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EVOLVING INCARNATION OF CRIMINAL JUSTICE ADMINISTRATION –A CRITICAL STUDY

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Abstract

Incarnation of criminal justice administration likely refers to the different components and processes that make up the criminal justice system. These components, such as law enforcement, courts, and corrections, work together to uphold the law, ensure fair trials, and address criminal offenses. The embodiment of criminal justice administration is mention in the practical application and operation of a legal system designed to address crimes and ensure fairness. It involves various agencies, processes, and actors working together to investigate, prosecute, and punish those who violate the law. This includes police, courts, prosecutors, defense attorneys, correctional facilities, and other related institutions.

The Indian criminal justice system, a complex framework, aims to maintain law and order while ensuring justice for all citizens. The Objectives of the Criminal Justice System are ensuring public safety and deterring criminal behavior. Imposing, penalties on those who violate the law. Fairly and impartially determining guilt or innocence and providing opportunities for offenders to reform and reintegrate into society. Addressing the root causes of crime and providing support for offenders.

The criminal justice system of any state is the set of agencies and processes established by the government for administration of criminal justice aimed at controlling crime and imposing punishment on person who violate the law. India's criminal justice system is based on the Indian Penal Code (IPC) enacted in 1860.

KEY WORDS

Law enforcement, Prosecution and courts, Correctional services, Judiciary.

INTRODUCTION

The term criminal justice refers to the agencies of government charged with enforcing law , adjudicating criminals and correcting criminal conduct. A criminal justice system is a set of

legal and social institution for enforcing the criminal law in accordance with a defined set of procedural rules and limitation.

The phrase criminal justice system refers to a collection of federal, state, and local published agencies that deals with crime problems.

The criminal justice system in India is a complex and multi-layered system that seeks to bring individuals who have committed crimes to justice and protect the rights of citizens. The system is governed by a set of law and regulations that defines the legal process for dealing with criminal offense. The system encompasses various institution processes and laws that working together to ensure that individuals who have committed crimes are punished and that the rights of victims and accused are protected .

The criminal justice in India is designed to address crimes and bring justice to those affected by it. The system operates under the framework of Indian law and is composed of several key components, including the police ,the judiciary, and the prison system.

THE CONCEPT OF Law Enforcement

Law enforcement agencies are government organizations responsible for maintaining law and order within a specific jurisdiction. They use various methods and resources to enforce laws, including law enforcement officers, specialized units, and support services. These agencies play a crucial role in public safety and security by investigating crimes, making arrests, and ensuring compliance with the law.

In India, the three new criminal laws – Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) – will affect enforcement agencies and their functions. These laws, which took effect on July 1, 2024, replace the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act, respectively. Key changes include modifications to police custody, arrest laws, and the handling of various criminal offenses.

Types of Law Enforcement Agencies comparative with old Criminal And New Criminal law.

I. Central Police Organizations (CPOs):

These agencies like the Central Bureau of investigation (CBI), the intelligence Bureau (IB) and the National Investigation Agency (NIA) focus on specific functions like criminal investigation, intelligence gathering, and counter-terrorism.

The NIA, responsible for investigating terrorism and other serious crimes, will also need to align its operations with the new criminal laws. The revised procedures and laws will likely

impact their investigation protocols and the way they handle cases. The new laws could impact their investigative powers, procedures, and the types of offenses they can investigate.

I.(I)State and Local Police:

State police forces, like the State Bureau of Investigation (SBI) and highway patrol departments, and local police departments are responsible for enforcing laws at the state and municipal level, respectively.

I.(II)Specialized Agencies:

Agencies like the Narcotics Control Bureau (NCB) focus on specific types of crime, such as narcotics trafficking, while others like the Enforcement Directorate investigate financial crimes.

I.(III).Functions of Law Enforcement Agencies:

Investigation: Agencies investigate crimes, collect evidence, and identify suspects.

Arrest and Detention: They have the authority to arrest individuals suspected of committing crimes and detain them pending further investigation.

Law Enforcement: Agencies enforce traffic laws, property laws, and other regulations.

Public Safety: They work to maintain public safety and security by preventing crime and responding to emergencies.

The New laws will directly impact the powers and procedures of state police in making arrests, conducting investigations, and managing police custody, which has been significantly altered. They will need to be trained and updated on the new provisions of BNS, BNSS, and BSA, particularly concerning detention and arrest.

The new laws aim to streamline procedures and incorporate technological advancements in investigations, which will require the state police to adapt their practices.

II. Prosecution and Court System:

In a legal system, prosecution and courts work together to ensure justice is served in criminal cases. Prosecution involves the government, through a prosecutor, bringing legal action against an accused person for a crime, while courts are responsible for conducting trials and determining guilt or innocence.

Prosecution:

The prosecutor, acting on behalf of the state, investigates a crime, gathers evidence, and presents a case to the court. Their role includes ensuring the accused is formally charged,

obtaining necessary warrants, and presenting evidence to prove guilt beyond a reasonable doubt.

Court: The court, presided over by a judge, is responsible for ensuring a fair trial, applying the law, and determining guilt or innocence based on the evidence presented. The judge makes rulings on admissibility of evidence, jury instructions, and ultimately decides on the verdict.

Relationship:

The prosecution and the court work collaboratively to ensure a fair and just outcome. The prosecutor relies on the court to enforce the law and ensure a proper trial, while the court relies on the prosecution to present a valid case.

II(II).NEW ADMENDMENT

It has great implications for prosecution and court procedures, introducing changes in how criminal cases are handled, including the concept of "Zero FIR". The old laws, enacted during British rule, were focused on punishment, while the new laws prioritize justice and the rights of citizens, as noted by the Bureau of Police Research and Development (BPR&D).

II.(III).mpact on Prosecution:

The new laws may affect how the prosecution can frame charges, request sanctions, and handle the pre-summoning stage, where the accused may now have a role in the process

Zero FIRs:

The new BNSS introduces the concept of "Zero FIRs," where a complaint can be registered with any police station, and if the offence is not within their jurisdiction, the FIR is transferred to the appropriate station.

Joint Trials:

BSA expands the concept of joint trials in cases where the accused flees or fails to respond to an arrest warrant.

Old and New Amendments:

Old:

The old laws, like the CrPC, had provisions for adding or altering charges during the trial, but these were not without limitations.

New:

The new laws, like the BNSS, introduce provisions for hearing the accused before cognizance is taken, potentially impacting the pre-summoning stage.

II (IV). Impact on Court Procedures:

The new laws may affect how courts handle cases, especially in the pre-summoning stage and regarding the framing of charges

In essence, the new criminal laws represent a shift in the focus of the criminal justice system, moving away from a solely punishment-based approach to one that prioritizes justice, citizen rights, and a more equitable process for both the prosecution and the accused.

III. Correctional Services

The "Model Prisons and Correctional Services Act, 2023" aims to reform and modernize correctional services by addressing issues like caste-based discrimination, rehabilitation, and technology in prison management. This act seeks to replace the outdated Prisons Act of 1894. Additionally, the criminal law landscape has been updated with the enactment of new laws like the Bharatiya Nyaya Sanhita (BNS) (replacing the IPC), Bharatiya Nagarik Suraksha Sanhita (BNSS) (replacing the CrPC), and Bharatiya Sakshya Adhinyam (BSA) (replacing the Evidence Act).

Old Laws:

Prisons Act, 1894: This act is considered outdated and focuses primarily on keeping prisoners in custody, enforcing discipline, and has limited provisions for reform and rehabilitation.

Code of Criminal Procedure (CrPC): The CrPC has been replaced by the BNSS.

Indian Penal Code (IPC): The IPC has been replaced by the BNS.

Indian Evidence Act: The Indian Evidence Act has been replaced by the BSA.

New Laws:

Model Prisons and Correctional Services Act, 2023: This act aims to modernize prison management by incorporating technology, providing for parole, furlough, and remission, and focusing on the reformation and rehabilitation of inmates.

Bharatiya Nyaya Sanhita (BNS): Replaces the IPC, aiming for comprehensive amendments to criminal laws.

Bharatiya Nagarik Suraksha Sanhita (BNSS): Replaces the CrPC, focusing on improved procedures and justice delivery.

Bharatiya Sakshya Adhinyam (BSA): Replaces the Indian Evidence Act, modernizing the rules of evidence in courts.

Key Changes:

Caste-based discrimination:

The Model Prison Manual, 2016, and the Model Prisons and Correctional Services Act, 2023, have been amended to prohibit caste-based discrimination in prisons, including the allocation of duties and work.

Rehabilitation and reform:

The Model Prisons Act, 2023, emphasizes the need for reform and rehabilitation of inmates.

Technology in prisons:

The Model Prisons Act, 2023, encourages the use of technology in prison management.

Repatriation of prisoners:

The Repatriation of Prisoners Act, 2003, facilitates the transfer of foreign prisoners to their home countries.

Changes in criminal law:

The new criminal laws (BNS, BNSS, BSA) address various aspects of criminal justice, including evidence, procedure, and punishment.

Minimum age for criminal responsibility:

The minimum age for criminal responsibility remains at seven years, which is lower than international norms.

VI. JUDICIARY:

It aims to replace the colonial-era legal framework with a more Indian-centric approach focused on justice and citizen rights.

Focus on Justice:

The new laws prioritize justice over punishment, with a focus on protecting citizen rights and dignity.

Procedural Changes:

The new laws introduce changes in the procedure, including stricter timelines for trial, limited adjournments, and obligations for the police to inform victims and informants of progress.

Electronic Evidence:

The new laws recognize electronic records as primary evidence and allow for the electronic presentation of oral evidence.

Police Custody:

The maximum limit of police custody has been extended under the new laws.

Community Service:

Community service is introduced as a new type of punishment for some offenses.

Increased Punishment for Rape:

The new laws increase the punishment for rape and other sexual offenses.

Changes in FIR Filing:

FIRs can now be filed electronically and through CCTNS (Crime and Criminal Tracking Network Systems).

Potential Challenges Faced by Judicial System:

1. **Training and Adaptation:** Judges and judicial staff need extensive training to interpret and apply new laws accurately, requiring continuous education programs.
2. **Legal Precedents:** Existing legal precedents may not align with the new laws, leading to potential ambiguities and uncertainties in legal interpretations. For instance: Judges need to maintain clarity between old and new legal provisions, particularly where section numbers have changed, to avoid inconsistencies in rulings
3. **Case Backlog:** Transitioning to new laws may worsen case backlogs as judges and lawyers adjust to new legal parameters. For instance: In 2023, the Law Ministry informed that over 5 crore cases were pending in various courts, including 80,000 in the Supreme Court.
4. **Resource Constraints:** Courts may lack necessary resources, such as updated legal databases and skilled support staff, impeding effective law implementation.
5. **Judicial Interpretation:** Consistent interpretation of new laws across courts requires detailed guidelines and higher court rulings to ensure uniformity. For instance: The inclusion of 'terrorism' as an offence in ordinary penal law in addition to the present special anti-terrorism law is bound to cause confusion.
6. **Coordination with Law Enforcement:** Smooth cooperation between judiciary and police is crucial, necessitating clear protocols, regular communication, and joint training sessions.

CONCLUSION :

Whenever old regimes give way to new ones there are some bumps on the roads and headwinds. New regimes take their time for familiarity and adoption in the judicial framework especially as to when the old regime continues to operate. While the promulgation of the new criminal laws has taken a magnitude of effort from the legislative draftsman, it will be an equally uphill task for the law enforcement agencies to grapple with the new laws. The manner of registering criminal complaints and FIR was widely understood by each stakeholder. Trial courts which will be the focal point of implementing the new legal regime will be expected to smoothly transit its working in the new regime and bring about the efficiency/effectiveness, the intended purpose of enacting BNS, BNSS and BSA. Similarly legal professionals in court

and advisory work will have to spearhead this transition including that of assisting Hon'ble Courts with bringing out a parallel between the old regimes and new regimes at crucial stages of trial/evidence/appeals. Data conveys that the pendency of criminal cases is higher than that of civil cases in India. Therefore, all efforts have to be put in by legal colleagues to facilitate smooth implementation of the new legal regime leading to increase the disposal rate and effective judicial dispensation. The courts will now have to be mindful about the two parallel criminal justice delivery systems in India which is primarily regulated from 01 July 2024 onwards. The practice and procedure of conducting criminal trials will be tested on first principles of law such as natural justice and protecting life and liberty while bearing in mind the strict timelines introduced under the new laws.

SUGGESTION:

All the three laws are a testament to India's commitment to reform .They bring our legal, policing, and investigative system into the modern era with a focus on technology and forensic science. The Laws ensure enhanced protection for the poor ,marginalized and vulnerable sections of our society. It aims to align the criminal justice system with contemporary needs and values emphasizing the protection of citizen's rights and the efficient administration of justice .The success of this reform will depend on careful implementation ,clear guiding ,and continuous monitoring to ensure that the law serves its intended purpose without unintended consequences.