

Public Prosecutors and Ethical Prosecution: Ensuring Justice Beyond Conviction

¹Manish Godara, ²Dr. Narender Kumar

¹ Research Scholar, Apex School of Law, Apex University, Jaipur, Rajasthan, India

¹ Associate Professor (Supervisor), Apex School of Law, Apex University, Jaipur, Rajasthan, India

Abstract

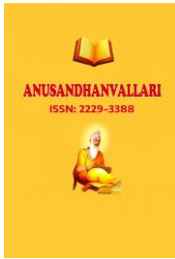
The institution of public prosecution occupies a central position within every criminal justice system. Public prosecutors are not merely representatives of the State tasked with securing convictions; rather, they function as guardians of justice, protectors of constitutional values, and officers of the court entrusted with ensuring fairness in criminal proceedings. In democratic societies governed by the rule of law, the legitimacy of the criminal justice system depends significantly upon ethical prosecution practices that prioritize justice over conviction rates. The concept of ethical prosecution recognizes that the primary duty of a prosecutor is not to win cases at all costs, but to ensure fair trials, protect individual rights, uphold due process, and assist courts in discovering truth.

In India, the role of public prosecutors has evolved considerably due to changes in criminal law, increasing complexity of crimes, expansion of victim rights, judicial activism, technological advancements, and growing public scrutiny of criminal justice institutions. Public prosecutors now operate within an environment characterized by media trials, political pressure, digital evidence, cybercrime investigations, and demands for greater accountability and transparency. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), Bharatiya Nyaya Sanhita, 2023 (BNS), and Bharatiya Sakshya Adhinyam, 2023 (BSA) have further transformed prosecutorial responsibilities by modernizing criminal procedures and strengthening digital justice mechanisms.

Despite constitutional and ethical expectations, the prosecutorial system in India continues to face several challenges including political interference, inadequate independence, poor coordination with investigative agencies, ethical misconduct, selective prosecution, procedural delays, weak victim participation, insufficient training, and excessive focus on conviction-oriented approaches. Ethical concerns become more prominent in cases involving wrongful prosecutions, suppression of evidence, custodial violence, misuse of prosecutorial discretion, withdrawal from prosecution for political reasons, and unfair trial practices. Such issues undermine public confidence in the justice system and threaten constitutional guarantees relating to equality, liberty, and fair trial.

The judiciary has repeatedly emphasized that prosecutors must act fairly, independently, and impartially. Landmark judgments of the Supreme Court of India have clarified that prosecutors are ministers of justice whose duty extends beyond adversarial litigation. International instruments such as the United Nations Guidelines on the Role of Prosecutors, 1990 also highlight the importance of prosecutorial ethics, independence, accountability, impartiality, and human rights protection.

This article critically examines the ethical dimensions of public prosecution in India and analyzes the evolving responsibilities of prosecutors in ensuring justice beyond conviction. The study explores the historical evolution of prosecution systems, ethical principles governing prosecutors, constitutional obligations, prosecutorial discretion, judicial interpretations, victim-centric justice, digital prosecution challenges, comparative international perspectives, and institutional reforms. The article argues that ethical prosecution is indispensable for strengthening the rule of law, preventing misuse of criminal justice powers, protecting human dignity, and ensuring substantive justice within democratic governance. It concludes that meaningful prosecutorial reform



requires institutional independence, professional ethics training, technological competence, accountability mechanisms, and a justice-oriented prosecutorial culture capable of balancing societal interests with constitutional safeguards.

Keywords: Public Prosecutor, Ethical Prosecution, Criminal Justice System, Fair Trial, Prosecutorial Ethics, BNSS 2023, Prosecutorial Discretion, Victim Rights, Rule of Law, Justice Beyond Conviction

Introduction

The criminal justice system serves as one of the most important institutional frameworks for preserving social order, protecting individual rights, and maintaining public confidence in the rule of law. Within this framework, the office of the public prosecutor occupies a unique and influential position. Public prosecutors represent the State in criminal proceedings and are responsible for conducting prosecutions against accused persons on behalf of society. However, the role of prosecutors extends far beyond merely securing convictions. Ethical prosecution demands that prosecutors function as impartial ministers of justice committed to fairness, legality, and constitutional morality.

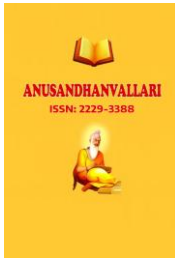
The phrase “*justice beyond conviction*” reflects a fundamental principle of criminal jurisprudence: the ultimate objective of prosecution is not punishment alone, but the fair administration of justice. A prosecutor must therefore balance competing interests involving victims, accused persons, society, and constitutional rights. Ethical prosecution requires prosecutors to act with fairness, objectivity, honesty, and independence while ensuring that criminal proceedings remain consistent with due process and human dignity.

Historically, criminal prosecutions were largely viewed as adversarial contests between the State and the accused, where prosecutorial success was often measured through conviction rates. However, modern democratic systems increasingly recognize that excessive conviction-oriented prosecution can result in miscarriages of justice, wrongful convictions, suppression of evidence, abuse of prosecutorial discretion, and violations of human rights. Consequently, ethical prosecution has emerged as a foundational principle for ensuring fairness and legitimacy within criminal justice administration.

In India, the role of public prosecutors is governed by statutory provisions, constitutional principles, judicial precedents, and professional ethics. The Code of Criminal Procedure, 1973, and now the Bharatiya Nagarik Suraksha Sanhita, 2023 provide the legal framework for appointment and functioning of prosecutors. Indian courts have repeatedly emphasized that public prosecutors are officers of the court rather than representatives of police agencies or political authorities. The prosecutor’s duty is to assist courts in discovering truth and ensuring justice rather than merely obtaining convictions.

The importance of prosecutorial ethics has become increasingly significant in contemporary India due to several factors. The rise of media trials, political polarization, cybercrime, digital evidence, terrorism-related prosecutions, economic offences, and public demand for stricter punishments have placed enormous pressure upon prosecutors. Simultaneously, concerns relating to wrongful prosecutions, custodial torture, fabricated evidence, delayed trials, selective prosecution, and prosecutorial misconduct have raised serious questions regarding fairness and accountability within the criminal justice system.

The transformation of criminal procedure through digitalization and modern technological reforms has further expanded prosecutorial responsibilities. Prosecutors are now required to deal with electronic evidence, cyber forensic reports, surveillance technologies, artificial intelligence-assisted investigations, and virtual court proceedings. These developments create new ethical challenges involving privacy rights, algorithmic fairness, digital manipulation, data protection, and constitutional safeguards.



The Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023, and Bharatiya Sakshya Adhinyam, 2023 represent major reforms within India's criminal justice framework. These laws modernize criminal procedures, strengthen recognition of electronic evidence, and emphasize victim-centric justice. Public prosecutors now play an even more significant role in balancing technological efficiency with constitutional protections and ethical obligations.

Internationally, prosecutorial ethics are recognized as essential components of fair criminal justice systems. The United Nations Guidelines on the Role of Prosecutors, 1990 emphasize independence, impartiality, fairness, accountability, and respect for human rights in prosecutorial conduct. Comparative legal systems increasingly focus on transparency, prosecutorial accountability, victim participation, and prevention of wrongful convictions.

This article critically examines the concept of ethical prosecution and the evolving role of public prosecutors in India. It explores historical developments, legal frameworks, ethical standards, prosecutorial discretion, constitutional obligations, victim rights, judicial interpretations, digital prosecution challenges, and institutional reforms. The study argues that ethical prosecution is indispensable for ensuring justice beyond conviction and strengthening democratic governance based upon fairness, accountability, and rule of law.

Historical Evolution of Public Prosecution in India

The institution of public prosecution in India has evolved gradually through historical, political, and legal transformations. The modern prosecutorial system reflects the influence of ancient Indian legal traditions, Islamic judicial administration, British colonial governance, constitutional developments, and contemporary criminal justice reforms.

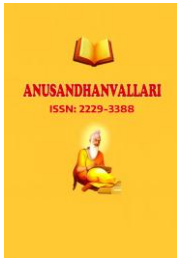
In ancient India, criminal justice administration was primarily governed by religious principles, customary norms, and royal authority. The King functioned as the ultimate guardian of justice and was responsible for punishing wrongdoers and maintaining public order. Although there was no formal office equivalent to a modern public prosecutor, royal officers and legal advisors often assisted courts in criminal proceedings. Ancient texts such as Manusmriti and Arthashastra recognized the importance of lawful punishment and procedural fairness within governance structures.

During the medieval Islamic period, the administration of justice operated through Qazi courts where judicial officers resolved disputes according to Islamic legal principles. Historical accounts suggest that government-appointed representatives occasionally assisted courts and represented public interests during legal proceedings. These early practices contributed indirectly to the later development of organized prosecution systems in India.

The modern concept of public prosecution emerged during British colonial rule. Initially, criminal prosecutions in colonial India were largely conducted through private complaints and police-controlled proceedings. However, increasing misuse of private prosecutions and procedural inconsistencies led the British administration to establish formal prosecutorial mechanisms. The colonial government gradually introduced government-appointed prosecutors responsible for conducting criminal cases on behalf of the Crown.

The Code of Criminal Procedure enacted during the colonial era institutionalized the office of public prosecutor. Prosecutors were expected to represent the interests of the State while assisting courts in criminal trials. However, colonial prosecution systems often prioritized maintenance of imperial authority over individual rights and procedural fairness.

After independence, the Constitution of India transformed the philosophy of criminal justice administration by emphasizing rule of law, fundamental rights, equality before law, and due process protections. Public prosecutors



became essential constitutional actors responsible for ensuring fair and impartial prosecutions within democratic governance structures.

The Code of Criminal Procedure, 1973 introduced a more structured framework for appointment and functioning of prosecutors. Sections relating to Public Prosecutors, Additional Public Prosecutors, Assistant Public Prosecutors, and Special Public Prosecutors clarified prosecutorial responsibilities and institutional organization. Prosecutors were expected to function independently and fairly while assisting courts in discovering truth.

Judicial decisions further shaped prosecutorial ethics and responsibilities. Indian courts consistently emphasized that prosecutors are not agents of police departments but officers of the court responsible for ensuring justice. In *Shiv Kumar v. Hukam Chand*, the Supreme Court clarified that prosecutors must remain impartial and objective throughout criminal proceedings.

Over time, the prosecutorial role expanded due to growing complexity of crimes including terrorism, organized crime, financial fraud, corruption, cybercrime, and transnational offences. Prosecutors increasingly became involved in specialized investigations requiring technical expertise, forensic analysis, and coordination with investigative agencies.

The rise of victim-centric justice also transformed prosecutorial functions. Earlier criminal justice systems often treated victims merely as witnesses, while the State dominated prosecution processes. Contemporary legal reforms increasingly recognize victim participation, compensation rights, and restorative justice principles. Prosecutors are now expected to protect victim interests while maintaining fairness toward accused persons.

The enactment of the *Bharatiya Nagarik Suraksha Sanhita, 2023* and related criminal law reforms further modernized prosecutorial responsibilities by integrating digital procedures, electronic evidence management, and technological mechanisms into criminal justice administration. Modern prosecutors now operate within increasingly complex environments involving media scrutiny, public accountability, cyber investigations, and constitutional challenges.

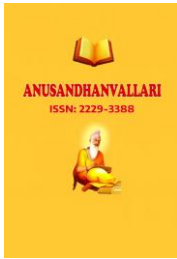
The historical evolution of public prosecution in India demonstrates a gradual transition from authority-oriented prosecution toward justice-oriented prosecution. Ethical prosecution today requires balancing public interest, victim rights, accused rights, constitutional safeguards, and professional integrity within an evolving democratic legal system.

Concept and Meaning of Ethical Prosecution

Ethical prosecution refers to the conduct of criminal prosecutions in accordance with principles of fairness, impartiality, honesty, integrity, legality, and constitutional morality. It recognizes that prosecutors are not merely adversarial advocates seeking convictions, but ministers of justice responsible for ensuring fair trials and protecting the legitimacy of the criminal justice system.

The ethical foundation of prosecution is rooted in the broader philosophy of criminal jurisprudence which emphasizes that justice must prevail over procedural victories. Prosecutors possess enormous powers that directly affect life, liberty, dignity, and reputation of individuals. Consequently, ethical standards governing prosecutorial conduct are essential for preventing misuse of criminal justice powers and protecting constitutional rights.

Ethical prosecution requires prosecutors to present all relevant evidence before courts, including evidence favourable to the accused. Suppression of exculpatory evidence, fabrication of testimony, coercion of witnesses, selective prosecution, malicious prosecution, and politically motivated prosecutions are inconsistent with ethical prosecutorial conduct.



The prosecutor's ethical duty differs fundamentally from the role of private advocates in adversarial litigation. A defence lawyer is expected to protect the interests of the client within legal boundaries, whereas a prosecutor must balance multiple interests including public safety, victim rights, accused rights, and procedural fairness. The prosecutor's ultimate loyalty is toward justice itself rather than conviction statistics.

The Supreme Court of India has repeatedly emphasized this distinction. In *Zahira Habibullah Sheikh v. State of Gujarat*, the Court observed that a fair trial requires not only an impartial judge but also a fair prosecutor committed to justice. Similarly, courts have emphasized that prosecutors must act independently without becoming instruments of political influence or police misconduct.

Ethical prosecution also involves responsible exercise of prosecutorial discretion. Prosecutors decide whether criminal charges should be filed, modified, withdrawn, or pursued. Such decisions significantly affect individual liberty and public confidence in legal institutions. Ethical discretion requires objectivity, transparency, and resistance to extraneous pressures such as political considerations, media influence, public outrage, or personal bias.

The concept of justice beyond conviction reflects the principle that wrongful convictions undermine both individual rights and societal trust in criminal justice institutions. Conviction-oriented prosecution can encourage procedural shortcuts, evidentiary manipulation, and unfair trial practices. Ethical prosecution instead prioritizes substantive justice, legal fairness, and constitutional accountability.

Victim-centric justice forms another important component of ethical prosecution. Prosecutors must ensure that victims are treated with dignity, sensitivity, and fairness throughout criminal proceedings. At the same time, ethical prosecution requires avoiding excessive emotionalism or populism that may compromise procedural fairness toward accused persons.

Modern ethical prosecution also involves technological and digital responsibilities. Prosecutors increasingly handle electronic evidence, surveillance records, forensic reports, artificial intelligence-assisted investigations, and cybercrime prosecutions. Ethical obligations now extend to ensuring privacy protections, data integrity, cybersecurity safeguards, and fairness in digital investigations.

International standards strongly support ethical prosecution principles. The United Nations Guidelines on the Role of Prosecutors, 1990 emphasize impartiality, fairness, independence, and respect for human rights in prosecutorial conduct. These guidelines recognize prosecutors as key actors in protecting rule of law and preventing miscarriages of justice.

Ultimately, ethical prosecution represents the moral and constitutional foundation of democratic criminal justice systems. It seeks to ensure that prosecutorial powers are exercised responsibly, fairly, and consistently with human dignity and constitutional governance.

Prosecutorial Discretion and Ethical Challenges

Prosecutorial discretion refers to the authority of prosecutors to make decisions regarding investigation, filing of charges, continuation of prosecutions, plea bargaining, withdrawal from prosecution, and sentencing recommendations. This discretion is one of the most powerful aspects of criminal justice administration because prosecutorial decisions directly affect liberty, reputation, and access to justice.

In India, prosecutors exercise discretion in determining whether evidence is sufficient to proceed with prosecution, whether certain charges should be modified, whether witnesses should be examined, and whether withdrawal from



prosecution is appropriate under statutory provisions. Although discretion is necessary for effective criminal justice administration, misuse of prosecutorial discretion raises serious ethical and constitutional concerns.

One of the most significant ethical challenges involves politically motivated prosecution or withdrawal from prosecution. Prosecutorial powers may sometimes be influenced by political pressure, executive interference, ideological bias, or media campaigns. Such misuse undermines prosecutorial independence and weakens public confidence in criminal justice institutions.

Indian courts have repeatedly emphasized that prosecutorial discretion must remain independent and justice-oriented. In *Rajendra Kumar Jain v. State through Special Police Establishment*, the Supreme Court held that withdrawal from prosecution should serve the broader interests of public justice rather than political convenience.

Selective prosecution constitutes another ethical concern. When similarly situated individuals are treated differently due to political affiliation, social status, religion, caste, economic influence, or media pressure, the principle of equality before law is violated. Ethical prosecution requires consistent and non-discriminatory application of criminal law.

Wrongful prosecution represents one of the gravest consequences of unethical prosecutorial conduct. False charges, fabricated evidence, coerced confessions, suppression of exculpatory material, and investigative misconduct may lead to wrongful convictions and irreparable harm to innocent individuals. Studies on wrongful convictions highlight the devastating impact of prosecutorial failures upon human dignity and constitutional rights.

Media trials create additional ethical complications for prosecutors. Public pressure generated through sensational media coverage may influence prosecutorial strategies and compromise fair trial principles. Ethical prosecutors must resist populist demands for immediate punishment and instead prioritize evidence-based prosecution consistent with due process.

Plea bargaining also raises ethical concerns. Prosecutors possess substantial influence in negotiating plea agreements, which may create risks of coercion, unequal bargaining power, and unfair sentencing practices. Ethical plea bargaining requires transparency, voluntariness, and procedural safeguards.

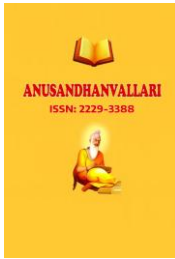
The increasing use of digital technologies and artificial intelligence in criminal investigations introduces new ethical dilemmas. Algorithmic tools used for predictive policing, facial recognition, risk assessment, and evidence analysis may contain biases affecting marginalized communities. Prosecutors relying upon such technologies must critically examine issues of fairness, transparency, and accountability.

Another challenge involves poor coordination between police agencies and prosecutors. Weak evidence presentation, procedural lapses, and inadequate trial preparation often contribute to acquittals and miscarriages of justice. NCRB-based reports indicate that inadequate coordination and weak prosecutorial preparation continue to affect conviction quality in several Indian jurisdictions.

Ethical prosecution therefore requires institutional independence, accountability mechanisms, professional integrity, and continuous ethical training. Prosecutorial powers must always be exercised consistently with constitutional values and the broader objective of ensuring justice rather than maximizing convictions.

Role of Judiciary in Promoting Ethical Prosecution

The Indian judiciary has played a vital role in defining ethical standards for prosecutors and protecting fairness within criminal proceedings. Through constitutional interpretation and judicial review, courts have consistently emphasized that prosecutors are officers of justice rather than agents of conviction-oriented litigation.



In numerous judgments, the Supreme Court has clarified that prosecutors must maintain impartiality, objectivity, and fairness throughout criminal proceedings. Courts have repeatedly condemned suppression of evidence, malicious prosecution, unfair withdrawal from prosecution, and politically motivated prosecutorial conduct.

In *Shiv Kumar v. Hukam Chand*, the Supreme Court emphasized that prosecutors represent the State and must act fairly and independently while assisting courts in administration of justice. Similarly, in *Zahira Habibullah Sheikh v. State of Gujarat*, the Court observed that a fair trial requires fairness from all participants including prosecutors. The judgment highlighted that prosecutors must not behave like persecutors driven solely by conviction goals.

Judicial intervention has also addressed misuse of withdrawal powers under criminal procedure laws. Courts have clarified that withdrawal from prosecution cannot be used arbitrarily or for political purposes. Prosecutorial discretion remains subject to judicial supervision to ensure fairness and public interest.

The judiciary has further strengthened ethical prosecution by recognizing victim rights and fair trial protections. Courts increasingly encourage victim participation, witness protection, and accountability mechanisms while simultaneously safeguarding accused persons against arbitrary prosecution. Through constitutional jurisprudence, Indian courts continue to shape ethical prosecution standards and reinforce the principle that justice must prevail over procedural victories or political considerations.

Conclusion

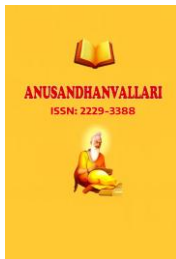
Public prosecutors occupy a uniquely powerful and constitutionally significant position within the criminal justice system. Their responsibilities extend far beyond adversarial advocacy and conviction-oriented litigation. Ethical prosecution requires prosecutors to function as impartial ministers of justice committed to fairness, due process, constitutional morality, and protection of human dignity. The legitimacy of criminal justice administration depends substantially upon the integrity, independence, and ethical conduct of prosecutorial institutions.

In India, the role of public prosecutors has undergone significant transformation due to evolving criminal laws, technological advancements, victim-centric reforms, judicial activism, and public accountability demand. The enactment of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, *Bharatiya Nyaya Sanhita, 2023*, and *Bharatiya Sakshya Adhiniyam, 2023* reflects an attempt to modernize criminal justice administration while strengthening procedural fairness and digital justice mechanisms.

However, the prosecutorial system continues to face several ethical and institutional challenges including political interference, selective prosecution, wrongful convictions, evidentiary suppression, inadequate independence, weak accountability mechanisms, media pressure, and technological complexities. Excessive focus on conviction rates often undermines substantive justice and constitutional values. Ethical prosecution therefore demands a justice-oriented approach that prioritizes fairness over adversarial success.

The judiciary has consistently emphasized that prosecutors are officers of the court responsible for ensuring fair trials and assisting courts in discovering truth. International standards including the United Nations Guidelines on the Role of Prosecutors further reinforce principles of impartiality, independence, accountability, and human rights protection.

The future of ethical prosecution in India requires comprehensive reforms involving institutional independence, specialized ethics training, technological competence, transparent accountability mechanisms, victim-sensitive procedures, and constitutional safeguards. Prosecutors must be equipped not only with legal expertise but also with ethical awareness and digital proficiency capable of addressing contemporary challenges including cybercrime, artificial intelligence, electronic evidence, and transnational offences.



Ultimately, justice beyond conviction represents the true constitutional philosophy of criminal prosecution in democratic societies. Ethical prosecution strengthens public confidence in the rule of law, prevents misuse of State power, protects individual liberties, and promotes substantive justice. A criminal justice system that values fairness over conviction rates and integrity over political expediency is essential for preserving democracy, constitutional governance, and human dignity in India.

Future Scope

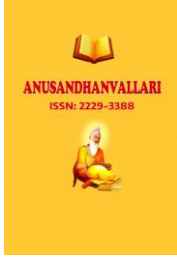
Future prosecutorial reforms in India may increasingly focus on institutional independence, digital prosecution ethics, victim-centric justice, and accountability mechanisms. Specialized training programs in cyber law, digital evidence, artificial intelligence, forensic science, and prosecutorial ethics are likely to become essential components of prosecutorial administration.

The integration of artificial intelligence and algorithmic tools into criminal investigations will create new ethical challenges requiring regulatory safeguards and transparency standards. Future research may explore prosecutorial accountability in AI-assisted prosecutions, algorithmic fairness, and constitutional protections in digital criminal justice systems.

There is also significant scope for comparative studies examining prosecutorial ethics across different jurisdictions and evaluating India's compliance with international standards concerning fair trial rights and prosecutorial independence.

References

- [1] Baxi, U. (2021). *The crisis of the Indian legal system*. Oxford University Press.
- [2] Bharatiya Nagarik Suraksha Sanhita, 2023.
- [3] Bharatiya Nyaya Sanhita, 2023.
- [4] Bharatiya Sakshya Adhiniyam, 2023.
- [5] Chandra, A. (2022). Digital transformation of Indian judiciary and procedural justice. *Indian Journal of Law and Technology*, 18(2), 45–67.
- [6] Jain, M. P. (2022). *Indian constitutional law* (9th ed.). LexisNexis.
- [7] Kaur, H. (2024). Virtual courts and access to justice in India. *Journal of Criminal Law Studies*, 11(3), 112–129.
- [8] Pillai, K. N. C. (2008). Public prosecution in India. *Journal of the Indian Law Institute*, 50(4), 637–652.
- [9] Sharma, A. (2021). Public prosecutors, victims and the expectation gap: An analysis of Indian jurisdiction. *Criminal Law Review*, 14(3), 55–78.
- [10] Sharma, M. L. (2010). The role and function of prosecution in criminal justice. *UNAFEI Resource Material Series*, 53, 185–201.
- [11] Singh, R. (2023). Prosecutorial ethics in digital criminal trials. *Indian Criminal Law Review*, 14(2), 54–76.
- [12] Verma, S. (2024). Artificial intelligence and criminal justice administration in India. *Law and Technology Review*, 6(1), 101–125.
- [13] Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473.



-
- [14] Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1.
- [15] Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.
- [16] Rajendra Kumar Jain v. State through Special Police Establishment, AIR 1980 SC 1510.
- [17] Shiv Kumar v. Hukam Chand, (1999) 7 SCC 467.
- [18] Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158.
- [19] Berk, R., Heidari, H., Jabbari, S., Kearns, M., & Roth, A. (2017). Fairness in criminal justice risk assessments.
- [20] Sambasivan, N., Arnesen, E., Hutchinson, B., Doshi, T., & Prabhakaran, V. (2021). Re-imagining algorithmic fairness in India and beyond.