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VICTIM CENTRIC APPROACH

"Empowering Victims, Ensuring Justice!"

A Paradigm Shift towards Victim Empowerment

The new law aims to enhance the efficiency, fairness, and accountability of the justice system. It recognizes the victim as a stakeholder in the criminal trial, providing participatory rights and expanded right to information for the victim. The law reforms to place victims at the centre of the criminal justice system, offering unprecedented rights and opportunities.

Section-2(1)(Y) of BNSS 2023 defines "Victim" means a person who has suffered any loss or injury caused by reason of the Act of omission of the accused person and includes the guardian or legal heir of such victim.

Victim - centric Laws

Victim - centric reforms in the Criminal Justice System have generally been in the form of:

- a) Participatory Rights (to provide the victim a say in the criminal process through the opportunity of hearing before a court, for eg. u/s 360 of BNSS)
- b) Right to Information (u/s 173, 193 and 230 of BNSS)
- c) Right to Compensation for the Harm suffered.

The 154th Law Commission Report (1996) and the Justice Malimath Committee Report (2003) recommended justice to victims and victimology as crucial areas of reform and made recommendations, focusing on increasing victims 'participatory role and for better compensatory justice. In addition to this, the practice of recording Zero FIRs has been institutionalized (u/s 173 of BNSS) whereby complainants may file an FIR , irrespective of the area where the offence was committed.

There is a current lacuna in Cr.PC s.321, which allows the prosecutor to withdraw the prosecution of a case, at any time before the judgment is pronounced, with the consent of the court. The CrPC did not allow the victim to be heard at this state. However, BNSS plugs this lacuna. Sec 360 BNSS has one important proviso that the victim must be heard before such withdrawal is allowed. This is a significant recognition of the victim as a stakeholder in the criminal trial.

The victim's right to information has been expanded in the BNSS in three ways:

(a) Firstly, the victim has been granted the right to receive a copy of the FIR free of cost. This is a crucial information right, since the FIR is an important piece of evidence that forms the basis for the trial.

(b) Secondly, Sec 193 (3) BNSS requires the police to inform the victim of the progress in the investigation within ninety days and therefore allows the victim to be aware of possible lapses and delays in the investigation.

c) Thirdly, Sec 230 BNSS provides victims with a crucial right to information about the details of their case through the mandatory provision of the police report, FIR, witness statements, etc., which is meant to enable effective and meaningful participation of the victim in the criminal process. It may be mentioned that the rights under Sec 193 (3) are available to victims only and rights under Sec 230 are available to both victims and accused.

The BNSS has institutionally recognised the right to register Zero FIRs under Sec 173. Therefore, the Bill prohibits the police from using a lack of territorial jurisdiction as a reason to avoid their duty to record first information and helps to eliminate one of the hurdles faced by victims in registering an FIR. This is an important safeguard. Therefore, the Bill helps to eliminate one of the hurdles faced by victims in registering an FIR.

Provisions have been incorporated to provide information to victims at various stages of investigation and trial.

Victim-Centric Features: A Holistic Approach

1. Right to Participation:

Victims now have the right to express their views, reinforcing their role as stakeholders in criminal cases. The institutionalization of *Zero FIRs* and the introduction of *E-FIRs* enhance accessibility, allowing victims to file reports anywhere irrespective of the crime location. For instance, Zero FIR is a provision under BNSS that allows a person to register a First Information Report (FIR) in any police station where information about a cognizable offence is provided, irrespective of the area where the offence is committed. And E-FIRs allow people to file an FIR online, without having to visit a police station in person. The e-FIR system is designed to be more efficient and convenient, as it eliminates the need for people to travel to a police station and wait in long queues to file a complaint. The system also allows people to track the status of their complaints online.

BNS	BNSS	BSA
<p>The New Law is justice based not punishment based and, in this furtherance, it recognizes the victim as stake holder in criminal trial. Hence the new Law is victim centric Law and for this purpose these new sections are added.</p>	<p>Likewise, this law is also justice based and timeline trial is also ensured. To achieve conviction rate of 90% through the introduction of electronic evidence, forensic evidence is newly added.</p>	<p>According to government the existing Indian Evidence Act has not kept up the technological advancement and social changes of the past decade, therefore BSA is enacted. As per the ACT it aims to consolidate and to provide the general rules and principal of evidence for fair Trial</p>
	<p>Section-18 Public Prosecutor Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.</p>	
	<p>Sec.173 Information in cognizable cases institutionalizing Zero FIRs and the introduction of E-FIRs enhance accessibility, allowing victims to file reports anywhere irrespective of the crime location.</p>	
	<p>Section 179 police Officer's power to require attendance of witnesses No male person under the age fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place in which such person resides.</p>	
	<p>Section 290 Application for plea bargaining (a) the Court is satisfied that the application has been filed by the accused voluntarily, it shall provide time, not exceeding sixty days, to the Public Prosecutor or the complainant of the case and the accused to work out a mutually satisfactory disposition of the case which may include giving to the victim by the accused the compensation and other expenses during the case and thereafter fix the date for further hearing of the case;</p>	

2. Right to Information :

Section 360 of BNSS aims to fill the historical void in Section 321 of CrPC by ensuring the inclusion of victims' voices before permitting case withdrawal. It grants victims the authority to obtain a complimentary copy of the FIR. The law also provides obligatory measures to keep victims informed about the progress of investigations within 90 days.

BNS	BNSS	BSA
	<p>Section 174 Information as to non-cognizable cases and investigation of such cases</p> <p>174(1)(ii) Police officer will forward the daily Diary report of all such cases fortnightly to the Magistrate</p>	
	<p>Sec.360 Withdrawal from prosecution- Provided that no Court shall allow such withdrawal without giving an opportunity of being heard to the victim in the case</p>	
	<p>Section 193 (3)(H)(2) Report of police officer on completion of investigation (ii) the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including through electronic communication to the informant or the victim;</p>	
	<p>Section 230 Supply to accused of copy of police report and other document.</p> <p>Provided further that if the Magistrate is satisfied that any such document is voluminous, he shall, instead of furnishing the accused and the victim (if represented by an advocate) with a copy thereof, may furnish the copies through electronic means or direct that he will only be allowed to inspect it either personally or through an advocate in Court: Provided also that supply of documents in electronic form shall be considered as duly furnished</p>	

3. Right to Protection:

BNS	BNSS	BSA
<p>Section-65 Medical expenses and rehabilitation of the victim</p>	<p>Section 176(1)(B) Procedure for investigation b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case: Provided further that in relation to an offence of rape, the recording of statement of the victim shall be conducted at the residence of the victim or in the place of her choice and as far as practicable by a woman police officer in the presence of her parents or guardian or near relatives or social worker of the locality and such statement may also be recorded through any audio-video electronic means including mobile phone.</p>	<p>Section 48 Evidence of character or previous sexual examine not relevant in certain cases.</p>
<p>Section-70 Fine imposed shall be paid to the victim.</p>		<p>Section 149 Questions lawful in cross Examination</p>
<p>Section 72(2) Disclosure of identity of victim of certain offences etc.</p> <p>(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is— (a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or (b) by, or with the authorisation in writing of, the victim; or (c) where the victim is dead or a child or of unsound mind, by, or with the authorisation in writing of, the next of kin of the victim: Provided that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised</p>		

welfare institution or organisation.		
<p>Section 77 Voyeurism Explanation 1& 2</p> <p>Explanation 1.—For the purposes of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.</p> <p>Explanation 2—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section. sexual act that is not of a kind ordinarily done in public.</p> <p>Explanation 2—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is</p>		
Section 124 Voluntarily causing grievous hurt by use of Acid Attack		
<p>Section 143 Trafficking of person</p> <p>Explanation 2—The consent of the victim is immaterial in determination of the offence of trafficking.</p>		
Section 200 Punishment for non-treatment of victim		

4. Introducing Rigorous Punishment:

BNS	BNSS	BSA
Section-66 Punishment for causing death or resulting in persistent vegetative state of victim.		

5. Transparency and information Rights for victim:

BNSS emphasizes victim information rights by ensuring the supply of police reports, FIRs, and witness Statements. It also gives provisions dedicated to providing victims with crucial information at various stages of

Investigation and trial.

BNS	BNSS	BSA
	<p>The two-month timeline is specifically mentioned {in193 (2) of BNSS} for offences under sections 64, 65, 66, 67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023. Time line also added for POCSO Act, 2012 to avoid delay in justice to victim.</p> <p>Section 193(3)(ii) of BNSS provides that the police officer shall within 90 days inform the progress of investigation by any means including electronic communication to informant or the victim</p>	