
SIGNIFICANCE OF CRIMINAL PROCEDURE AND VARIOUS STAKEHOLDERS IN THE CRIMINAL ADMINISTRATION OF JUSTICE WITH SPECIAL REFERENCE TO BNSS

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INTRODUCTION:

The law of criminal procedure is to provide a framework for the easy applicability of the law. Substantive law is of no use without the procedural law, substantive criminal law¹ defines offences and punishment for the offences defined under substantive criminal law and the procedural law² defines the procedure for governing the mechanism of the court and the procedure which helps the state as well as the individual party to enforce their rights in the court of law. The Criminal Procedure Law³ is been framed in a way to complement the criminal law⁴. The Criminal Procedure helps in detecting the crime, defines the manner of arrest, rules and regulation of collecting the evidences, establishment of the guilt and innocence of the person being accused, imposition of the proper punishment on the guilty person. For Criminal Administration of the justice there are various stakeholders such as Police and Law Enforcement Agencies which are responsible in the first stage of any commission of the crime that is filing of FIR(First Information Report), conducting the investigation, collection of evidences and arresting the suspects, Public prosecutors are also a stakeholders in the criminal administration of the justice by representing the state who has been a guardian of rights of the person whose rights has been violated and new Criminal Procedure Law deeply focuses on the profession ethics and speedy resolution of the pending cases, Than comes Défense Lawyers as a stakeholders by challenging the wrongful convictions and ensuring the rights of the accuse, Victim is the root and the primarily source of any information or evidence of the criminal trial and witnesses who provide their testimonies before the hon'ble court of justice to help the court

¹ Bharatiya Nyaya Sanhita, 2023

² Bharatiya Nagrik Suraksha Sanhita, 2023

³ Bharatiya Nagrik Suraksha Sanhita, 2023

⁴ Bharatiya Nyaya Sanhita, 2023

to resolve that matter and provide justice, forensic experts holds a stake in the criminal administration of the justice by scientifically examining the evidence and provide a basis of the crime, accused and victim. the core objective the criminal procedural law is “To ensure for the accused a full and fair trial in accordance with the principles of natural justice”⁵

SIGNIFICANCE OF CRIMINAL JUSTICE ADMINISTRATION:

The core objective of the criminal justice administration is to maintain law and order, ensure justice served to the innocents, safeguarding of the rights of the person whose rights has been violated in the society. The primary vision of the criminal justice administration is to maintain peace within the society and adjudicate law and order of the society with the help of law enforcing agencies, A proper functioning criminal justice systems discourages the people with male fide or criminal intention who may commit an offence or disrupt the peace of the society. The administration of Criminal Justice protects the rights of the individuals (including victims, accused and the whole society), rights such as locus standi, Audi alteram partem, fair trial etc., this protection from the justice system brings the confidence within the society of the proper administration of the criminal justice system. Criminal procedure is the formal process through which the legal system deals with criminal activity, including the enforcement of laws and the administration of justice.⁶ Bharatiya Nagarik Suraksha Sanhita, 2023, has brought some changes in the nature of the criminal procedure⁷ as a shift can be observed in the framing of the BNSS, 2023, is that the newly enacted criminal procedure has put more emphasized on the rehabilitation of the offenders/Convict, aiming at reforming criminals and making them fit in the society which will eventually mould the society and make it a better place to survive. It is a set of rules and regulations that govern how criminal proceedings are conducted, including investigation, prosecution, and trial. It serves to ensure that justice is served fairly and according to the law while protecting individuals' rights to due process and equal protection under the law.⁸ This can infer that Criminal Justice Administration prioritise maintaining law and order, protection of rights and smooth delivery of the justice through a fair trial. The

⁵ Iqbal Ismail Sodawala v. State of Maharashtra, (1975) 3 SCC 140: 1974 SCC (Cri) 764, 770: 1974 Cri LJ 1291.

⁶ <https://www.sciencedirect.com/topics/social-sciences/criminal-procedure#:~:text=Criminal%20procedure%20is%20the%20formal%20process%20through,of%20laws%20and%20the%20administration%20of%20justice.&text=According%20to%20Article%201%2C%20the%20purposes%20of,public%20security%20and%20maintain%20socialist%20public%20order'>

⁷ Bharatiya Nagrik Suraksha Sanhita, 2023

⁸ <https://legal.thomsonreuters.com/blog/criminalprocedure/#:~:text=It%20is%20a%20set%20of,equal%20protection%20under%20the%20law.>

Bharatiya Nagarik Suraksha Sanhita, 2023, has shifted its ideology from deterrence theory of punishment to the reformative and rehabilitation concept of punishment. Lastly discussing a well-functioning and friction less criminal justice system to serve the society and make society believe in the Administration of the Criminal Justice System.

VARIOUS STAKEHOLDERS IN CRIMINAL JUSTICE ADMINISTRATION

1. THE POLICE

The police force is an instrument for the prevention and detection of crime, and is established and enrolled by every state government under the Police Act, 1861 or under a state government replacing the act of 1861⁹. The police force is responsible for arresting the offenders, conducting investigation and preventing crime from the society.

2. JUDICIARY

The judiciary is considered to be the one of the most important stakeholders in criminal justice administration. Judiciary is responsible for the delivery of the justice in the society, conduct trials, make an interpretation of laws to simplify the meaning of law and this issue of complex language which makes an interpretation very complex for the laymen to understand the laws which are providing rights and duties to the public, Bharatiya Nagarik Suraksha Sanhita, 2023, made the language of the code very simplified and easy to understandable by the laymen.

3. PUBLIC PROSECUTOR

The public prosecutors are the person who are been appointed by the state as any crime which has been committed is not just against the individual but against the state and public prosecutor works for the easement of the court and to help the court and the victim to get the justice. The Supreme Court has highlighted the importance and nature of the office of public prosecutor in *Shrilekha Vidyarthi v. State of U.P.*¹⁰

⁹ Examples of such state enactments are the Delhi Police Act, 1978; Bombay Police Act, 1951; West Bengal Police Act, 1952.

¹⁰ (1991) 1 SCC 212; 1991 SCC (L&S) 742. See also, Vijay Shankar Mishra vs State of U.P., 1999 Cri LJ 521(All).

4. DEFENSE LAWYER

A Défense Lawyer is considered to be important stakeholder in the criminal justice administration as defence lawyer ensures the free and fair trial on the part of the accuse, protection of the fundamental rights of the accused, locus standing, and maintain the presumption of innocence until proven guilty and Défense Lawyers plays a Vital role by challenging the wrongful convictions and ensuring the rights of the accused.

5. VICTIM AND WITNESSES

Victim is the root and the primarily source of any information or evidence of the criminal trial and witnesses who provide their testimonies before the hon'ble court of justice to help the court to resolve that matter and provide justice. Victims give the clear image of the commission of the crime as victims are aware about the origin of the crime and witnesses who plays a vital role by corroborating evidences and assists the court by stating the facts of the offences, their participation strengthens the credibility of the criminal justice system.

BROAD CHANGES UNDER BNSS, 2023

The Bharatiya Nagarik Suraksha Sanhita (BNSS) of 2023 is set to enact a wholly new coded legislation, replacing the 1973 Criminal Procedure Code, which had a total of 533 sections in it. This new legislation changes a total of 160 sections from the 1973 Code by adding 9 new sections and deleting 9 others. In efforts to advance the legal system, this new legislation provides for virtual court appearances, online filing of First Information Reports (FIRs), and the submission of electronic evidence. For serious crimes with imprisonment terms of over seven years, forensics specialists are no longer optional but rather mandatory for all crime scene visits. For the less serious crimes (those with penalties between three to seven years), a preliminary inquiry must be conducted within fourteen days before an FRI can be filed.

The BNSS grants police powers a dramatic expansion. The period of Custody has been increased to a maximum of 15 days and disbursed during the duration of initial judicial custody. Courts are able to prosecute absent defendants in their absence in open court. The powers of a police officer to investigate crimes without executing an arrest warrant has also been expanded to include taking of fingerprints and voice samples of un-arrested persons. In addition,

magistrates are empowered to forfeit suspected property belonging to the accused, while the judicial evidentiary value of retired and transferred policemen's testimony is preserved.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 has raised concerns due to provisions that may empower law enforcement at the expense of individual rights. Notably, individuals charged under multiple sections lose their right to automatic bail after serving half their potential sentence. Handcuffing is now allowed for white-collar crimes, despite Supreme Court disapproval, and property seizures lack necessary safeguards found in money laundering cases. Additionally, the law misses critical reforms like clearer sentencing guidelines and explicit rights for the accused, leading to fears that it prioritizes prosecutorial power over due process and fairness in the justice system.

CONCLUSION: -

Criminal procedure provides the basic rules that assists the court to deliver the justice and judgement. Police, public prosecutor, defence lawyer, victims and witnesses are the individuals which holds stake in criminal justice administration who assists the court and law enforcing agencies for investigation and delivery of the justice. The new Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 focuses more on helping criminals reform rather than just punishing them. The newly enacted Bharatiya Nagarik Suraksha Sanhita, 2023, has been framed in a way that it is interpretable by the common man of the society. An effective Criminal Justice System builds public confidence makes society a better place and safe place for the individual to survive peacefully.