

CRIMINAL LAW & FORENSIC SCIENCE

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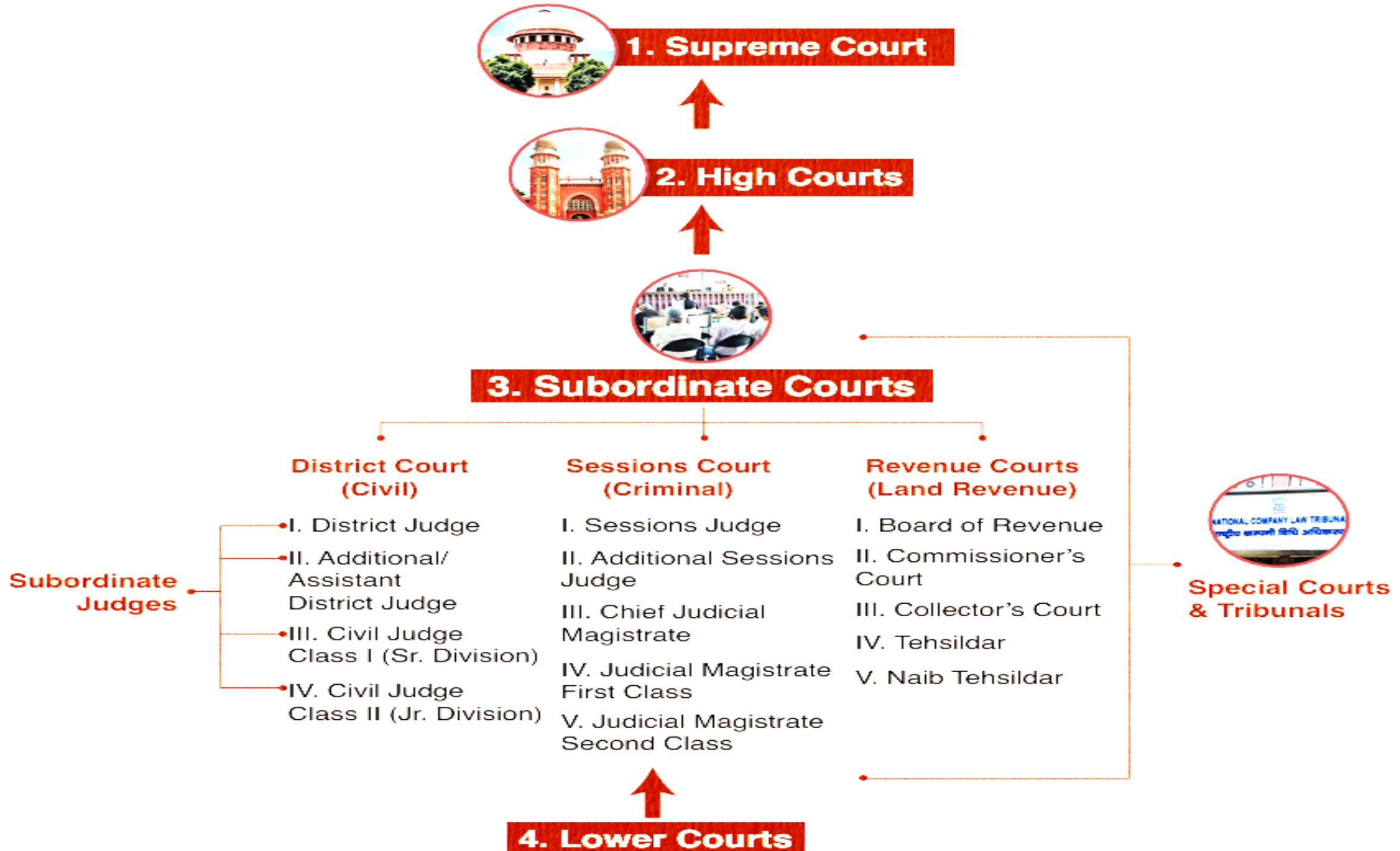
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Law

- A formal set of rules created and enforced by the state
- Maintains order in society, resolves disputes, protects individual rights
- Legal Definition (BNS Sec. 2(15)): 'Illegal' = anything which is an offence or prohibited by law
- Every person liable to punishment for acts/omissions contrary to law

Court

- Government institution where judicial decisions are made
- Legal Definition (BNS Sec. 2(5))
- A Judge empowered by law to act judicially alone, OR
- A body of Judges empowered to act judicially as a group
- Must be empowered by law to act
- Can consist of single judge or multiple judges



SUPREME COURT OF INDIA (APEX)

- Composition:
 - Chief Justice of India (CJI)
 - 33 other Judges (total 34)
 - Headquarter: New Delhi
- Jurisdiction:
 - Original Jurisdiction: Disputes between states or between centre and states
 - Appellate Jurisdiction:
 - Death sentence cases (mandatory review)
 - High Court appeals on matters of constitutional importance
 - Advisory Jurisdiction: Can advise President on legal matters
- Powers:
 - Issue writs for fundamental rights protection (Habeas Corpus, Mandamus, Prohibition, Certiorari, Quo Warranto)
 - Interpret Constitution
 - Set binding precedents for all lower courts
- Special Role in Criminal Law:
 - Final approval of death sentences
 - Reviews High Court judgments
 - Protects constitutional rights

HIGH COURTS (STATE LEVEL)

- Structure:
 - One or more High Courts per state/region
 - Chief Justice + Multiple Judges
 - Examples: Delhi High Court, Bombay High Court, Madras High Court
- Jurisdiction :
 - Original Jurisdiction:
 - Can directly hear criminal cases
 - Can issue warrants of arrest
 - Can conduct trials in certain circumstances
 - Appellate Jurisdiction:
 - Review sentences from Sessions Courts
 - Review acquittals and convictions
 - Must confirm death sentences from lower courts (BNSS Sec. 22(2))
 - Supervisory Jurisdiction:
 - Supervise all lower courts in the state/region
 - Correct illegal/improper orders by lower courts
 - Issue guidelines to lower courts
 - Revisional Jurisdiction:
 - Review errors of law in lower court decisions
 - Can set aside improper judgments
- Powers:
 - Issue writs and directions
 - Ensure proper administration of justice
 - Protect fundamental rights
 - Grant bail in serious cases

DISTRICT LEVEL COURTS

- COURT OF SESSION
Established Under: BNSS Sec. 6-8
 - Composition:
 - Judge (Sessions Judge or Additional Sessions Judge)
 - Appointed by High Court
 - One Sessions Court per district/sessions division
 - Jurisdiction:
 - Criminal Trials:
 - Offences punishable with death, life imprisonment, or 7+ years imprisonment
 - Serious crimes: Murder, rape, dacoity, kidnapping, terrorism
 - Sentencing Powers:
 - Can award death sentence (but must be confirmed by High Court per BNSS Sec. 22(2))
 - Can award life imprisonment
 - Can award any imprisonment term
 - Can order fine or forfeiture
 - Appellate Powers:
 - Hear appeals from Magistrate Courts in certain cases
 - Trial Standards:
 - Full trial with complete procedure
 - Examination and cross-examination of witnesses
 - Rules of evidence strictly applied
 - Examples of cases :
 - A commits murder with premeditation
 - Armed robbery with violence

- CHIEF JUDICIAL MAGISTRATE (CJM)
- Established Under:BNSS Sec. 23(1)
- Jurisdiction:
 - Supervises all Judicial Magistrates in the district
 - Tries criminal cases as a court

Sentencing Powers (BNSS Sec. 23(1)):

- Imprisonment: Up to 7 years (cannot award life or death)
- Fine: Up to 1,00,000 (varies by specific offence)
- Community Service: Eligible offences
- Cannot award: Death, life imprisonment
- Can award: Forfeiture of property (limited)

Trial Jurisdiction:

- Offences punishable up to 7 years imprisonment
- Moderately serious crimes

Examples:

- Criminal breach of trust
- Criminal intimidation
- Certain theft cases
- Cheating cases

- FIRST CLASS JUDICIAL MAGISTRATE

Established Under: BNSS Sec. 23(2)

Sentencing Powers:

- Imprisonment: Up to 3 years
- Fine: Up to 50,000
- Community Service: Eligible offences
- Cannot award: Death, life, 7+ years, or unlimited fine

Trial Jurisdiction:

- Offences punishable up to 3 years imprisonment
- Less serious offences

Examples:

- Simple assault
- Criminal intimidation (lesser forms)
- Simple theft (small value)
- Mischief cases
- Minor forgery

- SECOND CLASS JUDICIAL MAGISTRATE

Established Under: BNSS Sec. 23(3)

Sentencing Powers:

- Imprisonment: Up to 1 year
- Fine:** Up to 10,000
- Community Service: Eligible offences
- Cannot award: Longer imprisonment or higher fines

Trial Jurisdiction:

- Minor offences
- Offences with minimum penalty

Examples:

- Very minor assault
- Petty theft
- Nuisance
- Traffic violations (criminal aspects)

Judge

- An official appointed by the state to administer justice
- Legal Definition (BNS Sec. 2(16))
- Officially designated Judge, or Anyone empowered to give definitive judgments in legal proceedings
- Exercises judicial power
- Decisions are legally binding

Basic Terminology in Law

- Act (Sec. 2(1)): A series of acts or single act
- Offence (Sec. 2(24)): A thing made punishable by BNS 2023
- Document (Sec. 2(8)): Matter expressed by letters, figures, marks, or electronic records
- Dishonestly (Sec. 2(7)): Acting with intent to cause wrongful gain or loss
- Fraudulently (Sec. 2(9)): Acting with intention to defraud

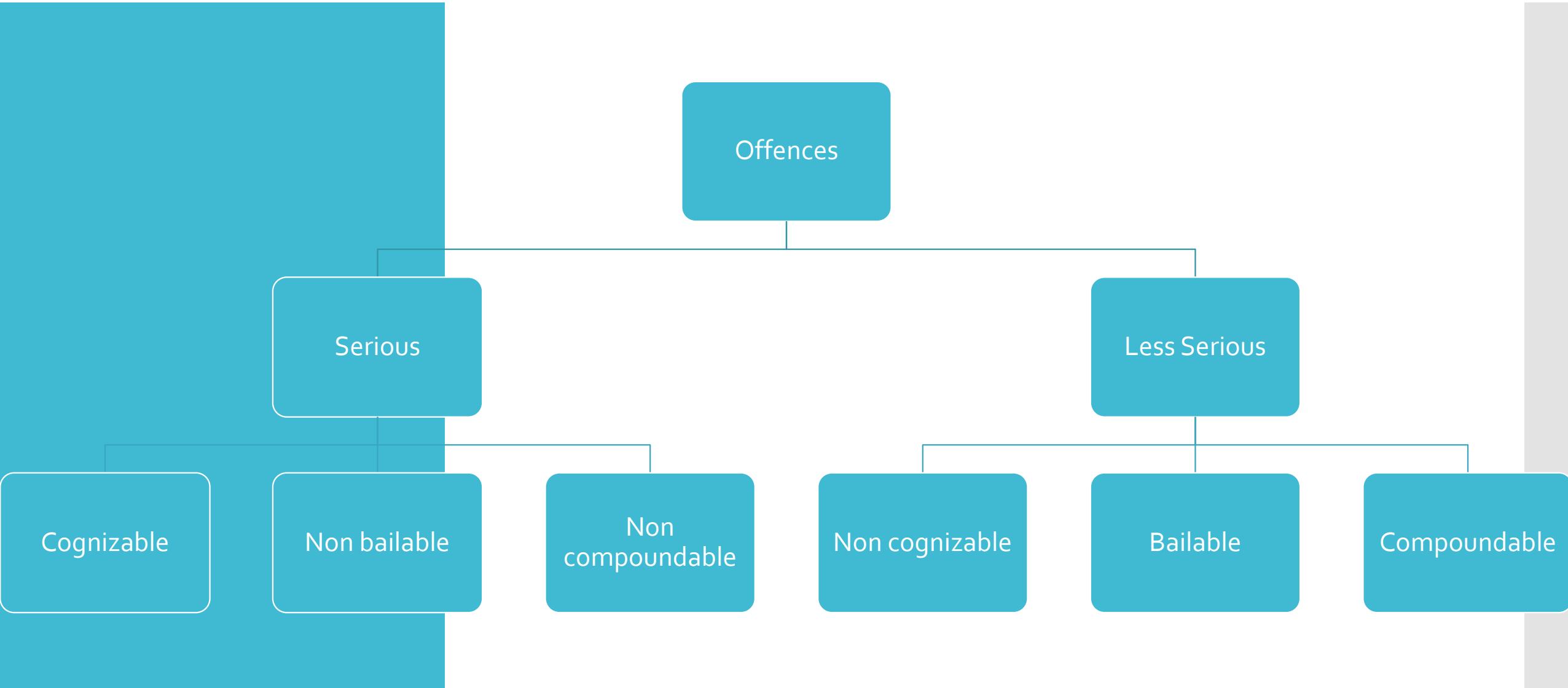
Basic Terminology in Law

- Injury (Section 2(14)): Any harm whatever illegally caused to any person, in body, mind, reputation or property.
- Voluntarily (Section 2(33)): A person is said to cause an effect "voluntarily" when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.
- Wrongful Gain (Section 2(36)): Gain by unlawful means of property to which the person gaining is not legally entitled
- Wrongful Loss (Section 2(37)): The loss by unlawful means of property to which the person losing it is legally entitled

Basic Terminology in Law

Public Servant (Section 2(28)) Includes:-

- Commissioned officers in Armed Forces
- - Judges and persons exercising judicial functions
- - Court officers
- - Panchayat members
- - Arbitrators
- - Government officers whose duty is to prevent offences, investigate crimes, or protect public safety



Cognizable

Police can act on their own

Non cognizable

Police has no authority

Arrest without warrant

Requires warrant

Investigation without permission

Only with permission

FIR (First information report)

NCR (Non cognizable report)

Bailable

Less serious offences
Punishment less than 3 years

Non bailable

Serious offences
Punishment more than 3 years

Bail as a right

Bail not a right
Discretionary

Seriousness of the crime

Influence of the accused

Evidence tampering



INTRODUCTION TO CRIMINAL PROCEDURE CODE(Now Bharatiya Nagarik Suraksha Sanhita, 2023 - BNSS)

- procedural law that:
- Consolidates and amends law relating to Criminal Procedure
- Became effective on July 1, 2024-
- Replaced the Code of Criminal Procedure, 1973
- 531 sections across 39 chapters
- Procedures for investigation and arrest
- Witness examination and trial procedures
- Appeal processes and victim protection
- Use of technology (audio-visual recording, e-FIR)

FIRST INFORMATION REPORT (FIR)

- The first official police report when someone reports a crime
- BNSS Section 173
- Must be registered for cognizable offences
- Irrespective of geographical area where crime occurred
- Can be filed through oral communication or electronic means (E-FIR)
- Zero FIR: File at ANY police station with NO territorial restrictions

Difference: Civil vs Criminal Justice

CIVIL JUSTICE	CRIMINAL JUSTICE
handles disputes between individuals or organizations regarding rights, property, contracts, and personal matters	Criminal law addresses acts considered offences against the state or society that threaten public order and safety.
Property disputes Contract breaches Family matters (divorce, custody) Landlord-tenant disputes Tort/negligence claims	Theft, robbery Murder, assault Rape, sexual crimes Fraud, forgery Drug trafficking Terrorism
Standard of Proof: Preponderance of Probabilities, the evidence must show it is more likely than not that the claim is true, Lower standard than criminal law	Standard of Proof: Beyond Reasonable Doubt - the evidence must prove guilt with such certainty that a reasonable person would not hesitate to rely on it - Much higher standard than civil law

Feature	Civil	Criminal
Initiator	Individual	State
Burden of Proof	Preponderance of Probabilities	Beyond Reasonable Doubt
Standard	Lower	Much Higher
Punishment	Compensation/Remedy	Jail/Fine/Death
Objective	Settle Dispute	Punish Crime
Appeal	Can appeal to higher courts	Can appeal to higher courts
Verdict	Civil Judgment	Criminal Conviction/Acquittal

Objects of Punishment

- DETERRENCE: Discouraging crime through fear
- REHABILITATION: Reforming offenders
- RETRIBUTION: Moral condemnation; proportionate punishment
- INCAPACITATION: Removing dangerous offenders
- RESTITUTION: Requiring offenders to compensate victims

Kinds of Punishment (BNS Sec. 4)

- DEATH - Rarest of rare cases
- IMPRISONMENT FOR LIFE - Remainder of natural life
- RIGOROUS IMPRISONMENT - With hard labour
- SIMPLE IMPRISONMENT - Without hard labour
- FORFEITURE OF PROPERTY - State confiscates property
- FINE - Monetary penalty
- COMMUNITY SERVICE - Unpaid public benefit work

Death (Capital Punishment)

- The ultimate punishment where the convict is executed
- When Applicable:
 - Rarest of rare cases
 - Murder with aggravating circumstances
 - Terrorism offences
 - Treason
- Legal Process:
 - Can be awarded only by Sessions Court/High Court
 - Death sentence must be confirmed by High Court (BNSS Sec. 22(2))
 - Multiple appeals available
 - Subject to Presidential clemency
- Example: Murder of a child with extreme cruelty

Imprisonment for Life

- Confinement in prison for the remainder of the convict's natural life.
- Duration: - As per BNS Sec. 6: Reckoned as equivalent to 20 years unless otherwise provided
 - But actual imprisonment continues for life in most cases
- Applicability: Serious crimes like murder, rape, terrorism
- Example: Murder without mitigating circumstances.

Imprisonment (Rigorous or Simple)

- Rigorous Imprisonment
 - Definition: Imprisonment with hard labour
 - Duration: Can range from days to years (maximum 7 years for magistrate, life for higher courts)
 - Conditions: Prisoner must perform physical labour as assigned by prison authorities
 - When Used: Serious offences like rape, dacoity, theft
- Simple Imprisonment
 - Definition: Imprisonment without hard labour
 - Duration: Can range from days to years
 - Conditions: Prisoner not required to do hard labour
 - When Used: Less serious offences like contempt of court, criminal breach of trust
- Court Discretion (BNS Sec. 7):
 - Court can direct imprisonment to be wholly rigorous/wholly simple/part rigorous and part simple

Example: 2 years rigorous imprisonment for theft; 1 year simple imprisonment for breach of contract.

Forfeiture of Property

- The state confiscates the offender's property as punishment.
- What Can Be Forfeited:
- Proceeds of crime (money, goods obtained through crime)
 - Property used to commit crime
 - Assets earned through criminal activity
- When Used:
- Drug trafficking offences
 - Corruption cases
 - Money laundering
 - Organized crime
- Example: A drug trafficker's vehicles and properties obtained from drug sale proceeds are seized.

Fine

- Monetary penalty imposed by the court as punishment.
- Characteristics (BNS Sec. 8):
 - Amount determined by court
 - Can be unlimited if not specified by law (but must not be excessive)
 - Can be imposed alone or with imprisonment
 - Default: imprisonment if fine not paid
- Default Imprisonment (BNS Sec. 8(2)-(3)):
 - If fine not paid, court can order imprisonment
 - Duration cannot exceed 1/4 of maximum imprisonment for the offence
 - Imprisonment terms vary by fine amount:
 - Up to rupees 5,000 fine: max 2 months imprisonment
 - Up to rupees 10,000 fine: max 4 months imprisonment
 - Above, rupees 10,000: max 1 year imprisonment
- Example rupees 5,000 fine or 1 month imprisonment for minor offence.

Community Service

- (BNS Sec. 8(5)) : Work which the court may order a convict to perform as punishment that benefits the community, for which he shall not receive any remuneration.
 - Unpaid public benefit work
 - Alternative to imprisonment for certain offences
 - Court-ordered duration
 - Serves both punishment and rehabilitation purposes
- Types of Community Service:**
 - Road cleaning and maintenance
 - School/hospital maintenance
 - Environmental conservation
 - Public health awareness
 - Disaster relief work
 - Social welfare projects
- When Imposed:
 - First-time minor offenders
 - Non-violent crimes
 - Offences with community impact
 - Youth offenders
- Example: A person convicted of petty theft ordered to perform 3 months community service by maintaining public parks.

Primary Rights

- Fundamental legal entitlements and powers granted to authorities to ensure proper functioning of the justice system
- In Criminal Context:

State's Primary Rights:

- Right to prosecute offenders
- Right to maintain public order
- Right to protect citizens
- Right to enforce law
- Right to investigate crimes

Primary Rights

- Individual's Primary Rights:
 - Right to life and liberty (Constitution)
 - Right to fair trial (BNSS Sec. 5, 6)
 - Right to legal representation
 - Right to be informed of charges
 - Right to bail (BNSS Sec. 50 onwards)
 - Right to cross-examine witnesses
 - Right to appeal
- Judge's Primary Rights:
 - Power to hear cases and deliver judgment
 - Power to interpret laws
 - Power to award punishment within statutory limits
 - Power to grant bail
 - Power to issue warrants

Sanctioning Rights

- Powers of courts to impose legal consequences, enforce judgments, and implement punishments after establishing guilt.
- Court's Sanctioning Powers:
- Sentencing Powers:
 - High Court & Sessions Judges (BNSS Sec. 22): May pass any sentence authorized by law (including death, but death sentences must be confirmed by High Court)
 - Chief Judicial Magistrate (BNSS Sec. 23(1)): Can impose any sentence except death, life imprisonment, or imprisonment exceeding 7 years
 - First Class Judicial Magistrate (BNSS Sec. 23(2)): Can impose imprisonment up to 3 years or fine up to 50,000 or both, or community service
 - Second Class Judicial Magistrate (BNSS Sec. 23(3)): Can impose imprisonment up to 1 year or fine up to 10,000 or both, or community service

- Execution of Judgment:
 - Power to enforce court orders
 - Power to levy fines and attach property
 - Power to confiscate criminal proceeds
 - Power to grant commutation (BNS Sec. 5)
- Supervisory Powers:
 - High Courts have supervisory jurisdiction over lower courts
 - Power to correct illegal judgments
 - Power to issue writs of habeas corpus, mandamus, etc.

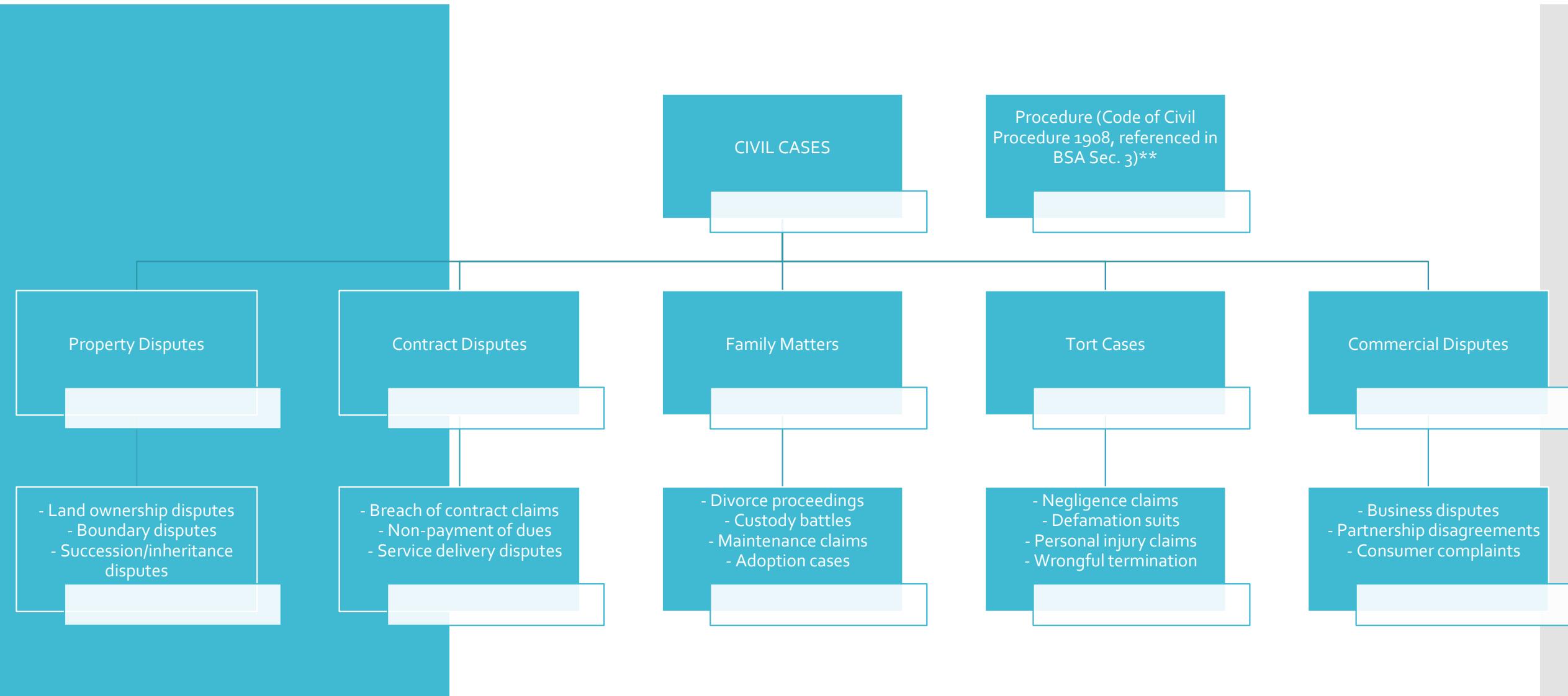
Primary Functions of Court

- Core judicial responsibilities, the main reasons courts exist.
- Adjudication (Dispute Resolution)
- Criminal Trial
- Sentencing
- Granting Bail

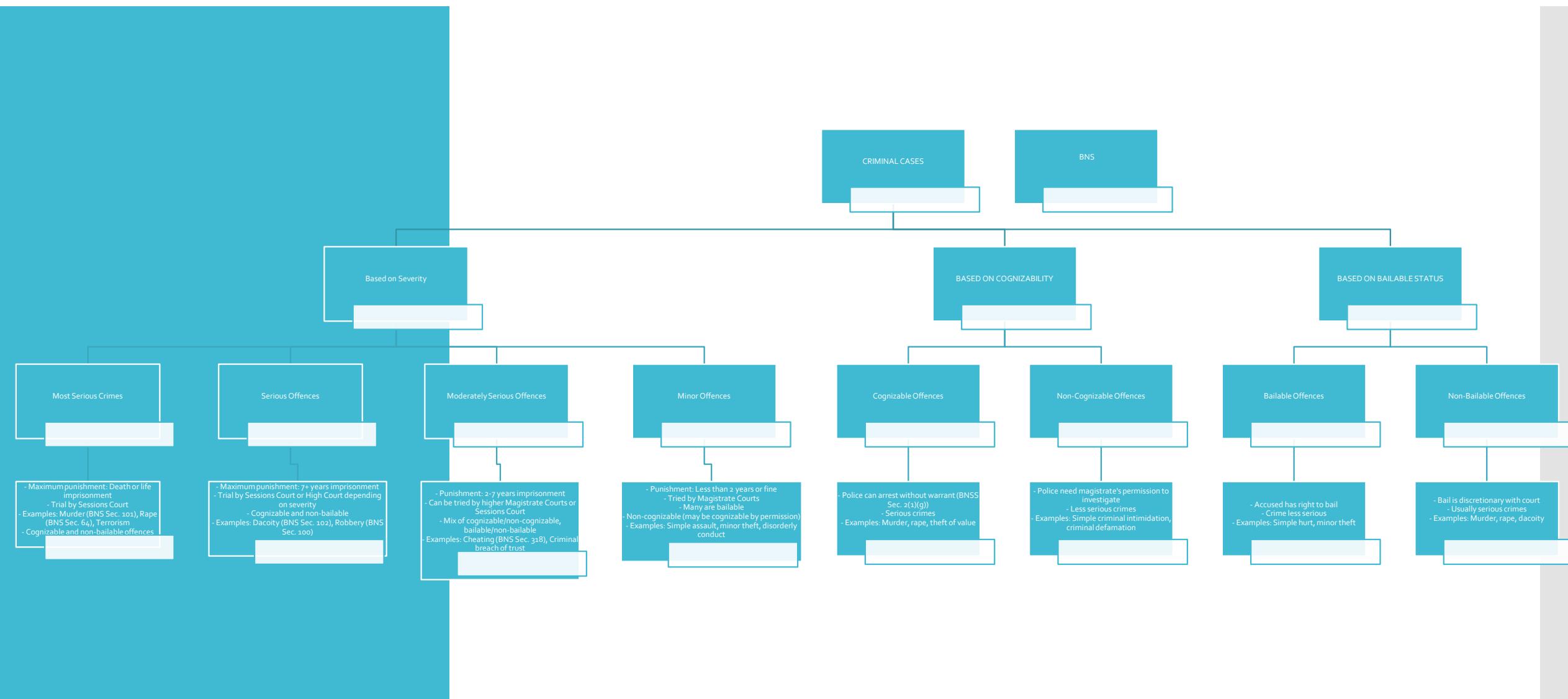
Secondary Functions of Court

- Supporting roles that maintain the integrity and effectiveness of the judicial system
- Legal Interpretation
- Constitutional Protections
- Appellate Review
- Supervisory Jurisdiction
- Custodial Habeas Corpus (Ensuring persons are not unlawfully detained)
- Contempt of Court
- Public Interest Litigation

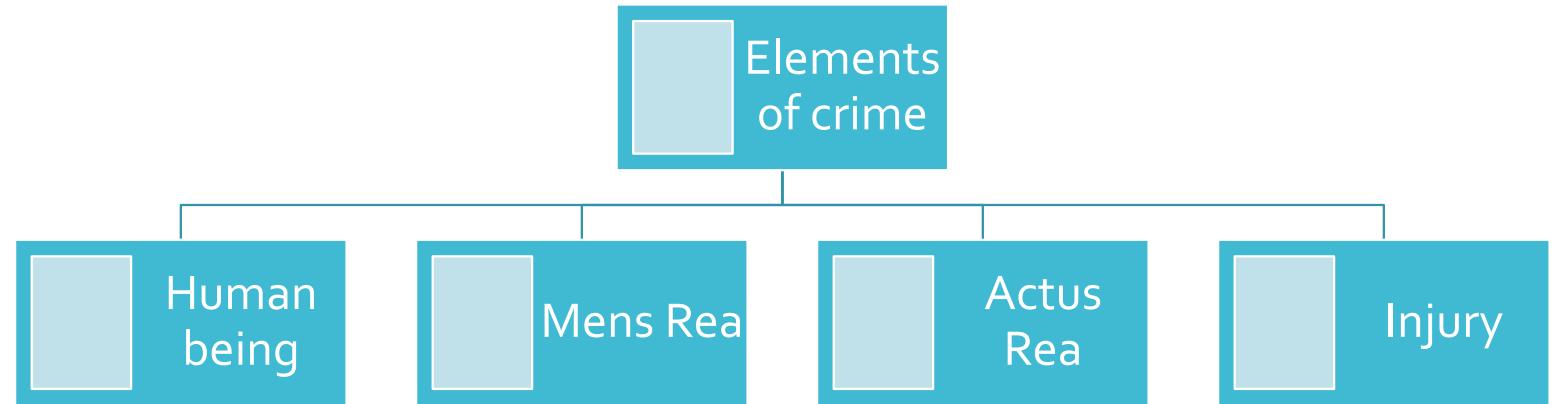
LAW TO COMBAT CRIME - CLASSIFICATION



LAW TO COMBAT CRIME - CLASSIFICATION



ESSENTIAL ELEMENTS OF CRIMINAL LAW



ACTUS REUS (The Physical Act)

- The guilty act or the actual physical commission of the offence; the act that the law prohibits.
- Must be voluntary (BNS Sec. 2(33)) - done intentionally or with knowledge it will cause harm
 - Can be an action or an omission (failure to act)
 - Must be the direct cause of the harm
 - Must occur while person is conscious
- Examples from BNS:**
 - Murder (BNS Sec. 101): The unlawful act causing death with intent
 - Theft (BNS Sec. 303): Taking property secretly and dishonestly
 - Rape (BNS Sec. 64): Sexual penetration without consent

Actus Reus

Commission (Doing Something)

- Stabbing someone (murder)
- Hitting someone (assault)
- Taking property (theft)
- Example: A shoots B intentionally

Omission (Failure to Do Something)

- Failure to feed a dependent child (criminal negligence)
- Doctor not providing medical care (criminal negligence)
 - Jailer not providing food to prisoner
- Example: A, a parent, refuses to feed child, child dies

MENS REA (The Guilty Mind)

- The mental element; the intent, knowledge, recklessness, or negligence with which an act is committed. It distinguishes intentional crimes from accidents.
- The Latin Maxim: "Actus non facit reum nisi mens sit rea"
 - "The act does not make a person guilty unless the mind is also guilty"
- This means: Generally, both the physical act (actus reus) AND the guilty mind (mens rea) must be present for criminal liability.

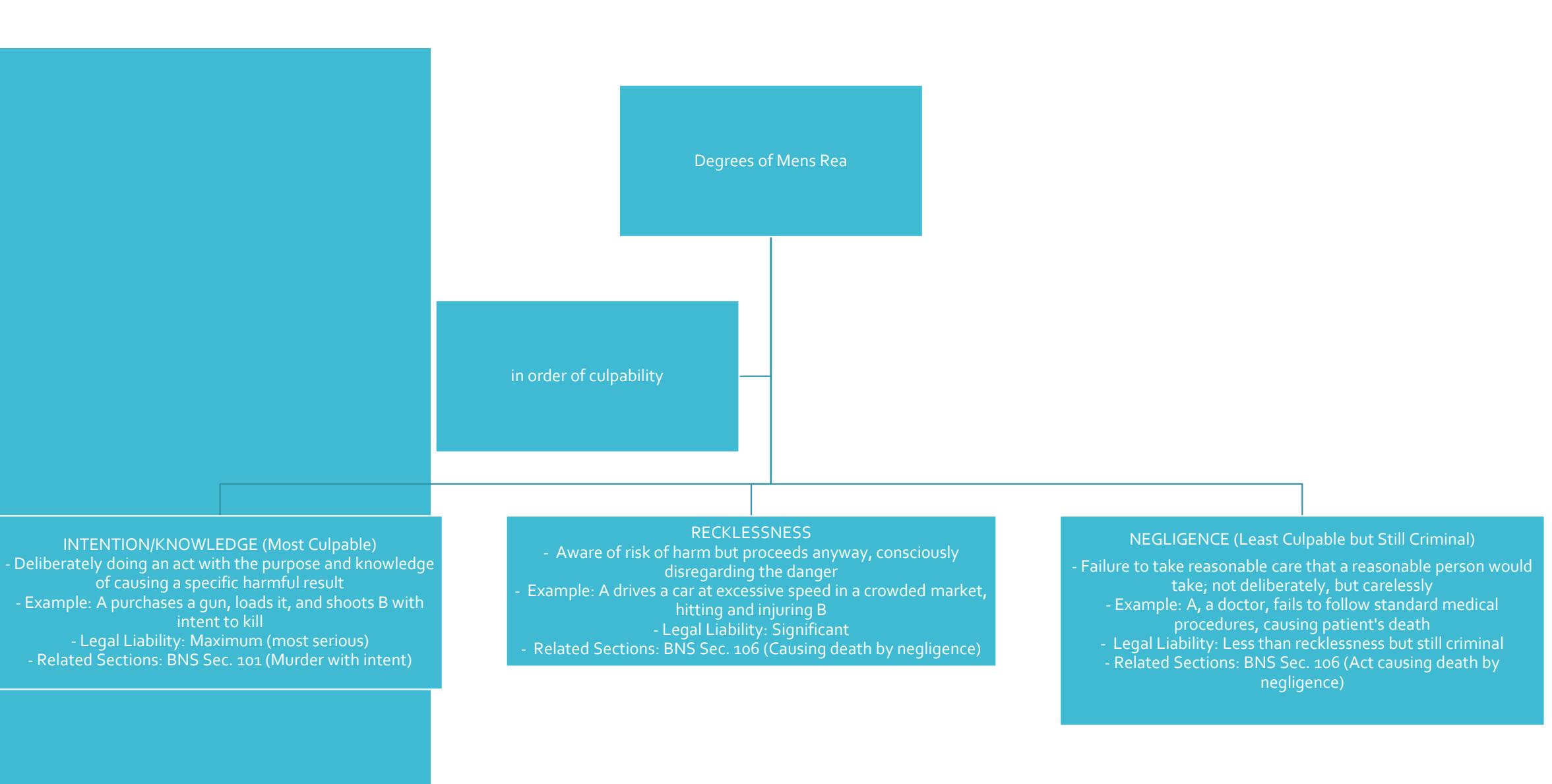


Illustration of Both Elements Working Together

- Scenario 1: Criminal (Both Present)
 - Act (Actus Reus): A shoots B
 - Mind (Mens Rea): A intended to kill B
 - Result: MURDER - Crime committed
- Scenario 2: Criminal (Both Present)
 - Act: A drives recklessly
 - Mind: A knew driving recklessly could cause injury
 - Result: CAUSING INJURY BY NEGLIGENCE - Crime committed
- Scenario 3: NOT Criminal (Accident - No Mens Rea)
 - Act: A is working with a hatchet; head flies off and kills B
 - Mind: A had no intention or knowledge of harm, was using proper caution (BNS Sec. 18 - Accident exception)
 - Result: NO CRIME - General exception applies

EXCEPTIONS TO MENS REA REQUIREMENT

- General Exceptions (BNS Chapter III, Sec. 14-26)
- The law recognizes situations where actus reus is present but mens rea is absent or excused:
 - 1. Act by Child Under 7 Years (BNS Sec. 20)
 - No child under 7 can commit an offence
 - No mens rea presumed
 - 2. Child 7-12 Years (BNS Sec. 21)
 - Only if child has sufficient maturity to understand consequences
 - Reduced culpability
 - 3. Insanity/Unsoundness of Mind (BNS Sec. 22)
 - If person cannot know nature of act or that it's wrong
 - No mens rea capability
 - 4. Intoxication (BNS Sec. 23)
 - If involuntarily intoxicated without knowledge/consent
 - No criminal liability
 - 5. Accident (BNS Sec. 18)
 - Harm caused without intention or knowledge it would occur
 - Lawful act, lawful manner, with proper care
 - 6. Necessity/Duress (BNS Sec. 19)
 - Harm caused to prevent greater harm
 - If no criminal intention but good faith

BAIL DECISIONS - LEGAL FRAMEWORK

- Bail Requirements
 - Usually requires surety (guarantor)
 - Bail bond amount decided by court
 - May impose strict conditions
 - Frequent appearance in court may be required

BAIL DECISIONS - LEGAL FRAMEWORK

- BNSS Sections 50-69 outline bail procedures:
 - Section 50: Police can grant bail for bailable offences
 - Section 51: Bail bond conditions and sureties
 - Section 54: Court can grant bail for non-bailable offences
- considering:
- Nature of offence
 - Strength of case
 - Flight risk
 - Criminal history
 - Character references
 - Community tie

BHARATIYA SAKSHYA ADHINIYAM, 2023

- The Bharatiya Sakshya Adhiniyam (BSA), 2023 is the modern evidence law that replaced the Indian Evidence Act, 1872. It consolidates and provides general rules and principles of evidence for fair trials in all judicial proceedings.
- Effective Date: July 1, 2024
Applicable to: All judicial proceedings in or before any Court, including Courts-martial

DEFINITION OF EVIDENCE

- Evidence refers to information that is presented in court to prove or disprove facts in a case. It can be oral (spoken) or documentary (written, electronic, or in other forms).
- Legal Definition - Section 2(1)(e) of BSA:
- "Evidence" means and includes:
 - (i) All statements including statements given electronically which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry and such statements are called oral evidence;
 - (ii) All documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence.

Oral Evidence

- Oral Evidence:
 - Statements made by witnesses in court
 - Can be given in person or electronically
 - Addresses facts under inquiry
 - Witness speaks on oath or affirmation
 - Subject to examination, cross-examination, re-examination

Examples:

- . Oral Evidence:
 - Eyewitness testimony about a robbery
 - Expert testimony about DNA matching
 - Victim's statement about assault

Examination-in-Chief: The initial questioning by the party calling the witness to establish supporting facts.

Cross-Examination: The opposing party's questioning to challenge credibility, expose inconsistencies, and test the witness's truthfulness.

Re-Examination: Clarification or rebuttal by the original party, focusing on issues raised during cross-examination.

Exceptions: Cross-examination may include questions beyond the initial testimony; re-examination addresses new matters if allowed.

Importance: Systematic witness examination ensures fair, thorough evidence presentation, testing credibility and supporting justice.

Documentary evidence

- Documentary Evidence:
 - Physical or electronic records
 - Produced for court inspection
 - Includes:
 - Written documents (letters, contracts, agreements)
 - Electronic records (emails, messages, digital files)
 - Digital records (CCTV footage, computer logs)
 - Photos, maps, diagrams
 - Audio and video recordings
- Documentary Evidence:
 - Medical records in a medical negligence case
 - Bank statements in a fraud case
 - CCTV footage of a crime scene
 - Mobile phone records showing location data
 - Lab reports showing chemical analysis

Document BSA Section 2(1)(d)

- "Document" means any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records.
- Illustrations under Section 2(1)(d):
 - (i) A writing is a document
 - (ii) Words printed, lithographed or photographed are documents
 - (iii) A map or plan is a document
 - (iv) An inscription on a metal plate or stone is a document
 - (v) A caricature is a document
 - (vi) An electronic record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, locational evidence and voice mail messages stored on digital devices are documents

SECTIONS 3- 14 - RELEVANCY OF FACTS

- Simple Explanation:
Relevancy determines which facts and evidence are allowed to be presented in court. Not all facts are relevant—only those connected to the matters in issue can be presented.
- Legal Definition - Section 3 of BSA:
"Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others."

Section 2(k) - What is "Relevant":

- Section 2(k) - What is "Relevant":
"A fact is said to be relevant to another when it is connected with the other in any of the ways referred to in the provisions of this Adhiniyam relating to the relevancy of facts."

Categories of Relevant Facts:

Section 4- Closely Connected Facts (Same Transaction)

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Principle: Facts forming part of the same transaction, though not in issue, are relevant.

Definition:

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, whether they occurred at the same time and place or at different times and places.

Example:

 - A is accused of murder by beating B
 - Whatever was said or done by A, B, or bystanders at the beating, or shortly before/after it as to form part of the transaction, is relevant

Forensic Application:

 - In a crime scene investigation, all evidence at the location (blood stains, weapons, victim's injuries) forms part of same transaction
 - Timeline evidence showing before, during, and after crime sequence

Section 5 - Cause, Effect, and Circumstances

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Principle: Facts showing cause, effect, or circumstances are relevant.

Definition:

Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

Example:

- Q: Was A murdered?
- A: Marks on ground from struggle at crime location are relevant facts

Forensic Application:

- Pre-crime circumstances (victim's movements, offender's access to location)
- Post-crime evidence (victim's injuries, weapon marks, DNA traces)
- Opportunity factors (proximity, timing, availability of weapon)

Section 6 - Motive, Preparation, and Conduct

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Principle: Facts showing motive, preparation, or conduct are relevant.

Definition:

- (1) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.
- (2) The conduct of any party reflecting on fact in issue is relevant if it influences or is influenced by the fact in issue.

Examples:

- Procurement of poison before poisoning crime
- Financial motive for murder
- Escape/flight behavior after crime
- Destruction of evidence
- Absconding after crime

Forensic Application:

- Evidence of financial transactions before crime (motive)
- Purchase records of tools or weapons (preparation)
- Post-crime behavior (consciousness of guilt)
- Chain of custody issues and evidence tampering

Section 7 - Explanatory Facts

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Principle: Facts necessary to explain or introduce facts in issue are relevant.

Definition:

Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or a relevant fact, or which establish the identity of anything or person whose identity is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

Forensic Application:

- Medical expert explaining autopsy findings
- Lab reports explaining test results
- Expert witness explaining forensic methodology
- Documentation showing identification procedures

Section 8 - Conspiracy

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Principle: When conspiracy is established, statements made by conspirators regarding common intention are relevant.

Definition:

Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring.

Forensic Application:

- Communications between co-conspirators (emails, messages)
- Meeting records showing conspiracy formation
- Evidence of collective preparation

Section 9 - Inconsistency and Probability

- Section 9 - Inconsistency and Probability

Principle: Facts inconsistent with facts in issue, or making facts highly probable/improbable, are relevant.

Definition:

Facts not otherwise relevant are relevant—

(1) if they are inconsistent with any fact in issue or relevant fact;
(2) if by themselves or in connection with other facts they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Examples:

- Scientific evidence making guilt/innocence highly probable
- Physical evidence contradicting witness testimony

Forensic Application:

- DNA evidence establishing/excluding suspect
- Ballistic evidence matching/not matching weapon
- Digital evidence showing location/non-location at crime scene

Section 10 - Damages Evidence

- Principle: In suits for damages, any fact helping determine amount of damages is relevant.

Forensic Application:

- Medical evidence regarding injury extent
- Economic loss documentation
- Emotional trauma assessments

Section 12 - State of Mind

- Principle: Facts showing intention, knowledge, good faith, negligence, or state of body are relevant.

Definition:

Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.

Examples:

- Evidence of previous criminal conduct showing knowledge
- Possession of multiple stolen items showing knowledge
- Medical evidence of bodily state

Forensic Application:

- Forensic pathology evidence of bodily condition
- Toxicology showing substance presence/knowledge
- Injury pattern evidence showing intentionality

Section 13 - Series of Similar Acts

- Principle: When questioning if act was accidental or intentional, series of similar acts is relevant.

Definition:

When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

Examples:

- Multiple insurance frauds before fire
- Series of false entries in accounts
- Pattern of crimes showing modus operandi

Forensic Application:

- Serial crime analysis showing pattern
- Modus operandi evidence across multiple crimes
- Digital forensics showing repeated unauthorized access patterns

Section 14 - Course of Business

- Principle: Existence of course of business showing act probably happened is relevant.

Definition:

When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

Examples:

- Regular practice of posting letters
- Normal procedure for document dispatch
- Standard operating procedures

Forensic Application:

- Laboratory standard procedures and protocols
- Chain of custody documentation procedures
- Regular evidence handling protocols

SECTIONS 15- 27 - ADMISSION AND CONFESSION

- An admission is a statement that suggests an inference about a fact in dispute.
- A confession is specifically an admission of guilt by a criminal suspect.

Section 15 - Definition of Admission

"An admission is a statement, oral or documentary or contained in electronic form, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned."

Types of Admissions

- Section 16 - Admissions by Party or Agent
- Section 17 - Admissions by Persons Whose Position Must be Proved
- Section 18 - Admissions by Persons Expressly Referred To

- Section 19 - Proof of Admissions
- Section 20-21 - Restrictions on Admissions

CONFESSIO

- Section 22 - Confession Caused by Inducement, Threat, Coercion or Promise
- A confession made by an accused person **is irrelevant** in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat, coercion or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

- Key Elements for Confession Irrelevance:

1. Inducement: Offer of advantage
2. Threat: Threat of harm
3. Coercion: Force or pressure
4. Promise: Promise of benefit
5. From Person in Authority: Police, magistrate, officer
6. Sufficient to Make Grounds Appear Reasonable: Would reasonable person expect advantage/avoid evil?

- Confessions Made After Removal of Impression:

Proviso: If confession is made after the impression caused by inducement/threat/coercion/promise has been fully removed, it is relevant.

Confessions NOT Made Irrelevant By:

- Promise of secrecy
- Deception practiced to obtain confession
- Accused being drunk when confessed
- Failure to warn accused about confession use
- Answer to questions accused need not answer
- Not being warned confession could be used against him

Section 23 - Confession to Police Officer

- Section 23(1): "No confession made to a police officer shall be proved as against a person accused of any offence."

Absolute Rule: Police confessions are NEVER admissible as evidence

Section 23(2): "No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him."

Exception - Section 23(2) Proviso:

When any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.

Example:

- Police obtain statement: "I hid the stolen jewelry under the garden"
- Jewelry is recovered following this statement
- The discovery can be proved even if the statement itself cannot
- This is called "discovery evidence" or "fruit of confession"

Section 24 - Joint Trial Confessions

- When more persons than one are being tried jointly for the same offence, and a confession made by one affecting himself and some other person 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.
- Example:
 - A and B tried jointly for robbery
 - A confesses, implicating B
 - Court can consider A's confession against both A and B

Section 25 - Extra-Judicial Confession (Beyond Police)

- A confession before a person other than a police officer is relevant, if it is otherwise so admissible.
- When Relevant:
 - Confessions before judges
 - Confessions before magistrates
 - Confessions before civil authority
 - Confessions to third persons
 - Confessions in written form
- Example:
 - Accused confesses to neighbor
 - Neighbor can testify to confession
 - Confession to wife: admissible

Section 26 - Dying Declaration (Hearsay Exception)

- Statements by persons who believe death is imminent are relevant.

Forensic Professional Considerations:

For Confessions:

1. Ensure proper Miranda-like warnings (as per applicable law)
2. Document all statements with video/audio if possible
3. Ensure magistrate presence when in custody
4. Record discovery evidence with proper foundation
5. Maintain chain of custody for discovered items

SECTION 39 - OPINION OF EXPERTS

- Expert opinion is evidence given by someone with specialized knowledge to help the court understand complex technical or scientific matters.
- Legal Definition - Section 39(1) of BSA:

"When the Court has to form an opinion upon a point of foreign law, science or art, or as to identity of handwriting or finger impressions, or upon any other matter not ordinarily within the knowledge of the judges, the opinions of persons specially skilled in such foreign law, science or art, or in questions as to identity of handwriting or finger impressions, or in such other matters, as the case may be, are relevant facts." Such persons are called experts

Section 39(2) - Electronic Evidence Expert

- For matters relating to information transmitted or stored in computer resources or other electronic or digital forms or devices, the opinion of the Examiner of Electronic Evidence or any other competent person, who has the knowledge of the working of the computer resources or such electronic or digital devices or media, shall be a relevant fact, and such an Examiner is considered an expert

What Qualifies as Expert Opinion:

- DNA analysis and interpretation
- Fingerprint matching
- Bloodstain pattern analysis
- Toxicology (drug detection, poison analysis)
- Pathology (cause of death)
- Ballistics (bullet matching, firearm identification)
- Chemistry (substance identification)
- Physics (trajectory analysis, velocity calculation)
- Biology (species identification, tissue analysis)
- Geology (soil analysis, mineral identification)
- Handwriting analysis and authentication
- Document examination (ink, paper, printing methods)
- Digital forensics (computer analysis, mobile device examination)
- Audio/Video analysis and authentication
- Cause of death determination
- Injury pattern interpretation
- Medical condition assessment
- Substance effects (drugs, poisons)

Role of Expert Witness

- NOT to decide ultimate issue: Expert cannot decide guilt/innocence (that's for judge/jury)
- To assist court: Expert explains technical matters enabling court to decide

To provide methodology: Expert explains how conclusion reached, making court understand basis

Example in Forensic Science:

- Expert says:"DNA profile from crime scene matches defendant with probability of 1 in 10 billion"
- Expert does NOT say: "Defendant is guilty"
- Court/Jury decides: Whether to accept expert conclusion and use it with other evidence

Requirements for Valid Expert Opinion

- 1. Qualification: Expert must have genuine expertise
- 2. Basis: Opinion must be based on relevant facts
- 3. Methodology: Sound scientific/technical principles
- 4. Reliability: Techniques must be validated/reliable
- 5. Proper Foundation: Expert must explain basis for opinion

SECTION 57 - PRIMARY EVIDENCE

- Primary evidence is the original document or record itself, presented directly to the court for inspection.
- Characteristics of Primary Evidence:
 1. Original Document: Not a copy
 2. Direct Production: Brought to court
 3. Inspection: Court can examine directly
 4. Authenticity: Proves genuineness more readily than copy
- Examples of Primary Evidence
 - - Original contract
 - - Original hard drive containing files
 - - Original weapon found at crime scene

When Primary Evidence is Required:

- When terms of a document are in dispute, primary evidence should be provided

Exceptions: Secondary evidence admissible when:

- Document lost or destroyed
- Original in possession of opposite party
- Original created as copy by mechanical process
- Electronic records (special rules apply)

SECTION 58 - SECONDARY EVIDENCE

- Secondary evidence is a copy or other form of evidence of a document's contents when the original is not available.
 - Secondary evidence includes—
 - (a) certified copies, made in pursuance of law;
 - (b) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and proved to be accurate;
 - (c) copies compared with the original;
 - (d) counterparts of documents as against the parties who did not execute them; and
 - (e) oral accounts of the contents of documents.
- For electronic or digital records, secondary evidence also includes:
- (f) a copy made from a copy, if the original copy was made in the manner described in clause (b), and is proved to be accurate;
 - (g) printouts of electronic records (with date and time stamps);
 - (h) oral descriptions by a person who examined the original electronic record;
 - (i) evidence from a person skilled in examining numerous accounts or documents.
- provided that where the original is inaccessible or in possession of the opposite party, secondary evidence may be given

Rules for Admitting Secondary Evidence

- 1. Notice Required: Opposite party must be given notice intention to produce secondary evidence
- 2. Explanation Required: Reason for not producing primary evidence
- 3. Reliability: Process of copy creation must be proved reliable
- 4. Accuracy: Copy must be proved accurate or made by mechanical process
- 5. Competence: Person producing evidence must be competent

SECTION 61 - ELECTRONIC AND DIGITAL RECORDS

- Electronic and digital records are recognized as valid evidence just like traditional documents.
- Notwithstanding anything contained in any law for the time being in force, electronic and digital records shall not be excluded on the ground that they are not in original form
- SECTION 63 - ADMISSIBILITY OF ELECTRONIC RECORDS
- Electronic records can be admitted as evidence if they meet certain requirements establishing reliability and authenticity

Requirements for Admissibility:

- Authorized Creation/Storage
- Ordinary Course of Business
- No Material Alteration
- Other Records Produced or Explained
- Reliable Production, Storage, Transmission, and Archival

Process for Establishing Admissibility

- - Step 1: Authenticate Record
 - Prove record exists and is what it purports to be
 - Provide identifying information
 - Explain source and creation
 - Step 2: Show Compliance with Requirements
 - Meet all 5 requirements of Section 63
 - Present testimony/affidavit establishing each requirement
 - Provide supporting documentation
 - Step 3: Expert Foundation (if needed)
 - Digital forensics expert testifies about reliability
 - Explains how record preserved
 - Describes methodology and validation
 - Addresses any concerns about integrity
 - Step 4: Court Determination
 - Court evaluates all evidence
 - Determines if admissibility requirements met
 - May ask questions about reliability
 - Makes determination on admissibility

SECTION 136 - EXCLUSION FROM WITNESS EXAMINATION UPON PRODUCTION OF DOCUMENTS

- When a witness has been examined, and the adverse party wishes to put questions to him either to refresh his memory or to contradict him, or to impeach his credit or to discover who he is, as to any document which is or has been produced during the proceedings, or the contents of which he has deposed to, the Court may permit the opposite party to put such questions before the production of the document
- Forensic Application:
 - Lab report produced and shown to expert
 - Expert has testified about contents
 - Opposing counsel cannot extensively question about details already in written report
 - Details can be reviewed directly from document

SECTIONS 140- 144 - EXAMINATION AND CROSS- EXAMINATION

- These sections establish the procedures for questioning witnesses in court, including how evidence is presented and challenged.
- Section 142 - Three Types of Examination:
 - (1) "Examination-in-chief" is the examination of a witness by the party who calls him.
 - (2) "Cross-examination" is the examination of a witness by the adverse party.
 - (3) "Re-examination" is the examination of a witness, subsequent to cross-examination, by the party who called him

EXAMINATIO N-IN-CHIEF

(Section
142(1))

- Questioning witness by the party who called witness

- Questions generally must be non-leading
- Allows witness to testify freely
- Witness tells story in own words
- Scope limited to facts relevant to case
- Purpose: Establish facts favorable to calling party

Forensic Application:

- Prosecution calls forensic expert
- Expert explains methodology
- Expert describes findings
- Expert interprets results

Example:

- Prosecution: "Dr. Smith, please describe your qualifications as DNA expert"
- Witness: [Expert describes credentials]
- Prosecution: "What did your DNA analysis show?"
- Witness: [Expert explains findings]

CROSS- EXAMINATIO N (Section 142(2))

- Questioning witness by adverse party

Characteristics:

- Leading questions allowed
- Purpose: Challenge witness credibility
- Test accuracy of testimony
- Suggest alternative explanations
- Clarify ambiguous testimony

Section 143 - Scope of Cross- Examination

- Except with the permission of the Court, cross-examination must be confined to the facts which the witness has testified to in examination-in-chief, to matters which affect the credibility of the witness, or to such other matters as may have been permitted by the Court under section 2.
- Explanation:
 - (1) Cross-examination must be confined to facts testified to
 - (2) Cross-examination not confined to such facts if matters were allowed in examination-in-chief
 - (3) Court may permit evidence of independent source without first proving facts testified

Section 146 - Leading Questions During Cross- Examination

- Leading questions may, if objected to by the adverse party, only be asked in an examination-in-chief, or in a re-examination, with the permission of the Court; but leading questions may always be asked in cross-examination.
 - Permission Exceptions for Leading Questions in Examination-in-Chief:
 - Court gives permission
 - Both parties agree
 - Questions about introductory/undisputed matters
 - Questions refreshing memory
- Cross-Examination:
- Leading questions always allowed
- Example of Leading Question:
- "You were at the crime scene at 9 PM, weren't you?" (Leading - suggests answer)
 - vs. "What time were you at the crime scene?" (Non-leading)

RE- EXAMINATIO N (Section 142(3))

- Questioning witness by calling party after cross-examination
- Purpose:
 - Clarify ambiguous answers from cross-examination
 - Explain inconsistencies raised
 - Not to introduce new facts
 - Refresh witness memory

Limitations:

- Limited to matters arising from cross-examination
- Cannot introduce new evidence
- Cannot ask leading questions (except to refresh memory)

Forensic Application:

- Prosecution after defense cross-examination
- Expert clarifies methodology
- Expert explains apparent inconsistencies
- Expert reaffirms findings

Forensic Expert Examination Sequence

- 1. Examination-in-Chief (By Prosecution):
 - Expert qualifications and credentials
 - Experience and training
 - Role in case
 - Methodology used
 - Materials examined
 - Procedures followed
 - Findings and conclusions
 - Basis for opinions
- 2. Cross-Examination (By Defense):
 - Challenging methodology
 - Questioning experience adequacy
 - Suggesting alternative explanations
 - Exploring limitations of techniques
 - Testing knowledge of subject
 - Impeaching credibility if possible
 - Looking for errors or oversights
- 3. Re-Examination (By Prosecution):
 - Clarifying any ambiguities
 - Explaining limitations acknowledged
 - Reaffirming findings
 - Responding to specific challenges
 - Reinforcing methodology reliability

SECTION 158 - IMPEACHING CREDIT OF WITNESS

- The credibility or reliability of a witness can be challenged during cross-examination through specific methods established by law.
- The credit of a witness may be impeached in the following ways by the adverse party, or with the permission of the Court, by the party who called him, namely:
 - (a) by evidence of persons who believe that he is unworthy of credit on account of his immoral character, or on account of his having been bribed, or for other reasons likely in the opinion of the Court to affect the accuracy and veracity of his evidence;
 - (b) by proof that he has been bribed or offered a bribe or received other corrupt inducement;
 - (c) by proof of the former statements of the witness which are inconsistent with any part of his evidence.

SECTION 165 - PRODUCTION OF DOCUMENTS

- Witnesses can be required to bring documents to court, and courts have authority to order production of any document needed as evidence.
"When a witness is summoned to produce a document, he must, if the document is in his possession or power, bring it to the Court, notwithstanding any objection which he may have to the production of the document or to the admission of evidence of its contents, and the Court shall decide on the validity of such objection."

Key Principles

- 1. Mandatory Production Upon Summons:
 - Witness must bring document to court
 - Cannot refuse despite objections
 - Cannot refuse despite adverse interest
 - Must bring to first summons if possible
 2. Court Decides on Objections
 - Witness may object (privilege, self-incrimination, etc.)
 - Court evaluates objection validity
 - Court decides whether document admissible
 - Witness does not make final decision
 3. Exceptions to Mandatory Production:
 - Privileged documents (attorney-client privilege)
 - State secrets
 - Self-incrimination grounds
 - Other legal exceptions

Forensic Application

- - Laboratory Documents:
 1. Original Lab Reports: Must be produced
 2. Working Notes: Can be called for by court
 3. Quality Control Records: Must be produced if called
 4. Instrument Calibration Records: Must be produced
 5. Chain of Custody Documentation: Must be produced
 - Police Documentation:
 1. FIR: Must be produced
 2. Investigation Notes: Must be produced
 3. Arrest Records: Must be produced
 4. Search Records: Must be produced
 5. Witness Statements: Must be produced
 - Medical Evidence:
 1. Autopsy Report: Must be produced
 2. Pathology Analysis: Must be produced
 3. Medical Records: Must be produced
 4. Photographs/X-rays: Must be produced
 5. Toxicology Results: Must be produced

BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

- The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 is the modern criminal procedure code that replaced the Code of Criminal Procedure (CrPC), 1973. It was effective from July 1, 2024, and consolidates and amends the law relating to criminal procedure in India.
- This Act establishes the procedures for investigation, inquiry, trial, and all other criminal proceedings.
- For forensic professionals, understanding BNSS sections is crucial as they govern how evidence is collected, preserved, and presented in court

SECTION 6 - CLASSES OF CRIMINAL COURTS

- Section 6 establishes the hierarchical structure of criminal courts in India, specifying which courts handle different types of cases
- Legal Definition - Section 6 of B NSS:

"Besides the High Courts and the Courts constituted under any law, other than this Sanhita, there shall be, in every State, the following classes of Criminal Courts, namely:—

- (i) Courts of Session;
- (ii) Judicial Magistrates of the first class;
- (iii) Judicial Magistrates of the second class; and
- (iv) Executive Magistrates."

COURT HIERARCHY

- TIER 1: HIGH COURTS
 - Appellate and supervisory jurisdiction
 - Reviews lower court decisions
 - Handles constitutional matters
 - Confirms death sentences from Sessions Courts
- TIER 2: COURT OF SESSION
 - Tries serious offences
 - Presided by Sessions Judge (appointed by High Court)
 - Jurisdiction: Offences punishable by death, life imprisonment, or 7+ years
 - Can impose death sentence (subject to High Court confirmation)
- TIER 3: CHIEF JUDICIAL MAGISTRATE (CJM)
 - Tries offences punishable up to 7 years
 - Supervises other magistrates in district
 - One per district
 - Appointed by High Court
- TIER 4: JUDICIAL MAGISTRATE - FIRST CLASS
 - Tries offences punishable up to 3 years imprisonment
 - Can impose fine up to ₹50,000
 - Appointed by High Court
- TIER 5: JUDICIAL MAGISTRATE - SECOND CLASS
 - Tries minor offences
 - Can impose up to 1 year imprisonment
 - Fine up to ₹10,000
 - Appointed by High Court
- TIER 6: EXECUTIVE MAGISTRATES
 - Maintain public order
 - Issue orders for nuisance/disturbance
 - Administrative rather than criminal trial role

FIRST INFORMATION REPORT (FIR)

- An FIR is the first official report made to police when a crime is reported. It initiates the entire criminal investigation process and is the foundational document in criminal cases.
- Legal Definition - Section 2(1)(t) of BNSS:
"Police report" means a report forwarded by a police officer to a Magistrate under sub-section (3) of section 193.
- While FIR itself is not formally defined in Section 2, the Act recognizes it as the starting point of investigation.

FIR Registration - Section 173

- When Police Must Register FIR:
 - Police officer receives information about cognizable offence
 - Information about place, time, and nature of crime
 - Information about persons involved
 - Starts investigation immediately

FIR Registration Rules:

- Can be registered through:
 - Oral information (converted to written form)
 - Electronic/electronic communication
 - Written information
 - Any mode of communication

Key Procedural Requirements

- 1. Information Recording:
 - Date and time recorded
 - Informant identity recorded
 - Location of information recording
 - Nature of offence described
 - Place where offence committed
 - 2. Immediate Registration:
 - No delay in registration
 - Registration at time of information
 - Police obligated to register
 - Cannot refuse without valid reason
 - 3. If Police Refuses Registration:
 - Victim/informant can approach Magistrate
 - Magistrate directs police to register
 - Written record of refusal kept
 - Police subject to action for refusal
- Important Procedural Rule:
- If Non-Cognizable Offence Reported:
- Police prepare report (not FIR)
 - Forward to Magistrate
 - Magistrate decides if investigation needed
 - Police investigate only if Magistrate permits

Contents of FIR

- According to standard procedures, FIR must include:
 1. Date and time of information received
 2. Place where information received
 3. Name of informant (if known)
 4. Nature of offence reported
 5. Details of crime scene location
 6. Persons involved (names/descriptions if known)
 7. Property involved (if any)
 8. Witnesses names/contacts (if known)
 9. Police officer's name and signature
 10. FIR number and station name

Forensic Importance

- The FIR establishes:
 - Time of notification: When authorities first learned of crime
 - Crime scene location: Where to collect evidence
 - Preliminary facts: Initial understanding of what happened
 - Initial leads: Persons/property to investigate
 - Evidence preservation point: From when evidence preservation begins

FIR as Legal Evidence:

- FIR is not direct evidence of guilt
- FIR is not substantive evidence against accused
- FIR is admissible to show what was reported
- Used to test witness credibility (if witness in FIR, not cross-examined)
- Shows contemporaneous state of mind

ZERO FIR

- A Zero FIR allows anyone to file an FIR at ANY police station, regardless of where the crime occurred or the police station's territorial jurisdiction.

Legal Basis - BNSS Section 173(1):

The phrase "irrespective of the area in which the offence has been committed" in police registration procedures establishes Zero FIR concept.

Key Features of Zero FIR

- 1. No Territorial Restrictions:
 - Can be filed at any police station
 - Not limited by geography
 - Police station handling it takes information
 - Information forwarded to proper jurisdiction
- 2. Automatic Forwarding:
 - Police station receiving Zero FIR forwards to proper jurisdiction
 - Case transferred to appropriate police station
 - No delay in registration
 - Investigation begins immediately
- 3. Time Recording:
 - Original zero FIR records exact time received
 - Establishes when authorities notified
 - Important for evidence preservation timeline
- 4. Procedural Compliance:
 - Standard FIR procedures followed
 - All details recorded (like regular FIR)
 - Proper documentation maintained
 - Forwarding record kept

Benefits for Forensic Science

- 1. Faster Evidence Preservation: Quick registration ensures timely evidence preservation
- 2. Witness Protection: Witnesses can report without traveling to remote areas
- 3. Victim Support: Accessible reporting for crimes against women, minorities
- 4. Evidence Trail: Creates documented timeline from report

Example:

A woman in Mumbai experiences sexual assault but offence occurred in Delhi:

- Without Zero FIR: Must travel to Delhi police station to report
- With Zero FIR: Can report at Mumbai police station immediately
- Mumbai police registers FIR, forwards to Delhi
- Delhi police receives, investigates
- Evidence preservation begins promptly

SECTION 197 - INQUIRY AND TRIAL

- Section 197 addresses the ordinary place where inquiry and trial of offences should take place, establishing jurisdictional rules for trials.

Legal Definition - Section 197 of BNSS:

"Inquiry and trial shall ordinarily be held at the place where the offence was committed."

Key Principles

- Ordinary Place Defined:
 - Place where offence committed
 - Court in whose jurisdiction area lies
 - Where evidence more readily available

Exceptions to Ordinary Place:

1. Court's Discretion:

- Can hold trial elsewhere with consent of:
 - Accused person
 - Prosecution
 - Court consideration of convenience

2. Specific Cases:

- If ordinary place court not available
- If special circumstances warrant
- If evidence more accessible elsewhere
- If public order concerns exist

3. Change of Venue:

- Court may change trial location
- Maintains fairness
- Ensures justice accessibility
- Often due to publicity/prejudice concerns

Forensic Implication

Evidence Preservation:

- Trial at crime scene location ensures evidence accessible
- Crime scene preservation easier
- Forensic expert travel minimized
- Evidence integrity maintained better

Witness Accessibility:

- Witnesses at crime scene location
- Local expert witnesses available
- Crime scene documentation easier
- Professional continuity maintained

SECTIONS 105 & 185 - VIDEOGRAPHY OF SEARCH AND SEIZURE

- These sections mandate that all search and seizure operations be recorded through audio-visual electronic means (like mobile phones, cameras) to ensure transparency and create documentary evidence of the process.

Legal Definition - Section 105 of BNSS:

"Recording of search and seizure through audio-video electronic means"

"When any search is made under any provision of this Sanhita or under any other law for the time being in force, such search shall, as far as possible, be recorded through audio-video electronic means, and the details relating to the search operations shall be recorded."

Section 185 - Recording Searches by Audio-Video Electronic Means

- Similar provisions: All searches made including **searches with warrant** must be recorded.

Key Requirements

- 1. Mandatory Recording:
 - ✓ Search operations must be recorded
 - ✓ Audio-video recording preferred
 - ✓ Mobile phone recording acceptable
 - ✓ Started before search begins
 - ✓ Continued throughout process

- 2. What Must Be Recorded:
 - ✓ Search commencement (date, time, place)
 - ✓ Persons present (police, owner/occupant, witnesses)
 - ✓ Areas/rooms searched
 - ✓ Items found and seized
 - ✓ Condition of articles before seizure
 - ✓ Packing and sealing of evidence
 - ✓ Signatures and identification
 - ✓ Search completion

Key Requirements

- 3. Videography Protocol:
 - Mobile phones or approved devices acceptable
 - Clear visibility of all activities
 - Audio clearly audible
 - Timestamp visible (date/time)
 - Identifying persons visible
 - Evidence clearly identifiable
 - Legally sufficient documentation
- 4. Documentation After Recording:
 - Video forwarded to:
 - District Magistrate, OR
 - Sub-Divisional Magistrate, OR
 - Judicial Magistrate First Class
 - Within prescribed timeframe (usually immediately)
 - Original retained at police station
 - Copy provided to accused/representative

Purpose of Videography

- 1. Transparency:
 - Creates objective record
 - Prevents allegations of planting evidence
 - Shows all steps taken
 - Protects police reputation
- 2. Evidence Integrity:
 - Shows condition of evidence at seizure
 - Documents chain of custody visually
 - Proves evidence was not tampered
 - Establishes authenticity
- 3. Legal Protection:
 - Video is admissible in court
 - Supports police testimony
 - Refutes false accusations
 - Protects accused's rights
- 4. Witness Documentation:
 - Shows independent witnesses present
 - Records their statements
 - Documents consent/search basis
 - Creates corroborating record

Forensic Application

- Evidence Preservation Advantages:
 1. Initial Condition Documentation:
 - Evidence photographed/videoed at scene
 - Blood stains documented with position
 - Weapon condition recorded
 - Trace evidence documented
 2. Chain of Custody Verification:
 - Every person handling evidence visible
 - Packaging/sealing shown on video
 - Transit process recorded
 - Laboratory receipt documented
 3. Court Admissibility:
 - Video is admissible as evidence
 - Authenticates evidence collection
 - Supports expert witness testimony
 - Corroborates police procedures
 4. Crime Scene Recording:
 - Video shows scene conditions
 - Layout visible on recording
 - Relationships between items documented
 - Professional crime scene analysis supported

Exception

- "As far as possible" - This means:
 - Not in every circumstance possible (emergency situations)
 - Equipment failure excused with explanation
 - Immediate threat to safety permits delay
 - Other compelling reasons recognized

SECTION 176 - PROCEDURE FOR INVESTIGATION

- Section 176 establishes the standard procedures that police must follow when conducting criminal investigations, including evidence collection, documentation, and reporting.

Legal Definition - Section 176 of BNSS:

"Procedure for investigation by officer in charge of police station"

(1) An officer in charge of a police station shall:

- (a) proceed to the spot;
- (b) prepare a memorandum to be called the 'Case Memorandum';
- (c) direct investigation to be proceeded with the recording process through audio-video electronic means as per section 105;
- (d) take possession of and custody of evidence for examination;
- (e) record statements of the informant and witnesses;
- (f) send the evidence to the forensic science laboratory or any other authorised centre for examination;
- (g) cause an investigation to be made with respect to matters connected with the offence.

Case Memorandum - Content

- 1. Date, time, place of information
- 2. Informant identity and address
- 3. Offence details and relevant sections
- 4. Crime scene location and condition
- 5. Initial observations
- 6. Evidence identified
- 7. Persons present/identified
- 8. Initial suspects/leads
- 9. Witness contacts
- 10. Investigating officer details

Section 178 Magistrate's Powers in Case Investigation.

- Section 178 BNSS deals with the powers of a Magistrate upon receiving a police report related to a case. This section empowers the Magistrate to either order further investigation, conduct a preliminary inquiry, or dispose of the case directly.
- NSS 178 is a legal provision that gives the Magistrate authority to act upon a police report submitted under Section 176.
- This section empowers the Magistrate to either order further investigation, conduct a preliminary inquiry, or dispose of the case directly.
- **Example 1:** A Magistrate receives a police report about a theft case. After reviewing the report, the Magistrate finds that some key evidence is missing and orders a detailed investigation to collect more information before proceeding with the trial.
- **Example 2:** A police report is submitted for a minor dispute that appears to lack serious evidence. The Magistrate conducts a preliminary inquiry, determines the complaint is baseless, and decides to dispose of the case immediately without further investigation

SECTION 180 - EXAMINATION OF WITNESSES BY POLICE

- Section 180 governs how police examine (question) witnesses during investigation, establishing rules for witness statements and their recording.

Legal Definition - Section 180 of BNSS:

"Examination of witnesses by police"

(1) Any police officer not below the rank of Sub-Inspector may, in the course of investigation, examine any person supposed to be acquainted with the facts and circumstances of the case.

(2) Such examination may be made:

- (a) orally;
- (b) in writing; or
- (c) through audio-video electronic means.

(3) The police officer shall:

- (a) record the examination verbatim or substantially;
- (b) identify the examinee by name, father's name, address and other particulars;
- (c) make a note of:
 - (i) date, time and place of examination;
 - (ii) language in which examination conducted;
 - (iii) whether voluntary or not.

Witness Examination Requirements

- 1. Authority to Examine:
 - Police Sub-Inspector or higher rank
 - Cannot be conducted by lower-ranked officers
 - Constables can collect statements (informally)
 - Only authorized officers record formal statements

Witness Examination Requirements

- 2. Forms of Examination:
 - A. Oral Examination:
 - Witness questioned verbally
 - Answers recorded verbatim (word-for-word)
 - Or substantially recorded
 - In witness's words if possible
 - B. Written Examination:
 - Questions written
 - Witness provides written answers
 - Witness signs statement
 - Officer certifies
 - C. Audio-Video Electronic Examination:
 - Recorded on video or audio
 - Modern approach (post-BNSS 2023)
 - Creates permanent record
 - Timestamp maintained
 - Admissible as evidence

Witness Examination Requirements

- 3. Information to Record:

- Witness Identity:

- Full name
 - Father's/Mother's name
 - Address and contact
 - Age/Date of birth
 - Occupation

- Examination Details:

- Date of examination
 - Time (start and end)
 - Place of examination
 - Language of examination

- Voluntariness:

- Whether examination voluntary
 - Whether threats/inducements used
 - Witness's mental state
 - Witness's physical condition

Witness Examination Requirements

- 4. Procedural Protections:

Rights of Witness:

- Right to know examination is voluntary
- Right to seek legal assistance (for certain witnesses)
- Right to refuse answer to incriminating questions
- Right to translation if language barrier

No Coercion:

- No third-degree methods
- No unlawful inducements
- No threats or intimidation
- No promise of rewards

Special Protections for:

- Women (preferably women police officer)
- Children
- Persons with disabilities
- Vulnerable witnesses

Special Provision - Section 180 (Women Victims)

- For sexual offence cases (Sections 64-71 BNS and POCSO Act):
 - (a) Examination preferably by female police officer
 - (b) Can be conducted with:
 - In presence of guardians
 - In presence of support person
 - In private location
 - With utmost sensitivity

Witness Statement as Evidence

- In Court:
 - Police officer testifies about examination
 - Reads statement from notes
 - Witness can be cross-examined
 - If examined, statement's accuracy tested

If Witness Not Examined in Court:

- Section 162 of BNSS applies
- Witness statement becomes hearsay
- Can be used to impeach credibility
- But not substantive evidence (generally)

Exception:

- Dying declarations
- Statements of deceased
- Statements through technology
- Corroborative statements

SECTION 184 - MEDICAL EXAMINATION OF VICTIMS OF RAPE

- Section 184 establishes the procedure for medical examination of rape victims, protecting their dignity while ensuring proper medical evidence collection.
- Legal Definition - Section 184 of BNSS:

"Medical examination of victim of rape"

(1) When a person accused of committing offence under section 64, 65, or any offence involving non-consensual sexual acts is arrested on a charge of committing rape, the medical examination of the victim shall be made only with the informed written consent of such victim.

Key Procedures

- 1. Consent Requirement:

Essential Elements:

- ✓ Informed consent required
- ✓ Written consent documented
- ✓ Victim must understand procedures
- ✓ Voluntary - not coerced
- ✓ Can refuse examination
- ✓ No punishment for refusal

Informed Consent Includes:

- Explaining examination procedures
- Describing tests to be conducted
- Explaining findings use
- Addressing confidentiality
- Answering victim's questions

- 2. Medical Examination Location:

Preferred Locations:

- Government hospitals
- Authorized medical centers
- Proper medical facilities
- Private facilities (if victim chooses)
- Examination near victim's residence (if possible)

- 3. Medical Examination Procedure:

Physical Examination:

- External genital examination
- Internal genital examination (if needed, with consent)
- Anal examination (if applicable)
- General injuries documented
- Bruises/marks photographed

Evidence Collection:

- Hair samples collected
- Biological samples for DNA
- Semen detection tests
- Saliva samples if applicable
- Fingernail scrapings
- Clothing preserved
- Foreign objects collected

Medical Tests:

- Sexually transmitted infection screening
- Pregnancy test
- Toxicology tests (if drug administration suspected)
- Blood tests for disease screening

- 4. Medical Documentation:

Medical Report Must Include:

- Victim's identity and age
- Date and time of examination
- Detailed findings
- Injuries documented with diagrams
- Evidence collected (type and quantity)
- Tests conducted
- Results of tests
- Medical opinion on force/resistance
- Medical officer's name and signature

- 5. Sensitivity and Privacy:

Victim Protections:

- ✓ Female medical officer (if victim female)
- ✓ Support person allowed
- ✓ Private examination environment
- ✓ Minimal attendance by officials
- ✓ Trauma-informed approach
- ✓ Confidentiality maintained
- ✓ Results not disclosed without permission

- 6. Evidence Preservation:

Chain of Custody:

- All collected evidence labeled
- Sealed in presence of victim
- Receipt provided to victim
- Forwarded to laboratory
- Documented tracking maintained
- Laboratory analysis reports issued

- 7. Medical Examination Refusal:

If Victim Refuses:

- No examination conducted
- Documented in writing
- Reasons recorded
- Police cannot force
- Investigation proceeds without medical evidence

- Timeline Considerations:

- Timing of Examination:

- Immediately: Best for DNA evidence (within 72 hours optimal)
 - Delayed examination: Still valuable (pregnancy, STI detection)
 - No time limit: Can examine anytime for injuries, pregnancy

- Medical Report as Evidence:

- In Court:

- Medical officer can testify
 - Report is documentary evidence
 - Findings can corroborate victim's statement
 - Used to establish sexual act
 - Injuries support force/resistance claims
 - DNA results establish identity

- Forensic Significance:

- Evidence Collection:

- DNA evidence critical (98%+ accuracy)
 - Biological samples establish sexual contact
 - Injury pattern proves force/resistance
 - Foreign DNA may identify perpetrator
 - Medical examination bridges science and law

SECTION 193 - REPORT OF POLICE OFFICER ON COMPLETION OF INVESTIGATION

- Section 193 requires police to submit a detailed report to the magistrate at the conclusion of their investigation, summarizing findings and recommendations.

Legal Definition - Section 193 of BNSS:

"Report of police officer on completion of investigation"

(1) As soon as the investigation is completed, the officer in charge of the police station shall forward to a Magistrate a report in accordance with the First Schedule.

- (2) The report shall contain:
 - The substance of the information received
 - The names of the parties
 - Names and description of the witnesses
 - The nature of information
 - Brief facts of the case
 - Opinion of the officer in charge regarding:
 - Whether offence has been committed
 - Whether accused committed the offence
 - Names of the accused arrested
 - Details of properties involved
 - Other relevant matter

- (3) When the investigation is completed but opinion is that offence is not made out, the officer shall:
 - Forward police report to Magistrate
 - Disclose names of accused persons to police officer (if any suspected)
 - Complete pending formalities

Police Report Contents

- A. Parties to Case:
 1. Complainant/Informant details
 - Name
 - Address
 - Contact information
 - Relationship to case
 2. Accused person(s)
 - Name
 - Address
 - Age
 - Occupation
 - Criminal history (if any)
 - Arrest status
 3. Victim details
 - Name
 - Age
 - Address
 - Injury status
 - Current whereabouts

- B. Substance of Information:
 1. Original complaint/FIR
 - Where reported
 - When reported
 - To whom reported
 - Original FIR details
 2. Facts of case
 - Date and time of occurrence
 - Location of occurrence
 - Nature of offence
 - Sequence of events
 - Method used
 - Motive (if any)

- C. Witness Details:

Names and descriptions include:

1. Eye witnesses

- Their testimony about the occurrence
- Credibility assessment
- Inconsistencies noted

2. Scientific witnesses

- Forensic experts
- Lab examiners
- Medical professionals
- Testing methodologies used

3. Character witnesses

- Victim's character (if relevant)
- Accused's character
- Community reputation

- D. Evidence Collected:

1. Physical evidence

- Weapons
- Clothing
- Stolen property
- Instruments of crime

2. Documentary evidence

- Letters
- Records
- Photographs
- Videos

3. Digital evidence

- Computer files
- Mobile phone records
- Call logs
- GPS data

4. Forensic evidence

- DNA analysis results
- Fingerprint matches
- Blood analysis
- Ballistic reports
- Lab reports

- E. Investigation Findings:
 1. Facts established through investigation
 - Crime scene analysis
 - Witness corroboration
 - Forensic findings
 - Timeline establishment
 - Motive identification
 2. Suspicious circumstances
 - Accused's conduct
 - Flight behavior
 - Attempt to evade
 - Evidence destruction
 - Confession (if extra-judicial)
 3. Alibis checked
 - Accused's claimed whereabouts
 - Corroboration sought
 - Alibis sustained/rejected
 - Evidence for/against

- F. Officer's Opinion:

Two possible conclusions:

Opinion 1 - Offence Made Out:

- Evidence sufficient to establish:
 - Offence actually committed
 - Accused committed it
 - No reasonable doubt
 - Recommendation for prosecution

Opinion 2 - Offence Not Made Out:

- Evidence insufficient showing:
 - No offence committed, OR
 - Insufficient proof against accused
 - Reasonable doubt exists
 - Recommendation for closure

- G. Attachments with Report:

Usually include:

1. Copies of FIR
2. Witness statements
3. Confessional statement (if any)
4. Forensic reports
5. Medical examination reports
6. Expert opinions
7. Photographs/Videos
8. Documentary evidence copies
9. Property list
10. Injury reports

Timing of Report

Investigation Completion Period:

- Normally completed within 90 days (for serious crimes)
- Extensions possible with magistrate permission
- For sexual offences: 2 months mandatory deadline
- For serious crimes: Can extend to 6 months

What Happens After Report

- If Offence Made Out:
 - Magistrate decides chargesheet appropriate
 - Case goes to trial
 - Accused gets copies of evidence
 - Trial procedures begin
- If Offence Not Made Out:
 - Magistrate examines police report
 - Can direct further investigation
 - Can accept closure report
 - Accused exonerated
 - No prosecution

SECTION 194 - POLICE REPORT ON SUICIDE AND RELATED MATTERS

- Section 194 requires police to inquire into suspicious deaths, including potential suicides, and report findings to the magistrate.

Legal Definition - Section 194 of BNSS:

"Police to inquire and report on suicide, etc."

(1) When a police officer receives information that a person has committed or attempted to commit suicide, or has died in circumstances which may indicate that death has been caused by:

- Another person
- Accident
- Negligence
- Foul play

The officer shall:

The officer
shall

- - Proceed to the place where the person is
 - Make investigation about the person and the circumstances of death or the attempt
 - Forward a report to the Magistrate having jurisdiction
- (2) The Magistrate may, on receipt of such report:
- Order Autopsy
 - Direct further investigation
 - Record statements of witnesses
 - Preserve evidence

Investigation Procedure for Suspicious Deaths

- 1. Crime Scene Securing:
 - Proceed to location immediately
 - Secure the scene
 - Prevent disturbance
 - Note conditions as found
 - Photograph scene
- 2. Death Circumstances Assessment:
 - Examine body location
 - Check for visible injuries
 - Note suicide indicators
 - Document surroundings
 - Record statements from discoverer
- 3. Preliminary Evidence Collection:
 - Suicide note (if present)
 - Weapon/instrument used
 - Medical history information
 - Recent behavior changes
 - Prior suicide attempts/threats

Content of Report to Magistrate

- Report shall include:
 1. Person's identity and age
 2. Location and date/time of death
 3. How death discovered
 4. Body condition upon discovery
 5. Apparent cause assessment
 6. Circumstances suggesting other causes
 7. Witness statements
 8. Evidence collected
 9. Officer's opinion regarding cause
 10. Recommendation for investigation level

Magistrate's Options

- Option 1 - Order Autopsy:
 - If death from unnatural cause suspected
 - Autopsy determines actual cause
 - Medical examiner conducts
 - Report submitted to magistrate
 - Investigation modified based on autopsy

- Option 2 - Further Investigation:
 - If circumstances indicate foul play
 - Criminal investigation ordered
 - Evidence collected for prosecution
 - Suspects identified
 - Full investigation proceeds

- Option 3 - Record Statements:
 - Magistrate examines witnesses
 - Discoverer's account
 - Family's observations
 - Friends' statements regarding suicidal intent
 - Prior incidents recorded

Forensic Examination in Suspicious Deaths

- Autopsy Examination:
 - External examination
 - Internal organs examination
 - Toxicology tests
 - Pathological findings
 - Cause of death determination
- Forensic Evidence:
 - Biological samples
 - Trace evidence
 - Photography documentation
 - Injury pattern analysis
 - Weapon/instrument examination

SECTION 329 - REPORT OF GOVERNMENT SCIENTIFIC EXPERTS

- Section 329 recognizes and provides for the admissibility of reports prepared by government-authorized scientific experts, such as those from forensic science laboratories.

Legal Definition - Section 329 of BNSS:

"Reports of certain Government scientific experts - when admissible as evidence"

(1) The report of any of the following Government scientific experts shall be admissible as evidence in proceedings under this Sanhita:

- (a) the Chief Chemical Examiner or any Chemical Examiner;
- (b) the Director of a Fingerprint Bureau or any Fingerprint Expert;
- (c) the Director, or any officer, of a Forensic Science Laboratory;
- (d) the Government medical examiner or medical expert;
- (e) the Director or any expert of a DNA laboratory or centre established or recognized by the Government;
- (f) any officer authorized by the Central Government or the State Government to examine electronic evidence.

BHARATIYA NYAYA SANHITA, 2023

- The Bharatiya Nyaya Sanhita (BNS), 2023 is the modern penal law that replaced the Indian Penal Code (IPC), 1860. Effective from July 1, 2024
- It defines all criminal offences in India and prescribes punishments for them.

SECTION 3 - GENERAL EXPLANATIO NS

- Section 3 provides overarching principles that apply to all offence definitions in the BNS. These principles ensure that general exceptions and explanations apply to every offence, even if not specifically restated in each offence definition.
- Legal Definition - Section 3 of BNS:

"(1) Throughout this Sanhita every definition of an offence, every penal provision, and every Illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions", though those exceptions are not repeated in such definition, penal provision, or Illustration."

Key Principle:

General Exceptions (Chapter III, Sections 14-26) automatically apply to ALL offences , even though they are not repeatedly mentioned in each offence definition.

- (2) Expression Definitions Apply Throughout:

Principle: Every expression explained in any part of BNS is used consistently throughout the Act.

Importance: Ensures consistency and standardization of terminology across all sections.

- (3) Possession Through Spouse, Clerk, or Servant:

Legal Definition:

"When property is in the possession of a person's spouse, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Sanhita."

Explanation:

- Person employed temporarily or occasionally as clerk/servant is included
- Property held by them for the person's account counts as person's possession
- Person responsible for property in their family/employee's possession

Forensic Application:

- In theft/embezzlement: Property held by servants can establish possession claim
- In criminal breach of trust: Property through employee possession
- Important for establishing constructive possession

- (4) Criminal Acts Include Omissions:

Legal Principle:

"In every Part of this Sanhita, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions."

Meaning:

- Criminal liability extends to failing to do something when legally obligated
- Omissions treated same as commission in most offences
- Exception when context specifically requires action

Examples:

- Failure to provide food to dependent child = criminal negligence
- Failure to report crime = misprision of felony (certain cases)
- Failure to render assistance = criminal negligence

Forensic Implication:

- Investigate both actions AND inactions
- Document failures of care or duty
- Establish what person was obligated to do but didn't

MENS REA (GUILTY MIND) - IMPLICIT IN SECTION 3

Definition: The mental element required for criminal liability - the intent, knowledge, or recklessness with which an act is committed.

NOT explicitly named in BNS, but integral throughout

Types of Mens Rea in Criminal Law:

1. INTENTION/KNOWLEDGE (Highest Culpability)

- Deliberately committing act with specific purpose
- Knowing act will cause particular harm
- Direct and purposeful wrongdoing

Example: A purchases gun, loads it, aims at B, and shoots intending to kill

- Mens Rea Present: Clear intention to cause death
- Offence: Murder (Section 101)

Actus Reus (guilty act) + Mens Rea (guilty mind) = Criminal Liability

Exception: Some "strict liability" offences don't require mens rea (rare in BNS, more in regulatory laws)

ACTUS REUS (GUILTY ACT) - IMPLICIT IN SECTION 3

Definition: The physical act or omission that constitutes the criminal offense.

Four Elements Required:

1. Voluntary Action/Omission:

- Must be wilful/intentional
- Must be within person's control
- Cannot be involuntary reflex

2. Unlawful:

- Against law
- No legal justification
- No consent exception applies

3. Causation:

- Act must directly cause result
- Establishes connection between action and harm

4. Resulting Harm:

- Act produces prohibited result
- Harm as defined in offence section

Example: A strikes B with stick

- Actus Reus Elements:

1. Voluntary: A deliberately swung stick
2. Unlawful: No legal justification for striking
3. Causation: Stick caused injury
4. Harm: B suffered injury

- SECTION 3(5) - COMMON INTENTION

Legal Definition:

"When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone."

Key Principle: Joint Liability for Common Intention

Elements Required:

1. More than one person engaged in criminal act
2. Common intention - shared purpose/goal
3. Act done in furtherance of that intention
4. All liable equally even if acts differ

Illustration:

- A, B, C plan robbery together (common intention: steal money)
- During execution, A grabs money, B stands guard, C hits shopkeeper
- All three liable for robbery equally
- Even though B and C didn't directly steal, they shared common intention

SECTION 3(6) - CRIMINAL KNOWLEDGE/ INTENTION WITH MULTIPLE ACTS

"Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention."

Key Difference from Common Intention:

Section 3(5) - Common Intention: Shared PURPOSE to commit crime together

Section 3(6) - Criminal Knowledge: Same ACT, but each person acts with their own CRIMINAL KNOWLEDGE/INTENTION

Illustration:

- A and B separately, without prior agreement, beat C
- A beats C intending to cause grievous hurt
- B beats C without intention to cause hurt, just punishing
- Both participated same act, but different intentions
- Each liable according to THEIR OWN intention

SECTION 3(7) - COMBINED ACTION AND OMISSION

"Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence."

Key Principle: Mixed Criminal Conduct

Committing crime through BOTH doing something AND failing to do something

Illustration:

- A intentionally causes Z's death partly by:
 - Omission: Illegally refusing to give food
 - Commission: Actually beating Z
- Result: Single crime (Murder) - not separate offences

SECTION 3(8) - COOPERATIO N IN MULTI- ACT OFFENCES

"When an offence is committed by means of several acts, whoever intentionally cooperates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence."

Key Principle: Multiple Actors in Multi-Step Crime

Each person doing different step in crime sequence liable for whole offence

Illustration A - Poison Administration:

- A and B agree to poison Z using small doses
- A administers dose on day 1
- B administers dose on day 3
- Z dies from accumulated poison
- Both guilty of murder (not just attempted murder)
- Each cooperated by their separate acts

SECTION 3(8) - COOPERATIO N IN MULTI- ACT OFFENCES

- Illustration B - Prison Guard Negligence:
 - A and B are joint jailers for Z, prisoner
 - A: 6-hour shift, doesn't provide food
 - B: 6-hour shift, doesn't provide food
 - Z dies of starvation
 - Both guilty of murder
 - Each omitted duty; combined omissions caused death

- Illustration C - When Cooperation Breaks:
 - A neglects prisoner, reduces strength but doesn't kill him
 - A dismissed; B takes over
 - B, not knowing A's actions, neglects Z
 - Z dies
 - B guilty of murder (had knowledge and intent)
 - A guilty only of attempt (didn't cooperate with B)
 - No combination because B didn't cooperate with A's prior act

SECTION 3(9) - DIFFERENT OFFENCES FROM SAME ACT

- "Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act."

Key Principle: Different Liability Despite Same Act

Different people liable for DIFFERENT offences for same act due to different circumstances/intentions

Illustration:

- A attacks Z under grave provocation
- A's killing would be only culpable homicide (not murder) - due to provocation defense
- B, with ill-will toward Z, intending to kill him, assists A
- B NOT subject to provocation (wasn't provoked)
- A: Guilty of culpable homicide (provocation applies)
- B: Guilty of murder (no provocation excuse, intent to kill established)

ABETMENT - SECTION 45

- Abetment is helping or encouraging someone to commit a crime. A person can be liable as an abettor even if they don't physically commit the crime.

"Abetment of a thing"

"Whoever, with the intention of facilitating the commission of an offence, or knowing it to be likely that he will thereby facilitate the commission of an offence,"

- (a) instigates any person to commit that offence; or
- (b) engages in any conspiracy with one or more persons to commit that offence; or
- (c) aids any person with respect to that offence,

is said to abet the offence."

MODE 1: INSTIGATION (Section 45(a))

- Elements:
 - Voluntary (deliberate, intentional)
 - Causes another person (not oneself)
 - Causes person to commit offence
 - Person would not have committed without instigation
- Methods of Instigation:
 1. Direct Incitement: "Go kill that person"
 2. Threats: "If you don't rob the bank, I'll harm your family"
 3. Inducements: "I'll pay you to commit this crime"
 4. Deception: "The goods in that house aren't guarded, steal them"
 5. Encouragement: "You should do this, don't worry about consequences"
- Example:
 - A tells B, "Rob the house tomorrow, I'll help dispose of stolen goods"
 - B commits robbery based on A's instigation
 - A liable as abettor for instigation

MODE 2: CONSPIRACY (Section 45(b))

- : Agreeing with one or more persons to commit an offence

Elements:

- Agreement between 2+ persons (conspiracy requires plurality)
- Common intention
- To commit offence
- Acts in furtherance of that agreement

Conspiracy vs. Common Intention:

- Conspiracy (Section 45): Agreement to commit crime
- Common Intention (Section 3(5)): Acting together with common goal

Distinction:

- Conspiracy = BEFORE act (agreement phase)
- Common Intention = DURING act (execution phase)
- Can have both

Example:

- A and B meet and agree: "We'll steal from the jewelry store next week"
- They plan who does what
- Both guilty of conspiracy even before theft occurs
- If theft happens, also guilty of the theft itself

MODE 3: AIDING (Section 45(c))

- Assisting or supporting the commission of an offence
- Elements:
- Assists another person (aider doesn't commit principal offence)
 - Assistance relates to offence
 - Knowledge that assistance likely facilitates offence
 - Intentional or with knowledge
- Forms of Aiding:
1. Material Aid: Providing weapons, tools, vehicles, money
 2. Information: Providing intel about target, police movements
 3. Facilitation: Arranging escape route, hideout, alibi
 4. Presence: Being present at scene to encourage/prevent interference
 5. Omission: Failing to prevent when duty to prevent
- Example:
- A provides B with gun knowing B will use it for robbery
 - B commits robbery with provided gun
 - A liable as abettor for aiding (providing weapon)

ABETMENT LIABILITY

- Abettor Liability = Similar to Principal

Section 46: Whoever abets offence shall be punished as if they committed it themselves

Exception: Different punishment possible if conspiracy abetted (conspiracy against organized crimes)

CRIMINAL CONSPIRACY - SECTION 61

- Criminal conspiracy is an agreement between two or more persons to commit an illegal act. The agreement itself is the crime, even if the actual act doesn't happen.

"Criminal conspiracy"

"Whoever, with intent to commit an offence for which the punishment prescribed is death, life imprisonment, or rigorous imprisonment for a term of not less than two years, agrees with one or more persons to do or cause to be done any act in pursuance of the agreement, in order to commit or as a means to commit such an offence, commits the offence of criminal conspiracy."

KEY ELEMENTS OF CRIMINAL CONSPIRACY

- 1. MINIMUM PUNISHMENT REQUIREMENT:
 - Offence punishable by: Death, OR
 - Life imprisonment, OR
 - Rigorous imprisonment for 2+ years
 - Lesser crimes (less than 2 years) = cannot be subject of conspiracy charge
 - 2. AGREEMENT BETWEEN PERSONS:
 - Minimum 2 people (agreement is bilateral)
 - More people possible
 - Agreement can be express (explicit agreement) or implied (conduct shows agreement)
 - Secret agreement sufficient
 - 3. WITH INTENT:
 - Parties must intend to commit the offence
 - Must pursue that purpose
 - Distinguish from mere discussion
 - 4. ACTUAL ACTS IN PURSUANCE:
 - Beyond mere agreement
 - Overt acts required
 - Acts showing furtherance of conspiracy
 - Can be preparatory acts
- Example:
- A and B agree to murder C (agreement = conspiracy)
 - A purchases poison (overt act in pursuance)
 - B researches methods (overt act in pursuance)
 - Even if murder doesn't happen, conspiracy exists

PUNISHMENT FOR CRIMINAL CONSPIRACY

- Section 62 - Punishment:

If Conspiracy is For Offence Punishable By:

1. Death OR Life Imprisonment:

- Punishment: Imprisonment for life, OR
- Imprisonment up to 10 years with fine

2. Rigorous Imprisonment (2-7 years):

- Punishment: Imprisonment up to 7 years with fine

ATTEMPT - SECTION 62

- An attempt occurs when someone takes a substantial step toward committing a crime, but the crime is not completed.

Legal Definition - Section 62 of BNS:

"Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment"

"Whoever, with intent to commit an offence or knowing that he is likely to commit an offence by doing an act, does any act towards the commission of that offence, shall, in case no express provision is made by this Sanhita for the punishment of such attempt, be punished with imprisonment of a description provided for that offence for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for that offence, or with both."

KEY ELEMENTS OF ATTEMPT

- 1. INTENT OR KNOWLEDGE:
 - Intent to commit offence, OR
 - Knowledge likely will commit offence
- 2. ACT TOWARDS COMMISSION:
 - Direct step toward commission
 - Beyond mere preparation
 - Proximity test: Act closely connected to crime
- 3. CRIME NOT COMPLETED:
 - Result not achieved
 - Offence incomplete
 - If completed, it's the principal offence, not attempt

KEY ELEMENTS OF ATTEMPT

- Preparation (NOT attempt):
 - Gathering materials
 - Planning
 - Reconnoitering location
 - Acquiring tools
 - Too remote from actual commission
- Example 1 - Preparation (Not Attempt):
 - A purchases poison (preparation)
 - A researches poison effects (preparation)
 - A acquires appropriate container (preparation)
 - Not yet attempt - too remote from actual administration

KEY ELEMENTS OF ATTEMPT

- Attempt (IS attempt):
 - Having loaded gun, pointing at victim
 - Having poison, administering first dose
 - Having knife, making cutting motions toward victim
 - Direct and proximate to commission
- Example 2 - Attempt:
 - A has poison ready
 - A meets victim
 - A pours poison into victim's drink
 - This is attempt to poison
 - If victim dies, becomes murder (principal offence)

PUNISHMENT FOR ATTEMPT:

- Up to one-half of the longest term of imprisonment for the offence, or such fine, or both

Examples:

- Attempt to murder: Max life imprisonment → Attempt max 10+ years
- Attempt to rob: Max 7 years → Attempt max 3-4 years
- Attempt to theft: Max 3 years → Attempt max 1.5 years

SECTION 63 - RAPE (SEXUAL OFFENCES)

- Section 63 defines rape as sexual penetration without consent, representing a serious sexual offence against the person.

Legal Definition - Section 63 of BNS:

"Rape"

(1) A person is said to commit "rape" if he penetrates his penis into the vagina, mouth, anus or urethra of a woman or makes her penetrate his penis into her vagina, mouth, anus or urethra, by applying physical force or by inducing by putting her or any person in whom she is interested, in fear of death or hurt, or by intoxicating her or by administering any substance which can vitiate or is likely to vitiate her consent, or when she is unconscious, or is a child.

KEY ELEMENTS OF RAPE

- 1. PENETRATION (Essential Element):
 - Penis penetration into:
 - Vagina, OR
 - Mouth, OR
 - Anus, OR
 - Urethra
 - OR making woman penetrate man's penis into:
 - Her vagina, OR
 - Her mouth, OR
 - Her anus, OR
 - Her urethra
- Implication: Any degree of penetration sufficient; complete penetration not required

KEY ELEMENTS OF RAPE

- 2. WITHOUT CONSENT (Vitiating Factors - Absence of Valid Consent):
 - A. PHYSICAL FORCE:
 - Using force/violence
 - Overpowering victim
 - Restraining victim
 - B. THREAT/FEAR:
 - Threat of death
 - Threat of hurt
 - Threatening person in whom victim interested
 - Fear induced by such threats
 - C. INTOXICATION:
 - Victim intoxicated
 - Cannot consent while intoxicated
 - Intoxication deliberate (by accused)
 - D. SUBSTANCES VITIATING CONSENT:
 - Administering substance without knowledge
 - Substances that vitiate or likely vitiate consent
 - Examples: Alcohol, drugs, sedatives
 - E. UNCONSCIOUSNESS:
 - Victim unconscious
 - Cannot give/withhold consent while unconscious
 - F. CHILD:
 - Victim is child (defined as below 18 years)
 - No valid consent possible under law
 - Age is absolute bar to valid consent

KEY ELEMENTS OF RAPE

- 3. NO VALID CONSENT:

Requirements for Valid Consent:

- Given by person mentally competent
- Given with full knowledge of act
- Given without force/coercion
- Given without intoxication/substances
- Given while conscious
- Given by person above 18 years

Absence of ANY of these = Rape (if penetration occurred)

PUNISHMENT FOR RAPE - SECTION 64

- Section 64(1): Standard Rape
 - Punishment: Rigorous imprisonment for minimum 10 years, extending to life imprisonment
 - PLUS fine
 - Exception: Court may impose less than 10 years with special reasons recorded in writing

Section 64(2): Rape of Child Below 12 Years

- Punishment: Rigorous imprisonment for minimum 20 years, extending to life imprisonment
- PLUS fine
- No exception for reduced sentence

Section 64(3): Rape Committed Multiple Times

- Second offense of rape: Life imprisonment
- No remission except by Presidential clemency
- Exception: If court satisfied for special reasons, can impose less

SECTION 101 - MURDER

- Murder is the unlawful killing of a human being with criminal intention. It's the most serious form of homicide.

Legal Definition - Section 101 of BNS:

"Murder"

"Whoever, with the intention of causing death, or with knowledge that he is likely thereby to cause death, by doing any rash or negligent act, causes the death of any person, or commits culpable homicide, shall be designated as committing "murder"."

MURDER vs. CULPABLE HOMICIDE

- MURDER (Section 101):
 - Intention to cause death, OR
 - Knowledge death likely, OR
 - Act known to be dangerous to life
 - Done with intention to cause harm or knowledge of consequence
 - EXAMPLES:
 - A shoots B intending to kill
 - A feeds poison to B knowing it will kill
 - A throws victim from bridge knowing death will result

- CULPABLE HOMICIDE (Not Murder - Sections 104-105):
 - Unlawful killing WITHOUT murder intention
 - Rash or negligent act
 - Less serious than murder
 - EXAMPLES:
 - A drives recklessly, hits and kills pedestrian
 - A falls asleep while driving, causes fatal accident
 - A's negligence as doctor causes patient death

PUNISHMENT FOR MURDER - SECTION 103

- (1) ORDINARY MURDER:
 - Death Sentence, OR
 - Life Imprisonment, OR
 - Rigorous Imprisonment up to 20 years + Fine

- (2) MURDER OF CHILD (Below 12 Years):
 - Death Sentence, OR
 - Life Imprisonment (no remission), OR
 - Rigorous Imprisonment 20 years + Fine
 - Stricter than ordinary murder

- (3) MULTIPLE CONVICTIONS:
 - Second murder conviction = Death or Life (no remission)

SECTION 178 - COUNTER FEITING

- Counterfeiting is imitating or creating fake currency, coins, or government documents with intent to deceive or defraud.

Legal Definition - Section 178 of BNS:

"Counterfeiting coin, Government stamps, currency-notes or bank-notes"

"Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any coin, Government stamp, currency-note or bank-note, shall be punished with rigorous imprisonment for a term which may extend to fifteen years, and shall also be liable to fine."

WHAT CONSTITUTES COUNTER- FEITING

- Definition of Counterfeit (Section 2(4)):

"A person is said to 'counterfeit' who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised."

KEY ELEMENTS:

1. RESEMBLANCE CAUSING:

- One thing made to resemble another
- Imitation created
- Resemblance sufficient to deceive

2. DECEPTIVE INTENT:

- Intending deception, OR
- Knowing deception likely
- Purpose to mislead

3. SUBSTANTIAL ACCURACY NOT REQUIRED:

- "It is not essential to counterfeiting that the imitation should be exact"
- Close resemblance sufficient
- Could deceive ordinary person

TYPES OF COUNTERFEITING

- 1. COIN COUNTERFEITING:
 - Creating fake coins
 - Altering genuine coins
 - Known to be for counterfeiting purpose
 - Any metallic currency

- 2. GOVERNMENT STAMPS:
 - Forging official government stamps
 - Stamps used for revenue/taxation
 - Postal stamps
 - Official seals

- 3. CURRENCY-NOTES:
 - Fake paper currency
 - Banknotes
 - Legal tender notes

- 4. BANK-NOTES:
 - Fake checks
 - Forged bank instruments
 - Unauthorized drafts

PUNISHMENT S FOR COUNTERFEI TING - SECTION 179

- Section 179(1) - COUNTERFEITING WITHOUT KNOWLEDGE OF TRUE NATURE:
 - Up to 7 years rigorous imprisonment + Fine
- Section 179(2) - COUNTERFEITING WITH KNOWLEDGE:
 - 10-15 years rigorous imprisonment + Fine
- Section 179(3) - POSSESSING COUNTERFEIT WITH INTENT TO USE:
 - 10 years rigorous imprisonment + Fine
- Section 179(4) - DEALING IN COUNTERFEITS:
 - 10 years rigorous imprisonment + Fine

SECTION 317 - RECEIVING STOLEN PROPERTY

- Receiving stolen property is accepting, possessing, or dealing with property known to be stolen, thereby supporting theft and rewarding thieves.

Legal Definition - Section 317 of BNS:

"Stolen property"

"Whoever receives any stolen property, knowing or having reason to believe the same to be stolen property, and dishonestly retains it, is said to receive or retain stolen property."

- KEY ELEMENTS:

- 1. STOLEN PROPERTY:

- Must be property stolen in crime
 - Theft occurred (stolen during burglary, robbery, etc.)
 - Property unlawfully taken from owner

- 2. KNOWLEDGE OR REASON TO BELIEVE:

- Knowledge: Certain the property is stolen
 - OR Reason to Believe: Circumstances suggest it's stolen
 - Property sold well below market value
 - Seller appears nervous/suspicious
 - Property being sold in unusual quantities
 - Property matching description of recent theft
 - Seller unwilling to provide ownership proof

Constructive Knowledge: Circumstances that would put reasonable person on notice

- 3. DISHONEST RETENTION:

- Intentional keeping of stolen property
 - Temporary possession could excuse
 - Dishonest retention = intent to deprive owner
 - Knowledge of theft combined with possession

RECEIVING vs. RETAINING

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RECEIVING:

- Taking possession of stolen property
- Initial act of accepting stolen goods
- Occurs at time of acceptance

RETAINING:

- Continuing to keep stolen property
- Keeping possession after receiving
- Continuing dishonest retention

PUNISHMENT - SECTION 318

- Section 318 - RECEIVING OR RETAINING STOLEN PROPERTY:
 - (1) ORDINARY CASE:
 - Punishment similar to theft of same property
 - Imprisonment up to 3 years, OR
 - Fine up to ₹1,00,000
 - OR Both
 - (2) DEALING IN STOLEN PROPERTY (BUSINESS):
 - If receiving stolen goods as business/livelihood
 - Imprisonment up to 7 years + Fine
 - Enhanced punishment for organized dealing
 - (3) SUBSEQUENT OFFENCES:
 - Second conviction: Increased punishment
 - Pattern of receiving stolen goods

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