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## The players and suggestions in India's criminal justice reforms

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### Abstract

The Indian legal system is renowned for its independence and commitment to fairness. Pre-British Indian judiciary dates back to 17th-century times, and the first high court was established under colonial rule. The criminal judicial system is a delegated activity that deals with one of the most difficult crimes in contemporary society. This study focuses on the role of the police in the criminal justice system, namely in the investigation of a crime. It is equally important that the court work to retain public trust. There is crime in our society, and it is critical that each and every criminal be punished in order to keep our society safe. Delays in resolving cases raise uncertainty about how effectively justice can be delivered by the system, according to this study article.

**Keywords:** Criminals, Prisons, System Reforms

### 1. Introduction

Throughout India, the criminal justice system is just updated from the colonial period system at various points in time. It has an antipathy towards the impoverished and the weak. The law continues to serve and defend the interests of the wealthy while ignoring those who are less fortunate. Poor people are unable to gain entry to the temple of justice because of the high expense of doing so, owing to the system's judicial hierarchy and the appeals process. To put it another way, if justice is granted at a larger cost, then justice is denied. The Supreme Court's ruling that legal help for the poor is a constitutional duty, not only via Article 39A, but also through Articles 14, 19, and 21, cannot be rejected by the government under certain circumstances<sup>[1]</sup>.

### 2. Objectives of the Criminal Justice System

Maintaining law and order is the primary goal of the criminal justice system, which is accomplished by punishing criminals and encouraging the prevention of future crime occurrences via punitive tactics. As time passed, the emphasis shifted to the greatest extent feasible to ensure the safety of the victims. Reprimands and rehabilitation procedures are used to produce a peaceful society that is free of aggressions for the benefit of both the economy and the country.

### 3. Need for Criminal Justice System Reform

As a result of a number of structural and procedural flaws, the current Criminal Justice System is in disarray. As a result of the colonial past, the criminal justice system is based on several dubious premises and unproven beliefs. Judges' social responsibility must be evaluated in terms of the bench's capacity to hold itself democratically accountable. According to the judge, what is "proven" or "unproved" is based on the evidence presented before him. The democratic operationalization of this obligation and accountability may be helped by a public and open discussion of judicial behaviour and relationships. Condemning public criticism in the guise of "contempt of court" is not an option for the judiciary. Because justice is compromised when authorities influence or transfer investigators at their discretion, the process become a weapon of harassment against persons who are unable to fight through the system.

### 4. Criminal Justice System Reforms

It is imperative that the Criminal Justice System be reformed in order to avoid further deterioration and its subsequent irreparable effects. Amendments to the Criminal Code may only be used in ways that benefit the profession as a whole.

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The Bar and the Bench should not be concerned with crime control. Since the job of revising fundamental laws should be left to an institutional framework, such as National Penological Commission, it has been proposed by Administrative Reform Commissions and other committees set up for this purpose that a majority of its members come from various fields such as the press, politics and academia and women's organisations, weaker sections of the population and unions <sup>[2]</sup>.

## 5. The Police Reforms

Due to a variety of defaulters, Police Reform is the most hotly contested and scrutinised of all Criminal Justice System changes. Progress has yet to be achieved in implementing the changes. A functioning criminal justice system necessitates the presence of independent, competent police. Having a police force that is independent does not imply that they are not responsible to the Home Minister, who is accountable to the legislature in a democratic system. Police are responsible to the country's Constitution and laws even if the Minister wishes differently in instances under investigation, even though the force is obligated to enforce them.

### 5.1 The Police Force should be divided into:

- Police for law, and
- Police for the order

A quasi-judicial status, like the French 'Police Judicial', should be granted to the former, known as the Civil Police. Police officers alone should pursue the investigative process of crime to assist the senior judge in the fulfilment of their duties as independent and judicious police officers.

It is possible that 'Law-Police,' the armed police force, may be subordinated to a prosecution director-general and a team of prosecution directors, similar to the Comptroller and Auditor General of India at the national level and state-level Accountant Generals. Mercenary witnesses will not be permitted to create a mockery of justice by tampering with evidence.

No committee's proposals have been followed seriously, and there has been no or very little improvement in police circumstances in India as a result of these reforms and their findings. There have been significant changes in the economy and politics of the country, but the organization of the Indian police has remained mostly same.

## 6. The Judicial Reforms

### 6.1 The Judge

The Judicial System is made up of Judges. They may be swayed by the circumstances in which they find themselves since judges are human. An all-India judicial service (IJS) might be established to raise the level of professionalism among judges. Only the most deserving candidates who want to serve on the Bench should be allowed to compete, and districts, states, and unions may establish junior, senior, and selection level cadres. The Supreme Court will hold a competitive test for entry-level lawyers.

Even if the age limit is lowered to 35, no High Court or Supreme Court justices should be chosen from the ranks of the well-off or accomplished barristers. All of the universities' legal schools should include a place for retired judges, and they should not be permitted to work as advocates or part-time politicians to supplement their incomes.

## 6.2 The Adjudicatory Process

The criminal courts' adjudicatory tasks include determining the facts, determining guilt or innocence, and determining punishment. Despite the existence of procedural rules, trial court judges have great latitude in performing these two responsibilities. In other words, the system is rife with subjectivity, and the only checks on it are the professionalism, training, and rulings of the courts of appeal. Judges are, after all, human humans with the same flaws as the rest of us, even though they are taught to act impartially in their roles as judges. This is a subjective evaluation that is susceptible to a wide range of outcomes.

Backlogs of unneeded cases exist. As a result, the adjudication process was slowed down, legal fees increased, evidence was lost or degraded in reliability, and judgments were skewed and inconsistent at trial. Many people are being held in custody as they await trial for far longer than the maximum sentences they may get if convicted. Of course, justice is denied when it is delayed. Because of the judiciary's inability to provide justice on time, the public may have less trust in it. Consequently, the criminal justice system's deterrent impact has been considerably reduced due to massive undertrials and jail overcrowding.

## 6.3 The Adversarial System

Rather than being beneficial to a democratic democracy, the adversarial system has more negative associations than positive ones. As a result of the adversarial nature of the criminal justice system, the system brings with it some unwritten norms that have been obeyed unquestioningly by criminal courts. As a result, the prosecution is responsible for proving their case beyond a reasonable doubt, as well as the defendant's right to remain silent and the prosecution's need to prove their case beyond a reasonable doubt, among other things. However, there are provisions in the Criminal Procedure Code and the Evidence Act that allow a judge to go beyond established procedures in an adversarial trial and find the truth. The prosecution is seldom able to overcome the flaws in the investigation during the trial. To properly prosecute, there can be no coordinated effort because of the complete separation of investigative (executive) and prosecutorial (judicial) powers. The adversarial system, in which the prosecution bears the whole burden of evidence and the accused is always given the benefit of the doubt, provides the least protection for the public interest.

In order to enhance India's enforcement system, a variety of judicial and legal barriers must be addressed simultaneously. Additionally, India's courts need computerised filing systems, as well as more judges, greater filing fees (to discourage frivolous litigation), better monitoring of cases, and more alternative dispute resolution alternatives, pre-litigation procedures, and plea bargaining. Appeals should be handled by specialised courts instead of civil courts. Furthermore, the light enforcement regime is largely due to the actions of lawyers. Many times, attorneys fail to reform a broken system, but instead cultivate and profit from it <sup>[3]</sup>.

## 7. The Prison Reforms

For a variety of reasons, prison reforms are mostly ignored by both the Legislature and the Judiciary. Various jail standards may not have been improved because of the Legislature's refusal to establish and support a distinct agency for prison management.

The open prison system has emerged as a contemporary and functional alternative to the closed prison system, which has been around for a long time. Women and hard-core offenders alike have enrolled in IGNOU and state university courses in Central Administered Jails and elsewhere. There are primarily BA, MA, MBA, and other post-graduate degrees given by them. Classes for 10th and 12th grades are also available to convicts. Fully-fledged computer training facilities have been developed in numerous prisons with the goal of providing vocational training.

Carpentry and fabric painting are also taught to convicts. The training of women in weaving, crafts, sewing, and embroidering has been implemented in several prisons as a way to empower them. In order to educate inmates on their legal rights, health and sanitation difficulties, HIV/AIDS, mental health issues, and ways to prevent violence in jails, jail officials hold a variety of lectures.

### 8. The Coeval Scenario

Indian society's criminal justice system has come a long way toward democracy throughout the course of the 20th century. There are certain democratic procedures that can never be undone. For the sake of social continuity and stability, the government's tax, law, and order and justice departments have remained largely untouched by these democratic reforms.

When it comes to criminal justice, victimology presents novel notions that need to be operationalized in light of the FIR, evidence-collection and witness-arrangement processes, as well as bail and cross-examination laws. A system's procedures are significant, but they are not the system's aims. In order to arrive at a successful synthesis, one must first determine what the goals are.

Political vested interests have used history, professional competence, and public ignorance to manipulate the criminal justice system in India. It is past time for India's politicians, police officers, legal scholars, and jail administrators to combine their resources and expertise in order to clean up their own messes.

### 9. Important Case Studies

#### 9.1 Prakash Singh & Others v. Union of India

The Supreme Court of India handed down its landmark decision in Prakash Singh & Others v. Union of India on September 22nd, 2005, urging the Central and State Governments to comply with a series of seven orders that spelled out practical mechanisms to begin police reforms. These are the seven rules;

1. For the State Government to not exert undue influence or pressure on state police, a structure for state security must be put in place.
2. To be promoted to Director General of the Police, a candidate must have served a long period of time with a high level of achievement, as well as a wide variety of expertise in leading the police force. Regardless of when he plans to retire, he should have at least a two-year contract if he is hired for the position.
3. Third, Officers on Operational Duty like the Inspector General of the Police and SHOs would have a two-year minimum term of service unless it is shown to be essential to dismiss them early.
4. The investigation police will be separated from the law enforcement police in order to guarantee a faster inquiry, greater competence, and a stronger relationship

with the people.

5. A Police Establishment Board will be established in each state to govern transfers, postings, and promotions for police officers.
6. Complaints against officers of the police will be investigated by a police complaints authority at the district and the state level.
7. There should be an independent body established at the Union level for the purpose of selecting and placing Chiefs of Central Police Agencies, who should have a minimum term of two years.

### 10. Re-inhuman Conditions in 1382 Prisons

1. The NCRB will provide compensation to the surviving family members of convicts who died in an unnatural manner between 2012 and 2015.
2. It is done in accordance with the advice of the National Human Rights Commission to make every effort possible.
3. Insist that the NCRB make a distinction between natural and unnatural deaths.
4. States should implement training and awareness programmes for senior police officers.
5. Prisoner counsellors and support staff must be appointed by the state government.
6. keeping convicts well-cared for and well-equipped
7. Constructing an advisory committee that includes prominent people of society who can help implement prison reforms.

### 11. Suggestions

An improved relationship between police and prosecutors, even if they operate independently, might undoubtedly help the situation. This system is not only unsympathetic to the situation and rights of the victims, but it is also incompetent. The current adversarial system of common law may be strengthened to boost conviction rates by incorporating some of the positive aspects of the Inquisitorial System, as proposed by the Criminal Justice Commission.

Comprehensive legislation is needed to reform the Indian jail system. In order to oversee and support state jail systems, the Union may establish a new agency. In prison administration, participatory management may be tested and a huge study effort should be initiated to discover local issues and experiment with feasible solutions.

### 12. Conclusion

In order to improve the rule of law, all institutions involved must work together. However, even if these factors are taken into account, any attempt to make significant changes in the administration of criminal justice would have to be done with extreme caution, lest important constitutional protections be breached in the process. There should be no change in investigation or trial procedures in order to re-establish the foundation of the legal system.

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