices and adapting them to the Indian context can help in modernizing the criminal justice system.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) of 2023 aims to address these issues comprehensively. The reforms introduced are designed to create a more efficient, transparent, and just legal framework.

Key Reforms and Their Implications

Changes in Definitions and Scope

One of the primary areas of reform in the BNSS 2023 is the expansion and refinement of definitions. This section highlights the key changes and their implications:

1. Introduction of Modern Terms: Section 2 of BNSS introduces terms like ‘audio-video electronic means,’ ‘bail,’ and ‘electronic communication.’ These terms reflect the integration of technology into the legal framework, allowing for electronic



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documentation and communication. This is expected to streamline procedures and reduce paperwork, thus saving time and resources.

2. Broadened Definition of 'Victim': The definition of 'victim' has been expanded to include individuals who have suffered harm regardless of whether formal charges are filed against the accused. This change is significant as it enables victims to seek compensation and justice without the need for prolonged legal battles. The immediate impact of this reform is a more victim-centric approach, ensuring that victims receive timely support and recognition.

Uniformity in Judicial Roles

The BNSS 2023 aims to standardize judicial roles to create a more uniform and coherent judicial system. The key changes include:

1. Abolition of Certain Judicial Posts: The posts of Judicial Magistrate of the third class, Metropolitan Magistrate, and Assistant Sessions Judges have been abolished. The new structure includes Judicial Magistrates of the second and first classes, Sessions Judges, and Executive Magistrates. This restructuring aims to simplify the hierarchy and reduce confusion regarding jurisdiction and authority.

2. Implications for Judicial Processes: The uniformity in judicial roles is expected to streamline case handling and reduce delays caused by jurisdictional ambiguities. It also ensures that cases are handled by

appropriately qualified judges, thereby improving the quality of judicial decisions. The Uniformity in nomenclature of Judges and Magistrates is maintained both in Rural and Urban areas.

Enhanced Roles and Responsibilities

The BNSS introduces significant changes in the roles and responsibilities of various legal authorities, aiming to improve efficiency and accountability:

1. Appointment of Special Executive Magistrates: Section 15 empowers the State Government to appoint police officers as Special Executive Magistrates. This provision is intended to enhance the flexibility and responsiveness of the legal system, particularly in handling urgent matters that require immediate judicial intervention. Further a police officer who is now a special executive Magistrate can handle the Magisterial powers especially the preventive detention measures effectively and expeditiously.

2. Establishment of the Directorate of Prosecution: Section 20 establishes a comprehensive Directorate of Prosecution with district-level offices. Now there is fixed eligibility conditions and earmarked duties and responsibilities. This is a crucial development aimed at professionalizing the prosecutorial functions and ensuring that prosecutions are conducted efficiently and effectively. The Directorate is expected to provide specialized training and oversight to prosecutors, thereby improving the overall quality of prosecutions.

Provisions for Arrest and Investigation

The BNSS 2023 includes several critical reforms concerning arrests and investigations, which are aimed at protecting individual rights and enhancing procedural fairness:

1. Protection of Aged and Infirm Individuals: Section 35(7) introduces protections for aged and infirm individuals, stipulating that they cannot be arrested for minor offences without higher-level permission. This reform acknowledges the vulnerabilities of certain individuals and seeks to prevent undue hardship caused by unnecessary arrests.

2. Regulations on the Use of Handcuffs: Section 43(3) specifies conditions under which handcuffs can be used, focusing on the nature and gravity of the offence, repeated offenders, escaped from the custody earlier. This provision aims to prevent the misuse of handcuffs and ensure that hard core criminals are prevented from escaping the custody.

3. Introduction of Zero FIR and e-FIR: Section 173 introduces the concept of a Zero FIR, allowing FIRs to be lodged at any police station, irrespective of jurisdiction. This provision is particularly beneficial for victims who may be unable to travel to the appropriate jurisdiction. Additionally, the option of lodging FIRs electronically (e-FIR) makes the process more accessible and user-friendly.

Use of Technology

Technology plays a pivotal role in the BNSS

2023, with several provisions aimed at integrating modern technology into legal procedures:

1. Electronic Issuance and Service of Summons:

Sections 63 and 70 facilitate the issuance and service of summons through electronic means and also any family member can be served. This reform is expected to expedite the summons process, reduce delays, and ensure timely communication.

2. Audio-Video Recording of Legal Processes:

Section 105 mandates the audio-video recording of search and seizure processes. This prevent the police preparing the Seizure memo in some other place and getting the signature of witness who actually not present during searches. This measure enhances transparency and accountability, providing an accurate record of proceedings that can be reviewed in case of disputes or allegations of misconduct.

Victim and Witness Protection

The BNSS 2023 places a strong emphasis on the protection of victims and witnesses, recognizing their critical role in the criminal justice process:

1. Recording of Statements via Audio-Video Means:

Section 176(1) ensures that the statements of rape victims are recorded via audio-video means in the presence of trusted individuals. This provision aims to create a more comfortable and secure environment for victims, encouraging them to provide accurate and detailed statements without

fear of intimidation.

2. Comprehensive Victim Support Framework:

The BNSS 2023 introduces several measures to support victims, including timely compensation, psychological support, and legal assistance. These measures are designed to help victims recover from the trauma of the crime and navigate the legal system effectively.

3. Witness Protection Scheme:

The long felt protection for witnesses finally achieved to prevent harassment of prosecution witnesses by the accused with threat analysis report and accordingly getting enough police protection.

Challenges and Considerations

While the BNSS 2023 promises significant improvements, its successful implementation will require addressing several challenges:

1. Infrastructure and Training:

The integration of technology-based processes necessitates substantial investments in infrastructure and training. Law enforcement agencies and judicial officers need to be equipped with the necessary tools and knowledge to effectively use electronic means in legal procedures.

2. Consistency and Uniformity:

Ensuring consistency and uniformity in the application of the new provisions across different regions and jurisdictions will be a major challenge. It will require continuous monitoring and evaluation to identify and address any discrepancies.

3. Awareness and Acceptance: The success of the reforms will also depend on the awareness and acceptance of the new provisions by all stakeholders, including law enforcement agencies, judicial officers, legal practitioners, and the general public. Comprehensive awareness campaigns and training programs will be essential in this regard.

4. Balancing Technology and Privacy:

While the use of technology can enhance efficiency and transparency, it also raises concerns about privacy and data security. The BNSS 2023 will need to ensure that the use of electronic means is balanced with robust safeguards to protect individuals' privacy and prevent misuse of data.

The transition from the Criminal Procedure Code of 1973 to the Bharatiya Nagarik Suraksha Sanhita of 2023 marks a significant step towards modernizing the Indian criminal justice system. The reforms introduced in FIR, arrest, and investigation procedures aim to create a more efficient, transparent, and victim-friendly legal framework. By integrating technology, standardizing judicial roles, and enhancing protections for victims and witnesses, the BNSS 2023 seeks to address the contemporary challenges faced by the criminal justice system.

However, the successful implementation of these reforms will require concerted efforts to address the accompanying challenges. Investments in infrastructure and training, ensuring consistency and uniformity, raising awareness, and balancing technology with privacy considerations will be crucial. The interactive session at LBSNAA provided

valuable insights into these reforms, highlighting the importance of continuous evaluation and adaptation to ensure that the new provisions effectively serve their intended purpose.

The BNSS 2023 represents a progressive step forward, aligning India's criminal justice system with contemporary technological advancements and societal needs. By fostering a more responsive and equitable legal framework, these reforms have the potential to significantly enhance the administration of justice in India.

DISCUSSION :

Question 1:

Participant: Can you explain the rationale behind expanding the definition of 'victim' in the BNSS 2023?

Resource Person: The expansion of the definition of 'victim' to include individuals who have suffered harm, irrespective of formal charges being filed against the accused, is a significant reform. This change aims to provide immediate recognition and support to victims, allowing them to seek compensation and justice without the need for prolonged legal battles. It reflects a more victim-centric approach, ensuring that victims receive timely assistance and that their rights are upheld throughout the legal process.

Question 2:

Participant: What are the implications of introducing Zero FIR and e-FIR in the BNSS

2023?

Resource Person: The introduction of Zero FIR and e-FIR is a significant step towards making the legal process more accessible and user-friendly. Zero FIR allows FIRs to be lodged at any police station, regardless of jurisdiction, which is particularly beneficial for victims who may be unable to travel to the appropriate jurisdiction. e-FIR enables electronic lodging of FIRs, enhancing transparency and accountability. These reforms are expected to expedite the FIR lodging process, reduce delays, and make the system more responsive to the needs of victims.

Question 3:

Participant: How does the BNSS 2023 address the use of handcuffs during arrests?

Resource Person: The BNSS 2023 includes specific regulations on the use of handcuffs, outlined in Section 43(3). Handcuffs can only be used under certain conditions, based on the nature and gravity of the offence. This provision aims to prevent the misuse of handcuffs and ensure that their use is justified and proportionate, thus protecting the dignity and rights of individuals during arrests.

Question 4:

Participant: How does the BNSS 2023 incorporate technology into the legal process?

Resource Person: The BNSS 2023 integrates technology into the legal process in several ways. For instance, Sections 63 and 70 facilitate the electronic issuance and service

of summons, which is expected to expedite the process and reduce delays. Section 105 mandates the audio-video recording of search and seizure processes, enhancing transparency and accountability. These technological integrations aim to modernize the legal framework, making it more efficient and transparent.

Question 5:

Participant: What steps does the BNSS 2023 take to ensure the protection of victims and witnesses?

Resource Person: The BNSS 2023 places a strong emphasis on the protection of victims and witnesses. For example, Section 176(1) ensures that the statements of rape victims are recorded via audio-video means in the presence of trusted individuals, providing a more secure and comfortable environment. Additionally, the BNSS 2023 introduces a comprehensive victim support framework, including measures for timely compensation, psychological support, and legal assistance, to help victims recover and navigate the legal system effectively.

Question 6:

Is the Police custody can be more than 15 days?

The Police custody remains the same for 15 days which can be taken in whole or in parts within 40 or 60 days of the arrest of the accused respectively for the cases to be investigated in 60 or 90 days accordingly.

Question 7:

Can the confession be taken by any magistrate as per section 183.

Section 183 has to be understood with section 3 construction of reference which says unless qualifying words are referred magistrate means Judicial Magistrate. So any judicial magistrate of the district having jurisdiction can record confession.

Question 8:

What happens if the E Fir is not signed within 3 days ?

If the cognizable offence is made out prima facie then the police can register the FIR without waiting for the signed document.



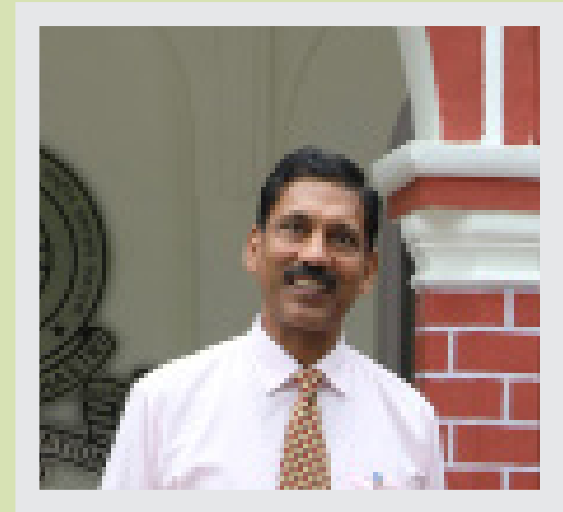
The Criminal Procedure Code, 1973 to the Bhartiya Nagarik Suraksha Sanhita, 2023: Reforms regarding Prosecution (Changes, Challenges and Strategies for Implementation) and Coordination with Law Enforcement Agencies

Introduction:

Shri Ashutosh Pandey, an IPS officer of the 1992 batch and the Additional Director General (SIT, EOW) in Uttar Pradesh, commenced his session by introducing himself before the participants. His efforts have led Uttar Pradesh to be recognized as number one in e-Prosecution, winning the first prize and the India number one trophy by the Ministry of Home Affairs, Government of India, for two consecutive years. He expressed his honour to be in the company of the participants, including judges, police officers, and prosecutors. He emphasized that he was there to learn from them, not the other way around, and to facilitate and remind participants of what they already know. He shared that he had presented Prosecution reforms before the Hon'ble Prime Minister at the DGPs and IGP's conference, which catalyzed various prosecution reforms at the national level over the past years.

Prosecution Challenges and Strategies:

Shri Ashutosh Pandey identified key issues in prosecution, such as dependency on investigation, dependency before the courts, and lack of coordination among stakeholders like the police, prosecution, prisons, FSL, child development agencies, and the judiciary. He emphasized that effective prosecution is the judiciary's job but it cannot function without the coordination from these stakeholders. He stressed the necessity of new laws due to the increasing number of criminals and their better understanding of existing procedures. Criminals often exploit legal loopholes to evade justice, as illustrated in a case where the accused manipulated the judicial system to avoid trial. He highlighted the importance of technological advancements and the need for police and judicial training in cyber laws to handle cyber-crime cases effectively. Many reports from district judges indicated that punishments in cyber-crime cases were awarded under IPC



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sections instead of the IT Act due to a lack of understanding of cyber laws.

Social Connectivity and Crime:

The esteemed speaker discussed that the increasing social connectivity through social media has provided criminals with new opportunities to defraud people. He shared personal anecdotes illustrating how criminals use technology to deceive individuals, such as fraudulent calls claiming to be from bank managers or government officials. He stressed the importance of awareness and the need for police to develop core competencies to meet rising public expectations. He also addressed the strong empathy required for witnesses who often face challenges in appearing in court. Citing the circular of Secretary, Ministry of Law & Justice, Government of India of 19.2.1976 and subsequent directives for District Monitoring Cell Meetings, which emphasized that the presence of witnesses in court is critical for timely trials and measures to be taken to reduce the apathy of witnesses in giving evidences in the court. Measures have been taken to ensure their participation, such as securing their presence and providing information about the progress of investigations.

Technological Integration:

The speaker discussed the integration of technological tools like CCTNS and ICJS to streamline the prosecution processes. Successful initiatives include the automatic transmission of FIR and charge sheet data to the judiciary, ensuring timely submission and reducing delays. He highlighted the importance of digital tools in enhancing prosecution efficiency and providing real-time information to complainants and victims.

Independence of Prosecution:

The learned speaker emphasized the independence of the prosecution, citing his efforts to ensure that prosecutors perform their duties without undue influence. Legal orders were issued to mandate scrutiny of investigation reports by prosecutors, enhancing the quality of investigations and trials. He discussed the need for prosecutors to work independently while coordinating with other stakeholders to achieve justice. He then proceeded towards the importance of filing appeals against acquittals, sharing a case where timely appeals led to convictions. He highlighted the challenges in getting appeals filed, especially against influential individuals, and the importance of a robust appeal process to ensure justice is served.



judiciary. He stressed the strong empathy required for witnesses and the measures taken to ensure their attendance in court. The presence of witnesses is critical for timely trials, and monitoring cell meetings are essential for addressing issues related to witness coordination.

Integration of Technological Tools:

The speaker then proceeded toward discussing the integration of technological tools like CCTNS and ICJS, which streamline prosecution processes. Automatic transmission of FIR and charge sheet data to the judiciary ensures timely submission and reduces delays. Digital tools enhance prosecution efficiency and provide real-time information to complainants and victims. He emphasized the importance of independence in prosecution and shared efforts to ensure prosecutors perform their duties without undue influence. Legal orders mandating scrutiny of investigation reports by prosecutors enhance the quality of investigations and trials. The speaker then

Coordination and Training:

The speaker stressed the need for continuous coordination and training among all stakeholders. Digital platforms should facilitate communication and monitoring, ensuring that all parties involved in the criminal justice system are on the same page. He shared examples of successful coordination efforts and their positive impact on prosecution outcomes.

Timelines and Procedures for Prosecution:

The resource person discussed the timelines and procedures for prosecution, the importance of providing timely information to victims, and the role of digital tools in enhancing prosecution efficiency. He reiterated the need for systemic reforms and coordination to achieve a fair and efficient criminal justice system. After this he emphasized the importance of monitoring cell meetings in increasing conviction rates. These meetings should be substantive and agenda-based rather than mere formalities. He described how, as an SP, he initially viewed these meetings as mere pleasantries but later recognized their importance in coordinating efforts between the district magistrate, police, and



proceeded towards discussing the issue of monitoring and tracking processes, including UTI monitoring and performance tracking of prosecutors. Effective monitoring reduces adjournments and ensures timely witness examinations.

The speaker emphasized the importance of a streamlined process for deciding bail matters. He also stressed upon Digital systems to capture necessary data, facilitating quick decisions on bail applications.

Prosecution Structure and Reform:

The speaker outlined the prosecution structure and hierarchy, highlighting the roles and responsibilities at various levels. Effective coordination and adherence to procedures ensure the smooth functioning of the prosecution system. The speaker then proceeded towards discussing the importance of timely witness examination, citing the Supreme Court's directive for same-day or next-day witness examinations. He also stressed that effective monitoring and tracking systems are essential for achieving this goal. The speaker also highlighted the importance of a prisoner crime network of e-Prison portal being accessible on CCTNS for knowing the complete criminal network of criminals. Real-time access to prisoner information aids judges and investigating officers in making informed decisions. The speaker also discussed challenges related to prosecution sanctions, particularly in high-profile cases. He pointed out that continuous efforts are needed to ensure timely issuance of sanctions to avoid delays in prosecution. The speaker then also discussed the importance

of framing charges efficiently and how he celebrated this Charge Framing process like a festival. He also stressed on the need of coordination with judges and bringing witnesses on the designated day to ensure timely framing of charges. The speaker also discussed the use of video conferencing and electronic processes in trials, emphasizing their role in improving efficiency and reducing delays.

Conviction Rates and Appeal Process:

The resource person also highlighted efforts to increase conviction rates and the importance of a robust appeal process. He also pointed out that filing timely appeals against acquittals, especially in high-profile cases, is crucial for justice. Furthermore, He discussed various prosecution reforms, including the integration of digital tools and the importance of coordination among stakeholders and the continuous monitoring and training necessary for an efficient criminal justice system.

Conclusion:

The resource person concluded the session by emphasizing on the need for systemic reforms, continuous coordination, and training to achieve a fair and efficient criminal justice system. He reiterated the importance of leveraging technological advancements and digital tools to enhance prosecution efficiency and ensure justice.

Questions Raised:

1. What are the timelines for taking

cognizance and providing documents to the accused?

Answer: There is no specific timeline mandated for taking cognizance. However, the timeline for providing documents to the accused is without delay and in no case beyond 14 days from the date of the production or appearance of the accused.

2. How can we improve the scrutiny of investigation reports?

Answer: Legal orders mandating the scrutiny of investigation reports by prosecutors can enhance the quality of investigations. Some states have developed systems where draft charge sheets are examined by prosecutors before submission. Implementing similar systems can ensure that investigations meet the required standards.

3. What measures can be taken to address the issue of prosecution sanctions being delayed?

Answer: Regular meetings at the highest level, such as those chaired by the Chief Secretary with concerned departments and agencies, can address the delays in prosecution sanctions. Ensuring accountability and setting deadlines for issuing sanctions are crucial. In some cases, the intervention of the High Court has been necessary to expedite the process.

Panel Discussion on Reforms in Criminal Laws (BNS, BNSS, BSA) 2023 and Inter Agency Coordination: Changes, Challenges and Strategies

The recent enactment of comprehensive criminal law reforms in India can be understood as the next chapter in the nation's ongoing economic and social transformation, a process that arguably began with the landmark economic reforms of 1991. These earlier reforms revitalized various sectors, including financial regulations, public sector undertakings, and the ease of doing business. However, it has become increasingly evident that a modernized police system is a critical, yet missing, component in India's aspirations to achieve developed-nation status alongside its global peers.

The longstanding problems plaguing India's criminal justice system are well-documented. These include, but are not limited to, FIR registration blues, delays on both prosecution and defense sides, inconsistencies in sentencing, issues surrounding bail procedures, a concerning number of pre-trial detainees, and protracted appellate processes. Additionally, concerns persist regarding a potential socio-economic bias within the system, which may disadvantage the underprivileged and financially vulnerable.

The recently enacted suite of criminal law reforms encompasses a significant number of changes: 160 within the Bharatiya Nyaya Sanhita (BNS), 360 within the Bharatiya Nagarik Suraksha Sanhita (BNSS), and 45 within the Bharatiya Sakshya Adhiniyam (BSA). While some may dismiss these changes as merely cosmetic, a closer examination reveals a more nuanced approach. The reforms prioritize streamlining the legal framework by consolidating provisions and eliminating outdated or irrelevant provisions. This warranted for a renewed focus on contemporary challenges faced by the criminal justice system, particularly those related to technology, violence against women, and terrorism and overall modernisation of the criminal justice system as a whole. These pressing concerns undoubtedly guided the legislative process. Delving deeper, the reforms emphasize enhanced efficiency, synergy and accountability across all branches of the system, with a specific focus on leveraging advancements in science and technology.

A cornerstone of the recently enacted



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criminal law reforms is the mandatory use of forensic evidence in all criminal investigations involving offenses punishable by imprisonment exceeding seven years. This represents a significant departure from the previous reliance on human testimony and witness accounts, often referred to as “naksha nazri.” The inherent fallibility of human memory and the potential for witness tampering are well-recognized shortcomings of such a system, potentially leading to miscarriages of justice. Therefore, the reforms prioritize the integration of modern scientific and technological advancements within the criminal justice system.

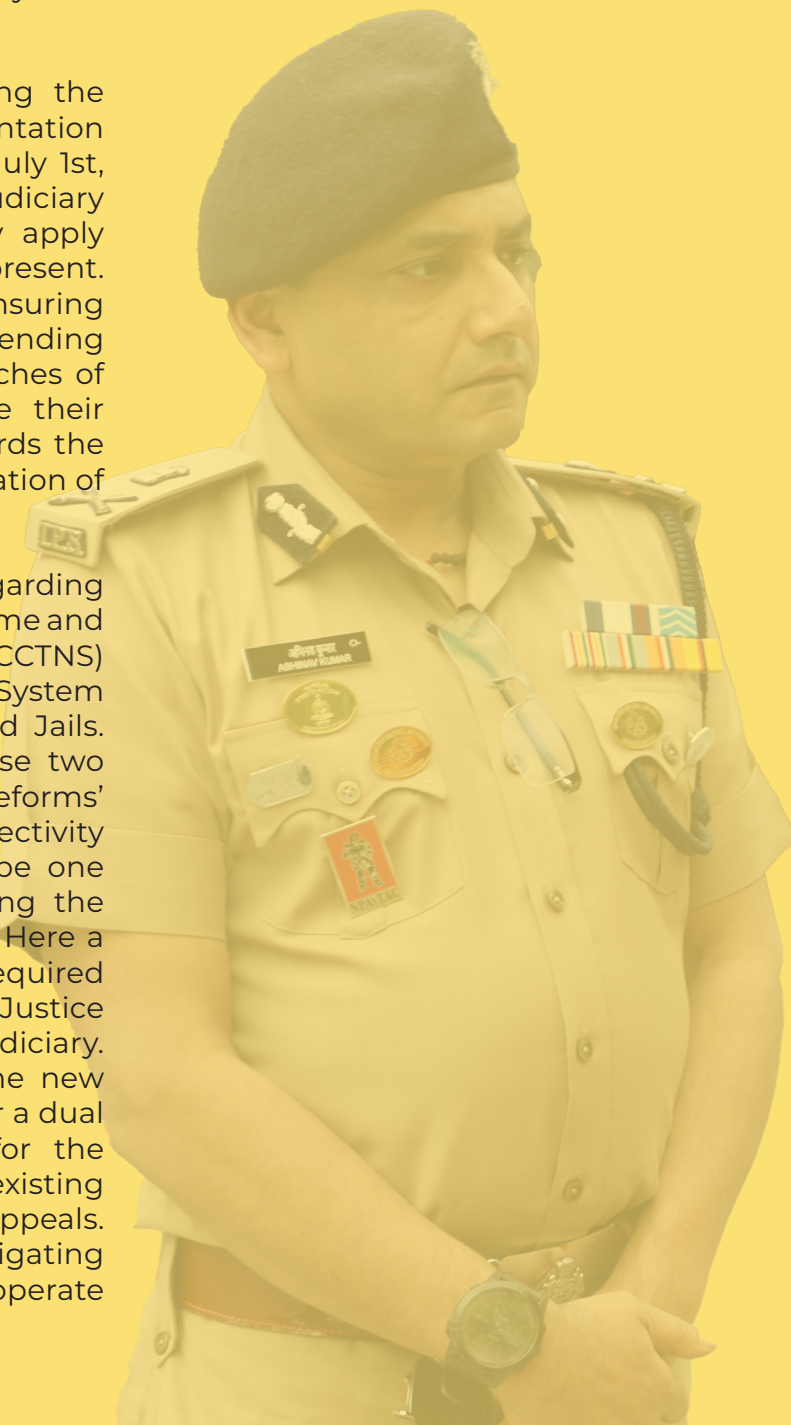
Earlier, the focus was more on crime and punishment. However, the new laws consciously espouse a victim-centric approach. It is acknowledged that no law can be considered perfect at the outset of its drafting, enactment, or implementation. Only through ongoing discourse, judicial scrutiny, and practical application can legal frameworks evolve and achieve their intended objectives. The rights given to the Victims to be involved and informed in the process of redressal of crime will go a long way to address the opacity of the erstwhile system and bring in a sense of justice in true meaning of the term.

Within a democratic framework characterized by the separation of powers and a system of checks and balances, any legislative enactments by the Parliament are inherently subject to judicial review by the Supreme Court. This rigorous process of judicial scrutiny serves to further refine and develop the laws.

It is to be seen how the process of judicial review will shape the criminal justice system in the days to come.

Concerns have been raised regarding the level of preparedness for the implementation of the new criminal law reforms on July 1st, 2024. Specifically, readiness of lower judiciary officials, SDM and DM to effectively apply the new legal framework must be present. Achieving complete alignment and ensuring their capacity to handle the impending changes is crucial. Surely all the branches of Criminal Justice System have made their Plan of Action and are working towards the collective goal for smooth implementation of the new laws.

Furthermore, concerns persist regarding interoperability issues between the Crime and Criminal Tracking Network & Systems (CCTNS) and the Interoperable Criminal Justice System (ICJS), Forensic Labs, Prosecution and Jails. Seamless data transfer between these two critical platforms is essential for the reforms' successful implementation. This connectivity and technological upgradation can be one single step which will result in taking the system to the next level of efficiency. Here a great deal of coordination would be required between the branches of the Criminal Justice System especially the Police and the Judiciary. The upcoming implementation of the new criminal law reforms have potential for a dual criminal justice system operating for the next 30-40 years. This is due to the existing backlog of criminal cases and appeals. Consequently, prosecutors, investigating officers, and lawyers will have to operate



under both the new and old legal frameworks simultaneously. This necessitates a substantial investment in training programs to equip legal professionals with the expertise to navigate this complex scenario. The prolonged coexistence of dual systems presents a multifaceted challenge, potentially requiring an increase in the number of officers adequately trained in both legal frameworks to ensure a smooth and efficient justice system.

The legislation further mandates forensic investigations for offenses punishable by imprisonment exceeding seven years. Consequently, high-definition videography exceeding even just two minutes in duration will require a lot of storage and hence will necessitate the development of robust data storage and transfer capabilities. The substantial volume of data generated through this process requires secure and confidential storage with robust protection measures. Given the current minimum qualification requirements for constables, it is unrealistic to expect them to seamlessly adapt to these technologically advanced protocols. To address this exigency, the implementation of a specialized cadre, either at the Thana house or state level, is imperative. Precedents for such specialized units exist in foreign jurisdictions, where experts manage these critical tasks.

I am sure with meticulously planned course of action all the branches of Criminal Justice System viz- Police, Prosecution, Judiciary and Prisons & Correctional Services will rise up to the occasion and handhold each other by way of training and developing other capacities to deliver the justice system which the people of this country rightly deserve.
Jai Hind



The new criminal laws taking effect on July 1, 2024, are an important step forward in updating India's criminal laws for greater efficiency and inclusion. Implementation of these laws requires investing in procuring digital systems with last-mile connectivity, designing, and organizing comprehensive training programs for all stakeholders. There is a need for desiloization in the working of police, prison, forensics, and prosecution verticals to ensure speedy investigation and conviction.

The challenges are the silos within the system, lack of digital literacy, understanding of enabling and disabling the new laws, and meeting the clear deadlines to ensure the smooth rollout of the new laws. Overcrowding in prisons, lack of digital resources at the police station level, delays in the judicial processes, and working as a team are some of the challenges.

To address these challenges and ensure the successful implementation of the new laws, there is a need to prioritize continuous learning and upskilling through platforms like Mission Karmayogi and mixed group training. Developing a full-scale digital infrastructure with reliable connectivity and secure data storage is essential. Emphasizing the importance of complete digitalization and integrating advanced technological solutions will enhance efficiency. Establishing standardized protocols and

clear communication channels between departments will foster a collaborative work culture, while promoting inter-departmental coordination through regular meetings and integrated task forces will ensure seamless cooperation. Investing in technological solutions and modifying recruitment rules to prioritize candidates with strong technical skills will ensure new recruits are tech-savvy and capable of working effectively with advanced technology. Continuously monitoring the implementation of the new laws, evaluating their impact, and adapting strategies based on data-driven decisions will ensure agile and responsive adjustments to the implementation process.

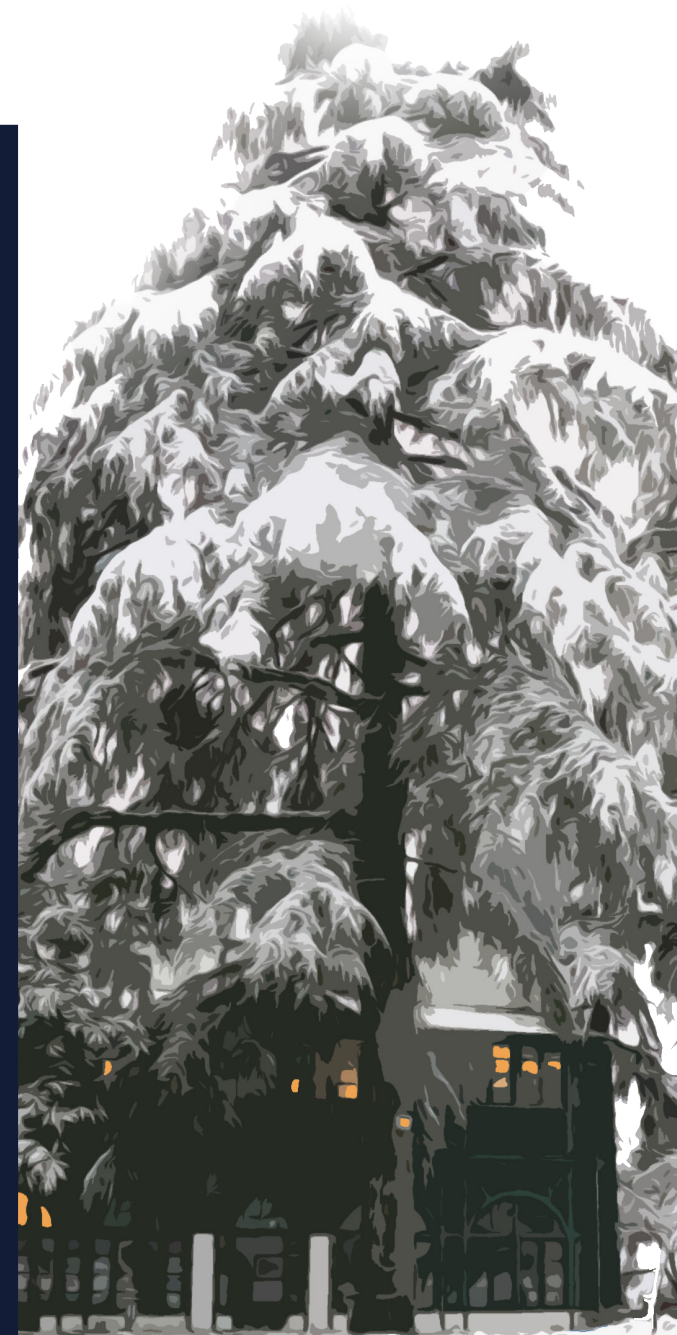
Maharashtra has already taken significant strides in leveraging technology to enhance law enforcement and cybersecurity. Maharashtra is currently leading in the use of the ICJS platform and has made significant updates to CCTNS to align with the new provisions of the Bharatiya Nyaya Sanhita. These advancements demonstrate our commitment to embracing technology and modernizing the criminal justice system.

Similarly, by proactively addressing these digital gaps and challenges and embracing technological advancements, we can ensure the effective



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implementation of the new laws and contribute to a more efficient, just, and responsive criminal justice system in India.



There are two examples that highlight the nuances of forensic reporting. Both cases occurred around the same time as the Nirbhaya rape case.

The first example is the Chawla rape case, which took place on November 9, 2012, in New Delhi. In this case, a girl was abducted in broad daylight by 3-4 boys in a red car while she was with her colleagues. She was taken out of Delhi, raped, and killed, and her body was found in a jungle in Haryana. Despite a positive DNA report, which led to the conviction of the accused, the Supreme Court later overturned the conviction in 2022, discarding all the forensic reports. The Government of India preferred a revision, but it was turned down. This case illustrates that even with positive DNA evidence, achieving justice in the criminal system is not guaranteed.

The second example involved the case of Anokhi Lal vs. Madhya Pradesh. On January 30, 2013, a nine-year-old girl was abducted, raped, and murdered. The investigation was completed in a month, and the trial concluded in another 20 days, resulting in Anokhi Lal's conviction. This case exemplifies the adage "justice hurried is justice buried." Although the swift conclusion was praised, it became evident that due process was not followed. The Supreme Court later referred the case back for retrial with three conditions, which were not adhered to, leading to a death penalty by the trial court. The High

Court then sent it back for a third trial, and on March 19, 2024, Anokhi Lal was acquitted. This underscores the necessity for all stakeholders to exercise caution and thoroughness.

The importance of combining law and science to achieve forensic justice is a golden thread in the web of the 21st century criminal justice system. When the precision of science merges with the principles of law, the justice system can be significantly improved. Justice is a fundamental trait that every society desires, but its attainment is often uncertain. Truth is the pathway to justice, yet both concepts are intangible and difficult to quantify. Evidence, however, is tangible and paves the way for discovering the truth.

A fair trial, emphasized in legal covenants worldwide, including the UN Convention and ICCPR, hinges on fair investigation. Without a fair investigation, a fair trial is impossible. In both civil and criminal courts, the goal is to identify the correct individual responsible for the alleged act. Human identification is the crux of the justice system, employing tools such as forensics, DNA, fingerprints, sketches, photography, videography, and voice sampling.

Before delving deeper into forensic science, it is pertinent to explain two terms: inculpatory evidence, which proves guilt, and exculpatory evidence, which proves innocence. In the judicial system,



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acquittal and exoneration are often used interchangeably, but they hold different legal significances. Acquittal means there is insufficient evidence to prove guilt, while exoneration means the person is declared innocent and had no part in the alleged act. There must be advocacy for the inclusion of exoneration in the Indian legal system.

It must be questioned whether the focus should solely be on convictions or on ensuring justice is served correctly. Highlighting the issue of wrongful convictions, it is pertinent to cite the 1660 English case of *Campden Wonder*, where two young boys were wrongly hanged for the disappearance of a 70-year-old man who later returned. Wrongful convictions are a global problem that must be addressed.

In forensic law, many sections are identical and repetitive. However, a newly introduced section, 176(3), brings significant change. There is a growing trend where High Courts and the Supreme Court delve deeper into forensic science, akin to the scenario in the US during the early 2000s. Forensic science is set to become more prominent in the next 4-5 years, but it needs to be chosen consciously and carefully to avoid cases like *Chawla*.

An essential aspect is defining who qualifies as an expert. Unfortunately, the term “expert” has not been clearly defined. In contrast, the US Evidence Act’s Article 702 and Germany’s law of 1984 provide beautiful definitions. India

needs similar clarity to dissipate ambiguity. Section 45 or the corresponding section 39 uses the phrase “specially skilled,” but defining it is challenging. The Supreme Court in *HP vs. Jaila* (1994) described a specialist as someone with particular education and experience in a specific procedure.

Two immediate problems needing attention can be identified. First, the forensic system requires a controlled mechanism for coding and decoding samples, which can then be analyzed in any accredited laboratory, public or private. Many labs currently lack accreditation, which is necessary. Judges may not accept forensic reports blindly; their admissibility can be challenged if the procedures adopted are questioned successfully.

Data protection is another significant concern. In the current digital age, data security is paramount. Forensic data, if not protected, can be compromised, affecting the integrity of forensic evidence.

The critical role of forensic science in the justice system needs to be at the forefront. While the integration of forensic tools like DNA and fingerprints is essential, the process must be handled with utmost care and precision. Defining who qualifies as an expert, ensuring fair investigations, and protecting forensic data are crucial steps towards achieving forensic justice. As forensic science evolves, it is imperative to implement these changes thoughtfully

to enhance the justice system and prevent wrongful convictions.



3

DAY THREE

Implementation Of New Criminal Laws – Initiatives Of E-Committee, NCRB And Use of Inter-Operable Criminal Justice System 2, CCTNS for Effective Implementation Of New Criminal Law Reforms

The session covered the implementation of new criminal laws and the initiatives of the E-committee, NCRB, and the use of the interoperable criminal justice system (ICJS) and CCTNS for effective implementation of these reforms. This session aimed to inform civil servants about the technological advancements and digital transformations in the Indian judicial system.

The session began with an overview of the E-committee's efforts to digitize the courts. The resource person highlighted the Eco Mission Mode Project, initiated in 2018 by the Government of India, and implemented through the Supreme Court and the Department of Justice. The project is now in its third phase, with significant funding allocated for advancements such as artificial intelligence (AI) and blockchain technology. The initial phases focused on providing digital infrastructure and software integration for courts, which proved invaluable during the COVID-19 pandemic by enabling video conferencing capabilities.

A significant part of the presentation focused on citizen-centric services offered by the E-committee. The resource person explained how the E-courts project has transformed access to judicial information, making it available 24/7 at no cost. The E-courts portal and mobile app, which have garnered millions of daily hits, allow users to check case statuses, download judgments, and access various court services. These digital services are designed to enhance transparency and accessibility for the public.

The resource person also discussed the digital infrastructure supporting new criminal laws, particularly the requirement for electronic trials and proceedings. The courts are equipped with video conferencing facilities, which have been extensively used during the pandemic. Model rules for video conferencing and electronic evidence recording have been developed and adopted by most high courts, ensuring that courts are prepared for the digital demands of new legislation. Further, the session covered the Case



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Information System (CIS), an open-source software implemented across over 20,000 courts. This system supports bilingual operations and integrates with various other applications, including land records and virtual courts. The interoperability with the criminal justice system (ICJS) is crucial, allowing seamless data exchange between courts, police, and other stakeholders.

The National Judicial Data Grid (NJDG) was highlighted as a powerful administrative tool, providing real-time statistics on case pendency and court performance. This open-access platform is instrumental for decision-makers at all levels, from district collectors to policymakers.

The resource person emphasized the integration of digital payments within the judiciary, facilitating the collection of court fees and fines electronically. This system has already seen significant usage, with substantial amounts collected and credited to the state exchequer.

One notable initiative discussed was the Virtual Courts project, which operates entirely paperless and has successfully handled a vast number of cases, earning national recognition. Additionally, the e-SCR project provides free access to Supreme Court judgments, making legal research more accessible and affordable.

The presentation also addressed the challenges and strategies for integrating the ICJS. The resource person outlined the current status of ICJS implementation

across states and the steps taken to ensure complete data integration. The focus was on improving communication between different stakeholders and leveraging technology for more efficient case management and evidence tracking.

The second part of the session delved into the practical aspects of the CCTNS (Crime and Criminal Tracking Network and Systems) and its impact on the criminal justice system. The resource person explained the history and evolution of CCTNS, its integration with other systems like the Automated Fingerprint Identification System (AFIS), and the ongoing efforts to include more functionalities, such as the Arms License Identification System (ALIS).

The challenges of maintaining and updating data across various jurisdictions were discussed, emphasizing the need for regular meetings and coordination among stakeholders. The resource person called for more frequent interactions between the E-committee and other agencies to address issues and streamline processes.

Examples from different states illustrated the successful use of CCTNS in improving case management and monitoring. The resource person cited instances where digital tools have significantly reduced the clerical burden on police stations, enhanced data accuracy, and facilitated better resource allocation.

The session concluded with a discussion on the importance of digital literacy and capacity building among judicial and police

officers. The resource person highlighted various training programs and initiatives aimed at equipping stakeholders with the necessary skills to leverage digital tools effectively.

Overall, the lecture underscored the transformative potential of digital initiatives in the judicial system, the progress made so far, and the path ahead for fully realizing the benefits of these technologies in implementing new criminal laws and improving the overall efficiency and transparency of the criminal justice system.

Discussion- Questions and Answers

Question 1: How has the E-committee facilitated the digital transformation of courts in India?

Answer: The E-committee has spearheaded the digital transformation through the Eco Mission Mode Project, initiated in 2018. This project, now in its third phase, has provided significant funding for advancements such as AI and blockchain technology. The first phase established digital infrastructure, including land connectivity and video conferencing equipment, while the second phase focused on integrating the Case Information System (CIS) across over 20,000 courts. These efforts have ensured that courts are well-equipped for electronic trials and proceedings, especially highlighted during the COVID-19 pandemic.

Question 2: What citizen-centric services have been introduced by the E-committee, and how do they benefit the public?

Answer: The E-committee has introduced several citizen-centric services, such as the

E-courts portal and mobile app, which provide 24/7 access to case statuses, judgments, and other court services free of cost. These platforms have millions of daily hits and enhance transparency and accessibility for the public. Additional services include SMS updates, automated emails for registered users, and digital payment systems for court fees and fines, significantly improving the efficiency and user experience in accessing judicial information.

Question 3: How are video conferencing and electronic evidence recording integrated into the new criminal laws?

Answer: The courts have been equipped with video conferencing facilities, which have been extensively used during the pandemic. Model rules for video conferencing and electronic evidence recording were developed and adopted by most high courts, ensuring that the judiciary is prepared for the digital demands of new legislation. The infrastructure and guidelines support the electronic mode of trials and proceedings, making the process more efficient and accessible.

Question 4: What is the significance of the National Judicial Data Grid (NJDG), and how does it support administrative decision-making?

Answer: The NJDG is a powerful administrative tool that provides real-time statistics on case pendency and court performance. This open-access platform aids decision-makers at all levels, from district collectors

to policymakers, by offering comprehensive data that can inform resource allocation and strategic planning. The NJDG's availability of millions of data points from district courts helps in analyzing trends and improving judicial efficiency.

Question 5: Can you elaborate on the Virtual Courts project and its impact on the judicial system?

Answer: The Virtual Courts project operates entirely paperless and has been implemented in 20 states. It has successfully handled a vast number of cases, reducing the physical burden on courtrooms and increasing efficiency. The project has earned national recognition for its innovative approach to case management. Virtual courts streamline the judicial process, allowing for faster resolution of cases and more convenient access for litigants and legal professionals.

Question 6: How does the Crime and Criminal Tracking Network and Systems (CCTNS) integrate with other judicial and law enforcement databases?

Answer: CCTNS integrates with various other systems, such as the Automated Fingerprint Identification System (AFIS) and the Arms License Identification System (ALIS). This integration allows for seamless data exchange between police, prisons, and courts, enhancing the overall efficiency of the criminal justice system. Efforts are ongoing to improve data accuracy and ensure that all relevant information is accessible to stakeholders, facilitating better

case management and evidence tracking.

Question 7: What steps are being taken to improve digital literacy and capacity building among judicial and police officers?

Answer: The E-committee and other stakeholders have initiated various training programs aimed at equipping judicial and police officers with the necessary skills to leverage digital tools effectively. These programs include capacity building for using the Case Information System (CIS), digital evidence recording, and video conferencing facilities. Continuous education and training are essential to ensure that all stakeholders can fully utilize the available digital infrastructure and contribute to a more efficient and transparent judicial system.

Criminal Law Reforms- Challenges for Judiciary in Interpreting and Implementing Procedural Reforms

Overview of New Criminal Laws

The esteemed speaker provided an overview of the three new bills passed by Parliament in 2023: the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA). These laws were enacted to replace the Indian Penal Code (IPC), the Criminal Procedure Code (CrPC), and the Evidence Act, aiming to repeal archaic colonial-era laws and promote speedy and timely justice through specific timelines and improved reliance on science and technology. He highlighted that while some changes are beneficial, the systemic challenges posed by these new laws could impact the criminal justice system significantly.

Transitional Provisions and Dual Legal Frameworks

The esteemed speaker elaborated on the transitional provisions, repeal, and savings clauses in the new laws. Section 358 of the BNS, Section 531 of the BNSS, and Section 170 of the BSA collectively ensure that the old laws will continue to govern all criminal processes initiated prior to the enactment of the new laws (effective from July 1, 2024) and for offenses committed before this date,

even if a complaint is filed afterward. This dual legal framework will persist for the next 10 to 15 years, posing significant challenges to an already overburdened and under-resourced criminal justice system, with 33971509 criminal cases pending before itself, of which at least 69.19% of cases are over one year old, as per the data available on the National Judicial Data Grid.

Case Law and Legal Principles

The speaker referenced various case laws and legal principles to explain the implications of these transitional provisions. He mentioned the case of PV Mohammed Barmay Sons vs. Director of Enforcement, highlighting the principle of saving clauses and he stated that “The repealed Act can be interpreted by operation of Clause (e) of Section 6 of the General Clauses Act, because general clauses act is a generic act and can be applied to the repealed as well as to the new laws, unless such contrary intention is manifested, liabilities, penalties, forfeiture or punishment under the Repealed Act will continue to exist and remain in force by operation of Section 6 of the General Clauses Act, but for this it should be compatible with the provisions of the new law” He also mentioned that “the general clauses act is a



Shri Shripathi Ravindra Bhat,
Hon'ble Former Justice
of Supreme Court of India

kind of genetic code for lawyers and judges". He also cited *Hasan Nurani Malak v. Assistant Charity Commissioner, Nagpur & Ors* which clarifies that the effect of a saving clause is to govern actions done before the repeal. This principle is crucial for understanding the two-track legal system that will result from the new laws.

Introduction of Community Service and Other Punishments

The esteemed speaker discussed the introduction of community service as a new form of punishment under Clause 4(f) of the *Bharatiya Nyaya Sanhita* (hereinafter, the 'BNS') creates a new punishment category which is community service. Community service as a punishment is prescribed for non-serious offenses which are-

- i. public servants engaging in trade unlawfully;
- ii. non-appearance in response to a proclamation for their appearance;
- iii. attempt to commit suicide in order to compel public servant from discharging official duty;
- iv. theft of property which is valued below Rs. 5000 rupees;
- v. drunken misconduct in public and
- vi. criminal defamation.

The introduction of this punishment as an alternative to small term periods of imprisonment and fines is a positive change, considering that the provision widens ways to impose sentences outside imprisonment, and does not involve imposing fines on

convicts (especially the large majority of convicts who may be indigent). This is especially beneficial for a system which has a reportedly increasing rate of prisoners, thus exacerbating its problems with respect to maintenance and capacity of prisons. of the BNS for non-serious offenses. He praised this development, noting that it could help reduce the burden on the prison system and provide a more rehabilitative approach. However, he also pointed out the lack of definition and guidelines for community service, which could lead to varying interpretations and implementation challenges.

Provisions for Undertrial Prisoners and Witness Protection

The learned speaker highlighted the progressive nature of Section 479 of the BNSS, which requires the release of undertrial prisoners without prior convictions if they have served one-third of the maximum sentence prescribed for the offense. He also discussed Section 398 of the BNSS, which mandates state governments to notify their own witness protection schemes, a crucial step for safeguarding witnesses in serious cases. He also stated that at present, a scheme effectuated by the Supreme Court in *Mahender Chawla v. Union of India* governs the various modalities of witness protection. *Mahender Chawla* came at the heels of various court decisions and reports highlighting the need for witness protection law in India, considering the various threats, vulnerabilities and barriers witnesses faced in providing evidence before the court. The decision effectuated a scheme that was prepared by the Union in consultation

with State governments and placed before Court, and will continue to govern the field until the legislature frames a new policy on the same. The learned speaker also added that at present, the scheme provides for the institutions responsible for witness protection, processes to apply for the same, time periods and categories of protection amongst others.

Rights of Victims

The esteemed speaker emphasized the expanded rights of victims under the new laws. He stated that under the BNSS, Sections 173(2), 193(3), 230 and 360 create wider scope for the rights of victims. Section 193(2) and 230 expand the right to information for victims by ensuring that the police must provide an update on the status of investigation within 90 days, and by requiring the Magistrate to provide copies of the police report and other documents to the victim. Further, Section 173(2) is congruent with the judicial position and statutorily enables the victim to file a 'Zero FIR' or an FIR that can be filed at any police station irrespective of territorial jurisdiction. Finally, Section 360 provides some right of participation for a victim in a criminal proceeding, and affords them the opportunity to be heard if the prosecutor decides to withdraw a case. He also added that however, Section 360 enables these rights for victims only in the presence of an advocate. This may be particularly challenging for victims who are indigent and otherwise lack the means to engage a counsel. This is exacerbated by the fact that legal aid systems across the country see a massive underutilisation of allocated resources (with some states utilizing as little

as 50% of the funds allocated), vacancies in key posts such as secretaries in District Legal Services Authorities, a lack of uniform policy on the sanctioned strength of empanelled lawyers that must be present for DLSAs in each State and a decreasing number of legal aid clinics.

Timelines for Speedy Justice

The esteemed speaker discussed the statutory timelines introduced for various stages of the criminal process, including investigation, pre-trial, trial, and judgment. While these timelines aim to promote speedier justice, he questioned their feasibility given the current under-resourced state of criminal justice institutions. He cited the high vacancy rates in the police and judiciary and the lack of infrastructure as significant obstacles. In continuation of the same the learned speaker highlighted specific timelines relating to the same have been reproduced below:

Firstly he introduced timelines directed towards the police

- a. Section 174(1) BNSS- mandates the police to conduct preliminary enquiry to check whether there is a prima facie case that can be made for cognizable offences punishable between three to seven years of imprisonment.
- b. Section 193(9) BNSS- mandates the police to complete further investigation post the filing of a charge sheet within 90 days unless the court permits the police to extend the timeline.
- c. Section 193(2) BNSS- the police are required

to provide an update on the status of investigation to victims within 90 days

He further mentioned about the timelines directed towards judicial officers which are as follows:

- a. Section 232 BNSS- requires the Magistrate to undertake and complete the proceedings for committal of a case to the Sessions Courts within 90 days, or extend the same up to a maximum of 180 days with reasons.
- b. Section 392 BNSS- requires courts to pronounce judgments within 45 days post the termination of the trial. Additionally, Section 258 of the BNSS requires Sessions Courts to pronounce judgment within 30-45 days post the completion of arguments.

Greater Use of Forensic Evidence

The esteemed speaker addressed the push for greater reliance on forensic evidence and the challenges it poses. He noted the requirement for forensic experts to be present at crime scenes (Section 176 of the BNSS) and the expansion of the types of forensic samples that can be collected (Section 349 of the BNSS). However, he raised concerns about the lack of regulatory standards and the capacity issues in forensic labs.

Use of Audio-Visual Means

The learned speaker appreciated the mandate for recording searches and seizures through audio-visual means (Section 105 of the BNS), which could enhance transparency and

accountability. However, he highlighted the challenges related to the authenticity and integrity of digital evidence and the need for robust protocols to preserve the chain of custody as while audio-video has the potential to strengthen the quality of evidence, it is also more susceptible to alteration, modification and transposition, through direct intervention or unintended corruption of a digital record. Recognising this, the speaker stated the Supreme Court in Arjun Panditrao Khotkar settled conflict in jurisprudence, and held that the procedure under Section 65B IEA must be mandatorily provided for the admissibility of an electronic record. This procedure is essential in order to ensure the authenticity and accuracy of electronic evidence.

Vaguely Worded Provisions

The esteemed speaker expressed concerns about the vaguely worded provisions in the new laws, such as

- a. Section 197(1)(d): False and misleading information- The provision criminalizes the making and publication of false or misleading information jeopardizing the unity, sovereignty and integrity or security of India. Asides the vagueness behind terms such as 'misleading' and 'jeopardizing the unity, sovereignty, integrity, security', the provision also provides no clarity on the degree of mens rea required- is there a need for intention to create false information to cause the intended harm? This lack of clarity collapses the distinction between disinformation (where information that is false is deliberately published in order to

cause some harm) versus misinformation (where information is disseminated without knowledge pertaining to its falsity or impact).

- b. Section 152 of the BNS criminalizes acts endangering sovereignty, unity and integrity of India- covering a wide range of acts despite the lack of clarity over what such acts could constitute, and essentially is the same as Section 124A IPC (sedition).
- c. Section 111 and 112 of the BNS provide for definitions of organized crime, and include a definition of an 'organized crime syndicate'- such a syndicate is defined as either a criminal organization or a group of three or more persons- however, the term 'criminal organization' is nowhere defined. Other phrases in these clauses such as racketeering and gang criminality too have not been defined.

He pointed out the risks of over-criminalization and the difficulties these provisions pose for the criminal justice system.

Conclusion and Interaction

The esteemed speaker concluded his speech by acknowledging the complexity and challenges posed by the new criminal laws. He emphasized the need for continued dialogue and collaboration among all stakeholders to address these challenges effectively. He then opened the floor for questions from the participants, engaging in a detailed and insightful discussion on various aspects of the new laws. Lastly the learned speaker gave best wishes to the participants for their future endeavors.



The Criminal Procedure Code, 1973 to The Bhartiya Nagarik Suraksha Sanhita, 2023: Reforms regarding Court Procedure, Trial and Judgment (Changes, Challenges and Strategies) for Implementation

New definitions in the Bharatiya Nyaya Sanhita (BNS) are noteworthy. While most definitions retain well-established principles of jurisprudence, notable additions include definitions related to audio-video electronic means and electronic communication. These are crucial for understanding the changes in how documents and evidence are handled. Significant structural changes have been made to criminal courts, particularly in metropolitan areas. The posts of Chief Metropolitan Magistrate and Assistant Sessions Judge have been abolished. The Director of Prosecution's role, already present in many states, is now clearly defined at the district level. However, these roles and functions remain illustrative, leaving states to fill in specific details.

Changes in sentencing powers of magistrates are also noteworthy. For Judicial Magistrates First Class, the power to impose fines has increased from Rs. 10,000 to Rs. 50,000, and they can now also award community service as punishment. Community service, defined in Section 23 of the BNS, is work ordered by the court

that benefits the community, for which the person is not entitled to remuneration. This definition is left broad to allow judicial discretion in determining appropriate community service tasks.

Regarding the arrest powers under Section 41 and 41A of the CRPC, now reflected in Section 35 of the BNSS, there is a widespread misconception. Section 41A does not only apply to offenses punishable with less than seven years. It applies to all clauses under Section 41. Even if an investigating officer decides not to arrest an accused during an investigation, issuing a notice under Section 41A is mandatory. This was reinforced by the Supreme Court ruling in *Satender Kumar Antil vs. CBI* (2022), which emphasized that failure to comply with these provisions could result in legal error and punishment for officers. The new law also mandates the electronic or digital issuance of summons, leaving the implementation details to state governments. This aims to streamline and modernize the service of legal documents. The definition of proclaimed offenders has been updated to include those wanted for



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offenses punishable with ten years or more, life imprisonment, or death, broadening its scope beyond the previous 19 specific offenses.

Section 91 of the CRPC, now mirrored in the BNSS, has been expanded to include electronic communications and devices likely to contain digital evidence. This facilitates the collection of digital evidence, crucial in modern investigations.

A major change is the mandatory audio-video recording of all search operations, from the moment entry is made until the premises are vacated. These recordings must be sent without delay to the District Magistrate, Sub-Divisional Magistrate, or Judicial Magistrate First Class, depending on who issued the search warrant. This aims to ensure transparency and accountability during searches.

The new law addresses a significant issue in investigating economic crimes, allowing the attachment or seizure of proceeds of crime during the investigation. This power, previously cumbersome under the Criminal Law Amendment Ordinance 1944, has been streamlined. Approval can now be obtained from the SP or Commissioner of Police, and applications can be filed before the court with jurisdiction to take cognizance of the case.

The law also mandates the quick disposal of seized property during the investigation, with provisions for maintaining evidence integrity through detailed descriptions

and photographic or videographic documentation.

Section 166A of the IPC, now Section 199 of the BNS, criminalizes the failure to follow specific procedures, such as summoning particular categories of persons. Violations of these provisions can lead to departmental or criminal consequences.

The scope of magistrates' powers to record statements and confessions has been restricted to their districts, with mandatory recording of witness statements in serious offenses. The new law also clarifies that police custody cannot exceed 15 days, addressing misconceptions about extended police custody durations.

Section 173 of the CRPC, which allows further investigation after filing a chargesheet, remains but requires court permission if conducted during the trial, with a 90-day completion timeline unless extended.

Several timelines have been introduced to streamline judicial processes. For instance, supplying documents to the accused must be done promptly, and electronic means can be used to avoid the logistical burden of photocopying. Timelines for admission or denial of documents, committal of cases to sessions courts, and filing discharge applications have been set to prevent delays. Plea bargaining has been given a more structured timeline, requiring the accused to file applications before the trial begins, ensuring that trials are not unnecessarily prolonged.

The law also aims to limit adjournments, allowing no more than two at the request of either party, though courts retain the power to grant adjournments suo moto. This change is designed to expedite the judicial process.

The use of technology is heavily emphasized, with provisions for examining witnesses through audio-video electronic means. This requires the state government to establish designated centers with the necessary infrastructure, ensuring accessibility for witnesses in rural areas.

Summary trials have been modified, making them mandatory for certain offenses and increasing the maximum sentence from two to three years. First-time offenders and those successfully plea bargaining may receive lighter punishments, reducing prison overcrowding.

Section 336A introduces significant changes regarding the deposition of retired or transferred public servants and experts, allowing their successors to testify using existing documents and reports. This ensures continuity and prevents delays caused by the unavailability of original experts.

Obtaining voice samples and other biometric data now includes provisions for non-custodial situations, addressing previous gaps in the law. This change, informed by the Supreme Court's judgment in Ritesh Sinha vs. State of UP (2012), ensures that such evidence can be obtained without arrest.

A new jurisprudential principle is introduced, allowing courts to deem the right to be present at trial as waived for proclaimed offenders who evade proceedings despite efforts to secure their presence. This principle also applies to the filing of appeals, where the offender must appear in person.

Victims' rights are enhanced, requiring courts to hear them before allowing the prosecution to withdraw cases. Additionally, for offenses investigated under any central act, state governments must seek permission from the central government before withdrawing cases.

The law also addresses the plight of undertrials, allowing those who have served half their maximum sentence or one-third for first-time offenders to be released on bail. The duty to move such applications falls on the superintendent of the jail.

The new law emphasizes the quick disposal of property seized during investigations, requiring courts to handle such matters expeditiously and using modern technology to maintain evidence integrity.

The Bharatiya Nyaya Sanhita introduces significant changes aimed at modernizing and streamlining the criminal justice process. These changes address longstanding issues in the investigation, trial, and disposal of

cases, emphasizing the use of technology, timely disposal, and the protection of victims' rights. The law's transition provisions ensure that ongoing proceedings continue under the old IPC, while new cases will be governed by the BNS from July 1, 2024. These changes reflect a comprehensive effort to make the criminal justice system more efficient, transparent, and just.

Q: What if a crime committed before the BNSS enactment is reported after July 1, 2024?

A: The CrPC provisions will apply due to Article 20 of the Constitution, which ensures that no person can be punished or sentenced for an act that was not an offense under the law at the time it was committed.

Q: What are the implications for public servants punished with community service?

A: If a public servant is convicted of a crime and punished with community service, the implications will depend on whether the crime falls under the categories that allow for dismissal or termination of services under Article 311 of the Constitution.

Q: How will the courts handle the use of technology for trials?

A: The law mandates using technology for

recording evidence and proceedings, which will require infrastructure and facilities at designated centers notified by the state government.

Q: What are the provisions for deemed prosecution sanction?

A: Under the BNSS, if the competent authority does not take a decision on the prosecution sanction within the specified timeframe, the sanction shall be deemed to have been accorded.

Q: What changes have been made to Section 160 regarding the examination of witnesses?

A: Certain categories of persons cannot be called to the police station and must be examined at their place of residence. However, if such a person volunteers to come to the police station, they may be permitted to do so with proper documentation.

Criminal Law Reforms (BNS, BNSS, BSA) 2023: Challenges and Strategies for Implementation and Effective Coordination

The session commenced with the welcome address of Hon'ble Mr. Justice Aniruddha Bose, Director, NJA given by Dr. Anju Choudhary of Lal Bhadur Shastri, National Academy of Administration, Mussoorie

Hon'ble Director National Judicial Academy, Bhopal - Hon'ble Mr. Justice Aniruddha Bose has graced the occasion and addressed the august gathering on the new criminal laws. The Hon'ble speaker gave an overview of the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhinyam, 2023. He highlighted the point that judicial pronouncements which have developed as a part of old law have now been expressly incorporated in the new criminal laws. The speaker stated that it is remarkable to note in the new laws that it introduces technology compatibility in for various purposes such as service of summon, search and seizure, evidence through video conferencing, digital evidence and its expanding contours etc.

The Hon'ble speaker emphasized that we as judges, administrative and police officers are going to be the implementing

agency and we need to carve out the best means and methodology, of course, within the legal parameters of existing legal landscape. It was highlighted that as implementing agency we need to ponder over the best ways in which we can most effectively implement the provisions of Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita and the Bharatiya Sakshya Adhinyam, 2023 from the midnight of 30th June 2024.

Lordship made the session interactive and the participants were invited to share their viewpoints on the subject. Trial in absentia and the issues of cosmetic trial was discussed in the light of fair trial and various other legal aspects were deliberated by the participants and supplemented by the Hon'ble speaker.

Some of the deliberations that took place are on:

1. Time bound trial and use of electronic evidence
2. Zero FIR and its implementation



Hon'ble Mr. Justice Aniruddha Bose,

Former Judge, Supreme Court of India and Director, National Judicial Academy

3. Filling of bail application and its territorial jurisdiction
4. Trial through video conferencing mode
5. Prescription of timeline at different stages
6. Investigating process in the light of new criminal law
7. Impetus of electronic evidence in criminal justice system and in reaching the correct conclusion
8. Mandatory videography and fair investigation
9. Application of discharge and opportunity to hear accused before discharge
10. Community service as a form of punishment
11. Role of victim in new criminal law and restorative justice
12. Role of SALSA/DASLA in assisting the under-trial prisoners for filling bail bonds.



Strategies for Implementing Forensic Reforms In Criminal Laws: For all stakeholders, including Administration, Police, Prosecution, Courts, Prisons and FSL's

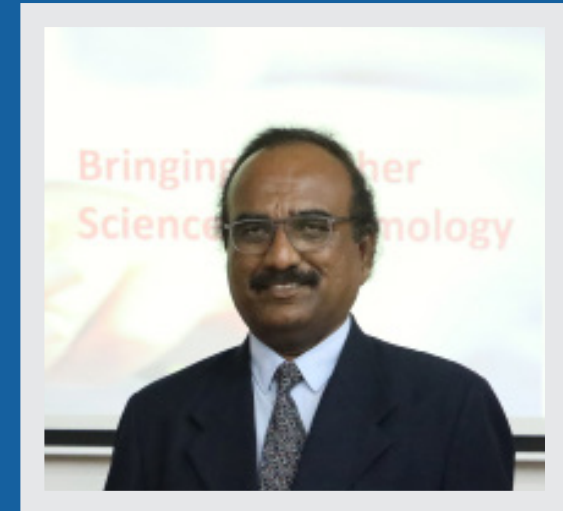
With the date of implementation of new laws already gazetted as 1st July 2024, the era of a new India with its own legacy of criminal laws - Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), Bharatiya Nyaya Sanhita 2023 (BNS) and Bharatiya Sakshya Adhiniyam 2023(BSA) are coming into force and the erstwhile colonial era laws of IPC, CrPC and IEA are being repealed. This brings in the significant shift in the criminal justice system from Retributive to Reformatory approach; shift from Danda (punitive approach) to Nyaya (emphasis on justice) through the use of Data (acceptance of Digital evidence through electronic and technological devices); Shift from Adversarial approach towards partly Inquisitorial approach; jurisdictional flexibility with the recognition of filing of zero FIR and e- FIR; shift in emphasis of new laws on gender sensitive approach, being victim centric and at the same time recognising the principles of natural justice and providing accused also the process of plea bargaining and also protection from false cases.

If we analyse the provisions of new laws in terms of body offences then we note the

following changes. In BNS in comparison to the erstwhile IPC there is a significant shift in approach as follows – Sec 22 BNS which is the provision of criminal responsibility of mentally ill person is in sync with the Mental healthcare Act 2017 thus replacing the term unsoundness of mind in the erstwhile sec 84 IPC.

-Sec 106(1) BNS which describes causing of death by rash or negligent act by any person entitled for five years of imprisonment replacing the erstwhile Sec 304(A) IPC which prescribed two years imprisonment. The major change is the enumeration of - in Sec 106(1) BNS that if such rash or negligent act is done by a registered medical practitioner (RMP) then they are entitled for two years of imprisonment. With this explicit mention of RMP in this BNS provision it is to be seen the implementation of both this BNS provision and the guidelines issued in the Supreme Court judgement of Jacob Mathew case before arresting a RMP for criminal medical negligence.

- Sec 116 BNS describes the grievous hurt. Though all provisions of the erstwhile



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sec 320 IPC are retained. The shift is in the quantum of days in the 8th sub clause wherein any injury which endangers life or puts a person in pain or unable to do ordinary pursuits for a period of 15 days. In IPC provision this was 20 days. We need to see its implementation because it includes more injuries now as grievous hurt with the reduction in the requirement of duration of the incapacitation by injuries.

- Likewise, now Sec 63 BNS describes Rape replacing the erstwhile provision of Sec 375 IPC. Though the exception 2 to sec 375 IPC (forced sex by husband with wife above 15 years) was struck down by the Supreme Court in 2017 in the case of Independent Thought V UOI making all sexual activity less than 18 years as criminal and punishable under POCSO Act; the exception 2 of Sec 63 BNS now clearly brings in this change through legislation itself as forced sex by husband with wife above 18 years is exempted from being termed as an offence of rape. Then how could we accept forced sex by husband with wife who is aged above 18 years? Doesn't it also cause the same consequences to the victim wife like any other victim of forced sex. How could status of marriage alter the consequences? In this regard we are waiting for the Supreme Court to decide on all provisions demanding for making of marital rape as an offence. It is significant to note that already notice is served to central government in this regard (why marital Rape was not part of the new provisions of the law) and the case is likely to be heard in July 2024(next hearing date) by the Supreme Court.

- Attempt to commit suicide by any person which was punishable up to one year imprisonment in the IPC provision of Sec 309 has not found place in the BNS. This may be a welcome step in syncing to the provisions of sec 115 of the Mental healthcare Act 2017 which asked for decriminalising attempts to commit suicide and demanded for therapeutic care to such people. However, a case (Red Lynx confederation V UOI) was pending in Supreme Court challenging which law to prevail – sec 309 IPC or the Sec 115 of Mental healthcare Act 2017. Now with Sec 309 IPC being repealed the case may see a logical end. However Sec 226 BNS punishes those attempted acts of a person committing suicide with an intent compelling or restraining public servant from the discharging of official duty. The solace being one of the punishments prescribed for this offence is community service and we should wait for the implementation of this law and how court would prescribe community service as punishment.

- Consequent to the Supreme Court judgement of 2018 in Navtej Singh Johar case, the BNS does not have a corresponding section to section 377 IPC which punished Unnatural Sex. But the Supreme Court had only decriminalised those consensual homosexual acts of adults done in private. Still nonconsensual homosexual acts, such acts with children and animals were punishable under erstwhile Section 377 IPC. Now we have for Child victims the provisions of POCSO Act. But we do not have corresponding law for forced homosexual acts between men and

sexual acts with animals under BNS covered. We may need an amendment to BNS or special Law to cover these acts.

- Consequent to the Supreme Court judgement of 2018 in Joseph Shine case, the BNS does not have a corresponding section to section 497 IPC which punished Adultery. Though following the Supreme Court judgement, the act of adultery was not punishable per se, but such adulterous acts could be part of adjudication of divorce petitions and abetment of Suicide petitions. Now we need to see when its not an offence under BNS how would the Courts consider such acts in adjudication of divorce petitions and abetment of suicide cases.

In BNSS in comparison to the erstwhile CrPC there is a significant shift in approach as follows

- Sec 184(1) BNSS deals with medical examination of victim of Rape repealing the provisions of sec 164A CrPC. Though all provisions are retained, the change being the submission of the medical examination report by the medical practitioner to the IO which was earlier (Sec 164A CrPC) as 'without delay' now (Sec 184(1) BNSS) being 'within 7 days'. This is a welcome change in recognising the practical difficulties at the ground level. This would benefit in all those cases of victims, wherein the disclosure is partial, time required to establish rapport with the victim for medical examination by psychological first aid / counselling and also by providing rest of the required therapeutic care to the victim of rape.

-Sec 52(1) BNSS exactly replaces Sec 53A

CrPC which deals with medical examination of accused of Rape. However, the new provision did not consider the issue of clarifying the use of reasonable force in such medical examination of accused, whether to do or not do potency tests, the recognition of treatment evidence as medical evidence in adjudication of such cases.

In BSA in comparison to the erstwhile IEA there is a significant shift in approach as follows – Sec 2 (e) BSA and Sec 63(1) BSA recognises electronic evidence and electronic / communicative / technology devices paving way for the new modern India accepting electronic and all digital evidence in its judicial proceedings. With this development we should see how the use in hospitals of HMIS – Health Management Information System wherein we have electronic patient records and use of software apps like MedLEaPR, wherein we have the Medicolegal reports of both living (wound certificate, drunkenness certificate, sexual offences – victim and accused reports) and dead (Postmortem reports) be accepted pan India paving way for a new modern digitised health system.

Though in recent past we have several laws – Rights of persons with disabilities Act, 2016; Mental healthcare Act 2017; Transgender (Rights and Protection) Act 2019, Medical termination of Pregnancy (Amendment) Act 2021, Surrogacy Act 2021, Assisted reproductive Technologies Act 2021 paving way for a gender sensitive approach recognising several rights of vulnerable populations along with several judgements from apex Courts (SC and HCs). With India embracing technology through successful implementation of CCTNS, ICJS, I4C its time along with e Courts, e Prosecution, e Prisons, e Forensics its time to embrace Virtual Autopsy atleast in cases wherein infrastructure is available. Time only should answer the success of the implementation of these new laws in this vast technologically advancing India.



4 DAY FOUR

Criminal Law Reforms 2023 (BNS, BNSS and BSA): Discussion and Q&A Session

The Bharatiya Nyaya Sanhita (BNS) and Bharatiya Nagarik Suraksha Sanhita (BNSS) present a potential interpretive challenge. The preamble describes the legislation as an act of consolidation and amendment. While the term “consolidate” is typically understood to mean combining existing statutes, however, the other existing statutes still remain in effect.

A specific point of contention arises from Section 113 of the BNS. The explanation at the end of this section grants Superintendents of Police the discretion to choose between registration of the case either under the BNS or the Unlawful Activities (Prevention) Act (UAPA) of 1967. This discretion is concerning because the conditions for arrest, bail, and investigation differ significantly between the two statutes. The UAPA, enacted in 1967, was intended as a comprehensive code. This discretionary power granted to Superintendents of Police has the potential to conflict with the stated purpose of consolidation and amendment as outlined in the preamble, particularly if exercised in a manner that undermines citizen rights. Judicial intervention may be necessary to ensure the responsible use of this discretion.

Another potential concern lies in the definition of “petty organized crimes”

under Section 112 of the BNS. This section appears to encompass a broad range of offenses, including gambling/ betting, selling of tickets and cheating. The concern lies in the ambiguity of the phrase “any other similar criminal act”, used in the section. Betting and gambling are distinct from cheating, which typically involves an element of deception or inducement. The omission of terms like embezzlement and misappropriation further raises concerns about the potentially overly broad scope of this definition. Vague and ambiguous language in the legislation can lead to unforeseen consequences, sometimes unwanted.

The inclusion of medical negligence within the BNS also merits discussion. Since the BNS is classified as a consolidation act, it is important to note that the Supreme Court previously established streamlined procedures for investigating medical negligence cases. These procedures require constituting a Medical Board to seek the opinion of another medical professional of good standing before initiating an investigation. The BNS seemingly overlooks this established precedent, potentially leading to a mandatory punishment-based approach to medical negligence cases. Additionally, the BNS now mandates imprisonment as punishment for proven



**Shri Mohit Mathur,
Sr. Advocate**



cases of rash and negligent acts, whereas the previous legislation allowed for the possibility of a fine.

The session was highly interactive, with questions pouring in from across the participants. There was a lot of discussion on the challenges likely to be raised with the introduction of 'Zero FIR' concept in the new BNSS, under section 173, with the inclusion of the words, irrespective of where the offence took place. Allowing the Police, of an area which does not have jurisdiction, to continue such investigation may cause immense hardship to the citizens. In case the IO decides not to transfer the FIR to the jurisdictional thana may lead to accused suffering all pre-trial proceedings before Courts which otherwise does not have territorial jurisdiction to try the offence in terms of the Sanhita. Another issue raised by one of the participants was that it could also be unfair to the Trial Judge who would be forwarded material collected by an IO, not belonging to his jurisdiction. While dealing with section 173, it was also raised as to the ambiguity regarding categorising offences punishable from 3 years to 7 years punishment for conducting preliminary inquiry.

Complaint cases likely to be delayed because of giving a hearing to proposed accused before taking cognizance, was also taken up. This unique provision though seems to be introduced to protect innocent people from vexatious complaints, but may be misused by unscrupulous people who may keep on delaying the progress of a complaint filed

against them on one pretext or the other. An area of concern for all stakeholders was the ambiguity in the provisions of section 107 of BNSS which allows an IO to approach the court for attachment of property in the hands of the accused or anyone else, if he believes the same to be acquired from the proceeds of a criminal act. Now, with these proceedings likely to be parallelly carried on, may cause undue hardship. Moreover, its further provisions permitting disposition and rateable distribution of the said assets amongst victims, increases the chances of misuse. Therefore, it was felt that the onus on the Courts would be tremendous to ensure fairness in procedure and balancing the rights of the victims with those of an accused.

Trial in absentia under section 356 of BNSS was also raised and discussed with the participants who had their viewpoints regarding the said provision as a step to end the agony of the victims who haplessly wait for the trials to end.

Before concluding, the issues likely to arise in cases spilling over the date of 1st July, were raised, and it was debated as to what would be the fate of such cases. It was also pointed out innumerable situations would arise with the repeal of IPC and Cr.P.C. such as earlier offence being detected later, and those whose punishments are mollified or reduced. In that brief discussion it was also noted that peculiar fate awaits those cases where offences have been repealed/obliterated, such as present section 377 IPC. Reference was also made to section 358 BNS

where the offences committed under the repealed Code have been saved and could be tried.

It was in fact a very interesting interaction with the Participants from across the professional lines. They too shared the concerns as these were legitimately felt to be affecting all around.



Criminal Law Reforms (BNS, BNSS, BSA) 2023: Changes in Punishment Policy, Graded Punishment Scheme, Community Service, Changes in Quantum of Punishment, Mercy Petition, Obstacles and Implementation Strategies

The Nature and Evolution of Punishment:

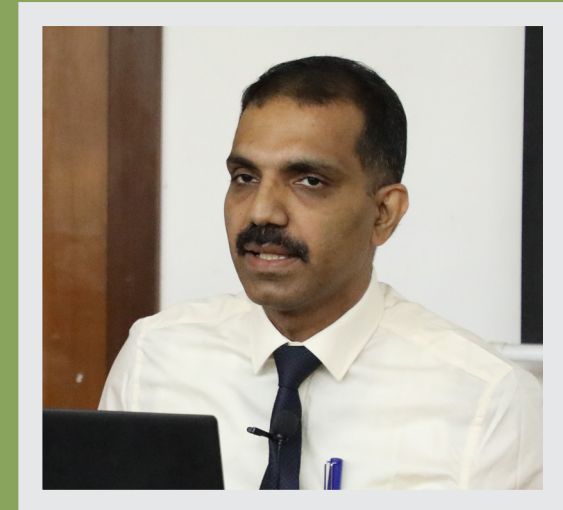
The speaker started his insightful session by emphasizing the importance of introspection and dialogue over mere lecturing. He began by reflecting on his five years of training at the police academy and he also highlighted the value of learning from each other's experiences. He then delved into the historical context of the criminal justice system, beginning with the Hammurabi Code's "an eye for an eye" principle. However, he contrasted this with the more nuanced and sophisticated theories of punishment found in ancient Indian texts like the Dharmashastras, which predate the Hammurabi Code by a significant margin.

The speaker further explained that the British colonial period significantly altered the Indian legal system, sidelining the rich legal traditions that existed before. He further said that Post-independence, India adopted the Indian Penal Code and later the Constitution. However, he suggested

that it is time to reintegrate some of the ancient wisdom into modern law. He also stressed that punishment has always been a crucial aspect of maintaining social order and justice, serving various purposes such as deterrence, retribution, rehabilitation, and protection of the public.

Sentencing and Judicial Responsibilities

The speaker then proceeded towards addressing the complexities of sentencing, noting that it requires a combination of various skills and a careful balance. He outlined that the proportionate and consistent application of punishment is crucial to achieving justice. He also discussed the challenges faced by judges in determining appropriate sentences, emphasizing the importance of having a clear set of principles and algorithms to guide sentencing decisions. He further asserted that the goal should be to achieve a unified theory of punishment that balances harm to the victim, culpability of the offender, and also considers factors like



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Deputy IG of Police, CID Police
HQ, Kohima

aggravating and mitigating circumstances. The speaker then highlighted the lack of statutory guidance for sentencing in India, and contrasted this with the more structured approaches found in countries like the US and UK. He outlined that this lack of clear guidelines places a significant burden on judges, who must rely on their wisdom and experience to make fair decisions. He further called for the development of comprehensive sentencing guidelines to ensure consistency and fairness in the criminal justice system.

Case Studies and Practical Examples

The speaker then proceeded to illustrate his points, by sharing several case studies. One such case involved a 13-year-old boy who committed suicide, thereby revealing the investigative and ethical challenges police officers face. The investigation uncovered sexual abuse by a teacher, highlighting the importance of thorough and sensitive investigations. This case underscored the multifaceted role of punishment, which includes not only deterring crime but also providing justice for victims and an opportunity for offenders to reform. The speaker also put forward another case which involved a man who, years after serving his sentence for a crime, thanked the officer who arrested him for giving him a chance to reform. This story emphasized the potential for rehabilitation and the positive impact that fair and proportionate punishment can have on individuals. He further warned against viewing punishment as a dirty word, emphasizing its role in maintaining social order and justice.

Challenges in the Criminal Justice System

The speaker also acknowledged the difficulties in ensuring justice, particularly in a democracy where the public opinion and legal principles often clash. He cited examples from Nagaland, where the public demands for immediate justice can conflict with legal processes. The role of various actors in the criminal justice system, from police officers to judges, requires navigating through these complex dynamics.

Reforms and Future Directions

The speaker further outlined several recent changes and proposed reforms in the Indian criminal justice system. These included increasing the range of punishments, rationalizing the punishment process, and streamlining the mercy petition process. He also emphasized the need for a comprehensive approach that incorporates both traditional wisdom and modern legal principles. He also highlighted the importance of inter-agency coordination and the role of various entities, including the executive, judiciary, and legislature, in shaping and implementing these reforms. He further said that the goal is to create a more efficient and just system that can adapt to the complexities of modern society. He stressed on the importance of proportionate and consistent sentencing and the value of integrating traditional legal wisdom with modern practices, and the need for comprehensive reforms in the criminal justice system.

Conclusion

The speaker concluded his session by emphasizing the need for continued introspection, discussion, and collaboration among all stakeholders to achieve these goals. He further reiterated the importance of a balanced and thoughtful approach to punishment and justice.

The speaker then proceeded towards addressing the questions posed by the participants which are as follows:

1. Given the socio-economic condition of the country, wouldn't the enhancement of fines and imprisonment in lieu of fine be contrary to the aim of decongesting prisons?

Answer: The speaker acknowledged the question but suggested that it might not be entirely in the direction of the main discussion. The speaker mentioned that the burden and socio-economic conditions must be considered, and a lot of things need to be settled to address such issues comprehensively.

2. One of the challenges discussed was that community service is not clearly defined in the new criminal laws. If it includes certain tasks like cleaning etc. , will that not be a violation of rights?

Answer: The speaker agreed that a clear set of rules is needed for community service to ensure it does not infringe on rights. He also noted the importance of providing facilities that respect the dignity of individuals

performing community service tasks.

3. What are the principles and algorithms that should guide sentencing?

Answer: Sentencing should follow a unified theory that considers harm to the victim, culpability of the offender, aggravating and mitigating factors, and other considerations like plea bargaining. Clear paradigms and guidelines are necessary for consistent and fair sentencing.



GROUP PRESENTATION

Group 1

Topic: JUSTICE UNDER ONE UMBRELLA- ROLE OF CCTNS AND ICJS/ICJS 2

Members: Shri Naman Priyesh Lakra, Shri Umesh R. Patel, Shri Abhinav Sonkar, Shri Kuntal Bhattacharya, Shri Subir Kumar, Ms. Nisha Meena, Shri A. P. Kokate, Shri Manjeet Singh Sankhla

The Crime and Criminal Tracking Network and Systems (CCTNS) and the Inter-operable Criminal Justice System (ICJS) constitute a technological interface established by the Government of India under the guidance of a committee formed by the Honorable Supreme Court. This initiative aims to foster coordination amongst the judiciary, forensic science laboratories, prosecution services, and police forces by providing a unified platform for data and information exchange.

The Crime and Criminal Tracking Network and Systems (CCTNS) was launched by the Ministry of Home Affairs in 2013, followed by the Inter-operable Criminal Justice System (ICJS) in 2015 and e-courts in 2013. E-prosecution and Forensic Science Laboratories (FSL) systems were introduced

in 2019. These disparate timelines for the development of various portals and software versions have resulted in the utilization of diverse technologies and software iterations. Given the interdepartmental nature of the subject matter, achieving seamless integration is paramount. The focus, as the name "ICJS" or "ICJS 2" suggests, lies in fostering interoperability amongst various stakeholders – forensic laboratories, police forces, courts, prisons, fingerprint bureaus, and prosecution services. The emphasis within the context of this national crime and criminal database is on facilitating the efficient retrieval of data by authorized personnel across departments, encompassing the entire criminal justice process – from the initial filing of a First Information Report (FIR) by the police to prosecution and court proceedings.

While some states have independently developed dashboards – for instance, the "e Gujrat Cops" or "Guj Cops" software – predating CCTNS, these systems often lack robust integration with either CCTNS or ICJS. To achieve real-time data sharing and analysis in accordance with the time-bound procedures mandated by the BNSS or the BNS, it is imperative to ensure proper pan-India integration of such state-level systems.

However, this integration necessitates addressing the critical issues of data integrity and data theft. To this end, stringent access controls must be implemented to restrict data usage to authorized personnel. For example, only administrative personnel should be granted access to the e-courts system when interacting with the Honourable Courts.

Discussions surrounding the technological infrastructure required for these portals and applications to function – encompassing hardware and software – are prevalent. However, equal consideration must be given to the crucial factor of behavioral acceptance. Numerous reports have highlighted a significant challenge – resistance to change amongst Investigating Officers (IOs) at all levels. This presents a critical hurdle that necessitates a comprehensive strategy to overcome.

Strategies and Solution:

The successful operation of this system hinges on the accuracy of data entry and hence someone needs to feed in the data diligently. Furthermore, a mechanism for error correction must be incorporated to ensure data integrity.

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Strategies and Solution:

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The system should also prioritize the utilization of standardized legal terminology that is universally understood by all stakeholders. This may necessitate the inclusion of a glossary function to translate regional variations, such as “Jabati” (search) in Gujarat and “Zimmanama” (temporary handover of seized articles) in Bengal, into common legal language. Additionally, the system should facilitate the recording of basic FIR details in a standardized language to ensure clarity and consistency across jurisdictions.

Benefits to different stakeholders:

The citizens will save their resources and better access and know the case information

For lawyers they can better prioritize their time as well as when they are supposed to appear in court

Likewise for judges they can know which case to prioritize. It will also help in research and judgment writing

For forensics, they can easily send their report to IO or the Court as and when required.

The implementation of this system offers a multitude of advantages for various stakeholders. Citizens will benefit from improved access to case information. Lawyers will gain the ability to optimize their time management by readily accessing court appearance schedules and prioritizing their schedule. Similarly, judges will be empowered to prioritize cases more effectively. Furthermore, the system will facilitate research and judgment writing for the judiciary. Finally, forensic laboratories will enjoy a streamlined process for transmitting reports to Investigating Officers (IOs) and the courts as needed.

Question: Can you please tell me the provisions of CCTNS regarding S173, zero FIR BNSS, and transfer of electronics us 105, 185 and 176 BNSS.

Answer: For ZERO FIR, we are getting a latest patch in which we can transfer the FIR, but the catch is we can transfer FIR only once, and if it has to be further transferred then it can only be done through Court. Currently, we cannot transfer FIR interstate and only intra state through CCTNS. We can add this option.

Coming to search and seizure recording, a new app e-Sakshya will be coming in some time wherein the IO will be recording which will be uploaded to the cloud and the courts can access it.

Group 2:

Topic: Victim First: Coordinated efforts for Justice and Healing

Members: Shri Lalit Jain, Shri Ankur Jain, Shri Shivendu Bhushan, Shri Surender Singh, Shri Dhananjay Kumar Singh, Shri Kepra M Lyngdoh Nongbri, Smt. Shikha Shrivastava, Shri Akshay Sharma
Traditionally, the victims were treated as forgotten persons who just lodge a complaint and set the criminal justice system in motion and at best were considered as the best witness. But they are now at the center of the entire process, from investigation to the trial and sentencing, the whole process of the criminal justice system is focused on the victims.

The developments of victimology begins from several committee reports, criminal amendment of 2008, 2013, acid attack case, and we recently have the BNS which takes it to a step further. Traditionally, victims within the criminal justice system were treated as forgotten persons. Relegated to the role of mere complainants who initiated proceedings, they were often viewed primarily as witnesses. However, a paradigm shift has emerged, placing victims at the forefront of the criminal justice process. Their needs are now considered throughout the entire criminal justice process, from investigation and trial to sentencing. This increased focus on victim-centricity is evident in a series of developments, including various committee reports, legislative amendments to the criminal code in 2008 and 2013, the landmark acid attack case, and most recently, the BNS and the BNSS Statutes, which represent a significant step forward in this evolution.

We have two definitions here, one under Section 2(1)(y) of BNSS and one under UNDHR. The two definitions are different from each other in some way. But if we go by the IPC definition of injury, it captures all the other intangible aspects of harm like mind etc. It is important to highlight that the term in the CrPC "for which the accused person has been charged" is omitted, so even if we can't identify the accused, the rights of the victim have to be maintained. The relevant provisions under the new laws can be put under five heads, Access to Justice, Right to participation, Right to information, Right to restoration, Right to speedy Justice

Two distinct definitions of “victim” exist: one enshrined within Section 2(1)(y) of the BNSS, and another established by the Universal Declaration of Human Rights (UNDHR). These definitions exhibit certain discrepancies. Notably, the Indian Penal Code’s (IPC) definition of “injury” encompasses a broader range of intangible harms, including those inflicted upon the mind. It is crucial to emphasize the omission of the phrase “for which the accused person has been charged” within the CrPC’s definition. Consequently, victim’s rights are upheld even in instances where the accused remains unidentified.

The relevant provisions under the new laws can be put under five heads, Access to Justice, Right to participation, Right to information, Right to restoration, Right to speedy Justice

The BNSS and BNS Statutes introduce a series of provisions that enhance access to justice for victims. These include allowing victims to lodge complaints at any police station irrespective of jurisdiction (Zero FIR and e-FIR, Section 173 BNSS), mandatory recording of information by a woman officer in cases of sexual offenses (Sections 173/180 BNSS), the utilization of special educators and interpreters for victims with disabilities in specific cases (Sections 173/180 BNSS), recording of statements by a woman magistrate in cases involving sexual offenses (Section 183(6) BNSS), and the prioritization of trials conducted by women judges in sexual offense cases, whenever practicable (Section 366 BNSS).

Regarding the right to information, the new legislation mandates the following: provision of a free copy of the First Information Report (FIR) to the victim (Section 173 BNSS), updates on the investigation’s status within 90 days (Section 193 BNSS), and the court’s responsibility to furnish the victim’s advocate (if represented) with a copy of the police report (Section 230 BNSS).

The right to participation has undergone a significant transformation. Previously, victims were largely sidelined after registering a complaint. Now, under Section 18(8) of BNSS, victims have the right to participate in the proceedings and engage a lawyer to assist the public prosecutor. Additionally, victims are empowered to appeal against court judgments concerning acquittal, inadequate sentencing of the accused, or insufficient compensation awarded to the victim (Section 413 BNSS), withhold consent for the withdrawal of prosecution proceedings (Section 360 BNSS), access the police report, including the evidence relied upon (Section 230 BNSS), seek authorization to be present during bail applications in specific cases (Section 483(2) BNSS), and withhold consent for plea bargaining agreements (Section 293 BNSS). Furthermore, the mandatory notification of the Witness Protection Scheme (Section 398 BNSS) has been incorporated into the law. This scheme, previously implemented based on directives from the Hon’ble Supreme Court, now requires notification by every state.

The concept of victim restoration extends beyond seeking punishment for the accused. The BNSS acknowledges this by introducing Section 107, which permits the attachment and forfeiture of property derived from the proceeds of crime. This provision incentivizes the accused to return property involved in the offense through reduced punishment for minor offenses (Section 303 BNSS).

Finally, recognizing the significance of speedy justice for victims, the BNSS establishes timeframes for specific offenses. These include a 60-day limit for completing investigations in sexual offense cases, restrictions on the number of adjournments, provisions for trials in absentia, and a requirement for furnishing medical examination reports of victims of sexual offenses within seven days.

Shortfalls:

Enforcement of various rules and regulations by different agencies remains fragmented, disregarding the need for prioritizing victim well-being. This translates into a dearth of readily available free legal aid for victims, and scarce instances of interim relief being granted. Most critically, the absence of a mandatory victim impact statement during sentencing leaves the determination of punishment entirely to the judge’s discretion. Furthermore, psychological counseling for victims is rarely considered, highlighting a need for support that extends beyond mere financial compensation.

Solutions:

The State of Telangana has implemented a commendable initiative known as the “Sakhi” one-stop centers. These centers provide victims with a centralized location to access a comprehensive range of support services, encompassing legal aid, medical assistance, guidance on complaint drafting, counseling, and more. The establishment of monthly monitoring committees could further strengthen this system by ensuring consistent oversight and evaluation.

Technological advancements can play a pivotal role in guaranteeing the comprehensive implementation of the legal provisions.

Incorporating victim impact statements into the sentencing process is another crucial step. These statements offer a powerful tool for judges, allowing them to consider the impact of crimes on victims.

Substantial investments in training programs and public awareness campaigns are imperative. By equipping stakeholders with the necessary knowledge and fostering widespread public understanding, these measures can significantly enhance the overall effectiveness of the legal framework.

Group 3:

Topic: Synergies and
De-siloization of Training
Institutes in Implementing

Criminal Law Reforms: Issues, Challenges and Strategies

Members: Mr. Vikram Ms. Neha Yadav Mr. Rohit Rajbir Singh Mr. Logesh Kumar P Mr. Nishant Dev Mr. Rupesh Deo Mr. Rajesh Kumar Jaiswal Mr. Syed Sarfaraz Rizvi

Introduction:

What Aristotle said “the whole is more than the sum of its parts” is aptly reflected in the famous dialogue of Jackie Shroff in the movie Border “hum hi hum he to kya hum he, tum hi tum ho to kya tum ho”.

The underlying premise of this discussion centers on the importance of training, specifically its multidimensional and intersectional nature. This emphasis extends beyond the curriculum itself, encompassing training schedules and target audiences.

The primary advantage lies in fostering enhanced coordination amongst various stakeholders within the criminal justice system. By reducing existing trust deficits, this collaborative approach paves the way for consistency in the application of laws across India’s diverse landscape. Furthermore, the emphasis on multidimensionality facilitates peer-to-peer learning, enriching the procedural and legal knowledge of public officials entrusted with upholding the law. Ultimately, this comprehensive training cultivates a shared “constitutional vision of justice” amongst all stakeholders.

Issues:

The discourse now shifts towards the identification of specific issues that necessitate careful consideration within the training process. These issues can be characterized as concrete challenges that targeted and dynamic actions can effectively address.

An initial step involves the comprehensive identification of all relevant stakeholders within the criminal justice system. Efforts must be directed towards highlighting the distinct benefits that such engagement offers to each stakeholder group

Effective strategies must be developed to manage conflicting schedules and ensure minimal impact on ongoing legal and law enforcement activities.

The creation of standardized training materials tailored to the specific roles and responsibilities of each stakeholder group is important. This ensures consistency in the knowledge and skills imparted across the entire criminal justice system. Additionally, securing sufficient funding and resources to support comprehensive training programs is paramount.

To maintain efficacy, training materials must be continually reviewed and revised to incorporate the latest legal developments. Ongoing program evaluation through feedback mechanisms and practical experience analysis is essential to ensure continuous improvement. Finally,

establishing robust methods to assess the effectiveness of training programs is necessary. Implementing follow-up sessions can serve to address any identified knowledge gaps and bolster the overall learning outcomes.

Challenges

Challenges are broader obstacles or difficulties that may arise in the process of addressing the issues. They often involve complex, systemic factors and require strategic and dynamic approaches to overcome.

These challenges encompass fostering interdepartmental communication across diverse work cultures, navigating the complexities of varied ethical considerations amongst stakeholders, and strategically integrating technology to suit specific needs. Overcoming resistance to change from personnel accustomed to existing procedures requires a focus on effective change management strategies. The program's success hinges on the credibility of training institutions and faculty, necessitating high standards for curriculum development and instruction. Finally, fostering a culture of humility and continuous learning among participants is essential to counter personal ego and promote effective knowledge sharing.

STRATEGIES – Taking inspiration from International Experience

Several international examples offer valuable insights into effective training practices. The United States Department of Justice employs joint training sessions for federal prosecutors and investigators. This collaborative approach fosters a uniform understanding and application of the law, enhancing overall credibility. In New Zealand, the government partners with universities and private organizations to secure funding for training programs dedicated to law enforcement and judicial personnel. This collaborative funding model allows for ongoing resource evaluation (Resource Evaluation). Germany's Max Planck Institute for Foreign and International Criminal Law integrates ethical considerations into its training curriculum for prosecutors, judges, and law enforcement agencies, acknowledging the importance of ethical conduct within the criminal justice system (Ethical Considerations). The Australian Institute of Criminology utilizes comprehensive evaluation frameworks to assess the effectiveness of training programs. This data-driven approach allows for continuous improvement and ensures the ongoing relevance of training content (Resource Evaluation). Singapore's Home Team Academy leverages advanced simulation technologies and digital platforms within its training programs for law enforcement and judicial officers. This integration of technology provides a dynamic and engaging learning environment (Technological Integration). Finally, the Royal Canadian Mounted Police (RCMP) Leadership Development Program emphasizes humility, ethical leadership, and continuous learning.

This focus combats potential issues of ego and fosters a collaborative spirit amongst stakeholders from diverse backgrounds (Personal Ego and High-Headedness).

Strategies- Training

Case study analysis fosters collaboration among participants from diverse fields, such as investigators, judges, and legal experts. By dissecting real or hypothetical scenarios, these professionals gain a comprehensive understanding of how the new laws impact each stage of the judicial process, from investigation to trial. Panel discussions offer valuable insights into the practical implications of new laws. Convening panels comprised of judges, police officers, forensic scientists, and legal authorities allows for a rich exchange of perspectives from various stakeholders within the system.

The establishment of multi-agency task forces fosters a collaborative environment for studying new legislation. These task forces, composed of members from the judiciary, law enforcement, and forensic departments, can develop training materials tailored to the specific needs of each stakeholder group. Blended learning approaches offer a flexible yet comprehensive learning experience by combining online resources with in-person training sessions. Participants might, for instance, complete online modules on the new laws before attending a joint workshop to discuss practical applications in a collaborative setting.

To effectively train a large number of stakeholders, a scalable training program is crucial. Often, this begins with a “Training of Trainers” initiative, where a core group receives in-depth instruction. These individuals can then disseminate their knowledge to wider audiences. Scenario-based training, incorporating simulations and role-playing exercises involving judges, police officers, and forensic professionals, can be highly effective in illustrating the practical implications of new laws. Finally, conducting mock trials at an advanced stage ensures that all stakeholders understand their roles and responsibilities within the legal framework, particularly how their actions intersect with those of other participants in the judicial process.

Que. How do you change the behavioural pattern of officials at senior level.

Ans. I think the genesis in the attitude will change, and in senior level that does not come from inside but through externalities only.

Group No.- 4:

Topic: Technological Reforms in Criminal Law Reforms : Challenges & Strategies

Members : Siddharth Bahaguna, Shasvat Kumar, Manish, Swati Singh, Praveen kumar, Sherap P. Lepcha, Qazi Irfan.

Content:

The group emphasized the need to make the criminal justice system more victim-centric. Key reforms discussed included the implementation of Zero FIR and progress reports of investigations to enhance transparency and accountability. Leveraging technology to expedite processes, such as the recording of statements and summons, was highlighted as a crucial step. Additionally, the group stressed the importance of adapting to emerging trends in crime and digital evidence, advocating for the redefinition of primary evidence through videography of search and seizure operations and clarification regarding 65B certificates.

Challenges

Several challenges were identified in the implementation of technological reforms in criminal law. Ensuring the equitable distribution of the benefits of digitization and addressing it was primary concern. The management of large volumes of data and the potential misuse of artificial intelligence and other advanced technologies were also noted as significant issues. Privacy concerns, especially regarding the filing of FIRs and the standardization of digital evidence formats, were highlighted. Resistance to change among manpower and the necessity for training in digital devices were additional challenges.

Further challenges included cyber threats to emerging critical cyber infrastructure, the

lack of interoperability between multiple platforms such as CCTNS, e-Courts, and ICJS, and infrastructural constraints related to the videography of crime scenes. The global nature of digitally connected crimes, which necessitates extensive coordination and collaboration, was also identified as a hurdle, along with topographic constraints.

Strategies

To address these challenges, the group proposed several strategies. Institutional commitment to dedicated financing for infrastructure upgrades and fostering synergies between different wings of the criminal justice administration were deemed essential. Training personnel to understand rapid environmental changes through calibrated strategies was also emphasized. Developing Standard Operating Procedures (SOPs) for secure storage, retrieval, and production of digital evidence, and subsequent training of manpower across ranks and stakeholders were recommended.

The group suggested harnessing blockchain technology for evidence and record-keeping, and utilizing the vast amounts of data generated from FIRs to final judgments for data mining, analysis, and prediction. The creation of multidisciplinary teams comprising law enforcement officers and domain experts, including data analysts, was proposed to handle cases with global connections. Remote court hearings and virtual trials were recommended to enhance the efficiency and accessibility of the justice

system.

Finally, the utilization of the Digital India Stack to authenticate witness and accused statements and the adoption of global best practices by aligning procedures with international standards were proposed. A comprehensive review of these strategies every year for the next five years was suggested to ensure timely adjustments and improvements.

Conclusion

The symposium concluded with a call for questions and comments from the audience, encouraging further discussion and engagement on the topic of technological reforms in criminal law. The commitment to continuous improvement and adaptation in the face of technological advancements was underscored as vital for the evolution of the criminal justice system.

QUESTIONS BY PANELIST

Question 1:

Panelist: How does the implementation of Zero FIR and the progress report of investigations contribute to a more victim-centric criminal justice system?

Group Member: The implementation of Zero FIR allows any police station to register a First Information Report (FIR) irrespective of the jurisdiction, which ensures that victims can report crimes without facing delays. This

approach speeds up the initial steps of the criminal justice process, providing timely support to victims. Additionally, the progress report of investigations ensures transparency and keeps victims informed about the status of their cases, further empowering them and building trust in the system.

Question 2:

Panelist: What are the main challenges associated with the standardization of digital evidence formats, and how can these challenges be addressed?

Group Member: One of the main challenges is the lack of uniformity across different jurisdictions and platforms, which can complicate the handling and admissibility of digital evidence in court. To address this, we propose developing standardized protocols for the collection, storage, and presentation of digital evidence. This includes clear guidelines on what constitutes admissible digital evidence and the formats in which it should be presented. Regular training and workshops for law enforcement and legal professionals can also ensure consistent implementation of these standards.

Question 3:

Panelist: How can blockchain technology be harnessed for evidence and record keeping in the criminal justice system?

Group Member: Blockchain technology offers a secure and tamper-proof method for storing and managing records. By utilizing blockchain, we can ensure the integrity

and authenticity of digital evidence from the point of collection to its presentation in court.

Group no.- 5:

Topic: "Criminal Law Reforms-Speedy Justice: Challenges and Strategies"

Members : Dekka Kishore Babu, Dr. Ramesh Chandra Yadav, Deepti Garg, Manish Sharma, V. Rukmani Priyadarshini, Dr. Sanchali Padhye, Bhumika Pradhan

CONTENT :

Key Challenges in Technological Reforms

One of the primary challenges highlighted was ensuring that the benefits of digitization are equitably distributed, addressing the digital divide that exists within various jurisdictions. The management of large volumes of data, the potential misuse or abuse of artificial intelligence, and addressing privacy concerns associated with digital evidence were also critical issues. The presentation underscored the need for standardized formats for digital evidence and the requirement for substantial manpower to handle digital devices and overcome resistance to change. Additionally, cyber threats to critical infrastructure, lack of interoperability between multiple platforms such as CCTNS, E-Courts, and ICJS, and infrastructural constraints like videography

of crime scenes were identified as significant obstacles.

Proposed Strategies for Technological Integration

To address these challenges, Group IV proposed several strategies. These included securing dedicated finance to upgrade infrastructure, fostering synergies between different wings of the criminal justice administration, and implementing calibrated strategies to train personnel. Developing Standard Operating Procedures (SOPs) for the secure storage, retrieval, and production of digital evidence was deemed crucial. Emphasis was placed on the need for multidisciplinary teams comprising law enforcement officers and domain experts to handle cases with global connections, alongside utilizing blockchain technology for evidence and record-keeping.

The group also highlighted the potential of remote court hearings and virtual trials, and the importance of adopting global best practices by aligning procedures with international standards. A comprehensive annual review was suggested to ensure timely updates and adaptations to evolving technological and legal landscapes.

Enhancing Speedy Justice: Challenges and Reforms

In a parallel presentation, Group V addressed the critical issue of speedy justice within the criminal law framework. They emphasized the importance of swift justice in protecting the rights of the accused, reducing errors

in witness testimony, strengthening public confidence, and lowering the burden on the judicial system.

Key Challenges in Speedy Justice

The presentation identified several challenges impeding speedy justice. These included a backlog of cases, inadequate resources across courts, police forces, and forensic labs, and complex legal procedures. Issues such as witness intimidation, the rising number of diverse crimes, and the pendency of appeals were also highlighted. Strengthening the police force and prosecution, and improving the infrastructure of prisons, police stations, and judicial complexes were deemed essential.

Proposed Reforms for Speedy Justice

Group V proposed numerous reforms to tackle these challenges. The separation of police functions into law and order and investigation roles, utilizing technology such as video conferencing, e-filing, and digital case management systems like ICJS and CCTNS, and enhancing coordination among stakeholders were key strategies. Updating the skills of all stakeholders and preparing SOPs for the chain of custody and preservation of digital records were also emphasized. The group recommended promoting plea bargaining, alternative dispute resolution (ADR), and Lok Adalats to encourage negotiated settlements. Fast-track courts for minor offenses and targeted recruitment to address staffing shortages were also proposed.

Conclusion

The integration of technological reforms in criminal law and the pursuit of speedy justice are cornerstones of a fair and effective criminal justice system. Ensuring justice is accessible, swift, and uncomplicated for the common man requires a balanced approach that safeguards the rights of both the accused and victims. The discussions and strategies proposed by Groups IV and V offer a comprehensive roadmap to achieving these goals, highlighting the critical need for continuous adaptation and innovation in the face of evolving challenges in the realm of law.

QUESTIONS BY PANELIST

Question 1:

Panelist: What are the main challenges in achieving speedy justice, and how can they be addressed?

Group Member: The main challenges in achieving speedy justice include the backlog of cases, inadequate resources in courts, police forces, forensic labs, and complex legal procedures. Witness intimidation and unavailability, the rising number of various types of crimes, and the pendency of appeals also contribute to delays. Addressing these challenges requires strengthening the police force and prosecution, improving infrastructure in prisons, police stations, and judicial complexes, and ensuring witness protection. Implementing reforms such as separation of police duties, utilizing

technology for video conferencing and digital case management, and promoting fast-track courts for minor offenses are crucial steps.

Question 2:

Panelist: What reforms are proposed to address the backlog of cases and ensure timely justice?

Group Member: Several reforms are proposed to tackle the backlog of cases. These include the separation of police duties between law and order and investigation to enhance focus and efficiency. Utilizing technology, as mentioned earlier, is critical. Coordination among all stakeholders to understand nuances and solve issues collectively is essential. Updating and upgrading the skills of all stakeholders through continuous training, preparing Standard Operating Procedures (SOPs) for the chain of custody and preservation of digital records, and encouraging plea bargaining, Alternative Dispute Resolution (ADR), and Lok Adalats for negotiated settlements.

Question 3:

Panelist: What role do fast-track courts and alternative dispute resolution (ADR) mechanisms play in achieving speedy justice?

Group Member: Fast-track courts play a vital role in handling minor offenses quickly, thereby reducing the overall burden on the judicial system. By dedicating specific courts to handle less complex cases, we can ensure faster resolutions and free up resources

for more serious cases. Alternative dispute resolution (ADR) mechanisms, such as plea bargaining, Lok Adalats, and negotiated settlements, also contribute to speedy justice by providing quicker, less formal means of resolving disputes. These methods not only expedite case resolution but also reduce the backlog of cases in traditional courts, making the justice system more efficient and accessible.

Group No.- 6:

Topic: "Role of Forensics in Criminal Law Reform: Challenges And Strategy"

Members : Shri. Akshay Raj, Shri. Siddhant Jain, Shri. Harish Chandra Mishra, Shri. Nitish Agrawal

CONTENT

Introduction

Implementing criminal law reforms in India is a complex and multifaceted process that involves addressing a range of challenges deeply embedded in the legal, social, and cultural fabric of the country. From a forensic perspective, these challenges are particularly daunting, requiring significant changes in how forensic science is utilized, managed, and integrated into the criminal justice system.

Key Legislative Changes

Section 176(3) BNSS: This section mandates the collection of forensic evidence at the crime scene by a 'forensics expert' for offenses punishable by imprisonment of seven years or more. States are required to implement this provision within five years, enhancing the infrastructure for forensic investigations.

Section 349 BNSS: This section expands the powers of Magistrates to order the collection of forensic samples, including fingerprints and voice samples, from any person upon a written order. Unlike the CrPC, BNSS allows sample collection without prior arrest, providing more flexibility.

Section 329 BNSS: This section allows the submission of a report by a government scientific expert without requiring oral testimony in court, expanding the categories of exempted experts to include any scientific expert specified or certified by the State or Central Government.

Section 330 BNSS: When any document is filed, its particulars must be included in a list, and the prosecution or accused must admit or deny the genuineness of each document within thirty days. This section also restricts expert testimonies unless the expert's report is disputed, simplifying the document admission process.

Use of Technology

Digitizing Justice: The new laws emphasize the use of technology at all stages, from e-FIR

to investigation to submission of documents to trials. This includes the use of electronic communication for recording processes of identification, search and seizure, and evidence transmission.

Electronic Evidence: The definition of 'evidence' has been expanded to include any information given electronically, allowing for the appearance of witnesses, accused, experts, and victims through electronic means. This eases the trial process and prevents delays.

Enhancing Transparency and Accountability

Audio-Video Recording: The new laws incorporate provisions for the audio-video recording of search and seizure operations, ensuring transparency and fostering police accountability. This is particularly important for safeguarding individual rights and maintaining the integrity of the evidence collection process.

Training and Infrastructure

Training for Law Enforcement: Adequate training for law enforcement officers in forensic science and the use of technology is essential for the successful implementation of these provisions. This includes training on the proper collection, preservation, and analysis of forensic evidence.

Infrastructure Development: The increased collection of samples and the granting of expert exemptions necessitate improvements in forensic infrastructure.

This includes the establishment of more forensic labs and the provision of advanced equipment to handle the increased demand for forensic analysis.

Challenges in Implementing Criminal Law Reforms in India

1. Lack of Infrastructure and Resources:

- **Forensic Laboratories:** India faces a severe shortage of well-equipped forensic laboratories. Many existing facilities lack modern equipment and technology essential for accurate and timely forensic analysis.

- **Human Resources:** There is a significant shortage of trained forensic experts. The existing workforce is often overburdened, leading to delays and potential errors in forensic investigations.

- **Funding:** Insufficient funding for forensic infrastructure and training programs further exacerbates these issues.

- **Slow Forensic Processes:** Due to limited resources and overburdened forensic laboratories, forensic analysis often takes an extended time, delaying the judicial process.

2. Quality and Standardization of Forensic Practices:

- **Lack of Standardization:** Forensic practices across different states and regions in India lack standardization, leading to inconsistencies in forensic evidence handling and analysis.

- **Quality Control:** There is a need for stringent

quality control measures to ensure the accuracy and reliability of forensic evidence.

3. Legal and Regulatory Framework

- **Outdated Laws:** Many laws governing forensic science and criminal investigations are outdated and do not reflect modern advancements in forensic technology.

- **Regulatory Oversight:** There is inadequate regulatory oversight of forensic laboratories and practices, leading to potential issues of reliability and accountability.

4. Training and Education

- **Insufficient Training Programs:** There is a lack of comprehensive training programs for forensic professionals, law enforcement officers, and judicial personnel.

- **Awareness:** Many stakeholders in the criminal justice system have limited awareness of the capabilities and limitations of forensic science, leading to misuse or underutilization of forensic evidence.

5. Technological Challenges

- **Adoption of New Technologies:** Integrating new forensic technologies into the existing system can be challenging due to resistance to change and lack of technical expertise.

- **Cybercrime and Digital Forensics:** The rise in cybercrime necessitates specialized forensic capabilities, which many existing forensic

facilities are ill-equipped to handle.

- **Coordination Issues:** Effective forensic investigation often requires coordination between various agencies, including police, forensic labs, and judicial bodies. Poor coordination can hinder the efficiency of the process.

- **Jurisdictional Challenges:** Different states have different procedures and capabilities, leading to jurisdictional challenges in handling forensic evidence.

Strategies to Overcome Challenges

1. Enhancing Infrastructure and Resources:

- **Investment in Forensic Laboratories:** Significant investment is required to establish and upgrade forensic laboratories with state-of-the-art equipment and technology.

- **Capacity Building:** Increasing the number of forensic professionals through targeted recruitment drives and improving their working conditions to retain talent.

- **Funding and Resource Allocation:** Governments at both central and state levels need to prioritize funding for forensic science to ensure sustainable development of forensic capabilities.

2. Streamlining Judicial Processes:

- **Case Management Systems:** Implementing

efficient case management systems to track and prioritize cases requiring forensic analysis.

- **Fast-Track Courts:** Establishing fast-track courts for cases involving forensic evidence to expedite the judicial process.

- **Reducing Backlogs:** Taking measures to reduce the backlog of cases by enhancing the capacity of the judicial system and improving coordination between forensic labs and the judiciary.

3. Standardization and Quality Control:

- **National Standards:** Developing and enforcing national standards for forensic practices to ensure consistency and reliability across all regions.

- **Accreditation of Forensic Labs:** Implementing a robust accreditation system for forensic laboratories to maintain high standards of quality and accountability.

- **Regular Audits:** Conducting regular audits and assessments of forensic labs to ensure compliance with established standards and practices.

4. Updating Legal and Regulatory Framework:

- **Modernizing Laws:** Revising and updating laws related to forensic science to incorporate modern advancements and best practices.

- **Strengthening Oversight:** Establishing a central regulatory body to oversee and regulate forensic practices, ensuring accountability and adherence to standards.

5. Improving Training and Education:

- **Comprehensive Training Programs:** Developing and implementing comprehensive training programs for forensic professionals, law enforcement officers, and judicial personnel.

- **Continuous Education:** Encouraging continuous education and professional development to keep forensic experts updated with the latest advancements in forensic science.

- **Awareness Campaigns:** Conducting awareness campaigns to educate stakeholders about the importance and capabilities of forensic science in the criminal justice system.

6. Embracing Technological Advancements:

- **Adopting New Technologies:** Investing in new forensic technologies and integrating them into the existing forensic framework.

- **Specialized Units:** Establishing specialized units for emerging areas such as cyber forensics to handle specific types of forensic investigations.

- **Training in Digital Forensics:** Providing specialized training in digital forensics to equip forensic professionals with the

necessary skills to tackle cybercrime.

7. Enhancing Inter-agency Coordination

- **Establishing Coordination Mechanisms:** Setting up formal mechanisms for coordination between various agencies involved in forensic investigations.

- **Unified Protocols:** Developing unified protocols for handling and sharing forensic evidence to ensure seamless coordination across jurisdictions.

- **Interdisciplinary Teams:** Promoting the formation of interdisciplinary teams comprising forensic experts, law enforcement officers, and legal professionals to work on complex cases requiring forensic analysis.

Government's Move

On June 19, the Union Cabinet approved the National Forensic Infrastructure Enhancement Scheme (NFIES). The scheme aims to bolster forensic infrastructure in preparation for the new criminal laws effective from July 1. The total financial outlay for NFIES is ₹2254.43 crore, spanning from 2024-25 to 2028-29. The proposal was made by the Ministry of Home Affairs. Key goals include enhancing forensic capabilities across India to ensure the efficient enforcement and administration of the new laws.

Conclusion

Implementing criminal law reforms in India

from a forensic perspective is a challenging but essential task. Addressing the identified challenges requires a multifaceted approach that involves enhancing infrastructure, streamlining judicial processes, standardizing forensic practices, updating legal frameworks, improving training and education, embracing technological advancements, and enhancing inter-agency coordination. By adopting these strategies, India can significantly improve the effectiveness and reliability of forensic science in its criminal justice system, ultimately leading to a more just and efficient legal system.

QUESTIONS BY PANELIST

Question No.1 -

Panelist: "Given the complexities and challenges outlined, what are the immediate steps that need to be taken to enhance forensic infrastructure in India?"

Group Member: "The immediate steps to enhance forensic infrastructure in India include significant investment in the establishment and upgrade of forensic laboratories with state-of-the-art equipment and technology. It is crucial to prioritize funding at both central and state levels to ensure sustainable development of forensic capabilities. Additionally, there should be a targeted recruitment drive to increase the number of forensic professionals, coupled with efforts to improve their working conditions to retain talent. Implementing efficient case management systems to track and prioritize cases requiring forensic analysis and establishing fast-track courts for cases involving forensic evidence can also help

expedite the judicial process."

Question No.2

Panelist: "How do you propose to address the issue of standardization and quality control in forensic practices across different states and regions in India?"

Group Member: "To address the issue of standardization and quality control, we must develop and enforce national standards for forensic practices to ensure consistency and reliability across all regions. Implementing a robust accreditation system for forensic laboratories is essential to maintain high standards of quality and accountability. Regular audits and assessments of forensic labs should be conducted to ensure compliance with established standards and practices. Additionally, a central regulatory body should be established to oversee and regulate forensic practices, ensuring accountability and adherence to these standards."

A BRIEF NOTE ON THE ISSUES AND CHALLENGES FOR ELECTRONIC EVIDENCE and CYBER SPACE IN THE CONTEXT OF BSA, BNSS AND BNS

Introduction:

The speaker delivered lectures on topics such as Organized crime, terrorism, and crime against state, UAPA MCOCA etc. The speaker further discussed it was a pleasure for him to stand before the participants as a speaker. He further said that most of the provisions based on three new criminal laws have been covered in previous sessions and he would try and relate this session to the provisions of UAPA.

Provision regarding video

The speaker then showed a video to the participants that was captured by the police while conducting a search in the house of the accused. They were searching for something related to CPI(M). While conducting the search, the police found certain

flags. The raid was conducted during the night. The police also found a certain courier received by the accused. Further, while the search was being conducted, the police also ensured the presence of two independent witnesses who were their neighbors. They also seized certain mobile phones and other documents. These changes are expected to be necessarily done after 1st of July when new criminal laws would come into force.

The speaker then proceeded towards discussing the fact that Whatever was said in punch Nama now needs to be there in video. He also said that now seizure list would come in place of punch Nama. He further highlighted that now there needs to be Witnesses around and anything around the house where search is being conducted would also be recorded in video to replace punch



Shri. Arjun Ambalapatta
(Faculty NIA)

Nama. Further, the speaker drew comparison between the provisions of the Bharatiya Nyaya Sanhita 2023 and the Indian Penal Code 1860. These are as follows:

1. Section 152 of BNS 2023 now replaces Section 124A of from IPC: “By use of financial means” – The speaker said that this implies sponsoring Acts. For example: people doing certain acts because they are being paid or sponsored by way of funds.

“Separatist activities” – The speaker then focused on the meaning of the term Separatist Activities. He said that it implies Activities trying to separate a particular place or region from the mainland and to have it independent or take it to another country.

He further discussed other provisions that deal in similar lines which are as follows:

1. Section 2(o) UAPA Act – Defines Unlawful Activity
2. Section 6 NIA Act – Investigation of Scheduled offences
3. Section 113 BNS – Terrorist Act
4. Section 17 UAPA – Punishment for

raising funds for terrorist act.

The speaker also listed certain key terms that are associated the Unlawful Activities Prevention Act :

1. Unlawful activities (Section 2(o))
2. Unlawful Association
3. Terrorist Act (Section 15) in Chapter 4
4. Terrorist organization

He further emphasized that majorly all the offences under the UAPA are broadly associated around these terms. He also highlighted that the conviction rate of NIA is 94% which was 98 % earlier. The speaker further highlighted that his rate of conviction in which he acted as a prosecutor is 100%.

The speaker also discussed as to why the provisions of UAPA should be invoked by Police officers rather than the BNS 2023:

1. Section 33 of UAPA – Forfeiture of property of certain persons. Implications: The speaker pointed out that the Attachment of property can happen before the pronouncement of judgement but the forfeiture would happen after the judgement is

pronounced.

The speaker further listed the effects of the same which are as follows:

- a. This means that the accused can't dispose his property
- b. Furthermore, the accused will not have the resources to defend himself; the act does not intend the same, however this can be construed as a practical outcome of the same.

Then the speaker proceeded towards describing the following:

2. Section 43E of UAPA - Presumption as to offense under section 15.

The speaker highlighted the importance of this section. He said that if arms or explosives recovered from possession of the accused and there is a reason to believe that there is a reason to believe that such arms or explosives were used in the commission of the offence, then a presumption as to commission of the offence by the accused arises. He also highlighted other items that when recovered from the accused can also raise this presumption. These items may include recovery of a certain sim

card, recovery of a part of the device that was used in commission of the crime. This helps in finding evidence and further securing conviction of the accused.

The speaker also discussed a case example whereby the hands of a professor were chopped by members of the Popular Front of India. He described it further as the event unfolded. He said that his car was stopped and windows were smashed and then his hands were chopped by a weapon. While collecting the evidence for the same, the pieces of glass from the shattered window and signs of blood of the professor were found on the clothes of the accused. He described them as scientific evidence and how they were comparable and helpful in proving the conviction of the accused.

Further, the speaker then proceeded towards describing Section 43(F) of the UAPA:

1. Section 43 F – Obligation to furnish information

The speaker highlighted that if investigating officer can seek information will be useful for, or

relevant to, the purposes of offences committed under the Act and the failure to furnish the information by the person called under sub-section (1), or deliberately furnishing false information by the person shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Protection of witness:

The speaker then proceeded towards describing the importance of witness protection under the cases that involve the charges under UAPA since these cases are generally of serious nature. The speaker noted that courts can take necessary measures to protect witnesses. This could include special arrangements like concealing the witness's identity during court proceedings. Such measures are crucial in maintaining the integrity of the judicial process while ensuring the safety of those who testify. The speaker also mentioned about section 44 of the UAPA that deals with protection of witness. The speaker also highlighted Section 46 of the UAPA whereby he said that under the same, the phrase "Indian Telegraph Act" needs to be replaced

with the "The Telecommunications Act".

The speaker then proceeded towards describing the aspect of sanctioning of offences.

Sanction from State government and central government:

The speaker mentioned certain rules for the same:

He said that the Recommending authority should recommend the sanction within 7 working days and then further government can take a decision in another 7 days. He also mentioned that there have been several instances where a clerk can hold a file for several days and due to the lapse of time, there has been a lapse of time. He then also quoted an example whereby due to a sanction being given in a time span of 10 days, an accused got discharged of 43 cases. The speaker then proceeded by giving a way out of the same problem to the participants. He said that if the time period for a sanction has lapsed, then another sanction can be taken from the government and filing can be done again whereby all the documents can be collected back again by the investigating officer and

by changing the data of submission, another sanction from the government can be acquired. He also remarked that since the case has not been tried yet at this stage, the danger of double jeopardy also does not arise. He also remarked that in these types of cases the discharge of the accused does not necessarily mean his acquittal.

The speaker then proceeded towards answering the questions asked by the participants.

Question: If the sanction is issued for a case after a time-span of 10-12 years, will the sanction be of any use?

Answer: The speaker replied to the same in the affirmative. He replied that sanction for the same can be issued. He said that if the time period for a sanction has lapsed, then another sanction can be taken from the government and filing can be done again whereby all the documents can be collected back again by the investigating officer and by changing the data of submission, another sanction from the government can be acquired. He also remarked that since the case has not been tried yet at this stage, the danger of double

jeopardy also does not arise.

Question: If a case is registered under the Arms Act and UAPA, and if sanction is only approved of the Arms Act and then it is only later that the sanction for the UAPA is approved, then what is the recourse available to the court?

Answer: If for a case, only the charge of Arms Act is sanctioned and the charge of UAPA is not sanctioned, and it is only later the sanction for the UAPA is granted, then the court can keep in abeyance the trial for the case for arms act, and after the case of the UAPA is has reached a similar stage as that of the Arms Act one, then in that case, both the cases can be clubbed since they deal with same set of facts.



A BRIEF NOTE ON THE ISSUES AND CHALLENGES FOR ELECTRONIC EVIDENCE and CYBER SPACE IN THE CONTEXT OF BSA, BNSS AND BNS

Important changes to Evidence Act (BSA):

A. Brief overview of the major changes (pertaining to cyberspace/electronic record)

a. deletion of word 'India' from Section 1; to make the extent and application of the Act bereft of any geographical barriers.

b. Expansion of the definition of 'document' in S. 2(d) to specifically include electronic, electronic and digital record, and also addition of an illustration (iv) enumerating several categories of electronic evidence.

c. Expansion of the scope of 'evidence' in S.2(e) to specifically include the statements/documents in electronic mode.

d. S.2(2) borrows the definitions from the Information Technology Act for the terms which are not defined in the BSA.e. E-books and E-judgments held relevant under S.32.

f. Expansion of the concept of expert evidence under S. 39 (earlier S 45) to have a residuary clause of 'any other field'.

g. Concept of primary evidence expanded to include certain categories of electronic

records primary evidence under S.57. (Earlier S.62). New added explanations make digital copies stored simultaneously/ sequentially, copies produced from proper custody, simultaneously recorded or broadcasted video footings and automated storage, including temporary files as primary evidence.

h. Section 61 blurs the distinction between the document and electronic electronic record and makes electronic record equally admissible, effective, valid, and enforceable as any other document. However, this is expressly subject to compliance under S. 63.

i. Section 63 (earlier S.65B) prescribes the similar procedure as S.65B. Following are the major changes;

i. semiconductor memory included.

ii. Communication device added along with computer

iii. Residuary clause in the form of 'otherwise stored' added. Therefore, every other form of electronic evidence which does not feature in any of the mentioned category will also fall within the ambit of section 63.



Adv Yuvraj P. Narvanka
Bombay High Court and
Supreme Court of India



iv. Stage of submission of certificate under 63(4) is now specified by adding the words ' along with the electronic record' also concept of contemporaneous certification added by adding the word ' at each instance'.

[concept of contemporaneous certification discussed in the judgement of Kamal Patel v Ram Kishore Dagne]

v. Certificate format is defined in the schedule.

vi. Concept of dual certification introduced; one certification by the proponent in the form A and another certification by the expert in Form 'B' of the Schedule.

vii. The certificate in the schedule is made elaborate to include the technical concepts like hash value.

j. S. 81 Attaches the presumption of genuineness to the electronic record, which is substantially kept in the form as required by law and produced from proper custody.

k. Similar presumption is attached to S. 93 for the five year old electronic record.

l. Other similar changes introduced for including electronic record within the ambit of the act. Major E-changes to Criminal Procedure Code (BNSS):

Major E-changes to Criminal Procedure Code (BNSS)

A. Brief overview of the major changes in BNSS pertaining to electronic record:

a. S.2(a) defines audio visual means.

b. S.2 (i) defines electronic communication.

c. S.54 mandates audiovisual (AV) recording of identification parade.

d. S. 94 empowers the court and an officer to summon any electronic communication or digital evidence.

e. S.105 mandates AV recording of search, seizure and signing process and further mandates forthwith forwarding of such recording(s) to the DM, SDM or JMFC.

f. S.173 introduces the concept of E-FIR. (Subject to physical signature within three days).

g. S.176(1) provides an option of AV recording through mobile phone, of the statement of victim of rape.

h. S. 176(3) mandates forensic visit and collection of forensic evidence in the cases punishable for 7 years or more. It further mandates videography of the forensic collection process.

i. S. 180 provides an option for AV recordings of statements.

j. S.183 provides an option of AV recording of confession or a statement.

k. S.183 (6) mandates AV recording of the statement of a person who is temporarily or

permanently, mentally, or physically disabled.

l. S .185 mandates AV recording of the search by police officer.

m. S.193 providing for charge sheet specifically includes the concept of ' chain of custody/ sequence of custody' in 193(3)(i) and further contemplate supply of soft copies to the accused.

n. S.202 specifically confers the jurisdiction on the local courts (where the message was sent or received) in the case of offence involving electronic communications.

o. S.227 contemplates issuance of and service of processes electronically.

p. S.230 contemplate supply of soft copies of documents to the accused.

q. S.254, 265, 310 and 335 permits testimony and recording of evidence through audio video means.

r. S.355 and 392 permits attendance of the accused through audio video electronic means.

s. S. 530 permits conduct out of the trial through electronic mode by use of electronic communication or use of audio-video electronic means.

t. Other minor changes to accommodate the electronic records at every stage

Challenges and measures:

A. Apparent conflict between S.57 and 63.

a. Section 57 labels certain categories of the electronic evidence as a primary evidence; making it 'best evidence' which usually should not require any further formalities.

b. Section 61 reinforces this concept by blurring the distinction between the document and electronic record.

c. However, on the other hand, section 63, begins with non obstante clause, 'notwithstanding' and reimposes the obligation of certification with the necessary conditions, bringing back an era of 65B certification. Thus, the very purpose of elevating the electronic record to the status of primary evidence is rendered redundant.

d. Therefore, as a thumb rule, the certificate under S.63 will be mandatory for every electronic evidence, since the ratio is the judgement of Arjun Panditrao² will continue to hold the field and the position remains unchanged in BSA.

B. S.63 pertains only to 'admissibility' and not to 'relevancy' or probative value.

a. The word "admissible" is the most crucial word in the scheme of the section. The word "admissible" means the evidence which can be admitted in court and taken on record. The concept of "admissibility" of the evidence is completely different from equally important concepts of "relevancy" and "probative value" of the evidence and cannot be confused with the latter two. Compliance with the conditions mentioned in S. 63 would render that particular electronic record "admissible" in evidence. This compliance would not dispense with the requirement of proving its "relevancy" and "probative value".

b. The observations of the Supreme Court in Arjun Panditrao Khotkar's case are crucial.

'Section 65 differentiates between existence, condition and contents of a document. Whereas "existence" goes to "admissibility" of a document, "contents" of a document are to be proved after a document becomes admissible in evidence.

Section 65A speaks of "contents" of electronic records being proved in accordance with the provisions of Section 65B. Section 65B speaks of "admissibility" of electronic records which deals with "existence" and "contents" of electronic records being proved once admissible into evidence. The marginal note to Section 65B then refers to "admissibility of

electronic records."

The High Court at Bombay has held as follows in Jaimin Jewellery Exports Pvt Ltd V State Maharashtra,

"It has to be borne in mind that section 65-B only relates to the admissibility of electronic records. It authenticates the genuineness of the copy/computer printout and thus absolves the parties from producing the original. This section only makes the computer output admissible on complying with the requirements of the section. It does not prove the actual correctness of the entries and does not dispense with the proof or genuineness of entries made in such electronic records. Furthermore, there is no presumption regarding the genuineness of the entries in electronic records. Hence, it was necessary for the Complainant Company to prove the correctness of the entries (Para 74)."

Also, for the admissibility, whenever a certificate under 63 is adduced, the burden of proving on the proponent of electronic record is adequately discharged, and the burden of proof will now lie on the person who disputes the same.

One must also remember that along with the necessary certification u/s 63, though the electronic record will be exhibited into

²(2020) 7 SCC 1

³Sonu v State of Haryana, (2017) 8 SCC 570 : (2017) 3 SCC (Cri) 663.

10. State of Karnataka v MR Hiremath, (2019) 7 SCC 515 : (2019) 3 SCC (Cri) 109.

11. UOI v Ravindra V Desai, (2018) 16 SCC 273 : (2019) 1 SCC (L&S) 225.

⁴Ankur Chawla v Central Bureau of Investigation, (2014) SCC OnLine Del 6461 : (2015) 2 DLT (Cri) 904.

⁵Kundan Singh v State, (2015) SCC OnLine Del 13647 : (2016) 1 DLT (Cri) 144.

66 Rajender v State (NCT of Delhi), (2019) 10 SCC 623.

evidence, its contents will have to be independently proved by summoning the witnesses or by adducing necessary proof.

C. Stage of certification:

The judicial view earlier was that the certification can be at any stage of the trial since it is a 'curable defect'³ However, with the specific wording of 'along with the electronic record' used in 63(4) of new BSA, it is necessary to give the certification along with the production of the electronic record. In fact, belated certification of electronic record which is already in existence has been discouraged by the courts.⁴ However, if one is not aware of the evidentiary potential of some electronic record when it originated, then such belated certification is excused.⁵

D. Stage for objection:

Since procedural in nature, the objection pertaining to non-submission of section 65B (now S. 63) certificate has to be raised at

any person who is in charge of the affairs of the electronic record can give the certificate.



the earliest possible opportunity when the electronic evidence is tendered or exhibited. The Supreme Court in *Rajender v State (NCT of Delhi)*,⁶ has laid down that the objection pertaining to 65B has to be taken at the earliest possible opportunity and the objection taken for the first time before the HC is not maintainable.

Some relevant observations were also made in *Arjun Panditrao Khotkar's* case as follows:

It may also be seen that the person who gives this certificate can be anyone out of several persons who occupy a 'responsible official position' in relation to the operation of the relevant device, as also the person who may otherwise be in the 'management of relevant activities' spoken of in Sub-section (4) of Section 65B...

b. In several cases, it is impossible to obtain the certificate [creator or author dead or untraceable or unready or not subject to the process of the court]. Though Hon'ble SC in *Shafi Mohd*⁹ contemplated relaxation of certification in these conditions, this judgement has been overruled in the subsequent judgement of *Arjun Panditrao* and is no longer a good law.

However, as a major respite, Hon'ble SC in Arjun Panditrao observed as follows "....The maxim of law impotentia excusat legem is intimately connected with another maxim of law lex non

*Similar view has been taken in Sonu v State of Haryana.*⁷

E. Pattern of certification and chain of custody:

Now, the word 'at each instance' in 3(4) indicate that the certification must be at every stage when electronic record changes the hands. Concept of chain of custody and its significance is highlighted in the judgement of *Vijesh v State of Kerala*. Sequence of custody, is now also essential part of police report under S. 193 of BNSS.

F. Impossibility of procurement of the certificate in certain cases:

a. Firstly, depending on the circumstances,



⁷ (2017) 8 SCC 570

⁸(2018) SCC OnLine Ker 4637 : (2018) 4 Ker LT 826 : (2019) 194 AIC 616.

cogit ad impossibilia. Impotentia excusat legem is that when there is a necessary or invincible disability to perform the mandatory part of the law that impotentia excuses. The law does not compel one to do that which one cannot possibly perform. "Where the law creates a duty or charge, and the party is disabled to perform it, without any default in him, and has no remedy over it, there the law will in general excuse him." Therefore, when it appears that the performance of the formalities prescribed by a statute has been rendered impossible by circumstances over which the persons interested had no control, like the act of God, the circumstances will be taken as a valid excuse. Where the act of God prevents the compliance of the words of a statute, the statutory provision is not denuded of its mandatory character because of supervening impossibility..."

Thus, when the circumstances are such which renders the procurement of such certificate sheer impossibility, then the adequate exemption can be made. However, such recourse is possible only in exceptional situation and after exhausting all the possible remedies

available to procure such certificate (means by which such certification can be obtained or elaborated in the judgement of Arjun Panditrao) The attempts to obtain the certificate and prayer for exemption must be adequately documented and supported by the proofs.

G. Data integrity:

a. All the proponents of electronic record must take appropriate steps for ensuring the data integrity.

Most importantly, the master copy must be kept intact and should not be subjected to multiple accesses.

H. Proper custody:

a. S.57 makes the electronic record a primary evidence if it is coming from the proper custody. Though the section does not define proper custody, the same is defined by section 81.

b. Though the definition of the term proper custody under section 81 is limited only to section 81 and 93, there is no difficulty in borrowing the same for the purposes of section 57.

c. However, the concept of primary evidence under scheme of evidence act has always been 'documented centric' and never a 'person centric'. Further, the term proper custody is very subjective and maybe a subject matter of a contest.

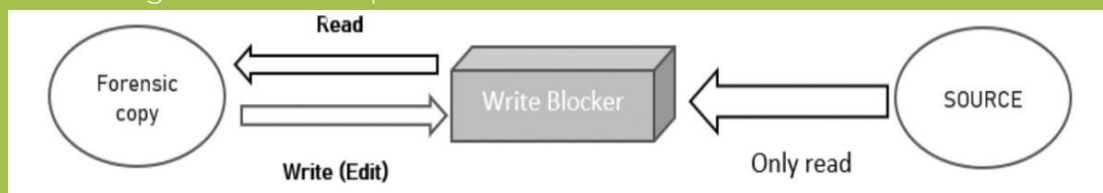
d. And therefore, irrespective of the custody, compliance with S. 63 certificate certificate would be necessary. (particularly considering the non-obstante clause of S.63). What will assume significance is the chain of custody.

I. Who has to give:

a. In certain situation, it is likely that the electronic record is found by the person who is neither its author or nor the management of device, but it constitutes an important piece of evidence in the situation. The necessary investigating officer after analysing the data for its authenticity and integrity, can give the certificate in the requisite format since the certificate can be given by any appropriate person as appearing section 63 (4).

b. Also, as explained below, the illegality of procurement of evidence will not affect its evidentiary value.

c. It must be remembered that two parts in the certificate must be filled in by two different persons. Part A is by the proponent of electronic evidence and part B is by an expert. If the proponent happens to be an expert, he still cannot fill up both the parts for the purposes of independence and impartialist



since the very purpose of part B expert certification is independent corroboration.

J. Expert under S.63:

a. It is the responsibility of the proponent of electronic evidence to get both the certifications. Therefore, the onus will always lie on the proponent to obtain the expert certificate, at his own cost and expenses. This is different from the certification that the court may obtain from the expert of electronic evidence u/s 79A.

b. S.63 now contemplate corroborative certificate by an expert. 'Expert' is not defined by this section.

c. However S.39(1) categorically defines 'Expert' and this definition is not for the purpose of any specific section, but a generic definition which can be borrowed even for the purposes of S.63.

d. Only requirement of an expert under S 39(1) is possession of a 'special skill'.

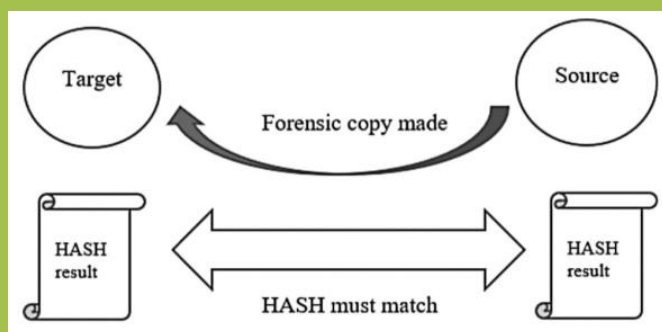
e. There is no legislative indication of this expert being the expert of S.39(2) which has to be notified under S 79A of IT Act. Had that been so, the same would have been specifically clarified by the legislature as is done in the context of section 81.

f. Further 39(2) is triggered 'during proceedings' and most of the times the S.63 certification is a pre-trial formality.

g. Also, S. 39(2) confines itself to information transmitted or stored in any computer resource or in the electronic form; whereas S. 63 deals with much larger and generic class of electronic records, including the one printed on the paper; therefore 39(2) can not dominate wider and pervasive S.63.

h. Further, such dual certification would also be a necessity in the civil trial and one cannot approach any Government or Notified experts in a private civil dispute and therefore word 'expert' in S.63 would mean any expert having the requisite skills.

i. It would further be advisable to ensure



coherence between the two certificates mentioned in the schedule and adequate assistance can be rendered to the proponent of electronic record for the purposes of calculation of hash values.

j. Any freely available software like HashMyFiles for the purposes of calculation of hash values will suffice.

k. If there is any difference between the hash

values between the two certificates, the same must be explained, specifically.

[this eventualities may occur when the proponent calculates the hash value of the entire electronic record and the expert calculates, the hash value of only the relevant electronic record].

The importance of the hash value was highlighted in the judgement of *State of Maharashtra v Rajesh Daware*,¹⁰

l. Also, it is necessary to maintain the chain of custody form for the purposes of 'custody authentication' and to indicate 'legitimate origin'.

m. Any variance in the hash values between any two points of contact, must be explained on affidavit in detail to avoid any challenge to the data integrity.

n. In the case of a paper printout having no any original electronic record, hash values would be impossible to procure and such document will have to be proved as secondary evidence, after explaining the specific situation.

K. Applicability of BSA:

a. As a thumb rule, procedural laws are considered to be retrospective and the substantive laws are considered to be prospective

¹⁰ (2017) 1 AIR Bom R (Cri) 176 : (2016) SCC OnLine Bom 2596.

¹¹ Malkani v State of Maharashtra, (1973) 1 SCC 471; Bharati Tamang v UOI, (2013) 15 SCC 578.

b. However, S.170 specifically makes BSA prospective and saves all the pending trials, inquiry, investigation, proceedings, and appeal.

c. However, insofar as the pre-trial investigation is concerned, it is advisable to follow the mandate of BSA, unless the necessary certificates are already prepared and filed.

d. Since in law, an appeal is, considered to be a continuation of original proceedings, new mandates of BSA would not be applicable to the appeal, pending or otherwise.

L. Legality of illegally procured evidence;

a. In the web of compliances, sometimes certain irregularities may occur in collection of evidence. Unless an express prejudice is proved, the trial based on such evidence is not vitiated.

b. The doctrine of 'fruits of poisonous tree' (which tends to discard evidences obtained illegally) is held not to be applicable by the Hon'ble Apex Court.

c. Hon'ble SC in RM Malkani v State of Maharashtra¹² dealt with the issue of illegal ly obtained evidence as follows:

"....It was said that the admissibility of the tape-recorded evidence offended Articles 20(3) and 21 of the Constitution. The submission was that the manner of acquiring the tape-recorded conversation was not procedure

established by law and the appellant was incriminated. The appellant's conversation was voluntary. There was no compulsion. The attaching of the tape- recording instrument was unknown to the appellant. That fact does not render the evidence of conversation inadmissible. The appellant's conversation was not extracted under duress or compulsion. If the conversation was recorded on the tape it was a mechanical contrivance to play the role of an eavesdropper. In R. v. Leatham [(1961) 8 Cox CC 498] it was said "it matters not how you get it if you steal it even, it would be admissible in evidence". As long as it is not tainted by an inadmissible confession of guilt evidence even if it is illegally obtained is admissible..."

Hon'ble SC in Pooran Mal case [Pooran Mal v Director of Inspection (Investigation),¹² states that barring an express or implied prohibition in the Constitution or other law, evidence obtained as a result of illegal search or seizure is not liable to be shut out. In other words, what has been emphasised by the Constitution Bench is that the test of admissibility of evidence lies in relevancy and unless there is an express or necessarily implied prohibition in the Constitution or other law, evidence obtained as a result of illegal search or seizure is not liable to be shut out.

Admissibility into evidence is one thing.

However, it must be remembered that at the same time, any illegal access or unauthorised

hacking into system for procurement of an evidence would render a person civil and criminally liable under the provisions of IT act. And there have been multiple instances where proponent of an electronic electronic record is prosecuted.¹³

The remedies provided under section 43 of the IT Act, apart from the criminal liability under the IT act and BNS.

M. Potential challenges:

a. The new BSA will have its own set of challenges in terms of necessary infrastructure for storage of humongous data, data security, data integrity, right to be forgotten, secure transmission of the data, strict accountability for data breaches, and one uniform system of data transmission. These are in the nature of infrastructure challenges which have to be resolved by the Government immediately else the new rigorous system will be exploited unscrupulously.

b. It is necessary to define and notify the SOPs at the earliest. When the procedure for the data storage and its production would be legally prescribed, the prosecution can take an advantage of S 81 and can claim presumption of genuineness of the electronic records. This will reduce substantial burden of proof lying on the prosecutor.

c. Quick notification of the experts, mode of filing of e FIR, launch of E sakshya app and consequential modification in the existing

¹² (1974) 1 SCC 345 : 1974 SCC (Tax) 114]

¹³ Vinod Kaushik v Madhika Joshi; Amit D Patwardhan v Rud India Chains; Nir-malkumar Bagherwal v Minal Bagherwa

online portals will ensure smooth transition into the new regime of BSA.

d. Till the necessary notification are issued and SOPs are circulated, it would be advisable to make a meticulous documentation and best possible authentication of the electronic evidence, which will satisfy the conscience of the court.

Sincerity in collection and submission of digital evidence would be a key to a successful trial during this grey period of transition.



5

DAY FIVE

Reforms in Criminal Laws-Prison Perspective: Challenges and Strategies for Coordination

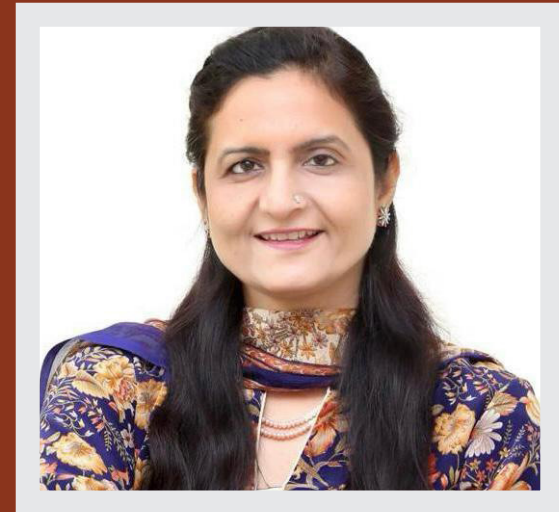
The new laws are a transition from the colonial legacies towards a justice system, based on the principle of access to justice by all. The Bharatiya Nyaya Sanhita 2023 replacing the IPC1860; the CrPC of 1973 is replaced by the Bharatiya Nagarik Suraksha Sanhita, 2023 whereas the Indian Evidence Act of 1872 is now replaced by the Bharatiya Sakshya Adhiniyam 2023. These changes will have a significant impact on the criminal justice system. Now justice rather than punishment is the objective, and these changes have been designed keeping technological advancements in mind. All trials, inquiries and proceedings may be held in electronic mode by use of electronic communication or use of audio-video electric means. Prescription of timelines for various procedures will help fast track them, and cut the delays. The new laws aim to bring in an era of ease of policing and ease of justice .

Prisons reflect the society and being the last wing of the criminal justice system, are affected by what happens at each stage of the process. Each wing of the CJS has its own goals-which may be competing/contradictory. Prisons have no control

on the Input. Significantly , the outflow from the prison affects all. Prison work is demanding. It involves working with men and women who have been deprived of their liberty, many of whom are likely to be mentally disturbed, suffer from addictions, have poor social and educational skills and come from marginalised groups in society. Some will be a threat to the public; some will be dangerous and aggressive; others will try very hard to escape. None of them wants to be in prison. Each of them is an individual person. Coordination is very necessary for this work

The purpose of imprisonment has changed over the years, and now it is realised that reintegration of prisoners is an important goal for the penal system. With the BNS ,there is now decriminalisation of certain acts as well as a new form of punishment, ie community service sentence has been added for six offences, which are minor in nature.

India has a prison population of 5,73,220 in its 1330 prisons, with an occupancy rate of 130%.Undertrials constitute 75%of the prison population.President Draupaudi



Dr. Upneet Lalli
Deputy Director of Institute of
Correctional Administration



Murmuru on the Constitution day last year had raised several crucial problems ailing the justice system – overcrowding of jails, the social identity of those languishing in prisons and the prolonged pretrial detention. These problems have been prevalent since more than four decades. Some provisions of BNSS should help tackle these issues. The Rule of Index 2023 was released by the World Justice Project (WJP) in which India has secured 79th rank out of 142 countries. This ranking should improve with these changes in the laws, which will require the improvements in the institutional structures set up to enforce and administer the laws, in each sector, and also the quality of personnel who are entrusted with the job of administering the institutions.

While Prison is a state subject under List- II of VIIth schedule in the Indian Constitution and the management and administration of prisons falls exclusively in the domain of the state governments, the centre plays a crucial in supporting the states towards an efficient prison system, including its modernisation.

Problems of the prison system and prison reforms have been analysed over the years starting with Dr W.C. Reckless, UN Expert, who was invited to make recommendations (1951). One of the most comprehensive report was by the All India Jail Reforms' Committee, 1980-83 (Justice AN Mulla Committee). Several of those were implemented, while many others still remain on paper.

The Model Prison Act 2023 covers various relevant issues governing the management

and administration of prisons, and takes into account the challenges it faces due to changed nature of crime and criminals. The three main functions of a modern prison organisation are- Custody, care and treatment. The three main elements that ensure prisons are safe places are security, good order and control, and discipline and punishment. States have to make their own rules and regulations keeping in view these changes.

Some challenges-The complexity of the BNSS and its potential for varying interpretations across different states could lead to inconsistencies in application. Ensuring uniform training, standardized protocols, and clear guidelines for legal interpretation will be crucial to maintain consistency and fairness in the system.

Effectively implementing the BNSS requires extensive training for law enforcement, judicial officers, and other stakeholders. Building the necessary infrastructure and allocating adequate resources will be crucial for successful implementation across the country. Effective communication and public education about the reforms will be essential to garner trust and understanding.

While various mechanisms do exist for coordination with prisons, police and judiciary, their efficacy varies. The Under trial review Committee exists in every district, but for varied reasons their recommendations remained ineffective in release of undertrials. The Prison visiting board is also not having regular meetings. The system of judicial oversight of prisons also needs improvement.

It has been seen the coordination is more effective at informal level, than through formal ways.

One key area where SOPS are required is that of community service. It has been introduced as a form of punishment under Sec4(f), although it does not define what community service entails, which is mentioned in BNSS. The key objective of the community service is to promote among offenders a sense of responsibility towards society. For offences such as attempting suicide to compel or restrain the exercise of lawful power, defamation, misconduct in public by a drunken person, and failure to appear at the specified place and time as required by a proclamation published under sub-section (1) of section 84 of the BNS 2023, community service can be awarded in addition to the prescribed punishment. The judiciary will order this, but who will be implementing it, the kind of work and supervision that is required is needed in the SOPS. Staff will have to be trained for the supervision work as well. Will it be probation officers, social welfare department or prison department that will oversee the supervision? These issues need to be clearly identified. Capacity-building and awareness-raising are needed in order to increase the use of community sentence by the judiciary.

"If you don't know where you're going, you might end up somewhere else." Knowing the direction becomes important for all the agencies.

Some areas where change and coordination is required

A new Section 472 BNSS has been added to the provision relating to “time-bound filing of mercy petition before the President and the Governor in cases of the death sentence.” Another significant modification has been made in “Power to commute sentences” under Section 474 BNSS, corresponding to Section 433 Cr.PC. in BNSS, the nature of commutation of sentences has been specified comparatively to Cr.PC. Changes in the premature release policy will have to be made by the state governments. This has to be made after discussions with the stakeholders.

- The average period of detention of undertrials is around 2 to 3 years. 70.9% of prisoners were confined for periods up to 1 year. New Responsibility under BNSS make it a duty of the Jail Superintendent “where the accused person is detained, on completion of one-half or one-third of the period mentioned in sub-section (1), as the case may be, shall forthwith make an application in writing to the Court to proceed under sub- section (1) for the release of such person on bail. Coordination with the Courts and DLSA is essential, along with the technological support.

Prisons will have to have more video conferencing facilities linking with the courts for trial purpose as well. This takes care of non production of prisoners due to lack of escort. Most states have started the process. Coordination with the High Court ,and district authorities is essential .

For collaboration to work effectively ,problems need to be identified. Self-assessment and data are essential engines for effective collaboration. All the relevant stakeholders must agree on the key goals and develop strategies. In collaboration-driven reforms, the group must develop consensus about what should change and how it should change. Effective and able leaders, can ensure reform implementation. Problems of the system can be avoided with communication, cooperation, and coordination.



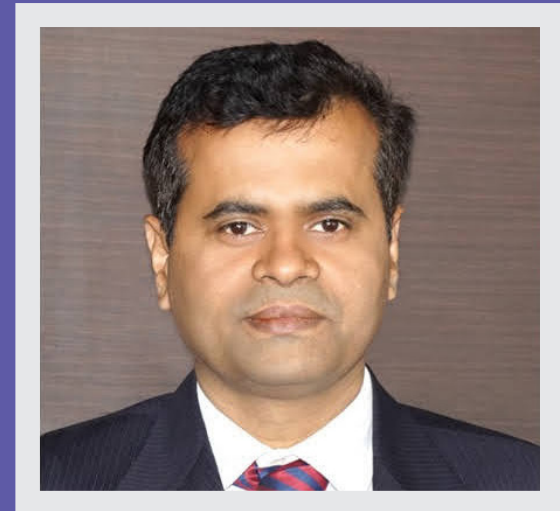
Use of AI in Criminal Justice System

The session titled “Criminal Justice and Artificial Intelligence” by Shri Nand Kumarum, Deputy Director (Sr) is part of a five-day capacity building and sensitization programme on “Criminal Law Reforms in India”. It emphasises and explores the role of AI integration in various aspects of the criminal justice system to enhance efficiency, reduce costs, and empower citizens. The presentation begins by defining the role of AI in the criminal justice system, highlighting its deployment across police, courts, prisons, forensic labs, and legal practices to streamline operations, improve efficiency, reduce costs, and enhance value-added services.

The session outlines deployment of AI across various stakeholders, including police, forensic analysis, judiciary, advocates, prison management, and citizen services. Highlighting the role of AI in video analytics, the session delved into various aspects to enhance police operations. This includes detecting scenes, identifying unattended objects, detecting perimeter intrusions, managing crowds, and preventing fatigue-related human errors. In forensic analysis, AI enhances fingerprint-matching accuracy, speeds up processing, and expands functionalities such as partial print matching and predictive analysis.

The judicial system will benefit immensely from AI through automated case tracking, real-time updates, and document reviews. Advocates can leverage AI for legal research, drafting documents, and predicting case outcomes. Prison management can be optimised through AI-driven scheduling, resource allocation, and security enhancements like facial recognition. Citizen services are enhanced with AI summarising complex legal documents, translating them, and providing virtual legal advice.

The session also highlights office automation tools that streamline tasks like email responses, report generation, and presentation creation. Legal provisions relevant to AI in the criminal justice system, such as the IT Act and DPDP Act, are discussed in detail. The conclusion emphasizes the transformative potential of AI in improving efficiency, accuracy, and service delivery in the criminal justice system while adhering to legal frameworks.



Shri Nand Kumarum,
IAS, Deputy Director (Sr.)



Challenges for Civil Servants in Implementing and Interpreting Criminal Laws within Administrative Framework and Coordination with Different Agencies

Civil servants play a crucial role in implementing and interpreting criminal laws within an administrative framework. The introduction of new criminal acts, such as the Bharatiya Nyaya Sanhita (BNS) 2023, Bharatiya Nagrik Suraksha Sanhita (BNSS) 2023, and Bharatiya Sakshya Adhiniyam (BSA) 2023, has brought about significant changes that present numerous challenges. This summary delves into these challenges, focusing on various pillars of the criminal justice system, including the police, judiciary, prison officers, prosecution, and forensics.

Police

Training and Unlearning Old Practices

Civil servants in the police force must undergo extensive training to understand the new criminal laws. This involves unlearning age-old practices and integrating new provisions with the Crime and Criminal Tracking Network & Systems (CCTNS). The transition from traditional methods to digital protocols, such as e-FIR registration and zero FIR, requires substantial effort.

Digital Literacy and Infrastructure

Digital literacy is essential for handling electronic evidence, which is now considered primary evidence under the new laws. Police officers need training in searching, seizing, and certifying electronic evidence (Sections 63A/B of BSA). Additionally, establishing robust digital infrastructure, including e-FIR portals and cloud storage, is critical for the seamless operation of new protocols.

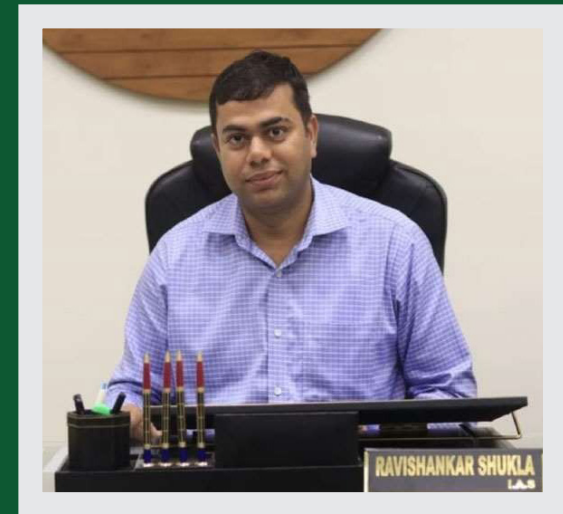
Judiciary

Last Mile Training and Fixed Timelines

Judicial officers and court staff require last-mile training to familiarize themselves with new legal provisions. The fixed timelines imposed by the new laws add pressure on the judiciary to expedite processes, including the submission of supplementary chargesheets within 90 days.

Digital Infrastructure and Literacy

The judiciary must develop digital infrastructure to support e-services such as e-summons and electronic evidence management. Ensuring all judicial officers



Shri Ravi Shankar Shukla, IAS
Deputy Commissioner



are proficient in digital literacy is crucial for the effective handling of electronic evidence.

Prison Officers

Training and Infrastructure Needs

Prison staff must be trained on new provisions related to prison sentences. The law now allows for first-time offenders to be released after completing one-third of their sentence. Additionally, presenting convicts in court electronically requires adequate technical staff and infrastructure.

Electronic Court Appearances

The practicality of electronic court appearances for convicts poses a challenge, as it necessitates reliable infrastructure and power backup in prisons. Ensuring the availability of technical staff to manage these appearances is also essential.

Prosecution

Training and Coordination

Prosecutors need training on the new provisions to effectively aid the police and judiciary. The Directorate of Prosecution plays a pivotal role in this coordination. Prosecution teams must adhere to strict timelines, adding to their workload.

Digital Literacy

Like their counterparts in the police and judiciary, prosecutors must be digitally literate to handle electronic evidence and navigate the new legal landscape efficiently.

Forensics

Training and Timely Results

Forensic officials must be trained on the new laws, particularly regarding mandatory forensic evidence collection in cases punishable by seven years or more. The BNSS imposes tight timelines, burdening forensic labs to deliver immediate results.

Infrastructure and Staffing

Forensic departments require enhanced infrastructure and staffing to meet the demands of the new legal provisions. On-site visits by forensic experts for serious cases necessitate additional resources and logistical planning.

Coordination with Different Agencies

Standardization and Protocols

One of the significant challenges in implementing the new laws is the need for standardization of protocols across different agencies. This includes the registration of e-complaints and the handling of electronic evidence. Uniform portals and procedures must be established to ensure consistency.

Inter-Agency Communication

Effective communication and coordination among various agencies, including the police, judiciary, prosecution, and forensics, are essential for the seamless implementation of the new laws. Establishing clear channels of communication and regular inter-agency meetings can help address this challenge.

Key Reforms and Challenges

1. Understanding and Interpreting New Provisions

Bharatiya Nyaya Sanhita (BNS) 2023: This new act replaces several sections of the Indian Penal Code (IPC), introducing new offenses such as organized crime, petty organized crime, and terrorist acts, while repealing offenses like sedition and adultery. The inclusion of community service as a punishment and the enhancement of penalties for certain crimes necessitate a thorough understanding and reorientation for civil servants.

Challenges:

- Misinterpretation and potential misuse of new provisions such as sexual intercourse by deceitful means.
- Ensuring that the new definitions and offenses are correctly understood and applied uniformly across different jurisdictions.

2. Implementing Technological and Procedural Changes

Bharatiya Nagrik Suraksha Sanhita (BNSS) 2023: This act introduces several procedural changes including e-FIR registration, use of electronic communication for summons, and audio-video recording of statements. It also emphasizes the digital recording and management of investigation and trial processes.

Challenges:

- Developing the necessary digital infrastructure and ensuring digital literacy among police, judiciary, and prison staff.
- Establishing protocols for the proper custody, storage, and transmission of electronic records to maintain the integrity of evidence.

3. Coordination and Training Across Agencies

Judiciary and Law Enforcement: Effective implementation of new laws requires close coordination between the judiciary, police, prosecution, and forensic departments. The establishment of fixed timelines for various procedural aspects, such as framing of charges and delivering judgments, demands efficient and synchronized functioning of all these entities.

Challenges:

- Conducting last-mile training to ensure all personnel are updated with the new laws and procedures.
- Unlearning old practices and adapting to new ones, which can be a slow and challenging process.
- Managing the increased workload and ensuring timely completion of tasks as mandated by the new laws.

4. Addressing Specific Issues in New

Legislation

Transgender Inclusion: The inclusion of the term “transgender” in the definition of gender under BNS, but its exclusion from the definition of rape, presents interpretational challenges.

Electronic Evidence: The BSA 2023 includes provisions for the admissibility and management of electronic evidence. This requires robust mechanisms to ensure the authenticity and integrity of digital records.

Challenges:

- Defining and verifying electronic records and ensuring proper custody and storage.
- Training forensic experts and law enforcement officials on the nuances of handling electronic evidence.

5. Infrastructure and Resource Constraints

The successful implementation of the new laws is heavily dependent on the availability of adequate infrastructure and resources. This includes the development of digital platforms, recruitment of technical experts, and provision of continuous training and capacity-building programs.

Challenges:

- Securing funding and resources to upgrade infrastructure and recruit additional staff.
- Ensuring consistent and ongoing training programs to keep all stakeholders updated on legal and procedural changes.

Conclusion

The recent reforms in India’s criminal law framework bring much-needed modernization and progress. However, they also present significant challenges for civil servants tasked with implementing and interpreting these laws. Addressing these challenges requires a multifaceted approach, including comprehensive training programs, development of digital infrastructure, and robust inter-agency coordination. By overcoming these hurdles, civil servants can ensure that the new laws achieve their intended objectives and contribute to a more efficient and just legal system.



We have the necessary structures and motivation to bring out the best among us. The first step is to convene meetings with colleagues to raise awareness about the new criminal laws. It's crucial to adhere strictly to the letter of the law and thoroughly understand its provisions as the foundation for effective implementation.

Key challenges were identified, including training, forensic capabilities, and infrastructure. According to statistics from the Ministry of Home Affairs (MHA), three lakh people have been trained in the new laws. This initial group can now train additional personnel, with further clarity expected from judicial pronouncements. Forensic challenges were highlighted, such as the lengthy time required for fingerprint and handwriting analyses due to inadequate infrastructure. The speaker suggested collaborating with higher education departments to increase forensic science program seats to meet future expert demand.

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Forensic capabilities also require substantial improvement, with suggestions to involve postgraduate students from forensic science departments to address immediate needs. Collaborating with higher education departments to increase seats in forensic programs and projecting future professional requirements can be long-term solutions.

A famous Urdu couplet came to mind, illustrating the issue of insufficient communication within departments: "yahi hadsa he duniya me, baat kahi nhi gyi, baat suni nhi gyi." This means that the main problem is we don't speak up about what we feel, what we've deliberated, and what is required. We need to communicate our needs and deliberations to our seniors. The E Sakshya application from the MHA is nearly ready, addressing the challenge of saving recorded footage. Meanwhile, we can use our mobile phones for temporary video recording solutions. Public awareness efforts by the MHA, including flyers, social media, and newspaper write-ups, are underway. Judicial training for all stakeholders has started in several states. We don't need to start from scratch since we already have sufficient infrastructure. Internet connectivity is available even in remote areas like Lahol Spiti, and we regularly hold video conferences for programs like MGNREGA. District headquarters have National Informatics



Shri Lalit Jain

IAS, Director of Census Operations
and Director of Citizen
Registration



Centre (NIC) video conferencing facilities, which can be used by district and sessions judges for testimonies and signings. We need to reactivate the forums where stakeholders meet regularly.

We have the e-governance society, and much of the necessary technology and hardware is already in place. Our task is to assess the available resources and decide how to implement them effectively in each district, ensuring that state-level officials are also informed and involved.



Takeaways

Day 1

Session 1- Inaugural Session

The first session on the merits of the new criminal laws over the old ones provided a comprehensive overview of the motivations, benefits, and mechanisms of the revamped legal framework in India. The discussion underscored the transformative nature of these laws and the multi-faceted approach undertaken to ensure their effective implementation.

The introduction of new criminal laws was a significant step towards establishing a transparent and modern criminal justice system in India. The primary motivation behind this overhaul was to align the legal framework with the ideals of Suraaaj (good governance) and Sushasan (effective administration), reflecting the Indian ethos of Nyaya (justice) and Dharma (righteousness). The old laws, which were remnants of colonial rule, prioritized offences against the state over offences against citizens and were steeped in western moral concepts. The new laws, on the other hand, are designed to prioritize the rights of citizens and emphasize justice over punishment.

Key Merits of the New Laws:

1. Every district will now have a dedicated directorate of prosecution, ensuring that the rights of victims are safeguarded throughout the trial process.
2. The new laws mandate a time-bound nature of legal proceedings, expediting the delivery of justice.

3. The use of video conferencing for inquiries and significant focus on courtroom functionalities mark a leap towards modernizing the judicial process.
4. The new framework prioritizes safeguarding the rights of victims, reinforcing India's territorial integrity, and enhancing public trust in the legal system.
5. The laws shift the focus from mere punishment to ensuring justice is served, promoting a fairer legal system.

The formulation of these new laws involved extensive consultation with various stakeholders, including law universities, Chief Justices, Governors, Administrators, and District Magistrates. A committee led by the then Vice Chancellor of the National Law University, Delhi, was constituted to gather diverse perspectives and recommendations.

The Bureau of Police Research and Development (BPR&D) played a pivotal role in the successful rollout of these laws. Institutes under BPR&D, such as the Central Academy for Police Training (CAPT) in Bhopal and the Central Detective Training Institutes in Kolkata and Hyderabad, trained over 35,000 resource persons. Special training sessions were conducted for judicial officers, particularly at CAPT Bhopal, and these courses were made available on the Karmayogi platform. BPR&D also developed Standard Operating Procedures (SOPs) for critical issues like the forensic use of digital evidence.

The NFSU's efforts in enhancing the competence of forensic experts were acknowledged. The government has sanctioned over Rs 2200 crore to build forensic infrastructure, addressing the need for more forensic experts in the country.

A control room at the BPR&D headquarters was established to

address practical difficulties faced by officers in the field. The role of the NFSU and the significant financial investment in forensic infrastructure were highlighted as critical steps in supporting the new legal framework.

The lecture concluded with three major points essential for the successful implementation of the new laws:

- 1. Coordination and Collaboration:** Establishing synergy among various stakeholders.
- 2. Monitoring and Evaluation:** Identifying challenges and addressing bottlenecks.
- 3. Feedback and Adaptation:** Gathering feedback on implementation, compiling it, and providing solutions

Session 2- Criminal Law Reforms Objectives and Philosophical Perspectives for all Stakeholders

The session on “Criminal Law Reforms Objectives and Philosophical Perspectives for all Stakeholders” provided a detailed analysis of the upcoming criminal law reforms in India, set to take effect on July 1, 2024. The session highlighted the significant changes and philosophical underpinnings of the new laws, their impact on various stakeholders, and the practical implications for the Indian criminal justice system.

Justice Gupta introduced the three new acts—The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), The Bharatiya Sakshya Adhiniyam, 2023 (BSA), and The Bharatiya Nyay Sanhita, 2023 (BNS)—which aim to modernise and streamline the Indian criminal justice system. These laws incorporate electronic evidence as a crucial element, recognizing its growing importance in criminal investigations. For instance, the Parliament and Red Fort shootout cases required mobile phone forensics to recover evidence,

demonstrating the ubiquity and necessity of electronic evidence in modern investigations.

The cascading effects of seemingly minor tweaks in the provisions of the BNSS, BSA, and BNS on all stakeholders, including the police, prosecution, forensic experts, and the judiciary. Justice Gupta emphasised how the consolidation and re-numbering of sections, such as clubbing offences like cheating and stolen property under single sections, streamline legal processes and allow for the reliance on previously decided cases.

The preamble of the BNS reflects the intent to consolidate and amend provisions relating to offences, aiming for a more unified legal framework. Despite the existence of specific statutes for organised crime and terrorism, such as the Maharashtra Control of Organised Crime Act, 1999 (MCOCA) and The Gujarat Control of Terrorism and Organised Crime Act, 2015 (GuCTOC), the BNS adopts verbatim definitions from these laws. This shift places the entire burden of proof on the prosecution, removing the presumptions that previously aided the prosecution under special statutes. This change underscores a philosophical shift towards a more stringent requirement for proving guilt beyond reasonable doubt.

Practical Implications:

The session detailed several practical changes in the new laws:

- 1. Uniform Courts System:** The classification of criminal courts now includes Judicial Magistrates irrespective of the area, moving away from the previous distinction of Metropolitan Magistrates in metropolitan areas.
- 2. Community Service and Technology:** Community service as a punishment and the use of technology from investigation to trial proceedings have been introduced, enhancing the efficiency and effectiveness of the criminal justice system.
- 3. Time-bound Processes:** The new laws enforce time frames and checks for processes like search and seizure, ensuring timely

justice.

Section 154 of the CrPC, now Section 173 in the BNSS, allows for FIR registration irrespective of the crime's location, removing geographical barriers and enhancing access to justice. This aligns with the Supreme Court's ruling in *Lalita Kumari v. Govt. of U.P. & Ors.*, mandating the compulsory registration of FIRs for cognizable offences. Additionally, the introduction of preliminary inquiries for offences punishable by three to seven years, with the permission of a Deputy Superintendent of Police (DSP), adds a layer of scrutiny to the investigative process. This provision, though not mandatory, allows the police to ascertain whether a prima facie case is made out, thereby broadening the scope of preliminary inquiries beyond merely determining if a cognizable offence is disclosed.

The session addressed the critical issue of maintaining the confidentiality and reliability of electronic evidence. With the mandate to record witness statements through audio under Section 176(1) of the BNSS, challenges regarding the secure storage and exhibition of electronic evidence arise. Ensuring compatibility and preventing technological obsolescence are essential for the effective use of electronic evidence in trials.

Section 218 of the BNSS introduces a provision that deems sanction granted if not issued within 120 days, potentially limiting the accused's right to challenge the competence of the authority granting the sanction. Section 356, dealing with trial and judgement in absentia, allows courts to proceed with trials if the accused is declared a proclaimed offender, ensuring the continuity of justice despite frequent changes of address by the population.

Section 531 of the BNSS pertains to the review process, reaffirming that acts previously performed remain valid. The principle that substantive law cannot be retrospectively applicable, as upheld in the cases of *Shiv Bahadur Singh v. State of U.P.* and *Nani Gopal Mitra v. State of Bihar*, ensures fairness and prevents the imposition of new liabilities on the accused.

Session 3- Reforms in Criminal Laws (BNS, BNSS, BSA) 2023: Changes, Challenges, and Strategies for Implementing Technological Advancements in the Procedures for Collection, Preservation, Utilization, and Submission of Digital and Electronic Evidence for Effective Justice Delivery

Shri Brijesh Singh's engaging and practical session on the latest provisions of The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), The Bharatiya Nyaya Sanhita (BNS) 2023, and The Bharatiya Sakshya Adhiniyam 2023 provided valuable insights into the new criminal laws. The session began with an interactive role-play exercise to give participants hands-on experience, followed by a detailed discussion of various legal provisions and their practical applications.

The session started with a unique approach where participants played roles different from their professions. This exercise aimed to give participants a deeper understanding of the roles and responsibilities involved in a criminal case, particularly in the context of fraud. The chosen roles included a victim, accused, investigating officer, defense counsel, and judge. The hypothetical scenario involved a social engineering attack where the victim received a fraudulent WhatsApp message requesting funds.

New Provisions and Overlaps:

Participants discussed the relevant sections of the Bharatiya Nyaya Sanhita 2023 (BNS) and the IT Act 2000 for cybercrimes:

- Section 318 & 319 of BNS 2023 - Cheating by personation
- Section 308 of BNS 2023 - Extortion
- Section 66-D of the IT Act 2000 - Punishment for cheating by personation using computer resources

Highlighted the overlap between the BNS 2023 and the IT Act 2000, particularly in cybercrime cases. He mentioned a Bombay

High Court judgment that discouraged invoking both acts simultaneously, though he noted that this judgment is currently being challenged in the Supreme Court.

Also highlighted the role of the investigating officer in filing FIRs under Section 173 of BNSS - Information in cognizable cases. The concept of Zero FIR and e-FIR was introduced, allowing FIRs to be registered regardless of the crime's location. Participants discussed the provision for e-FIR, which allows electronic communication to be recorded and signed by the victim within three days, emphasizing that the police can reach out to the victim for signatures if needed.

The investigation process was discussed, highlighting the obligation of the investigating officer to keep the victim informed about the progress within 90 days, as mandated by BNSS 2023. The session also covered the power of police officers to require the attendance of witnesses (Section 179) and the option to examine victims through audio-video electronic means if they cannot come to the police station (Section 180).

The provisions for the search and seizure of electronic devices were discussed, including the necessity of obtaining a warrant. The speaker emphasized avoiding roving searches and ensuring warrants detail the devices to be searched or seized. Standard practices like using Faraday bags and recording hash values were recommended to preserve the integrity of seized devices.

The Bharatiya Sakshya Adhiniyam 2023's provisions on the admissibility of electronic records were discussed, including the necessity of forms Part A and Part B under Section 63. The session highlighted the need for SOPs and certifications for experts filling out Part B forms and emphasized the importance of preserving seized devices using Faraday bags and recording hash values to prevent tampering.

Recommendations:

Two key recommendations were made:

1. FIR copies should be automatically available to the ICJS (Interoperable Criminal Justice System) to ensure seamless justice.
2. Officers engaged in search and seizure should use body-worn cameras, with recordings stored on a central server to prevent tampering.

Session 4- The Indian Penal Code,1860 to The Bhartiya Nyaya Sanhita, 2023: Reforms in Offences against body, property, Offences by and against public servant (Changes and Challenges)

The recent legislative enactment of the Bharatiya Nyaya Sanhita (BNS), Act 45 of 2023, marks a significant shift in India's legal landscape, paralleling the numerical designation of its predecessor, the Indian Penal Code (IPC) of 1860. Effective from July 1, 2024, the BNS, along with the Bharatiya Nagarik Suraksha Sanhita (BNSS) and the Bharatiya Sakshya Adhiniyam (BSA), introduces a modernized and streamlined approach to criminal law, significantly impacting the structure and application of legal provisions in India.

The BNS reduces the number of sections from the IPC's 554 to 358, representing a more concise codification of criminal law. This reduction is achieved through the consolidation and reorganization of provisions, with 286 sections of the IPC directly corresponding to sections in the BNS, and 249 sections consolidated into 62. The streamlined approach aims to simplify legal interpretation and application, promoting clarity and efficiency in the criminal justice system.

A notable aspect of the BNS is the consolidation of definitions and related offenses. Unlike the IPC, which dispersed definitions across 39 sections, the BNS incorporates them into a single section. Offenses related to coins and currency, previously spread across the IPC, are now streamlined into just four sections within

the BNS. This focus on clear and concise legal language reflects a modernization effort aimed at making the law more accessible and understandable.

The BNS introduces several changes in the classification of offenses. The total number of offenses has been reduced from 483 under the IPC to approximately 467 under the BNS, indicating a focus on the consolidation of related offenses. The number of cognizable offenses punishable with imprisonment for a term less than seven years or which may extend to seven years has decreased, impacting the police's authority to arrest without a warrant. Conversely, offenses punishable by seven years or more have increased, highlighting a shift in focus towards more severe crimes.

The BNS introduces new sections addressing areas not previously covered by the IPC. For instance, Section 69 criminalizes sexual intercourse achieved through deceitful means, and Section 95 addresses hiring, employing, or engaging a child in the commission of an offense. These additions enhance the protection of vulnerable segments of society and reflect contemporary societal concerns.

The BNS expands the jurisdiction of the Court of Sessions by 12.4%, allowing it to handle more offenses than under the IPC. This change aims to ensure that serious crimes are adjudicated by higher courts, potentially leading to more consistent and rigorous application of justice. Additionally, the BNS incorporates new procedural provisions, such as the introduction of e-FIRs and Zero FIRs, which allow for the registration of FIRs regardless of the crime's location. This enhances accessibility to the justice system and ensures timely reporting of offenses.

The BNS increases the number of offenses subject to the death penalty from 13 to 16, including mob lynching, terrorist acts, and gang-rape of a woman below the age of 18 years. This revision reflects a stringent approach to heinous crimes and aims to deter such offenses. The introduction of specific provisions for snatching, previously covered under robbery, and mob lynching, previously

covered under murder, underscores the government's response to emerging social issues and judicial recommendations.

The BNS emphasizes the importance of technological integration in the criminal justice system. It expands the scope of declaring proclaimed offenders, allowing authorities to identify, attach, and forfeit the property of absconding criminals located outside India. The Central Government's plan to expand forensic infrastructure significantly over the next five years aligns with this emphasis, ensuring that the justice system can effectively handle modern technological challenges.

The session highlighted the interplay between judicial decisions and legislative actions. The repeal of Section 124A, which criminalized seditious speech, and its replacement with Section 152, which addresses activities endangering national sovereignty, reflects a nuanced approach to balancing free speech and national security. The exclusion of Section 309, which criminalized attempted suicide, in favor of a rights-based approach underlines the evolving understanding of mental health and individual rights.

Day 2

Session 1- The Indian Evidence Act, 1872 to Bharatiya Sakshya Adhinayam, 2023: Changes and Challenges : (Preamble, Extent, Applicability, Terminology, Documentary Evidence including Digital and Electronic Evidence, Presumptions, Confession, Joint Trial, and Accomplice Testimony)

Dr. Aditi Choudhary effectively engaged the participants by first gauging their familiarity with the Indian Evidence Act (IEA) and then structuring her session accordingly. She emphasized the significance of the BSA 2023, highlighting its potential to impact the administration of justice profoundly. Her interactive approach ensured active participation and facilitated a deeper understanding of the new evidence law.

The speaker explained that the BSA consolidates various sections of the IEA to make the text more user-friendly. For instance, Sections 25, 26, and 27 of the IEA are now consolidated into Section 23 of the BSA. She acknowledged the challenges posed by this reorganization, given the stakeholders' familiarity with the old scheme and section numbers.

The BSA integrates technological advancements to enhance the acceptability and handling of electronic evidence. Dr. Choudhary noted the introduction of procedures for recording evidence via video conferencing, aiming to ensure fair and speedy justice. She provided an overview of the BSA, which comprises 170 sections and four parts, including 12 chapters and one schedule.

The session delved into the relevance of facts and the necessity of a standardized statute of evidence. Speaker used practical

examples to illustrate the importance of distinguishing between facts in issue and relevant facts. She explained how the BSA, like the IEA, delineates the rules of evidence, determining what can be produced in court.

Highlighted the changes in the scope of electronic evidence under the BSA. She discussed how electronic records now fall under documentary evidence and explained the provisions regarding the production and effect of evidence. The session covered the burden of proof, witness examination, and the changes in the definition and handling of primary and secondary evidence.

The addition of "Fair trial" in the preamble of the BSA was emphasized as a significant change aimed at upholding the principles of justice. Dr. Choudhary compared the applicability of the IEA and BSA, noting the omission of the definition of India in the new evidence law.

The session addressed the terminology related to electronic evidence, the expanded definition of "document," and the inclusion of electronic records. Dr. Choudhary discussed the challenges posed by these changes and the necessity for a cautious approach in handling sensitive data.

The speaker clarified the contradictions between Sections 114 and 133 of the IEA regarding accomplice evidence, explaining how the BSA resolves these issues. She also discussed the expanded scope of non-admissibility of confessions under coercion, emphasizing the need for scientific and proper evidence collection.

Identified several challenges in the admissibility and authenticity of electronic evidence, including the need for experts, standard hashing algorithms, and proper data storage protocols. She stressed the importance of treating the BSA as a living act, adaptable to technological advancements and societal needs.

Session 2- The Criminal Procedure Code, 1973 to The Bhartiya Nagarik Suraksha Sanhita, 2023: Reforms in Procedure of FIR, Arrest and Investigation (Changes and Challenges)

The session began with an overview of the historical context of the Criminal Procedure Code (CrPC) of 1973 and the pressing need for its reform. Participants learned that the CrPC, while foundational, has become outdated in addressing contemporary challenges such as technological advancements, societal changes, judicial backlog, and the need to incorporate international best practices. The Bharatiya Nagarik Suraksha Sanhita (BNSS) of 2023 was introduced as a comprehensive reform aimed at creating a more efficient, transparent, and just legal framework.

Key Reforms and Their Implications

One of the primary areas of reform in the BNSS 2023 is the expansion and refinement of definitions. The introduction of modern terms like 'audio-video electronic means,' 'bail,' and 'electronic communication' reflects the integration of technology into the legal framework, aiming to streamline procedures and reduce paperwork. The broadened definition of 'victim' to include individuals who have suffered harm regardless of whether formal charges are filed was highlighted as a significant change that promotes a more victim-centric approach, ensuring timely support and recognition for victims.

The BNSS 2023 aims to standardise judicial roles, abolishing certain posts and restructuring the hierarchy to include Judicial Magistrates of the second and first classes, Sessions Judges, and Executive Magistrates. This restructuring is expected to streamline case handling and reduce delays caused by jurisdictional ambiguities, ultimately improving the quality of judicial decisions.

Appointment of Special Executive Magistrates

The BNSS empowers the State Government to appoint police officers as Special Executive Magistrates, enhancing the flexibility and responsiveness of the legal system, particularly in urgent matters requiring immediate judicial intervention. This reform is designed to expedite preventive detention measures effectively.

A significant development under the BNSS 2023 is the establishment of the Directorate of Prosecution with district-level offices, aimed at professionalising prosecutorial functions and ensuring efficient prosecutions through specialized training and oversight.

Protection of Vulnerable Individuals

The BNSS introduces protections for aged and infirm individuals, stipulating that they cannot be arrested for minor offences without higher-level permission, thereby acknowledging their vulnerabilities and preventing undue hardship.

Specific conditions under which handcuffs can be used were outlined, focusing on the nature and gravity of the offence. This reform aims to prevent misuse and ensure that the use of handcuffs is justified and proportionate.

The session covered the concept of Zero FIR, allowing FIRs to be lodged at any police station regardless of jurisdiction, and the option of lodging FIRs electronically (e-FIR). These reforms are expected to expedite the FIR lodging process, reduce delays, and enhance accessibility and user-friendliness of the legal system.

Participants learned about the integration of technology in the legal process under BNSS 2023, including the electronic issuance and service of summons, and the audio-video recording of search and seizure processes. These measures aim to enhance transparency, accountability, and efficiency.

The BNSS 2023 places strong emphasis on the protection of victims and witnesses. Measures include recording statements via audio-video means in the presence of trusted individuals, timely

compensation, psychological support, legal assistance, and a comprehensive witness protection scheme to prevent harassment and threats.

The session concluded by addressing the challenges in implementing these reforms, such as the need for substantial investments in infrastructure and training, ensuring consistency and uniformity across jurisdictions, raising awareness and acceptance among stakeholders, and balancing technology with privacy concerns.

Session 3- The Criminal Procedure Code, 1973 to the Bhartiya Nagarik Suraksha Sanhita, 2023: Reforms regarding Prosecution (Changes, Challenges and Strategies for Implementation) and Coordination with Law Enforcement Agencies

Shri Pandey identified key prosecution challenges, such as dependency on investigation, court procedures, and lack of coordination among various stakeholders like the police, prosecution, prisons, FSL, child development agencies, and the judiciary. He stressed that effective prosecution requires seamless coordination among these entities. He highlighted the necessity of new laws to address the evolving tactics of criminals and the importance of technological advancements and training in cyber laws to handle cyber-crime cases more effectively. The gap in understanding cyber laws often leads to cyber-crime punishments being awarded under IPC sections instead of the IT Act.

The session addressed how increasing social connectivity via social media provides new opportunities for criminals to defraud people. Shri Pandey shared personal anecdotes to illustrate how criminals use technology for fraudulent activities, emphasizing the need for awareness and police competence to meet rising public expectations. He stressed the importance of empathy for witnesses and the necessity of ensuring their presence in court for timely trials, as highlighted in directives from the Ministry of Law & Justice.

Shri Pandey discussed the integration of technological tools like CCTNS and ICJS to streamline prosecution processes. He cited successful initiatives such as the automatic transmission of FIR and charge sheet data to the judiciary, which ensures timely submission and reduces delays. Digital tools enhance prosecution efficiency and provide real-time information to complainants and victims.

The session emphasized the independence of the prosecution, highlighting efforts to ensure that prosecutors perform their duties without undue influence. Legal orders mandating the scrutiny of investigation reports by prosecutors enhance the quality of investigations and trials. Shri Pandey also underscored the importance of filing timely appeals against acquittals, particularly in high-profile cases, and the challenges involved in this process.

The need for continuous coordination and training among all stakeholders was a key point of the session. Digital platforms should facilitate communication and monitoring, ensuring that all parties involved in the criminal justice system are synchronized. Examples of successful coordination efforts were shared, demonstrating their positive impact on prosecution outcomes.

Shri Pandey discussed the importance of providing timely information to victims and the role of digital tools in enhancing prosecution efficiency. He emphasized the significance of monitoring cell meetings in increasing conviction rates, describing how substantive, agenda-based meetings can coordinate efforts between the district magistrate, police, and judiciary.

The session highlighted efforts to increase conviction rates and the importance of a robust appeal process. Timely appeals against acquittals, particularly in high-profile cases, are crucial for ensuring justice. Shri Pandey discussed various prosecution reforms, including the integration of digital tools and the need for continuous monitoring and training to maintain an efficient criminal justice system.

Session 4- Panel Discussion on Reforms in Criminal Laws (BNS, BNSS, BSA) 2023 and Inter Agency Coordination: Changes, Challenges and Strategies

The introduction of new criminal laws in India, effective July 1, 2024, marks a significant advancement towards enhancing the efficiency and inclusivity of the country's legal framework. For successful implementation, it is crucial to invest in digital systems with last-mile connectivity and comprehensive training programs for all stakeholders. Overcoming existing silos within the police, prison, forensics, and prosecution sectors is vital to ensure swift investigations and convictions.

One of the primary challenges identified is the siloed functioning of various departments, which hampers effective communication and coordination. Additionally, the lack of digital literacy and understanding of the new laws among stakeholders poses a significant hurdle. Other pressing issues include prison overcrowding, inadequate digital resources at police stations, and delays in judicial processes.

Strategies for Effective Implementation

1. Continuous Learning and Upskilling:

- Platforms like Mission Karmayogi should be utilized for continuous learning and upskilling.
- Mixed group training programs can foster a collaborative learning environment, ensuring all stakeholders are well-versed in the new laws and digital tools.

2. Digital Infrastructure Development:

- Developing a comprehensive digital infrastructure with reliable connectivity and secure data storage is essential.
- Emphasizing full digitalization and integrating advanced

technological solutions will significantly enhance operational efficiency.

3. Standardized Protocols and Communication:

- Establishing standardized protocols and clear communication channels between departments will promote a collaborative work culture.
- Regular inter-departmental meetings and integrated task forces can ensure seamless coordination and cooperation.

4. Technological Investments and Recruitment:

- Investing in technological solutions and modifying recruitment rules to prioritize candidates with strong technical skills is crucial.
- This approach will ensure that new recruits are tech-savvy and capable of effectively using advanced technology.

5. Continuous Monitoring and Data-Driven Adaptation:

- Continuously monitoring the implementation of the new laws, evaluating their impact, and adapting strategies based on data-driven decisions will enable agile and responsive adjustments.

Maharashtra serves as a model by leveraging technology to enhance law enforcement and cybersecurity. The state's leading use of the ICJS platform and significant updates to CCTNS demonstrate its commitment to aligning with the new provisions of the Bharatiya Nyaya Sanhita. These advancements underscore the potential of embracing technology to modernize the criminal justice system.

The recent comprehensive criminal law reforms in India signify a critical step in the nation's ongoing economic and social transformation, which began with the landmark economic reforms of 1991. These reforms revitalized various sectors and now, a modernized police and justice system is essential for India to

achieve developed-nation status. The longstanding issues within India's criminal justice system, such as FIR registration delays, pre-trial detainees, and socio-economic biases, necessitate these new reKey Reforms and Their Implications

The new suite of criminal law reforms includes significant changes: 160 within the Bharatiya Nyaya Sanhita (BNS), 360 within the Bharatiya Nagarik Suraksha Sanhita (BNSS), and 45 within the Bharatiya Sakshya Adhinyam (BSA). These reforms are not merely cosmetic but focus on consolidating and updating legal provisions to address contemporary challenges. Key reforms emphasize the integration of technology, enhanced efficiency, and accountability within the criminal justice system.

A cornerstone of these reforms is the mandatory use of forensic evidence in all criminal investigations involving offences punishable by imprisonment exceeding seven years. This shift from reliance on human testimony aims to reduce miscarriages of justice. The reforms prioritize modern scientific advancements, making the criminal justice system more reliable and accurate. The integration of high-definition videography and the need for robust data storage and secure transfer capabilities are highlighted, necessitating significant technological upgrades.

The new laws also introduce a victim-centric approach, emphasizing the importance of involving and informing victims throughout the redressal process. This shift aims to address the opacity of the previous system and bring about a sense of true justice. The continuous discourse, judicial scrutiny, and practical application will be essential in refining these legal frameworks.

Concerns have been raised about the preparedness for the new criminal law reforms, especially among lower judiciary officials and administrative magistrates. Ensuring their readiness to apply the new legal framework is crucial. Comprehensive training programs through platforms like Mission Karmayogi and mixed group training are necessary to equip all stakeholders with the required knowledge and skills.

The success of these reforms depends on overcoming systemic silos and fostering coordination among police, prosecution, forensics, and prisons. Establishing standardized protocols, clear communication channels, and regular inter-departmental meetings will promote seamless cooperation. Maharashtra's advancements in using ICJS and updates to CCTNS demonstrate the potential of embracing technology to enhance law enforcement and cybersecurity.

The coexistence of old and new legal frameworks due to the existing backlog of criminal cases presents a significant challenge. Legal professionals will need to navigate both systems simultaneously, necessitating substantial investment in training. This prolonged dual system operation underscores the need for officers trained in both legal frameworks to ensure efficiency.

The requirement for high-definition videography and extensive forensic investigations highlights the need for a specialized cadre at the Thana house or state level to manage these tasks. Adequate training and technological expertise will be crucial for these specialized units to function effectively.

DAY 3

Session 1- Implementation of New Criminal Laws-Initiatives of E-Committee, NCRB and Use of Inter-operable Criminal Justice System 2, CCTNS for Effective Implementation of New Criminal Law Reforms

The session on the implementation of new criminal laws provided a comprehensive overview of the technological advancements and digital transformations in the Indian judicial system. The focus was on the initiatives of the E-committee, the National Crime Records Bureau (NCRB), and the use of the interoperable criminal justice system (ICJS) and the Crime and Criminal Tracking Network and Systems (CCTNS) for effective implementation of these reforms.

The E-committee has been pivotal in driving the digital transformation of Indian courts. The Eco Mission Mode Project, launched in 2018, is a testament to the government's commitment to modernizing the judiciary. Now in its third phase, the project has received substantial funding to integrate cutting-edge technologies like artificial intelligence (AI) and blockchain. The initial phases laid the foundation by establishing digital infrastructure and software integration, which proved crucial during the COVID-19 pandemic by enabling video conferencing capabilities. This digital shift has not only ensured continuity in judicial proceedings but also paved the way for future electronic trials and proceedings.

One of the standout aspects of the E-committee's efforts is the focus on citizen-centric services. The E-courts portal and mobile app have revolutionized access to judicial information, making it available 24/7 at no cost. These platforms have millions of daily users, providing easy access to case statuses, judgments, and other court services. This transparency and accessibility are crucial for enhancing public trust in the judicial system. Additionally, digital

payment systems for court fees and fines have streamlined financial transactions, benefiting both the judiciary and the public.

The session highlighted the importance of video conferencing and electronic evidence recording in the context of new criminal laws. The courts are now equipped with extensive video conferencing facilities, and model rules for these technologies have been adopted by most high courts. This infrastructure supports the digital demands of new legislation, making the judicial process more efficient and accessible. Electronic trials and proceedings are becoming the norm, reducing the physical burden on courts and enhancing the speed of justice delivery.

The Case Information System (CIS) is a cornerstone of the E-committee's digital initiatives. Implemented across over 20,000 courts, this open-source software supports bilingual operations and integrates with various other applications. The interoperability with the criminal justice system (ICJS) allows seamless data exchange between courts, police, and other stakeholders. This integration is crucial for efficient case management and evidence tracking, ensuring that the judicial system operates smoothly and cohesively. The National Judicial Data Grid (NJDG) was underscored as a powerful administrative tool, providing real-time statistics on case pendency and court performance. This open-access platform is instrumental for decision-makers at all levels, from district collectors to policymakers. By offering comprehensive data, the NJDG aids in resource allocation and strategic planning, contributing to a more efficient and transparent judicial system.

The Virtual Courts project represents a significant leap towards a paperless judiciary. Implemented in 20 states, it has handled a vast number of cases, reducing the physical burden on courtrooms and increasing efficiency. Similarly, the Crime and Criminal Tracking Network and Systems (CCTNS) integrates with other judicial and law enforcement databases, enhancing the overall efficiency of the criminal justice system. The ongoing efforts to improve data accuracy and integration with systems like the Automated

Fingerprint Identification System (AFIS) and the Arms License Identification System (ALIS) are commendable.

The session concluded with an emphasis on the importance of digital literacy and capacity building among judicial and police officers. Various training programs have been initiated to equip stakeholders with the necessary skills to leverage digital tools effectively. Continuous education and training are essential to ensure that all stakeholders can fully utilize the available digital infrastructure, contributing to a more efficient and transparent judicial system.

Session 2- Criminal Law Reforms- Challenges for Judiciary in Interpreting and Implementing Procedural Reforms

Justice Bhat provided an overview of the three new laws: the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA), which replace the archaic IPC, CrPC, and Evidence Act. These laws aim to modernize the system, promote timely justice, and leverage science and technology.

The session delved into the transitional provisions and the persistence of a dual legal framework. Justice Bhat discussed how Section 358 of the BNS, Section 531 of the BNSS, and Section 170 of the BSA ensure that old laws continue to govern criminal processes initiated before July 1, 2024. He highlighted the challenges this dual system poses to an already overburdened criminal justice system with a significant backlog of cases.

Justice Bhat praised the introduction of community service as a punishment for non-serious offenses under Clause 4(f) of the BNS. This provision aims to reduce the burden on the prison system and offer a rehabilitative approach. However, he noted the lack of clear definitions and guidelines for community service.

The speaker highlighted progressive provisions such as Section 479 of the BNS, which mandates the release of undertrial prisoners without prior convictions if they have served one-third of the maximum sentence. He also discussed the importance of state-notified witness protection schemes under Section 398 of the BNSS, referencing the Supreme Court's Mahender Chawla decision that emphasizes the need for robust witness protection.

Justice Bhat emphasized the expanded rights of victims under the new laws. Sections 173(2), 193(3), 230, and 360 of the BNSS ensure victims have the right to information and participation in the criminal process. He noted challenges related to the provision of legal aid for indigent victims.

The session discussed statutory timelines for various stages of the criminal process, aiming to promote speedier justice. However, Justice Bhat questioned the feasibility of these timelines given the current under-resourced state of criminal justice institutions and high vacancy rates.

Justice Bhat addressed the increased reliance on forensic evidence and the mandatory presence of forensic experts at crime scenes. He also appreciated the mandate for recording searches and seizures through audio-visual means but highlighted the need for robust protocols to preserve the chain of custody and ensure the authenticity of digital evidence.

The speaker expressed concerns about vaguely worded provisions in the new laws, such as those criminalizing false and misleading information and acts endangering the sovereignty of India. He highlighted the risks of over-criminalization and the challenges these provisions pose.

Session 3- The Criminal Procedure Code, 1973 to the Bhartiya Nagarik Suraksha Sanhita, 2023: Reforms regarding Court Procedure, Trial and Judgment (Changes, Challenges and Strategies for

Implementing)

The session on the Bharatiya Nyaya Sanhita (BNS) reforms provided a comprehensive overview of the significant changes introduced in the new criminal laws, which are set to take effect on July 1, 2024. The reforms aim to modernize and streamline India's criminal justice system, addressing longstanding issues and leveraging technological advancements to ensure efficiency, transparency, and justice.

New definitions related to audio-video electronic means and electronic communication are pivotal in understanding the handling of documents and evidence. Structural changes in criminal courts, especially in metropolitan areas, include the abolition of the posts of Chief Metropolitan Magistrate and Assistant Sessions Judge. The Director of Prosecution's role is now clearly defined at the district level, though specifics are left to state governments.

The session highlighted significant changes in sentencing powers. Judicial Magistrates First Class can now impose fines up to Rs. 50,000 and award community service as punishment. Community service, broadly defined in Section 23 of the BNS, allows judicial discretion in determining appropriate tasks. Clarifications were provided on the arrest powers under Sections 41 and 41A, emphasizing that notices under Section 41A are mandatory, as reinforced by the Supreme Court ruling in *Satender Kumar Antil vs. CBI* (2022).

The mandatory electronic or digital issuance of summons aims to modernize and streamline the service of legal documents. The definition of proclaimed offenders now includes those wanted for serious offenses, broadening its scope. Section 91 of the CrPC, mirrored in the BNSS, has been expanded to include electronic communications and devices, facilitating the collection of digital evidence crucial for modern investigations.

The mandatory audio-video recording of all search operations ensures transparency and accountability. These recordings must be sent to appropriate authorities without delay, enhancing oversight.

The law allows for the attachment or seizure of proceeds of crime during investigations, streamlining previously cumbersome processes. Quick disposal of seized property during investigations is mandated, with provisions for maintaining evidence integrity through detailed descriptions and photographic or videographic documentation.

The session addressed the restriction of magistrates' powers to their districts and the mandatory recording of witness statements in serious offenses. Clarifications were provided on police custody durations and the requirements for further investigation after filing a chargesheet. Various timelines were introduced to streamline judicial processes and prevent delays.

The use of technology, including audio-video means for witness examination, is heavily emphasized. Victims' rights are enhanced, with provisions requiring courts to hear them before allowing the prosecution to withdraw cases. The law also mandates the release of undertrial prisoners who have served significant portions of their sentences.

Session 4- Strategies for Implementing Forensic Reforms In Criminal Laws: For all stakeholders, including Police, Prosecution, Courts and FSL's

The session provided a comprehensive overview of the new Indian criminal laws: Bharatiya Nagarik Suraksha Sanhita 2023 (BNSS), Bharatiya Nyaya Sanhita 2023 (BNS), and Bharatiya Sakshya Adhinyam 2023 (BSA), effective from July 1, 2024. These laws replace the colonial-era IPC, CrPC, and IEA, marking a shift from a retributive to a reformatory justice approach.

The new laws emphasize justice (Nyaya) over punishment (Danda) and incorporate digital evidence and technological advancements. They promote a partly inquisitorial approach, introduce jurisdictional flexibility with zero FIR and e-FIR, and adopt a gender-sensitive,

victim-centric framework while safeguarding the rights of the accused through plea bargaining and protection from false cases.

Significant Changes in BNS

- **Mental Health:** Section 22 aligns with the Mental Healthcare Act 2017, replacing “unsoundness of mind” with “mentally ill person.”
- **Negligence:** Section 106(1) increases the punishment for causing death by rash or negligent acts to five years and specifically mentions registered medical practitioners.
- **Grievous Hurt:** Section 116 reduces the threshold for grievous hurt from 20 to 15 days, potentially increasing the number of injuries classified as grievous.
- **Rape:** Section 63 removes forced sex by a husband with a wife above 18 from the definition of rape, awaiting a Supreme Court decision on marital rape.
- **Suicide:** Attempt to commit suicide is decriminalized, aligning with Section 115 of the Mental Healthcare Act 2017.
- **Homosexual Acts and Adultery:** The BNS lacks provisions for nonconsensual homosexual acts and adultery, necessitating future legal adjustments.

Significant Changes in BNSS

- **Medical Examination:** Section 184(1) mandates submitting the medical examination report within seven days, acknowledging practical difficulties.
- **Rape Accused Examination:** Section 52(1) retains the provisions of Section 53A CrPC but does not address the use of reasonable force in medical examinations of the accused.

Significant Changes in BSA

- **Electronic Evidence:** Sections 2(e) and 63(1) recognize electronic and digital evidence, paving the way for modern judicial proceedings and the integration of digital health records like HMIS and MedLEaPR.

Embracing Technology

The new laws integrate technology through CCTNS, ICJS, and I4C, and highlight the importance of digital evidence. There is a push for virtual autopsies where infrastructure is available, reflecting a technologically advancing judicial system.

Session 5- Criminal Laws Reforms (BNS, BNSS, BSA, 2023)- Challenges and strategies for Implementation and Effective Coordination

The session led by Hon'ble Mr. Justice Aniruddha Bose, Director of the National Judicial Academy, Bhopal, offered an insightful overview of the new criminal laws: the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, 2023. Justice Bose highlighted the integration of judicial pronouncements from old laws into the new framework, emphasizing the incorporation of technology for various judicial processes, including service of summons, search and seizure, evidence through video conferencing, and digital evidence management.

Justice Bose stressed the critical role of judges, administrative officers, and police officers as the implementing agencies of these new laws, urging them to develop effective methodologies within the existing legal landscape to ensure smooth implementation from midnight of June 30, 2024. He made the session interactive, inviting participants to discuss and share their viewpoints on key topics.

Key deliberations included the importance of time-bound trials and the use of electronic evidence, the implementation of Zero FIR, territorial jurisdiction for filing bail applications, conducting trials via video conferencing, and prescribed timelines at different stages of the judicial process. The session also focused on the impact of electronic evidence on the criminal justice system, mandatory videography for fair investigations, the application of discharge procedures, community service as a form of punishment, and the role of victims and restorative justice in the new laws. Additionally, the role of SALSA/DASLA in assisting under-trial prisoners with bail bonds was discussed.

Overall, the session underscored the transformative potential of these new laws in modernizing the judicial process and ensuring fair and efficient justice delivery.



DAY 4

Session 1- Criminal Law Reforms 2023 (BNS, BNSS and BSA): : Question and Answers

The session led by Shri Mohit Mathur, Sr. Advocate, provided an in-depth analysis of the Bharatiya Nyaya Sanhita (BNS) and Bharatiya Nagarik Suraksha Sanhita (BNSS), focusing on potential interpretive challenges and the practical implications of these new laws.

The session highlighted concerns regarding the discretionary power granted to Superintendents of Police under Section 113 of the BNS, allowing them to choose between registering a case under the BNS or the Unlawful Activities (Prevention) Act (UAPA) of 1967. This discretion could lead to inconsistencies in arrest, bail, and investigation procedures, potentially undermining citizen rights.

The definition of “petty organized crimes” under Section 112 of the BNS raised concerns due to its broad and vague language. The inclusion of disparate offenses like gambling, betting, and cheating, along with the phrase “any other similar criminal act,” could lead to unforeseen and potentially unfair consequences.

The inclusion of medical negligence within the BNS was discussed, noting that the BNS mandates imprisonment for proven cases of rash and negligent acts, diverging from the previous approach that allowed fines. This could conflict with the Supreme Court’s established procedures for investigating medical negligence, potentially leading to a mandatory punishment-based approach.

The introduction of the ‘Zero FIR’ concept under Section 173 of the BNSS, which allows the police to register an FIR irrespective of jurisdiction, raised concerns about potential hardships for citizens and unfair trials. The possibility of an Investigating Officer (IO) choosing not to transfer the FIR to the jurisdictional police station

could lead to pre-trial proceedings in non-jurisdictional courts.

Ambiguities regarding the preliminary inquiry for offenses punishable from 3 to 7 years were discussed. The provision requiring a hearing for the proposed accused before taking cognizance of complaint cases could lead to delays and potential misuse by unscrupulous individuals.

Section 107 of the BNSS, which allows the attachment of property believed to be acquired from criminal proceeds, raised concerns about undue hardship and potential misuse. Ensuring fairness in these proceedings will place a significant onus on the courts. The provision for trial in absentia under Section 356 of the BNSS was seen as a measure to end the victims' agony, although it presents challenges for ensuring fair trials.

Concerns were raised about the fate of cases spanning the implementation date of July 1, 2024, particularly regarding offenses with modified or reduced punishments and those that have been repealed.

Session 2- Criminal Law reforms (BNS, BNSS, BSA) 2023: Changes in Punishment Policy, Graded Punishment Scheme, Community Service, Changes in Quantum of Punishment, Mercy Petition, Obstacles and Implementations Strategies.

The session provided a profound understanding of the evolution of punishment and the complexities within the criminal justice system.

The speaker began by emphasizing introspection and dialogue. He contrasted the Hammurabi Code's "an eye for an eye" principle with the more sophisticated theories in ancient Indian texts like the Dharmashastras, which predate the Hammurabi Code. The British colonial period significantly altered India's legal system, sidelining rich legal traditions. Post-independence, India adopted the Indian

Penal Code and later the Constitution, but the speaker suggested reintegrating ancient wisdom into modern law. Punishment serves various purposes, including deterrence, retribution, rehabilitation, and public protection.

The session highlighted the complexities of sentencing, emphasizing the need for proportionate and consistent punishment to achieve justice. The lack of statutory guidance for sentencing in India places a significant burden on judges, contrasting with structured approaches in the US and UK. The speaker called for comprehensive sentencing guidelines to ensure consistency and fairness. A unified theory of punishment should balance harm to the victim, culpability of the offender, and consider aggravating and mitigating circumstances.

Case studies illustrated the practical challenges and ethical dilemmas in the criminal justice system. One case involved a 13-year-old boy's suicide, revealing investigative and ethical challenges faced by police officers, and the importance of thorough and sensitive investigations. Another case showed the potential for rehabilitation, where a reformed individual thanked the arresting officer. These examples underscore that punishment should deter crime, provide justice for victims, and offer opportunities for offender reform.

The speaker acknowledged the difficulties in balancing public opinion and legal principles, particularly in democratic settings. He cited examples from Nagaland to illustrate these challenges. Proposed reforms included increasing the range of punishments, rationalizing the punishment process, and streamlining the mercy petition process. The speaker emphasized the importance of inter-agency coordination and the integration of traditional wisdom with modern practices to create a more efficient and just criminal justice system. Comprehensive reforms are necessary to adapt to the complexities of modern society, ensuring proportionate and consistent sentencing.

Session 3- The Indian Penal Code, 1860 to The Bhartiya Nyaya Sanhita, 2023: Changes in Crime against State, Organised Crime and Public Tranquility (Corrections, Updates, Changes and Challenges)

The speaker delivered an insightful lecture on organized crime, terrorism, and crimes against the state, focusing on the Unlawful Activities Prevention Act (UAPA), Maharashtra Control of Organized Crime Act (MCOCA), and the upcoming changes in criminal law. Emphasizing the comprehensive nature of the session, the speaker tied the discussion to previous sessions on new criminal laws and the UAPA provisions.

The lecture began with a police video demonstrating a search operation related to the CPI(M) involving independent witnesses and seizure of evidence. This practical illustration highlighted the upcoming procedural changes, mandating video recording of searches and replacing the traditional punch nama with a video-recorded seizure list. The speaker compared Section 152 of the Bharatiya Nyaya Sanhita (BNS) 2023 with Section 124A of the Indian Penal Code (IPC), emphasizing the significance of documenting evidence.

The speaker explained crucial terms under the UAPA, such as unlawful activities, associations, and terrorist acts. The lecture also covered specific sections, including Section 152 of BNS 2023, which addresses the use of financial means for separatist activities, and its parallels in UAPA and NIA Acts. The speaker highlighted the implications of the high conviction rate of the National Investigation Agency (NIA) and his own perfect conviction record as a prosecutor.

A key takeaway was the strategic importance of invoking UAPA over BNS 2023 for law enforcement. Sections like 33 (forfeiture of property) and 43E (presumption of offence) of UAPA were discussed in detail. These provisions enable preemptive measures like property attachment and presume the accused's guilt based

on recovered evidence, aiding in securing convictions.

The speaker illustrated the importance of scientific evidence with a case study involving an attack on a professor by Popular Front of India members. The collection and analysis of forensic evidence, such as glass shards and blood stains, were crucial in proving the crime and securing convictions.

The lecture underscored the need for robust witness protection mechanisms in serious cases under UAPA, referencing Section 44 of UAPA. Additionally, the process of obtaining timely sanctions from state and central governments was discussed, highlighting procedural challenges and solutions to prevent delays in justice.

Session 4- Issues and Challenges pertaining to Cyber Space in BNSS, BNS and BSA 2023

The esteemed speaker, Adv. Yuvraj P. Narvankar from the Bombay High Court, delivered an enlightening lecture on the changes introduced in the Bharatiya Sakshya Adhiniyam (BSA) 2023 compared to the Indian Evidence Act (IEA) 1872, with a specific focus on the implications for digital evidence. This session addressed the challenges and nuances of incorporating electronic records into legal proceedings, reflecting on recent legislative amendments and judicial interpretations.

Key Changes in the Bharatiya Sakshya Adhiniyam 2023

The first notable change discussed was the removal of the word "India" from Section One. This change is significant as it reflects the technological advancements and aims to modernize the law to accommodate the cross-border nature of electronic evidence, making it more relevant in today's globalized context.

Section Two now specifically includes electronic records in the definition of "document," broadening it to encompass emails,

servers, websites, laptops, and computers. The term “evidence” has also been refined, with oral evidence and documentary evidence now defined separately. Oral evidence includes evidence by electronic means, emphasizing the increasing relevance of digital communications.

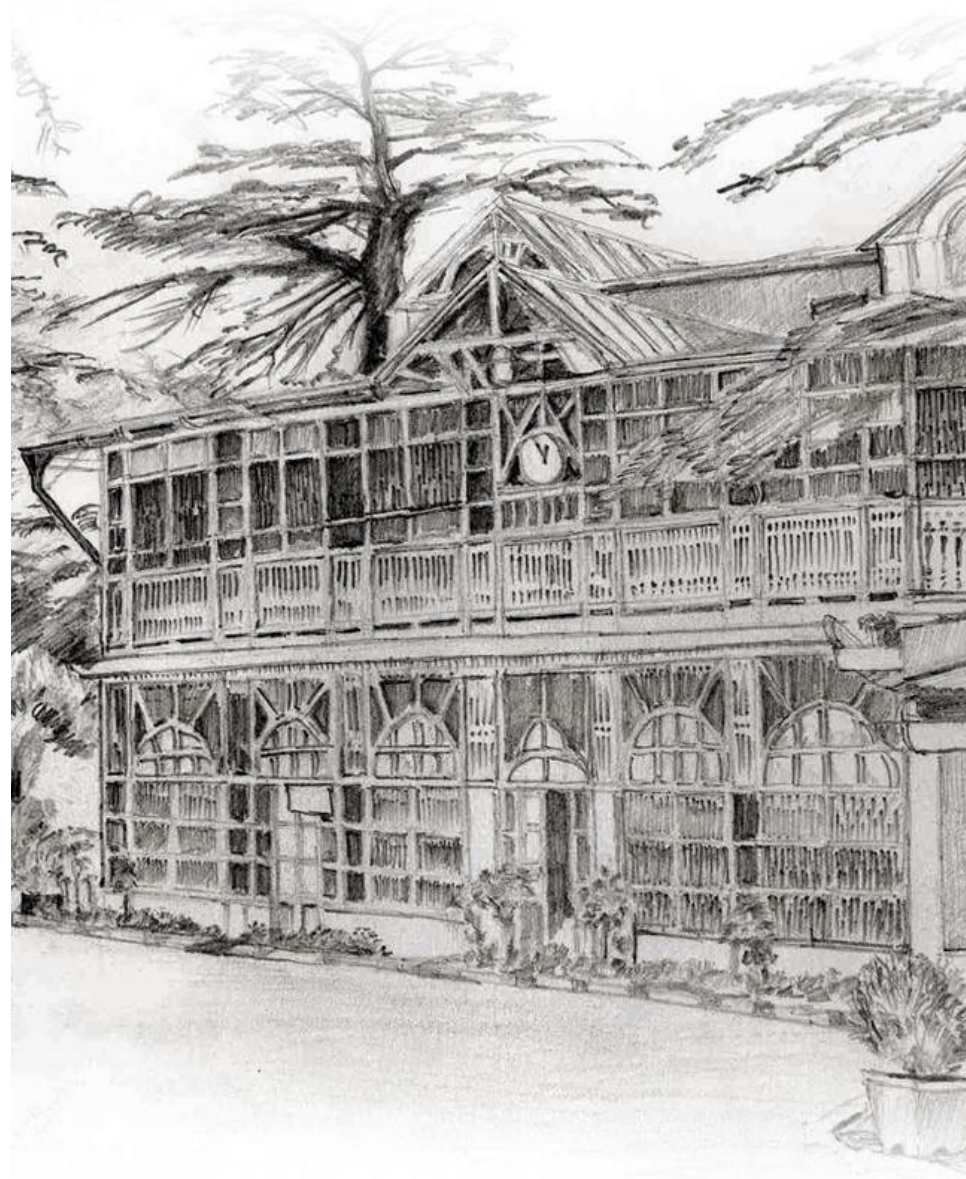
The new Section 39 codifies expert evidence, including expert testimony for electronic records. This change, originally defined in Section 45 of IEA 1872, addresses the challenges of handling digital evidence in legal proceedings, ensuring that experts in various fields are recognized and their testimony appropriately weighted.

The definition of primary evidence remains unchanged, but new illustrations clarify when electronic records qualify as primary evidence. For instance, electronic records made sequentially are each considered primary evidence, reinforcing the integrity and reliability of digital documentation.

Section 61 asserts that electronic records should be treated at par with paper documents. However, compliance with Section 63, which mandates a certificate for electronic records, is still required. This certification ensures the integrity of data through the chain of custody, although it adds complexity compared to jurisdictions like the UK and US, where such requirements have been relaxed.

The speaker discussed practical challenges, emphasizing the importance of the correctness of inputs in electronic records over their regularity. The integrity of the chain of custody for electronic evidence is crucial, addressed through “contemporaneous certification,” requiring a certificate at each stage of handling to maintain the record’s integrity.

Judicial interpretations, such as the Supreme Court case *Anwar vs. Bashir*, were highlighted to underscore the necessity of a certificate under Section 65B for electronic evidence. Subsequent judgments have reiterated this requirement, emphasizing its critical role in ensuring the authenticity of electronic records.



DAY 5

Session 1- Reforms in Criminal Laws and Challenges for Prisons & Correctional Institutes

The lecture delivered by a distinguished speaker Dr. Upneet Lalli focused on the recent reforms in Indian criminal laws, specifically the transition from colonial legacies to a justice system aimed at providing access to justice for all. The discussion covered the Bharatiya Nyaya Sanhita (BNS) 2023 replacing the IPC 1860, the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 replacing the CrPC 1973, and the Bharatiya Sakshya Adhiniyam (BSA) 2023 replacing the Indian Evidence Act 1872. These reforms are designed with technological advancements in mind, emphasizing justice over punishment, and aim to modernize the legal framework for a more efficient criminal justice system.

The lecture highlighted that prisons, being the last wing of the criminal justice system, are significantly impacted by changes at every stage of the process. The speaker discussed the complex nature of prison work, which involves dealing with individuals who have been deprived of their liberty and often suffer from mental health issues, addictions, and poor social skills. The importance of coordination between various criminal justice system (CJS) agencies was stressed, as each wing has its own goals which may sometimes be contradictory.

The purpose of imprisonment has evolved, with reintegration of prisoners now seen as a crucial goal. The BNS introduces decriminalization of certain acts and introduces community service sentences for minor offenses. The speaker highlighted the overcrowded prison population in India and discussed provisions in BNSS aimed at addressing these issues, such as the Rule of Index 2023 by the World Justice Project (WJP), where India's rank is

expected to improve with these reforms.

Prison management is a state subject, but the central government plays a crucial role in supporting state governments. Historical analyses of prison reforms, such as those by Dr. W.C. Reckless and the Justice AN Mulla Committee, were referenced, emphasizing the need for continuous modernization and implementation of comprehensive prison management policies.

The lecture identified challenges in implementing BNSS, such as potential inconsistencies in application across states and the need for extensive training for law enforcement and judicial officers. Effective communication and public education about the reforms are essential for garnering trust and understanding.

A key area requiring Standard Operating Procedures (SOPs) is the implementation of community service as a punishment. The BNSS introduces community service for certain minor offenses, but clear guidelines and training for supervision are needed. The lecture stressed the importance of defining roles and responsibilities, such as whether probation officers, social welfare departments, or prison departments will oversee community service.

The lecture emphasized the need for more video conferencing facilities in prisons to link with courts, addressing issues like non-production of prisoners due to lack of escort. Effective collaboration between prisons, courts, and district authorities is crucial for the successful implementation of reforms. Self-assessment, data analysis, and consensus among stakeholders on key goals and strategies were highlighted as essential components for effective collaboration-driven reforms.

Session 2- Use of AI in Criminal Justice System

The session, led by Shri Nand Kumarum, Deputy Director (Sr), focused on the transformative potential of Artificial Intelligence (AI)

in the criminal justice system. Part of a five-day capacity building and sensitization program on “Criminal Law Reforms in India,” the presentation explored how AI integration can enhance efficiency, reduce costs, and empower citizens across various criminal justice sectors.

The presentation highlighted the deployment of AI across key stakeholders, including police, forensic analysis, judiciary, advocates, prison management, and citizen services. For police operations, AI's role in video analytics was emphasized, detailing capabilities such as scene detection, identification of unattended objects, perimeter intrusion detection, crowd management, and mitigating human fatigue errors. In forensic analysis, AI improves fingerprint-matching accuracy, expedites processing, and offers advanced functionalities like partial print matching and predictive analysis.

The judicial system stands to benefit significantly from AI through automated case tracking, real-time updates, and document reviews. Advocates can leverage AI for legal research, document drafting, and predicting case outcomes, enhancing their practice's efficiency and accuracy. For prison management, AI-driven tools optimize scheduling, resource allocation, and security enhancements, such as facial recognition, ensuring better operational efficiency.

AI also plays a crucial role in enhancing citizen services by summarizing complex legal documents, translating them, and providing virtual legal advice. These capabilities make legal information more accessible and understandable to the public.

Office automation tools that streamline routine tasks, such as email responses, report generation, and presentation creation, were also discussed. Additionally, the session covered relevant legal provisions for AI in the criminal justice system, including the IT Act and DPDP Act, ensuring that AI deployment adheres to legal frameworks.

In conclusion, the session underscored the transformative potential of AI in the criminal justice system, emphasizing improvements

in efficiency, accuracy, and service delivery while maintaining adherence to legal frameworks. This integration not only optimizes operations but also enhances the value-added services provided to citizens, marking a significant step forward in criminal law reforms.

Session 3- Challenges for Civil Servants in Implementing and Interpreting Criminal Laws within Administrative Framework: Funding, Personnel, Training, Infrastructure, Coordination with different agencies

Shri Lalit Jain emphasized the importance of leveraging existing structures and motivation to implement new criminal laws effectively. Key challenges identified include training, forensic capabilities, and infrastructure. According to the Ministry of Home Affairs (MHA), three lakh individuals have been trained, forming a foundation for further training. Forensic capabilities require significant improvements, and collaborating with higher education to increase forensic science program seats can meet future expert demands.

Effective communication is crucial. He highlighted the need to articulate needs and deliberations clearly, illustrated by the Urdu couplet, “yahihadsa he duniya me, baatkahinhigyi, baatsuninhigyi,” meaning we often fail to speak up about important issues. The upcoming E Sakshya application aims to address footage-saving challenges, and temporary solutions like mobile video recordings are encouraged.

Utilizing existing infrastructure, such as internet connectivity and NIC video conferencing facilities, can enhance implementation efforts. Reactivating stakeholder forums and assessing available resources for effective district-level implementation is essential. Jain stressed the role of the e-governance society and the importance of informing and involving state-level officials. Overall, the lecture underscored a strategic approach to training, communication, and

resource utilization for effective law implementation.

Shri Ravi Shankar Shukla outlined the pivotal role of IAS officers in implementing new criminal laws at district, state, and central levels. The responsibilities vary by level, focusing on policy-making and implementation. IAS officers must be proactive and sensitive to the needs of various branches, ensuring institutional rather than ad hoc interventions to expedite processes. The course has rejuvenated the academic instincts of officers, emphasizing the importance of understanding stakeholders' concerns. Inter-agency coordination and frequent meetings are essential for effective problem-solving, rather than relying solely on formal correspondence.

Officers should return as brand ambassadors of the new criminal laws, conducting short, technology-driven training sessions to keep stakeholders informed. Understanding the rationale behind legal changes is crucial, as is regular feedback to shape policies and infrastructure improvements. He used the metaphor of Tom and Fin to illustrate that change is integral to the system, stressing satisfaction with changes before educating others. The shift from punishment to justice, codification of practices like zero FIR, and distinctions in trial procedures reflect significant legal transitions.

Awareness of finer issues, such as the inclusive definition of gender versus the definition of rape, is essential. IAS officers must grasp the jurisprudence behind new laws to ensure effective communication and collaboration across departments.



Feedback Report:

The five-day capacity building and sensitisation programme on criminal law reforms in India recently concluded with overwhelmingly positive feedback from the participants. This report summarises the feedback received, highlighting the strengths of the programme and areas for improvement.

Participant Demographics

The programme was attended by a diverse group of participants, including legal professionals, academics, law enforcement officers, and students. This diverse participation ensured a broad spectrum of perspectives and discussions during the sessions.

Informative Sessions

A significant majority of participants rated the informative sessions as the best aspect of the programme. These sessions were highly appreciated for their comprehensive content, engaging delivery, and relevance to current criminal law reforms in India. The expert speakers provided deep insights into various facets of the reforms, which participants found highly beneficial.

Session Ratings

The feedback graph indicated that:

- Most sessions were rated as 'Best': Participants consistently highlighted the clarity, depth, and practical applicability of the content presented.
- Some sessions were rated as 'Good': While these sessions were still positively received, a few participants noted areas where they felt additional depth or a different approach could enhance understanding.
- Few sessions were rated as 'Fair': These sessions received mixed reviews, with some participants suggesting improvements in terms of interactivity and engagement.

Specific Feedback Highlights

1. Content Quality: Participants commended the high quality of the content delivered. The programme's alignment with current legal reforms and the inclusion of recent case studies were particularly appreciated.

2. Expertise of Speakers: The speakers' expertise and their ability to convey complex legal concepts in an accessible manner were repeatedly praised. Their practical insights and real-world examples significantly enriched the learning experience.

3. Engagement and Interaction: Many participants valued the interactive elements of the sessions, including Q&A segments, discussions, and group activities. These elements facilitated a deeper understanding and allowed for practical application of the knowledge gained.

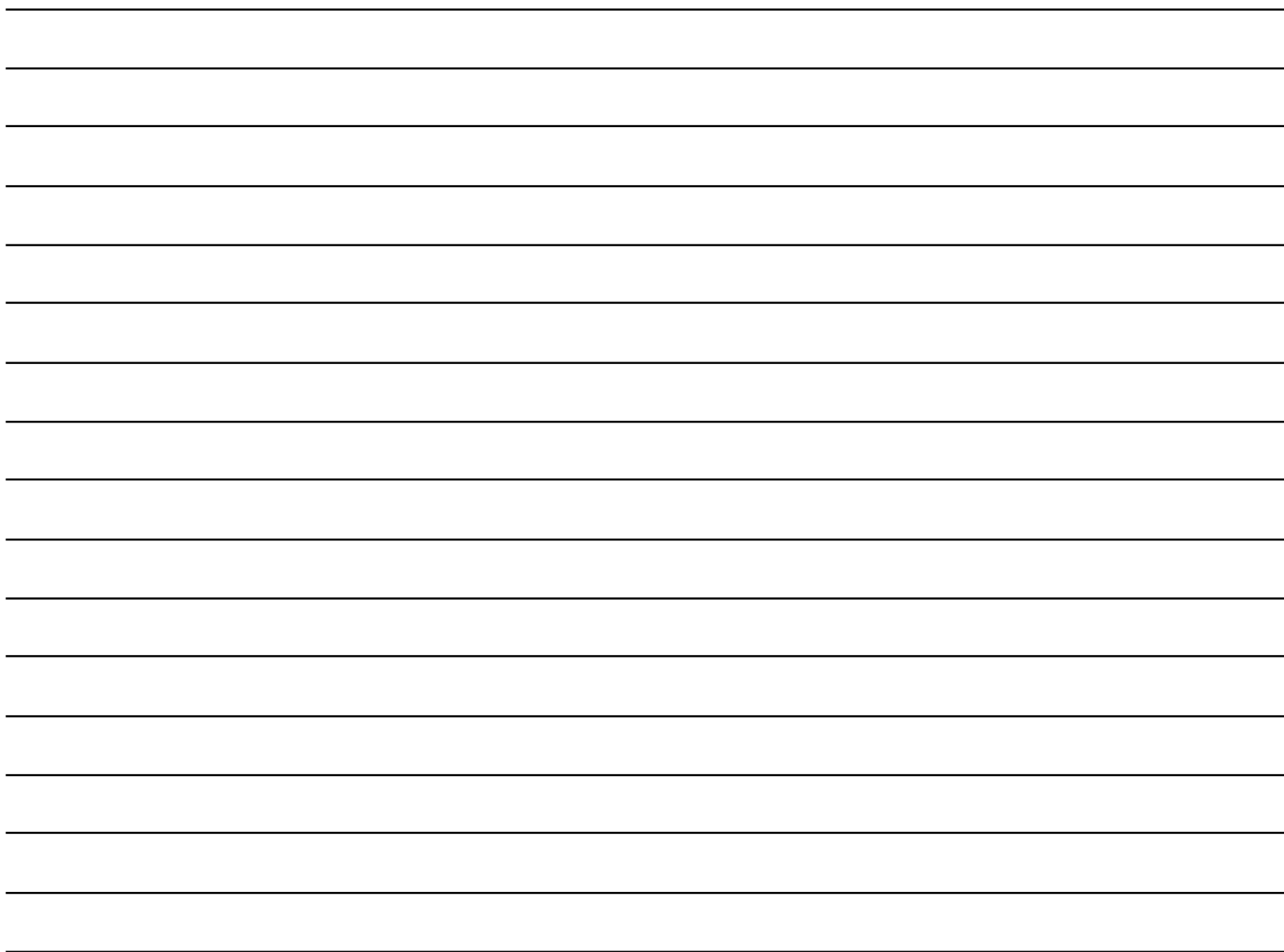
Areas for Improvement

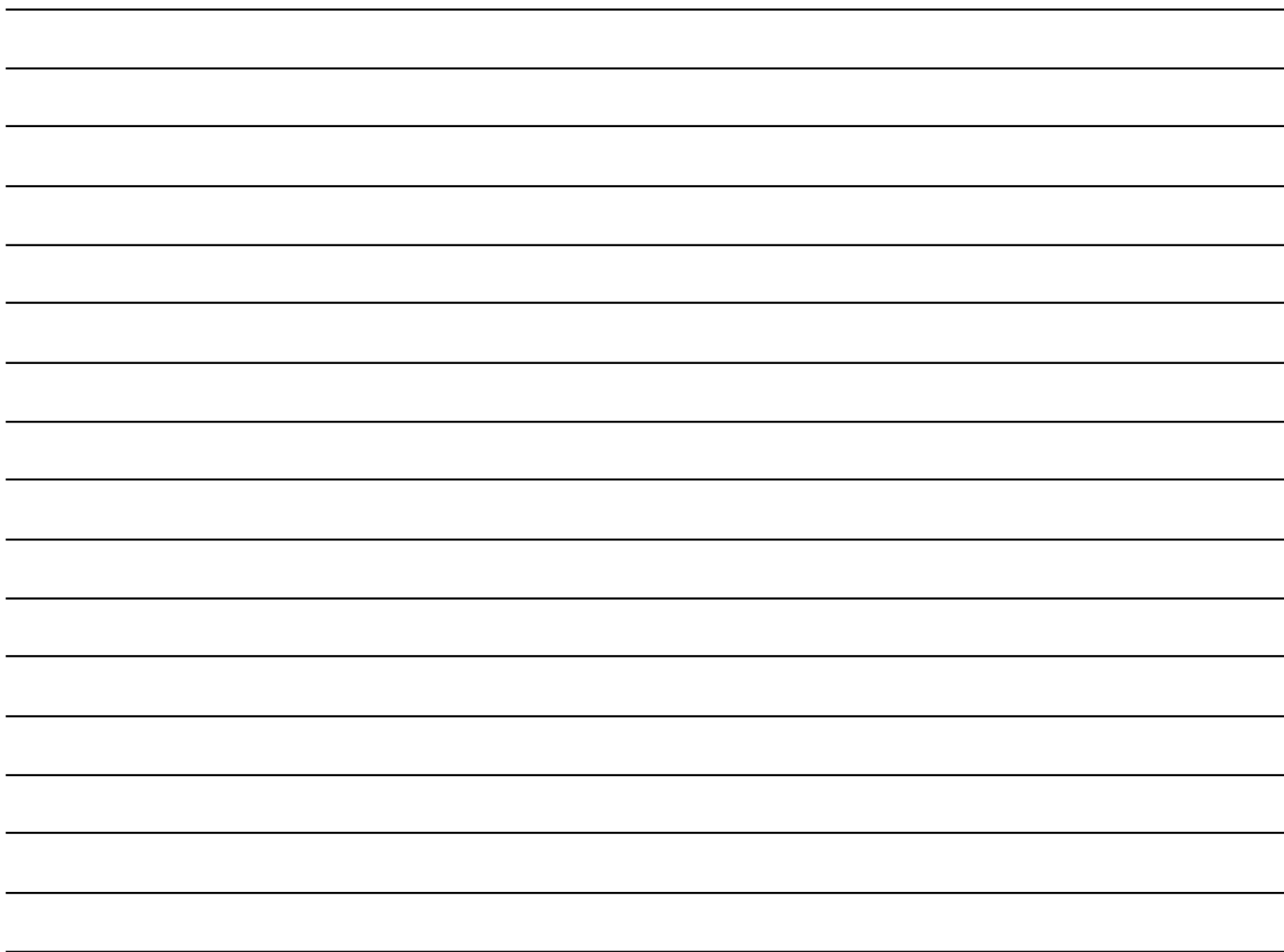
While the feedback was predominantly positive, some participants provided constructive suggestions for future programmes:

- Increased Interactivity: A few participants expressed a desire for more interactive sessions. They suggested incorporating more workshops, case studies, and practical exercises to complement the informative lectures.
- Time Management: Some feedback indicated that certain sessions could benefit from better time management to allow for more in-depth discussion and participant engagement.
- Diverse Perspectives: A few participants recommended inviting a wider range of speakers, including more representation from different regions and backgrounds within the legal profession, to provide a more comprehensive view of the reforms.

The five-day capacity building and sensitisation programme on criminal law reforms in India was a resounding success, with the majority of participants expressing high levels of satisfaction. The programme effectively delivered valuable knowledge and insights into criminal law reforms, while also identifying areas for further enhancement. The positive feedback and constructive suggestions will be instrumental in planning and improving future iterations of the programme.











Capacity Building and Sensitization Programme on “Criminal Law Reforms in India”

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