

Paralegal Training Session

You can read the information below in over 15 languages! Simply use the translation tool in the top-left corner of the screen to select your preferred language, including □□□□□, □□□□, □□□□□□, □□□□□, □□□□□, □□□□□, □□□□□, □□□□□□□□, □□□□□□, □□□□□, □□□□□□□□, □□□□□, □□□□□□, and وُڊرُا.

Thank you Outlawed India for sharing warmly and freely.

Topics Covered:

- What is a crime?
- Cognisable v non-cognisable offences
- Complaint procedure for:
 - Non cognisable offences - NCR
 - Cognisable offences - FIR
- Overview of criminal justice system and criminal procedure - what happens after a complaint has been filed
- Rights related to police
- Rights of arrested persons
- Victim's rights - Victims compensation

Note: The plan for this module is to divide it into two broad parts - the first part broadly pertains more to the victim's side of things, and the second part more to the accused side of things.

Part 1: Criminal Law

Objective

- Paralegals must have a basic understanding of how the criminal justice system functions in India, and an understanding of the rights of various parties involved in the system.
- That paralegals be able to assist individuals in filing a criminal complaint either by way of an FIR or a private complaint with a magistrate.

Part 1: Resources

- Printouts
- Clips and string
- BNSS - [The Bharatiya Nagarik Suraksha Sanhita, 2023](#)
- BNS - [The Bharatiya Nyaya Sanhita, 2023](#)

Logistics: Energiser (15m)

Intent: To feel like a Nyaaya Mitra

- Building a Nyaaya Mitra Mural (10m)
- Chakde India Video
- Nyaaya Mitra Chant (5m)

Intro to Criminal Law

Activity 1: Experiences with Criminal Law (Popcorn) (2-3 responses - 5m)

Have the paralegals narrate their experiences dealing with crimes. Have any of them:

- witnessed a crime taking place
- helped someone who was a victim of a crime
- spoken to a police officer / helped a victim do so
- filed a FIR / helped a victim do so

Have them narrate the steps they took and if they were effectively able to help the person.

What is a crime? (5-10m)

Discussion Prompts (Popcorn):

- What would you consider a crime?
- Are all wrongs/disputes in law crimes?
- For example, in the following scenarios would you consider it a crime and report it to the police as something that they can investigate and handle?
- If the government does not issue you a transgender ID card / Aadhaar card, etc, or give you your welfare scheme entitlement
- If someone stole a TV from your house
- If in a government school, there were no washrooms for girls
- Some individuals in your neighborhood get drunk every night and cause a nuisance (throwing glass bottles, making excessive noise, threatening people who try to stop them)
- Your neighbors are a couple who fights every day. One day you see them fighting on the balcony and you see the man hit the woman and walk away.
- You are facing a lot of issues with your employer - he does not pay you your salary on time, and the last three months' salary has not been sent to you
- Your neighbour constructs a fence between your houses - you notice that in constructing the fence the neighbour has taken up some of your land.
- How do you know in which scenarios to report an issue to the police as a criminal offence?

Talking Points:

- A crime is a violation of a criminal law or code. It is an act that is prohibited by law because it is injurious/harmful to the public/society. While the victim of a crime, or the person directly affected by the act may be an individual (or a few), it is deemed to be harmful to society as a whole because the commission of these acts create a lack of safety and security in society.
- Some examples of criminal codes are:
 - [Bharatiya Nyaaya Sanhita](#) (BNS, which replaced the Indian Penal Code / IPC) - this is India's official criminal law - it contains several crimes, their definitions, and the punishment for committing them.
 - [NDPS Act](#)
 - Information Technology Act

We will now be teaching you three kinds of distinctions in law:

- Substantive v Procedural Law
- Criminal v Other Types of law

- Cognizable v Non-Cognizable

Substantive v Procedural Law (15-20m)

- Substantive: Gross Law, Objective Law, Decisive Law
- Procedural: Methodological Law, Law of Procedure

Discussion Prompt (Cricket Analogy):

- How many of you watch cricket?
- Can you share what the main rules of cricket are?
- What happens when a rule is broken? Who decides this? Are there rules or procedures about that?

Talking Points: In cricket or any sport there are two types of rules:

- Rules about how the game should be played - what is allowed and what is not allowed, punishments for breaking a rule
- Rules that enforce these rules - rules about how to report a broken rule, who decides when a rule is broken

In law too there is this difference

- **Former** - Substantive law - law about what rights people have, what is right/allowed and what is wrong/not allowed
- **Latter** - Procedural law - law about how to report a rule being broken, laws about who makes decisions and gives punishments on broken rules, rules on how to make these decisions

In criminal law there is:

1. [Bharatiya Nyaaya Sanhita \(BNS\)](#), [NDPS Act](#), IT Act - which define what are crimes
2. [Bharatiya Nagarika Suraksha Sanhita](#) - which talks about:
 - How to make a complaint, how police should record complaints
 - How police should conduct investigation - what powers they have, what their role & duty is
 - Criminal courts, judges in those courts, what powers courts & judges have

- Sometimes a legislation will have both substantive and procedural sections in it

Activity: Identifying Substantive v Procedural Laws ([NDPS Act](#) - Reading Law)

Have the Nyaaya Mitras go over the following sections of the NDPS Act with us and identify whether the provision is procedural or substantive:

- **Chapter III**

- [Section 8](#): Prohibition of certain operations (cultivation of coca, opium, cannabis) -

Substantive

- [Section 9](#): Power of Central Government to permit, control & regulate - **Substantive**

- **Chapter IV**

- [Section 20](#) - Punishment wrt cannabis - **Substantive**

- [Section 36](#) & [36A](#) - **Procedural**

- [Section 39](#) - **Procedural**

- **Chapter V**

- [Section 41](#), [42](#), [43](#), [44](#) - Powers of officers - **Procedural**

- [Section 50](#) - conditions of search - **Procedural**

Criminal Law v Other Types of Law (10-15m)

1. Criminal law is one of the various branches of law - **Discussion Prompt:** Can you think of other branches of law?

- Civil Law - deals with disputes between individuals, organisations, businesses, including: property law, family law (marriage, child custody), right to education
- Labour Law - deals with issues at the workplace - either between employer and employee or amongst employees.
- Commercial Law - regulation of business, trade and commerce (Eg: Contract Act, Consumer Protection Act)

2. Why is this difference important (for a paralegal)?

Reporting authority is different - how you make a complaint differs:

- For criminal law - you file an [FIR](#)
- For labour law - you first file a notice, then you file a complaint with labour department

iii. For family law - you have to go to family court

iv. For civil matters - civil suit

- The proof will also differ:

i. The kind of evidence, documents, etc that you may need

ii. The level to which it needs to be probed

- The punishment and kinds of punishment is different:

i. For crimes the punishment is usually imprisonment and/or fine.

ii. Under civil law, there is no punishment per se but there may be a fine imposed or some directions given by the court to ensure that there is some remedy to the issue brought before the Court.

iii. Under labour law, for example, if someone has been fired without notice or reason the remedy could be payment of salary for the notice period required and/or reinstatement of the job.

- The type of court proceedings also differ - there are separate criminal courts and civil courts and the way that proceedings happen in the court are different.

3. Sometimes there are overlaps: For example, some acts can be considered both a criminal and a civil wrong and you can get remedies in different fora:

i. Sexual harassment at the workplace - POSH Act (civil remedy) and [BNS](#) (criminal remedy)

ii. Defamation & Trespass - can file a case in both civil and criminal court

- Some legislations have both criminal and civil components to it:

i. Domestic Violence Act

ii. Section 125 CrPC / [Section 144 BNSS](#)

iii. Companies Act has some criminal provisions

4. Whenever a client comes to you with a complaint that you feel is a criminal issue, it is your job to go through the BNS and see if it is covered under that.

Facilitator to run the NMs through the [Bharatiya Nyaya Sanhita](#). Run them through the index and explain how the criminal code is divided (esp the classification of crimes):

- [Ch V](#): Offences Against Woman and Child
- [Ch VI](#): Offences Against Human Body
- [Ch VII](#) & [X](#): Offences Against State + Relating to Defence Forces, Elections, Currency
- [Ch XI](#): Public Tranquillity
- [Ch XII](#) & [XIII](#): Relating to Public Servants
- [Ch XIV](#): Public Justice
- [Ch XV](#): Public Health, Safety, Convenience, Decency, Morals
- [Ch XVI](#): Religion
- [Ch XVII](#) & [XVIII](#): Property & Documents
- [Ch XIX](#): Criminal Intimidation, Insult, Annoyance, Defamation

Explain to the NMs how these attach themselves to the above provisions:

- [Ch IV](#): Abetment, Conspiracy & Attempt
- [Ch III](#): Exceptions

Activity: Reading the BNS Provisions in detail (15-20m): [Bharatiya Nyaya Sanhita Full Text](#)

Part A: Chit-Picking and Reading BNS Sections

Chits with chapter and section numbers on it of similar provisions for each peer group. Each NM picks out one chit. Reads and understands their section (definition, provision, punishment). Then each one tells their peer group about what their section is.

Eight crimes and four themes

Theme	Crime	Chapter and Section
1	Kidnapping	Chapter VI, Sec 137
	Abduction	Chapter VI, Sec 138
2	Theft	Chapter XVII, Sec 303
	Robbery	Chapter XVII, Sec 309
3	Hurt	Chapter VI, Sec 114
	Grievous Hurt	Chapter VI, Sec 116

Theme	Crime	Chapter and Section
4	Wrongful restraint	Chapter VI, Sec 126
	Wrongful confinement	Chapter VI, Sec 127

Cognizable v Non-Cognizable Offences (5m)

- **Cognizable:** Cases that are recognizable
- **Non Cognizable:** Cases that are not recognizable

Under criminal law not all offences are treated the same way. Slightly more serious offences are classified as cognisable offences, and others are classified as non-cognisable offences.

This classification is determined by how offences are marked under the schedule of the Bharatiya Nagarik Suraksha Sanhita. This is the law that tells you what procedure is followed by police officers and in criminal courts. The first schedule of BNSS classifies offences into cognisable or non-cognisable.

Facilitator to take the paralegals to the First Schedule of BNSS and show them where it is written whether an offence is cognizable or not.

Why is this classification important?

1. The way in which a complaint is lodged is different for a cognisable and non-cognisable offence. For the former, an FIR is filed whereas for the latter a Non-Cognizable Report (or NCR) is lodged.

2. The level of power that a police officer has is different:

- **Investigation Powers:** For cognizable offences, a police officer can conduct a preliminary enquiry and if they find that at a first instance it seems like there is a case, can proceed with investigation. For non-cognizable cases the police officer has to send the information to a Magistrate (who is a judicial officer in a lower court) and can only investigate on the order of the Magistrate.
- **Arrest Powers:** Police officers have the power to arrest without a warrant **only in case of the commission of cognizable offences** (and if certain other conditions are met).

Activity (15m)

Give NMs Chapter numbers. Have them identify the section and if the following offences are cognizable or not: Spin the Wheel

Name of the offence	Sections in BNS	Cognisable or Non cognisable	Picture
Defamation	Sec 356(2)	Non Cognisable	Defamation.png
Murder	Sec 103(1)	Cognisable	murder.png
Snatching	Sec 304(2)	Non Cognisable	snatching.png
Assault	Sec 131	Non Cognisable	assult.png
Kidnapping	Sec 137(2)	Cognisable	kidnap.png
Bigamy	Sec 82(1)	Non Cognisable	biagamy.png
Sexual assault	Sec 74	Cognisable	sexual assault.png
Theft	Sec 303(2)	Cognisable	theif.png
Stalking	Sec 78(2)	Cognisable	stalking.png

Skit: Life Cycle of a Crime

Show the Nyaaya Mitras the video of this crime happening and introduce the names of the characters (Mukesh is the person who starts the fight, Raveena is the woman, and Sudheesh is the person who gets beat up) :

<https://www.youtube.com/embed/MiDz71O56SI?si=xLPftc2gPVG8HP46>

Discussion Questions / Talking Points:

- In the fight Sudheesh loses some teeth and hurts one of his ears very badly.
 - Which Chapter of the [BNS](#) would this fall under?

- This offence would either be hurt or grievous hurt? Which one is it? **Answer: S. 116, 117 BNS - Grievous Hurt.**
- Can you find the punishment for this? Punishment is near the definition section in BNS.
- Ask the paralegals to identify whether it is a cognisable or non-cognisable offence?
Answer: S.117(2) is Cognizable.

Explain to the NMs that there will now be a skit showing how a crime proceeds from complaint till trial stage, including showing how an NM can be involved in the process. Introduce the NMs to who will be playing each character.

PPT with backdrops:

- Crime Scene
- Police Station
- Magistrate's court
- Dates (to show timeline)
- Nyaaya Mitra Clinic

Props Needed:

- Cap (to indicate police officer),
- Tag to put on sleeve with two Silver stars (2 - to indicate SI rank)
- Sheets of paper:
 - Written complaint x 2
 - FIR
- Stapler
- ID Card (to indicate NM)
- Stamp (we have one in the OL office)

Skit Act 1: Filing an FIR

Scene 1: Nyaaya Mitra Clinic

Narrator: Not knowing what to do, Sudheesh goes to his friend who he knows is being trained as a paralegal at their Nyaaya Mitra Clinic

Sudheesh: This guy just beat me up - I am hurt so badly! I lost two teeth (Shows the NM his teeth)
- what do I do?

NM: That's terrible. I'm so sorry this happened - I hope you were able to go to the doctor? If there's anything I can do to help - I am here for you.

Sudheesh: Yes, I went to the hospital and got this bandage and some medicines for the pain. But what else can you do? I'm too scared of Mukesh and his gang.

NM: Do you want to file a police complaint?

Sudheesh: I'm scared - I don't know what the police will say?

NM: Don't worry - I learnt about criminal law in my class and especially about what to do when filing a complaint, and will help you the best that I can. I can handhold you through the entire process of filing a complaint, meeting with the police and getting the justice you deserve! How about you tell me what happened, and I can help you write it down so that it's easier for you to remember and tell the police.

Narrator: The NM helps Sudheesh write down the complaint. The NM makes sure that what they are writing down is using the exact same words and language as Sudheesh. (NM and Sudheesh to act this out)

NM: We'll take a copy of this so that you also have a copy. If you have any medical documents from the injury bring those also. Can you tell me where the incident happened?

Sudheesh: It happened in Jayanagar.

NM: All right - then we will go to to the Jayanagar Police Station.

Sudheesh: Why can't we go to the Puttenahalli Police Station? Isn't that walking distance from here?

NM: We could, however, it is best to get a complaint registered at the jurisdictional police station - which is the police station in the area where the incident happened. If we file a complaint elsewhere they would have to transfer it which would take a lot of time.

Scene 2: Police Station

Narrator: Sudheesh and NM goes to the police station to file a complaint for what has happened.
(NM and Sudheesh to act this out)

SI Sunidhi: Hello. How may I help you?

Sudheesh: Hello, my name is Sudheesh. I would like to register a complaint.

NM: I am a paralegal - my name is Chandra. I am here to help Sudheesh. Can we please speak to the officer-in-charge? (Paralegal shows ID card to Police Officer)

SI Sunidhi: I am sub-inspector Sunidhi (gestures to her sleeve which has two stars). I am the officer in charge of this station.

Narrator: As per the law, a complaint must be registered by the officer in charge of a police station. There are different ranks of police officers and you can tell based on their sleeve. For example: Sub-Inspectors have two stars on their sleeve.

SI Sunidhi: I can help you lodge the complaint. What happened? Who is the victim?

Sudheesh: I am the victim, and I would like to lodge a complaint against a person named Mukesh. Here is the written complaint.

SI Sunidhi: Thank you. I will log this in my Daily Diary. Do you have a copy of the written complaint?

Sudheesh: Yes, here you go. (Hands him the copy of complaint)

SI Sunidhi: (Stamps both copies of the complaint and explains) I am stamping your complaint with the Daily Diary Number - this is proof that we have received your complaint. Here is your copy
(Hands Sudheesh his copy of the complaint)

NM: Excuse me, ma'am, but the complaint is regarding an incident of grievous hurt against Sudheesh. I believe this would fall under S.116 read with S. 117 of the BNS, which is a cognizable offence. It should therefore have an FIR lodged.

SI Sunidhi: You are correct. However, the BNSS (Bharatiya Nagarik Suraksha Sanhita) also allows me 14 days to conduct a preliminary inquiry before filing an FIR.

NM: I have here the report from the hospital for the injuries received by my client. (Hands over the report) As per these reports it shows that my client received a hit on his teeth and his ear which knocked out his teeth and hurt his ear quite severely. Would this satisfy your preliminary inquiry?

SI Sunidhi: This is helpful, thank you. I will get permission from my senior - Deputy Superintendent Sardar to proceed with the preliminary inquiry. Please come back in two weeks and we can file the FIR.

Narrator: A preliminary inquiry is usually the first step in an investigation into a cognizable case. Usually the police officer will speak to some witnesses, look at any relevant documents, and also record all the steps that have been taken by them. This preliminary inquiry has to be done within 14 days. The Sub-Inspector needs to get permission from an officer who is at or above the rank of Deputy Superintendent of Police. Show slide which explains how a DSP's sleeve looks.

Narrator: In two weeks, NM and Sudheesh come back to the police station.

SI Sunidhi: Hello - I have gotten permission from the DSP and did a preliminary inquiry. Let me put down the complaint in an FIR format as per BNSS (Bharatiya Nagarik Suraksha Sanhita) S.173.

Writes out the complaint in an FIR format and staples the written complaint to it

SI Sunidhi: Here you go - would you like to check it?

Sudheesh and NM go over the FIR and written complaint together

NM: Everything looks good - the FIR has the incident details (including date time and place), your name and address as the complainant, the correct sections of BNS, list of suspects and witnesses, FIR number, date of lodging FIR, name of police station & officer.

SI: Okay great, you can leave now then - all the processes are done.

NM: Excuse me sir, but under BNSS (Bharatiya Nagarik Suraksha Sanhita) S.173(2), you are legally bound to give Sudheesh a copy of the FIR

SI Sunidhi: I'm really sorry. I shall do it right away. (SI makes four copies of the FIR. She hands over one copy to Sudheesh)

NM: Also sir, can we please have your contact details so we can reach out to you for updates?

SI: Sure here you go (hands a card with contact details)

Notes from Police officer:

- MLC - Medico-Legal certificate - NM to inform clients to ask the doctor for MLC - it can happen in any hospital - government or private
- Motive in crimes
- In city - the permission will be taken from ACP - Assistant Commissioner of Police
- If you miss something, you can share it with the police officer later - Maruviki

Filing a complaint: FIR & NCR

Talking Points: *[Discussion Prompt: Does anyone know what the two types are?]*

There are two types of complaint that can be filed.

- In case of cognizable offences - an [FIR](#) will be filed - this is covered under [S.173 of BNSS](#)
- In case of non-cognizable offences - a Non-Cognizable Report will be filed - [S. 174 of BNSS](#)

1. Non-Cognizable Report(NCR):

- As per S.174, complaints regarding non-cognizable cases need to be filed in a police station within the same jurisdiction where the crime happened
- The police officer will enter this information into a book where all NCR cases are filed
- The police officer will then either refer the informant to a Magistrate or send the daily report of all NCRs to Magistrate every two weeks

2. What is an FIR?

[F.I.R \(First Information Report\)](#) is the initial step in a criminal case of cognizable offences recorded by the police. It consists of the most basic information regarding the crime committed and is covered under [S.173 of BNSS](#). (Have the NMs read this section)

3. Why is it important?

- Official record of cognizable crime having occurred.
- Used during the trial as evidence in court to either support or question what the person who reported the incident is saying. The court compares the details mentioned in the FIR

with the testimonies of witnesses and other evidence to ensure consistency and accuracy. The details provided should be accurate.

4. Who all can file an FIR?

- A victim of a crime.
- A relative or friend or acquaintance of the victim.
- You have knowledge about a crime that has taken place or is about to take place.
- An officer in-charge of a police station may also register an FIR if a cognizable offence is committed in his presence.
- It is not necessary that you must have all information about the crime in order to file an FIR. But it is important that you report everything you know to the police.

5. How to file an FIR? As shown in the skit:

- Visit a police station:
 - i. For cognizable offences this can be any police station
 - ii. For non-cognizable offences visit the station closest to where the incident occurred.
 - iii. A complaint can also be registered electronically - that is by calling, emailing or messaging the police station.

However, in such a scenario, you would have to visit the police station within three days to sign the complaint.

- Approach the police officer on duty. (Show NMs the police officer ranking chart here?)
- Provide details: This can be done orally, in a written complaint, or electronically (for example, a complaint may be filed on the basis of a video where a crime is being committed). Details should include:
 - i. Date, time and location of incident
 - ii. Description of what happened - explain the sequence of events in as much detail as possible
 - iii. Personal information: Your name, address, contact number, ID
 - iv. Information of people present around: Including the person(s) who committed the crime and any witnesses

(**Note:** Show the NMs a written complaint format: [Criminal Complaint Format Template](#))

- Format of an FIR: **FIR Format Template**
- Collect a copy of the FIR. Make sure to note down the FIR Number, date of FIR, the police station and name of police officer. You can use this to check the status of your FIR online!

Note that under the BNSS the police has 14 days within which to file an FIR. In this 14 days, with the permission of a senior officer (DSP rank or above), the police can do a preliminary inquiry.

- **Demo:** Checking FIR Online
- Google FIR online Karnataka: [Click Here](#)

Complainant Day: 4th Sunday of Every Month anyone can approach the police station and ask for information

Jana Samparka: Check this once

Refusal to file FIR

No denial of FIR: The police station should not deny anyone the right to file an FIR. If they do, you can politely remind them of your right to do so (Call back to the skit and how the NM in the skit ensured FIR filing).

However, if you are still not able to get an FIR filed you have the following options:

- Approach a senior police officer, and try to get the complaint registered.
- You could also write down your complaint and send it to the Superintendent of Police via RPAD (Registered Post with Acknowledgement Due - it is a way of sending letters which is very secure and gives you proof of delivery. You can do this through any post office.) You can then either meet with the police officer to ensure it has been registered as an FIR.
- File the FIR in another police station: In cases of cognizable offences the FIR can be filed in any police station. Try visiting another police station.
- File a complaint with the Magistrate directly under [S. 223 of BNSS](#). You would require a lawyer's help to do this.

Skit Act 2: Investigation

Scene 1: Nyaaya Mitra Clinic

Narrator: After filing the police complaint, Sudheesh still has more questions about what will happen, so he meets the NM to discuss this.

Sudheesh: Okay so now we have filed the FIR, what happens next?

NM: The police officer will need to conduct a proper investigation.

Sudheesh: Can the police officer decide to not investigate a matter?

NM: They can, but only with good reason. [Section 176\(2\) of the BNSS](#) says that if the police officer feels that a case is not serious and wants to send a junior to do the investigation in person, or there is not enough reason to do an investigation the police officer needs to record these reasons in the daily diary and send that to the Magistrate. The police officer also needs to inform the person who filed the complaint that they are not going ahead with the investigation.

Sudheesh: Oh that's great! That way the police can't do whatever they want and there is some accountability to me and to the Magistrate. How long do you think the investigation will take?

NM: The police need to do the investigation as soon as possible. As per S.193 BNSS (Bharatiya Nagarik Suraksha Sanhita) the time limit for the investigation is usually 90 days.

Scene 2: Crime Scene

Narrator: In another part of town, at the crime scene, SI Sunidhi sets out to investigate the case. She heads to the crime scene to speak to some shopkeepers who were witnesses to the scene.

SI Sunidhi: Hi, I am Sub-Inspector Sunidhi. We received information that a fight broke out here last week. Did you see what happened?

Shopkeeper: Yeah. I was here - these two men started fighting over some girl. They were so rowdy.

SI Sunidhi: Can you please tell me what happened in detail? Start from the beginning and tell me everything. Would you be fine with me recording your statement on my phone?

Shopkeeper: Sure!

Narrator: SI Sunidhi collects all the details from the shopkeeper and other eye witnesses.

SI Sunidhi: Thank you so much for sharing all these details! I see there is a CCTV camera outside your shop. Can I see the footage from that as well?

Shopkeeper: Sure!

Narrator: As part of the investigation police does three things:

- Take statements from witnesses ([S.180 BNSS](#)): For example, the police officer recorded a statement from the shopkeeper.
- Collecting evidence: This could include CCTV footage, blood/DNA samples, photos of the crime scene, weapons, soil/wall scrapings, car paint, clothes, etc. This could also include electronic evidence like documents, whatsapp chats, emails, etc.
- Recording statements from accused: There are special safeguards and protections under law for this which we will discuss in the next session.

Quick Revision

QnA: If in this case, if the offence was non-cognizable, what would be different?

- **In filing complaint:** Non-cognizable offence would be recorded as an NCR in the diary of the police station.
- **In investigation:** Investigation cannot happen till Magistrate gives permission. No arrest without warrant.

Skit Act 3: Taking Cognizance - Magistrate's Court

Talking Points:

After all the three stages of evidence are complete, the police must file their report under [Section 193 of BNSS](#) before the magistrate. There are two kinds of reports that can be filed:

- **B-Report or Closure Report:** If the police authorities, after a proper investigation find that there is no proper case against the accused, they will file a closure report. This report will say that there is no evidence against the accused

- Chargesheet: If the police find enough evidence against the accused they will file a chargesheet with the details of investigation and evidence.

Skit Act 4: Trial

- In a trial, both sides present their arguments, show their evidence, and examine and cross-examine witnesses
- Based on everything that the judge hears they come to a decision
- This decision with reasons is put in writing as a judgement. The judgement will also mention the exact punishment and reasons for the same.

Court Scene, Cross-Examination:

<https://www.youtube.com/embed/25szQmpfWgE?si=t9KFGjAXkOLuL8KP>

Role of a NM

As a Nyaaya Mitra, the following are the ways that you can help with a criminal trial:

- Identifying whether something that happened is a crime
- Telling people what their options are - like you saw in the skit, you can help inform people about what the process is when a criminal offence happens, how to file a complaint, etc, and reassure them about the criminal process
- Hand holding a client through speaking to the police and filing a complaint:
 - Making sure that the police files the right kind of complaint - [FIR](#) or NCR
 - Making sure that all details are captured in the complaint in the words of the complainant
 - Making sure that the complainant gets a stamped copy of complaint and copy of FIR
- Keeping the client informed on what the steps are in a criminal process.
- Helping the client speak to a lawyer if needed, and being a middle man between them

Talk by Police Officer - ASI Ramamurthy

- Their duty and powers as a police officers
- What services or help is provided at a police station (including on Women's Desk)
- What happens when someone comes to them with a complaint:
 - What kinds of complaints do they deal with

- How do they file a complaint - how do they deal with cognizable v non-cognizable cases
- What support do they provide to the complainant
- Tips for Nyaaya Mitras on how to engage and communicate with police, and ensure that complaints are filed.
- Space for questions - people are scared, so a space for them to freely ask questions

Additional stuff:

- Refusal of FIR
- Tips for visiting police officer

To check - Is it 3 days for preliminary inquiry or 14 days (Need to cross check)

Helpful Sources:

- [New Criminal Law Framework \(BNSS/BNS/BSA\) – Part I](#)
- [New Criminal Law Framework \(BNSS/BNS/BSA\) – Part II](#)

Homework

• Session 5: Criminal Law - Homework Tasks

i. Conduct an awareness session on how to file a criminal complaint. Make sure to share what to do if the police refuse to file a criminal complaint. Once you have filed the complaint, send a **video** on this Telegram Group: [Join via Telegram invite](#)

ii. Quiz on Reading the BNS: [Session 5: Criminal Law - Homework 2](#)

iii. Visit the closest police station in your area. Introduce yourself as a Nyaaya Mitra and speak about the work that you do. Make sure to take a picture and upload it on this form: [Open the Registration Form](#)

Admin Aspects to Discuss:

Role of Common Application Portal(CAP)

Role of NM Mentors

- You can reach out to them for doubts on legal issues/cases - think of them as a helpful senior
- They will be conducting one field visit per month to your communities to see the Nyaaya Mitra work you do

Case Updates

- If you receive a case, take down details and share it with an OL Team Member - either Lakshmi. You need to share with us all important details.
 - Do not share case details with student buddies - as they are still students they may not know all the answers and are not in a position to give advice
 - Once you share details with us we will suggest the actions that need to be taken
 - If the case is complex we will create a WhatsApp group with us, you and in some cases the client - share all updates there.
 - Otherwise updates can be shared:
 - To the team member you are in contact with
 - On the group - but make sure to remove all private information (like name, address, phone number, etc)
 - Every Monday, please update us by sharing what is going on in your case - we have been sending reminder messages
- Within 7 day

Chapter and Section	
Chapter VI, Sec 137	
Chapter VI, Sec 138	
Chapter XVII, Sec 303	Stars
Chapter XVII, Sec 309	Colours
Chapter VI, Sec 114	Mallige
Chapter VI, Sec 116	
Chapter VI, Sec 126	Suryakanti
Chapter VI, Sec 127	Jagriti

Part 2: Criminal Law

Note: The plan for this module is to divide it into two broad parts - the first part broadly pertains more to the victim's side of things, and the second part more to the accused side of things.

Logistics

- Human Spectrum - 3 sheets - Yes/No/Maybe
- ID Card and T-Shirts - ID CARD / T-SHIRT
- Sweets / Plant for Guest Speaker

Objective: Paralegals must have a basic understanding of how the criminal justice system functions in India, and an understanding of the rights of various parties involved in the system.

That paralegals be able to assist individuals in filing a criminal complaint either by way of an FIR or a private complaint with a magistrate.

Part 2

Energizer(15m):

- Dog and the bone
- Team version of Chinese whisper w dance (can be in peer groups)
- Attract and repel

Powers of Police

Human Spectrum: (5-10m)

Have a list of statements and as we discuss powers of police have NMs mark out whether that's a police power

- Use handcuffs to arrest an accused who is not resisting them - Cannot - The police can only use handcuffs when the accused is resisting them, and cannot use unnecessary

restraint - [Sec 46 of BNSS](#)

- Impose a fine on someone who is driving on the wrong side of the road and thus causing a panic - Can (KPA Sec 92(b))
- Search a person's house because they saw a thief who they were chasing running into it to hide there - Can ([Sec 44 of BNSS](#))
- Demand that you pay them Rs.500 so that they don't take you into custody - Cannot - Police can take you into custody only if they follow the necessary process for the type of offence you have been accused of. (Chapter V, BNSS - including Sec 35 (arrest w/o warrant), 36 (duties of police officer while making the arrest), 38 (right to legal representation), 43 (procedure of arrest), 46(unnecessary restraint), 48 (information of arrest to be given to relative, friend, etc))
- Use a gun to inflict a fatal wound against an accused who is running away from them - Cannot - They can only use the gun below the knee if the accused is trying to run away, or can use it when the accused is threatening to use force against them, and can do so. (Sec 43(4) of BNSS)

Recap Quiz (15m)

Teams

- Sinchana - Stars and Colours and Jagruti
- Svastika - Lotus+Gulabi and Masayoshi
- Brahmi - Mallige and Suryakanti

Instructions

- Time Limit for each question
- Write answer options on the paper with you and show it to the assigned intern

Questions: Identify the crime/s amongst the following (10*2 = 20 points)

- A government office not providing you the welfare scheme entitlements that you have applied for
- Your neighbour is dumping the garbage from their home into your property - this is troubling only you, and not the others in the locality.
- On filing a complaint on a person, that person comes to your house, threatening to hurt you, unless you rescind the complaint.

- Someone who had taken a loan from you 2 years ago, and had agreed to pay it back in a year, has still not done so.
- A construction project in your neighbourhood has completely blocked the road many people take to go to their jobs, and has forced them to opt for a much longer and convoluted route, along with causing high levels of noise.

Answer + Notes

- C and E / 3 and 5
- These are crimes listed in the Bharatiya Nyaaya Sanhita. These are actions for which you can file a criminal complaint

Sort the following - 5 points for every correct answer

- Arrest may be done without warrant,
- Stalking,
- An NCR is filed
- Information is sent fortnightly to the Magistrate
- Bigamy
- An FIR is filed
- Hurt
- Kidnapping
- Information is sent as soon as possible to the Magistrate
- Arrest will happen only with a warrant
- Theft

Cognizable	Non-Cognizable
• Arrest may be done without warrant • Stalking • FIR is filed • Kidnapping • Information is sent as soon as possible to the Magistrate • Theft	• An NCR is filed • Information is sent fortnightly to the magistrate • Bigamy • Hurt • Arrest will happen only with a warrant

- Which is the section and Act that talks about filing a criminal complaint for cognizable offences? S.173 BNSS (10 + 10 points)
- Explain one step you can take if a police officer refuses to file an FIR. - senior police officer, letter to Superintendent, file in another station (cognizable), private complaint with magistrate (10 points)
 - A group of men in your locality get drunk together each evening, and are causing a lot of Im mmpnuisance. They shout loudly at people on the street, and throw objects around, causing damage to property. They have been told off multiple times, but refuse to change their behaviour. What must you do in this situation? (30 points for best answer, 20 points for second best answer)

Police and the Law - Discussion Prompts:

- Have you witnessed or heard of instances where the police have abused their powers?
- Reading a newspaper report on police abuse of power: Custodial violence forces medical amputation—Bengaluru case

Discussion Questions:

1. Point out what the police are doing wrong in this comic.
2. What is the police required to do in these scenarios?

Powers of Police

Talking Points (5m)

- The powers that police have is given to them by law and is limited by law. As Nyaaya Mitras, by knowing what the law says, you can keep the police accountable and in check.
- **Discussion Prompt:** *Have any of you witnessed an instance where the police have misused their powers?*
- In India, the law on police is decided by the state - so each state has its own police laws. Most police laws are modelled after the Indian Police Act 1861 This is a law that was enacted by the British after the first war of Independence.
- **Discussion Prompt:** *What do you think about the fact that our law on police is based on a law that was enacted by the British to have greater control over Indians and stop dissent?*

- In Karnataka we have the Karnataka Police Act 1963 which lays down the duties of the police. Further, the BNSS also gives certain duties and powers to police officers.

Powers and Duties (10m)

Discussion Prompt: What all powers do you think police have?

- Duties of Police Officers towards the Public (KPA Section 68):
 - i. Provide assistance to disabled or helpless persons
 - ii. Take measures to ensure the well-being of persons under arrest or custody and avert accidents or dangers to the public.
 - iii. Conduct searches with decency and without rudeness, especially women and children
- Keep order in public roads (IPA S.23); regulate traffic and maintain order (KPA Section 69)
- Prevent commission of offences and public nuisances, and take steps towards bringing offenders to justice (IPA S.23; [BNSS S.168](#); KPA S.65)
- To prevent any injury to public property [[BNSS S.171](#)] - They can intervene to stop damage or removal of public landmarks or navigation marks.
- To investigate offences (**need not go into too much detail**):
 - i. In case of cognisable offences, a police officer can investigate without the order of a Magistrate if it is within their jurisdiction. The Magistrate may also order the same investigation, in the case of a private complaint filed with them, and this complaint will need to be backed by an affidavit [[S.175](#)]
 - ii. In case of non-cognizable offences, police officers can only investigate upon order of Magistrate [[S.174](#)]
 - iii. When investigating, police officers can call on witnesses to attend investigations [[S.179](#)] and can orally examine people who know about a case - like witnesses [[S.161](#)]. The police officer has to reduce this to writing or record the statement electronically.
- Police have the power to arrest someone even before they have committed a crime if they know someone is planning a cognizable offence [[BNSS S.170](#)] - this is preventive detention, and can be only for max 24 hours, except if legally extended.
- Police Officers can enter and inspect places of public resort for specific purposes without a warrant (KPA Section 66).

- Police Officers may restrain or remove individuals who resist or refuse to comply with police directions, taking them before a Judicial Magistrate if necessary. Police have the power to ensure that regulations and directions are obeyed, warn those who fail to comply, and arrest those who willfully disobey (KPA S. 72 & 73).
- Obey and execute orders and warrants issued to them - often courts or tribunals may issue warrants which are directions/orders on things to do like arrest people, maintain public order, etc (IPA S.23, KPA S 65)

Rights of Individuals Against Police (10m):

1. Protection against self-incrimination (Nimma virudhha saakshi) (Article 20(3)): This article protects you from being compelled to be a witness against yourself. You have the right to remain silent during police questioning and cannot be forced to incriminate yourself.

2. Protection against unlawful arrest and detention (Article 22): Article 22 provides safeguards against unlawful arrest and detention. You have the right to be informed of the grounds of your arrest, to consult a legal practitioner of your choice, and to be produced before a magistrate within 24 hours (refer to DK Basu).

- Generally, when a person is taken in by the police for questioning about a crime that has been committed it is called detention and they will be taken into police custody. Police custody can be for 24 hours maximum [S.58, BNSS] after which they need to be taken to the judicial magistrate.
- [[S.187, BNSS](#)] With reasons and permission from the magistrate, custody can be extended to fifteen days during the initial:
 - 60 days - for offences punishable with death or 10+ years of imprisonment, where detention can further be extended to a maximum of ninety days
 - 40 days - for all other offences, where detention can further be extended to a maximum of sixty days
 - In order to get permission to extend police custody the accused has to be brought in person before the Magistrate each time an extension is sought - *Why do you think this is?* This is to ensure that the accused is not tortured while in custody
 - After the time limit for police custody is crossed, the person must be taken to judicial custody (that means a jail, which is under the control of the judiciary and not the police - this is done to ensure that police do not torture accused). The person must

also be given the option to ask for and furnish bail.

- Once a person is accused of a crime and then restrained it is called an arrest. There are several conditions for how a person should be arrested.
- Preventive detention (Prathibandaka Stanabaddatte) is when a person is detained to prevent them from committing any crime. There are only a very few circumstances in which someone can be preventively detained - for state security, public order, foreign affairs and services essential to the community. The Constitution also provides for certain safeguards against preventive detention - maximum period of 3 months for initial detention, detainee is entitled to know grounds of detention, and being provided the earliest opportunity to make a representation against detention.

Arrest (45m-1h)

Video Clip: [Court](#) ([Link isn't available](#))(YouTube) 9:12 to 11:50 - shows a lawyer questioning the police about whether their client was informed about why they were arrested, asking for a warrant, etc.

Discussion Prompts: What was the manner in which arrest was done in this clip? Do you think it was correct? If you or someone you know were to be arrested how do you think it should happen?

Sample: [Arrest Warrant](#) and [Arrest Memo](#)

Talking Points:

- An arrest can happen either with a warrant or without a warrant - generally, arrest must happen with a warrant.
- Arrest without a warrant can happen if the conditions provided in [Section 35, Chapter V of BNSS](#) are met:
 - A person commits a cognisable offence in front of a police officer,
 - If there is good reason for the police officer to believe that they have committed a cognisable offence with punishment for more than seven years
 - If there is good reason for the police officer to believe that they have committed a cognizable offence with punishment for less than seven years and arrest is necessary to prevent the person from further committing an offence, tampering with investigation or appearance in court
 - If stolen (or suspected to be stolen) property is found on the person

- If they are a proclaimed offender, person who obstructs police officer in execution of duty or tries to escape lawful custody, Armed Forces deserter, released convict who breaches rules, etc
- In other cases, a police officer must obtain an arrest warrant from a Magistrate before making an arrest [[S.74 of BNSS](#)]
- An arrest warrant is a written order issued by a judge or magistrate, supported by a sworn affidavit, authorising the arrest and custody of a person accused of committing a specific offence. It must be in writing, signed by Judge/Magistrate, and bearing the seal of the Court. The warrant must include the following details:
 - Essential information such as the identification of the person to be arrested ([s. 77 of BNSS](#))
 - The offence or purpose for which the warrant is issued ([s.77 of BNSS](#))
 - The warrant should state the individual's right to be informed about the grounds of their arrest ([Section 47 of BNSS](#))
- Arrest by private person ([Section 40 of BNSS](#)): A private person can also arrest someone who is committing a non-bailable offence or has committed such an offence in the person's presence. The arrested person must be handed over to a police officer as soon as possible.
- Every police station has an officer who is in charge of maintaining records of arrest and this information is supposed to be prominently displayed in every police station. [[S.37](#)]

What can a police officer do at the time of arrest?

1. There is a certain basic procedure to be followed by police officers when making an arrest: [[S.36 BNSS](#)]

- They must have identification with the police officer's name clearly visible
- They must have a [memorandum of arrest](#) - this must be attested by one witness (family member or respectable local) and countersigned by arrested person
- Inform the arrested that they have a right to have a relative/friend informed of their arrest

2. An arrest is made by a police officer touching or confining the body of the accused. However, if the person being arrested submits to custody by word or action it is not necessary to touch/confine them [[S. 43 of BNSS](#)]

- Handcuffs may be used depending on the seriousness of the offence - for repeat offenders, and certain more serious crimes like terrorism, drugs, arms & ammo, murder, rape, acid attack, etc [full list in [S.43\(3\)](#)]
- Police officers may use force if the person is resisting arrest
- Only women police officers can touch women accused in order to arrest them, and women can only be arrested after sunrise and before sunset (the exception to this is if the woman police officer writes a report and obtains prior permission from the Judicial Magistrate)
- Police officers do not have the right to cause death while arresting someone accused of any offence not punishable with death or life imprisonment

3. Police officers can enter and search any place where they have reason to believe that a person being arrested with a warrant has entered, is residing in, or is in charge of. They can also enter such a place forcefully if not allowed inside voluntarily.

4. Search of arrested person and placing of their items in safe custody in case of non-bailable offence, or bailable offence where arrested can't furnish bail [[S. 49 of BNSS](#)]

5. The police officer can order a medical examination of accused by a registered medical practitioner in cases where such examination would give some evidence for the case [[S.51 of BNSS](#)]. In all cases, an arrested must be examined by a medical officer [[S.53 of BNSS](#)]. If it is a female accused then a female medical practitioner must examine.

Rights and protections for persons being arrested

Activity: Youtube Movie clip (0:30 onwards)

<https://www.youtube.com/embed/2fTDhCmrKoc?si=dhR5DXEdQMzJLg6Pstart=30>

Questions that can be asked after looking at the clip

- How is this related to what we have learnt?
- Were you able to identify any concepts that we have just discussed?

Talking Points:

1. Right to be Informed

- [S.47 BNSS](#): Arrested must be informed of the full details of offence and regarding bail
- If a police officer approaches you with the intention of arresting you with a warrant, they must inform you of the offence for which the arrest is being made. ([S.77, BNSS](#))
- If the accused is arrested without warrant, the police officer must tell them the details of the grounds of your arrest. Further, if the accused is arrested for a bailable offence, the police officer must inform them of their entitlement to be released on bail. ([Section 47 of BNSS](#))
- Article 22(2) of the Indian constitution also states that the arrested person must be informed of the grounds of his arrest. It also gives the right to the arrested person to inform his family members, any relative, or his friend about his arrest.
- The police officer must give information regarding a person's arrest to their friends/family [[S.48, BNSS](#)]
- In *Joginder Kumar vs State of U.P. 1994 SCC (4) 260*, the Supreme Court held that a person arrested has the right to inform any of his friend or relative or family member of his choice, about his detainment. The police officer shall also inform the arrested person about his rights when he is being brought to the police station.

2. Right against Arbitrary Arrest ([Section 35\(1\)](#) and [\(2\) of BNSS](#)): A police officer can arrest you without a warrant only if they have reasonable grounds to believe that you have committed a cognizable offence. Arbitrary arrests are prohibited.

- In the case of *Armesh Kumar* the Supreme Court held that arrests should be an exception, especially in cases of offences where the punishment is less than seven years

- **No unnecessary restraint** [[S.46](#)]

- **Right to Legal Representation:**

- A person detained has the right to be represented by a legal counsel during any stage of the proceedings [[S.340, BNSS](#)].
- Section 38 of CrPC gives the right to the accused to consult an advocate of his own choice and he is also entitled to meet an advocate of his own choice during interrogation, though not throughout the interrogation.
- Article 22(2) also guarantees the right of the arrested person to consult a lawyer of his own choice.

- Article 39A of the Indian constitution provides that it is the duty of the state to provide justice on easily accessible terms so that every citizen can easily approach the courts to enforce their rights. In the case of *Hussainara Khatoon vs State of Bihar (1979)*, a PIL was filed in the name of Hussainara Khatoon, a prisoner in a jail in the Supreme Court. The Court held that if an accused is not able to afford the legal services he has the right to free legal aid at the cost of the state.
- In order to get a pro bono lawyer - visit the nearest District Legal Services Authority and ask for a pro bono lawyer to be assigned to you.

Demo: Applying for Pro Bono Legal Aid

- Google KSLSA Panel Advocates
- [List of pro bono lawyers in Bangalore](#)
- [NALSA Online Application for Legal Aid](#)
- Show them the physical legal aid application form (English): [See Form I of the NALSA Free and Competent Legal Services Rules](#) (Link isn't available)

Right to be released on Bail

1. [Section 47\(2\) of the BNSS](#) states that if the accused has committed a bailable offence then the police officer is entitled to inform the arrested person about his right to be released on bail.
2. Article 21 of the Constitution ensures the right to liberty of every person until and unless he is proven guilty. Moreover, it is their right to know that even in a non-bailable offence he may be granted bail, if a bail is granted by the court after taking into consideration the nature or heinousness of the offence.
3. Section [187\(3\) of BNSS](#) also provides the right to the accused to be released on bail if investigation relating to his offence has not been completed within sixty days or ninety days from the date of his detention. Also known as default bail.
4. In *Uday Mohanlal Acharya Vs State of Maharashtra 2001(5) SCC 453*, the court granted default bail to the accused as the police officers failed to acquire evidence against him within the time limit of investigation as mentioned in the Code of Criminal Procedure, Section 167.
5. **Right to be taken before Magistrate without Delay:** According to [Section 57 of BNSS](#), the police officer who is making such an arrest whether with or without warrant is bound to produce

the accused within 24 hours of his detention before magistrate excluding the time taken for travelling from the place of arrest to the Magistrates court.

6. Right to Remain Silent ([Section 180\(2\), BNSS](#)): A detained person has the right to remain silent during police interrogation

7. Right against self-incrimination ([Section 180\(2\), BNSS](#)): A detained person cannot be compelled to make any self-incriminatory statements.

8. Right to Health and Safety

- ([Section 53 of BNSS](#)): A person taken into custody must be examined by a medical officer (more than once, if felt necessary), and a copy of the medical report must be given to the arrested person and sent to the Magistrate. This medical report must specifically note any injury or marks of violence upon the accused - Why do you think this is? To check for police violence
- Reasonable care of their health and safety must be taken [[S.56 of BNSS](#)]
- Raghbir Singh v. State of Haryana (1980): Torture in police custody is an erroneous act that is violative of human rights guaranteed under Article 21 of the Indian Constitution.

9. Compensation for wrongful arrest ([Section 399 of BNSS](#)): If a person is wrongfully arrested, they may be entitled to compensation under certain circumstances. The Magistrate decides whether and how much compensation to award.

In the case of *D.K. Basu vs. State of West Bengal*, the Supreme Court in this case gave several **guidelines** to be followed by the police while arresting a person (deals with treatment of people in police custody):

- An entry is to be made in the diary of the concerned police station, which includes the date and time of arrest, the person informed of his arrest, and a list of police officers who had custody of the arrestee.
- All the injuries on the arrestee are to be recorded at the time of arrest and shall be signed by the arrestee and the police officer.
- A medical examination of the arrestee is to be done every 48 hours by a doctor during the detention.
- All the copies of documents are to be sent to the Magistrate.

Additional Info: Paramvir Singh Saini v. Baljit Singh & Ors (2020) The Apex Court in this case gave orders consisting of several rules and guidelines:

- Every police station has surveillance cameras with night vision and audio recording capability.
- The locations of CC cameras must include all entries, exits, passageways, lock-ups, and all other areas so that no area is left exposed.
- The footage is to be kept available for 18 months
- The locality should be informed of the presence of CCTV in the station, and the police should make sure that there are posters mentioning that they are under CCTV camera surveillance when they are in the police station.

Arnesh Kumar v. State of Bihar:

- Restrictions on Arrests: Police can't make arrests solely based on complaints. Non-bailable, cognizable offences shouldn't trigger automatic arrests.
- Pre-Arrest investigations: Police must investigate before arresting to assess the complaint's genuineness.
- Presentation to Magistrate: Proper facts and reasons presented to a Magistrate within 24 hours of arrest.
- Reporting Non-Arrest Decision: Decision not to arrest an accused must be reported to the Magistrate within two weeks.
- Consequences for Violation: Failure to follow guidelines can result in departmental action by the High Court.
- Applicability of the Judgment: Not limited to Section 498-A; applies to offences punishable with imprisonment up to seven years, with or without a fine.

Resources

- [NALSA Quick-Start Guide \(Version 0.1\)](#)
- [Karnataka State Legal Services Authority – Acts & Rules](#)

Police Misconduct (5-10m):

1. In case a citizen faces police misconduct, S.29 of the Indian Police Act provides for punishments for police officers' omission of duty. This complaint can be made to the Police Complaints Authority

or the Karnataka Lokayukta

2. Right to lodge a complaint (Section 173 and 36 of BNSS): If you believe your rights have been violated, you have the right to file a complaint against the police officer responsible. Section 173 allows you to file an FIR (First Information Report) if you have information about a cognizable offence.

- Section 198 BNS - Public servant disobeying law, with intent to cause injury to any person. Also includes omission, for ex: failing to act on a call made in distress. (upto 1 year and/or fine)

3. Compensation: If you have suffered physical or mental harm due to police misconduct, you can seek compensation through legal proceedings. Section 399 of the Bharatiya Nagrik Suraksha Sanhita provides for compensation for persons wrongfully confined.

4. Filing a private complaint: You can file a private complaint before a Magistrate under Section 210 of the BNSS. This can be done if the police refuse to register an FIR (First Information Report) regarding your complaint of police misconduct.

Guest Speaker: Ameya Bokil and Sushravya

Activity (15-20):

Identify the lawful and unlawful acts of the police - Nyaaya Mitras to sit in their peer groups. They will be first given a brief about the scenario by the OL team. Once briefed, the scenario will be shared on their WhatsApp group in both Kannada and English for their reference. Peer groups must make 2 columns and list out all the lawful and unlawful acts by the police.

Scenario:

Veeresh, a 28-year-old man in Bengaluru recently got into a fist fight with his neighbour Rama over a petty dispute. Rama had severe bruising on his face and chest and decided to file a complaint.

The police, after completing the necessary process, obtained an arrest warrant from the magistrate and approached Veeresh's house.

Veeresh's wife and child had gone to their native place, and he was alone at home. On seeing the police outside his house, Veeresh panicked, locked the doors and did not allow them in. At this, the

police forcefully entered the house by breaking the lock.

They showed Veeresh just the warrant, and took him into custody (insert a warrant with all details not properly mentioned). Since Veeresh was alone at his home, his wife did not know that he was being arrested. The arrest was done at 4 PM on Friday, 8th November.

On being taken into police custody, a doctor was called in, and a thorough medical examination was conducted for him. The police also asked him if he had a lawyer, and on finding out that he could not afford legal representation, informed him that he could avail of free legal aid.

The next morning, when the police were investigating, they asked a few questions to Veeresh, and they asked him if he hit Rama in the face and chest.

They left the police station at 3 PM on Monday, 11th November to take Veeresh to the magistrate, but encountered heavy traffic on the way. This meant that they were only able to produce Veeresh in front of the magistrate at 5 PM.

Answer Key-

Lawful Acts

- Warrant is produced for arrest for a non-cognizable offence
- They have forcefully entered the accused's residence when not allowed in
- Medical examination has been done
- Have informed about and allowed access to free legal aid
- Have taken to the magistrate within time - weekend and travel delay are excused under law. Note to paralegals: Often this Friday evening arrest is done by the police to torture and question the accused. Tell them in such situations to get a medical check up done before and after the weekend and to note and report to Magistrate any injuries potentially inflicted by police.

Unlawful Acts

- Warrant does not properly state the purpose for which it is issued
- Arrest memo was not produced
- Veeresh was not informed about the reason for his arrest or his right to inform a family member / friend

- Family members, friends, or any others interested in Veeresh's welfare have not been informed
- They have asked questions that are self-incriminatory in nature.

Case Study: Priya

Play from 2:30([Link isn't available](#))

- Stipend Discussion
- Buddy Visit Discussion

Case Discussion:

- **Do not discuss cases with students** - they are still learning and cannot give you advice on cases. Their role is broadly two things:
 - Help you with learning and reading the law - for example, if you have doubts on how to check if an offence is cognisable or not, they can help you with reading the BNS and BNSS
 - Learning about your community and independently working on one legal issue in your community - this is separate but supporting the work that you do
- **Weekly updates on Monday** - Why aren't you sending updates?
- Have 1-2 people come and discuss the work they have done on cases

Victim's Compensation

Who is a victim?

According to the victim compensation scheme 2011, a victim means a person who himself has suffered loss or injury as a result of crime and require habilitation and includes his dependents who had suffered loss or injury as a result of required rehabilitation.

CrPC Section 357-A or

- 357-A(1) asks State governments to create a scheme for compensating victims and their dependents. Under this, the Karnataka government created the Karnataka Victim Compensation Scheme, 2011.

- For a final compensation after trial, the court can make a recommendation to provide compensation to the victim, even if the case ends in acquittal or discharge.
- On receiving a recommendation from the Court, the DLSA will decide the amount to be awarded after an enquiry, and this should be done within 2 months.
- The DLSA may also order first aid and medical benefits to be given free of cost to the victim, if needed.

ELIGIBILITY - Sec 6 of KVCS

- Victims can apply for compensation even if the offender is not identified or traced, as long as the victim is identifiable, and no trial occurs. under sub-section (4) of section 357-A of the Act
- The crime must be reported within 48 hours
- The victim/claimant should cooperate with the police and prosecution during the investigation and trial of the case

PROCEDURE - Sec 7 of KVCS

1. How Compensation Can Be Requested

- A recommendation can be made by the court to award compensation, or an application may be made to the DLSA by the victim or their dependent (this would be before the judgement, for interim relief).
- The DLSA will enquire into the claim, and look into the genuineness and extent of injury or loss
- Once verified, the DLSA must award compensation within two months
- The amount will also be decided by the DLSA based on multiple factors, and will not exceed the amounts mentioned in schedule 1 of the scheme (for both interim and final compensation)
- Appeals can be made to SLSA (Sec 10) within 90 days of denial of compensation.

Application and Challenges

- Though the scheme provides interim compensation in various cases, it is not being applied in reality.

- Final compensation will be provided as under Sec 7(1) of the Scheme. If the trial court has recommended compensation in its judgement, a victim will be able to approach the DLSA to ensure that the compensation is paid.
- For interim relief, the Bangalore Urban DLSA has confirmed that this will be provided only for POCSO cases, where the application goes to the special court anyways, and not directly to the DLSA.
- But, it is possible to change this situation, though slowly. This would be through continually making applications, appealing to the SLSA when it is rejected, writing strong letters and pre-empting reasons they would reject the application and countering it. This will not be immediately successful, but will start to be, once the pressure is put consistently on them. The law and scheme, as you saw, are clear on the matter.

Revision #165

Created 2025-08-25 07:22:30 UTC by Nisha

Updated 2025-11-18 08:02:21 UTC by Nisha