



## **CONCEPT NOTE**

### **National Conference on New Criminal Laws**

**(*Bharatiya Nyaya Sanhita (BNS), 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and Bharatiya Sakshya Adhinyam (BSA), 2023.*)**

**(Mandated by the University Grants Commission (UGC),**

**Themes:**

- I. Emerging Technologies for Access to Justice under New Criminal Laws**
- II. Strengthening Victim Centric Legal Aid and Judicial Processes under New Criminal Laws**

**Jointly Organized by  
School of Law, Rights & Constitutional Governance (SLRCG),  
&  
Mumbai District Legal Services Authority, Mumbai**

**On  
7<sup>th</sup> December 2024, Saturday**

**At  
Armaity Desai Conference Hall, Main Campus,  
Tata Institute of Social Sciences (TISS), Mumbai.**

## Rationale:

In December 2023, the Indian Parliament passed three legislative Acts: *the Bharatiya Nyaya Sanhita (BNS), 2023*, *the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023* and *the Bharatiya Sakshya Adhinyam (BSA), 2023*. These Acts were introduced to replace the Indian Penal Code, 1860 (IPC), the Criminal Procedure Code, 1973 (CrPC), and the Indian Evidence Act, 1872 (IEA) respectively. On December 25, 2023, these bills received Presidential assent and were officially published in the Gazette and came into effect from 1<sup>st</sup> of July 2024.

The significance of the new criminal laws lies in the large-scale technology integration in varied stages of the investigation, inquiry, and trial process before the law enforcement agencies, Courts. Besides, the inclusion of victim-centric legal aid provisions with rights-based perspectives for victims as right to information, right to participation and right to compensation.

These **pathbreaking provisions are introduced for the first time under the new criminal laws, including the validity of electronic or digital records** (Admissibility of an electronic or digital record, Section 61 BSA), search and seizure to be audio-video recorded by Police (Section 105 BNSS) **filing of complaints through cyber technology) through e FIR (Application of Cyber or Information Communication Technology, Section 173 BNSS), and forensic technology (Procedure for investigation of crime punishable with seven years or more mandatory forensic examination in Section 176, BNSS), among other related technological aspects.**

**Further, the legal aid scheme is developed in order to suit the needs of victims by including welfare-oriented provisions as the victim's right to seek compensation from DLSA, SLSA, when the offender is not traced or identified, but the victim is identified and where no trial takes place. The duty of DLSA is to Support, Aid the Victim, the State or the District Legal Services Authority to alleviate the victim's suffering, and direct for immediate first-aid facility or medical benefits under BNSS. (Chapter XXVIII, Section 396 (4), (6), BNSS).**

**Accordingly**, the Punjab & Haryana High Court, in *XXX Vs. State of U.T Chandigarh and Another*, 2024, the Court expounded on the background rationale of the Bharatiya Nagarik Suraksha Sanhita, 2023, so as to do away with the lacunas of the procedural Colonial Era Criminal Laws, to be replaced with a citizens centric criminal procedure involving the use of technology for time bound justice. In the recent past, Karnataka High Court has considered the application of BNSS, in, *Tavaragi Rajashekhar Shiva Prasad v. State of Karnataka, 2024*, (SCC OnLine Kar 67), wherein the Karnataka High Court directs the Police BNSS to issue notice, summons, communications through electronic mode (Section 35).

**Salient Provisions of New Criminal Laws as per the themes of the National Conference are as following:**

### **I. Emerging Technologies for Access to Justice under New Criminal Laws :**

- **e FIR filing through the application of Cyber or Information Communication Technology (Section 173 BNSS)**
- The Police shall make audio-video recordings of search and seizure procedures conducted by them. (section 105, BNSS)
- It is the duty of the Police to send such audio-video recording to the District Magistrate, Sub-divisional Magistrate or Judicial Magistrate of first class without delay. (Section 105 (3) of BNSS)

- The search process shall be recorded through audio-video electronic means, and copies of the recordings shall be sent within 48 hours to the Magistrate. (Section 185 of BNSS)

## **II. Legal Recognition of Cyber Digital Evidence or Records :**

- Electronic or 'Electronic and digital records' is included in the definition of Document under BNSS, (Section 2(1)(a) includes 'audio-video electronic means' and 'electronic communication' (Section 2(1)(i))
- **Validity of electronic or digital record** (Admissibility of an electronic or digital record, (Section 61 BSA)

## **III. Mandatory Application of Forensic Technology :**

- Mandatory Forensic Examinations in Heinous Offenses –
- There is mandatory forensic examination and visits by forensic experts to crime scenes to collect forensic evidence in case of offenses punishable for 7 years or more. (Section 176 (3), BNSS)

## **IV. Strengthening Victim Centric Legal Aid and Judicial Processes under New Criminal Laws :**

- Victim Centric Justice, Victim right to participation, information and compensation Victim Compensation Scheme, (Chapter XXVIII, Section 396, under BNSS).
- Role of District Legal Service Authority or the State Legal Service Authority in deciding the quantum of compensation to be awarded under the scheme, (Chapter XXVIII, Section 396(2), BNSS).
- Victim's right to make an application for compensation to DLSA, SLSA, when the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for the award of compensation under Chapter XXVIII, (Section 396(4), BNSS)
- Time-bound award of compensation by DLSA, SLSA, the State or the District Legal Services Authority shall, after due inquiry, award adequate compensation by completing the inquiry within two months. Chapter XXVIII, Section 396(4), BNSS).
- Role of DLSA, SLASA to Support, Aid the Victim, The State or the District Legal Services Authority, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost to the victim. (Chapter XXVIII, Section 396(6), BNSS).

## **V. Dynamic Role of Prosecution & Time-Bound Discharge of Duties :**

- The Bharatiya Nagarik Suraksha Sanhita (BNSS), provides for the setting up of a "Directorate of Prosecution" for each of the states. There is a Directorate of Prosecution (DOP) at the State and District level with the Director of Prosecution assisted by Dy. Directors and Assistant Directors shall oversee and coordinate the prosecution of criminal cases. (Section 20, BNSS).
- Competency & Credibility of Director of Prosecution:  
The eligibility criterias to be appointed as a "Director of Prosecution" or a "Deputy Director of Prosecution" must be an advocate for "not less than fifteen years" or is or has been a "Sessions Judge"; (Section 20 (2) (a), BNSS). Whereas, this is distinct from the earlier CrPC, which provided the eligibility to be appointed as a Director of Prosecution or a Deputy Director of Prosecution, to be in practice as "an advocate for not less than ten years", and appointment to

be made with the "concurrence of the Chief Justice of the High Court,"( Section 25 (2) CrPC). The BNSS, provides clear eligibility criteria, roles for the Director of Prosecution (Section 20), this is to distinguish from Section 25A of CrPC. These authorities are to examine and scrutinize police report procedures are brought to expedite the proceedings. It is essential to note the significant progressive changes introduced for the first time under the BNSS, to improve the efficacy and quality of public prosecution.

- Framing of charges within the time-bound manner :

The judge shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge. (Section 251, BNSS)

- Effective Prosecution of Judges and Public Servants within the Statutory Time Period:

The prosecution of judges and public servants must be subject to a sanction request within 120 days from the date of receipt of such a request. This time period brings effectiveness and accountability to the trial of cases against government officers. (Section 218(1) of the BNSS) Whereas the prosecution of Judges and Public Servants accused of any offence, mandates the prior sanction of Central and State Governments absent the time period . ( Section 197, CrPC)

- The Magistrate, based on the presumption that the accused has committed an offence is shall frame in writing a charge against the accused within a period of sixty days from the date of first hearing on charge. (section 263. (1), BNSS )

## **VI. Time Bound Court Process for Justice Delivery:**

- The judgment is to be pronounced by the Court within forty-five days (45) from the date of the trial's conclusion. (Section 392, BNSS)
- A copy of the judgment has to be uploaded to the concerned portal within seven (7) days from the date of the Court's pronouncement of the judgment. (Section 392, BNSS)
- Magistrates are given the power to conduct the summary trial in case of offenses punishable by 3 years' punishment for expeditious trial and delivery of Justice. (Section 283, BNSS)
- The Magistrate may take cognizance of any offense following the receipt of a police report electronically.

### **Objectives :**

- To provide a comprehensive understanding on the salient aspects of new criminal laws, such as the role of technology-enabled policing, application of Electronic Technology, Information Communication Technology, as well as Forensic Technology in the investigation of crime, police process of search- seizure, and in serving notice, summons, related procedures of court trials.
- To undertake a comparative analysis on the role and functioning of relevant stakeholders of the criminal justice system such as Legal Aid, Police, Prosecution, and Defense Lawyers under the earlier criminal law, *vis a vis* the three new criminal legislations focusing on the above-mentioned themes.
- To expound on the role of stakeholders of criminal justice system namely, Legal Services Authorities, Prosecutors, Defense Counsel in strengthening of the criminal justice delivery system in context of new criminal laws and overall impact on promoting victim-centric Justice within the time-bound manner in society.
- To deliberate on the challenges faced by the concerned stakeholders in determining the effect of these laws at the community level and to explore suggestions for the same.

### **Outcome of the Conference :**

- The participants would be able to develop a holistic and informed perspective on the new criminal laws with special reference to the aforementioned themes and towards ensuring better implementation of these laws.

- To strengthen collaborations with Mumbai District Legal Services Authority, State Government of Maharashtra, and the Bombay City Civil & Sessions Court Bar Association for organizing training, research and outreach activities etc. on the New Criminal Laws.
- The report of the conference deliberations will be submitted to the UGC Ministries of Education and (BPR& D), Ministry of Home Affairs, (GoI).

### **Themes:**

#### **I. Emerging Technologies for Access to Justice under New Criminal Laws**

#### **II. Strengthening Victim Centric Legal Aid and Judicial Processes under New Criminal Laws**

There are two rounds of "Panel Discussions" among the resource persons as Bureaucrats, Judges, Public Prosecutors, Defense Lawyers, Police Officers, Legal Aid Lawyers, representing the crucial stakeholders of the criminal justice system at one forum, to deliberate on these nuanced provisions of new criminal laws, its implications, highlighting the challenges faced in giving effect to these laws in society and the way forward for the better implementation of the new criminal laws. Such focused deliberations by experts make these laws relevant to society towards effective dispensation of Justice within a time-bound manner.

### **Methodology:**

Participatory Methodology will be used following Technical Sessions and Presentations by Experts, through Panel Discussion Mode and Reflections from participants through Group Discussions.

### **Participants:**

- Public Prosecutors from Bombay High Court, Bombay City Civil & Sessions Court Bar Association, Bombay.
- Advocates, Defense Counsels from Bombay High Court, Bombay City Civil & Sessions Court Bar Association, Bombay.
- Retainer Lawyers, Panel Lawyers, Para Legal Volunteers registered with Mumbai District Legal Services Authority (DLSA), Mumbai.
- Students, Research Scholars, and Faculty members from Law Colleges, University, Mumbai.

Around 100 participants are expected to join the National Conference, including all the above.

### **National Conference Coordinator :**

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