

INDIA'S CRIMINAL JUSTICE SYSTEM: REFORMING INSTITUTIONS FOR DELIVERING JUSTICE

INTRODUCTION

The pandemic has revealed critical gaps in India's Criminal Justice System (CJS) in various forms: overcrowded prisons filled with undertrials becoming COVID 19 hotspots, the police being over-burdened with additional responsibilities and restrictive functioning of the courts causing further delays in delivery of justice. Simultaneously, the country also saw transformative steps as the **Supreme Court (SC) passed a detailed order to decongest prisons** and directed the police to not arrest the accused unless necessary in crimes sentenced with less than seven years of imprisonment. Meanwhile, COVID 19 also acted as a catalyst in India's efforts towards digitization of judicial process, prompting measures such as e-filing, virtual hearings in courts and publication of draft vision document for 3rd phase of e-courts.

However, the criminal justice system in India remains troubled with persistent issues such as the acute backlog crisis, vacancies, poor accessibility, sub optimal investigative process, instances of human rights violations during custody, etc. Taking note of the significance of speedy and prompt delivery of justice in a society, it becomes paramount to understand what exactly constitutes the criminal justice system and how has it evolved over time? What are the fault lines in India's CJS that hinder efficient delivery of Justice? What steps have been taken so far to strengthen India's CJS? And what steps need to be taken further to revamp it? In this edition, we will attempt to answer these questions.

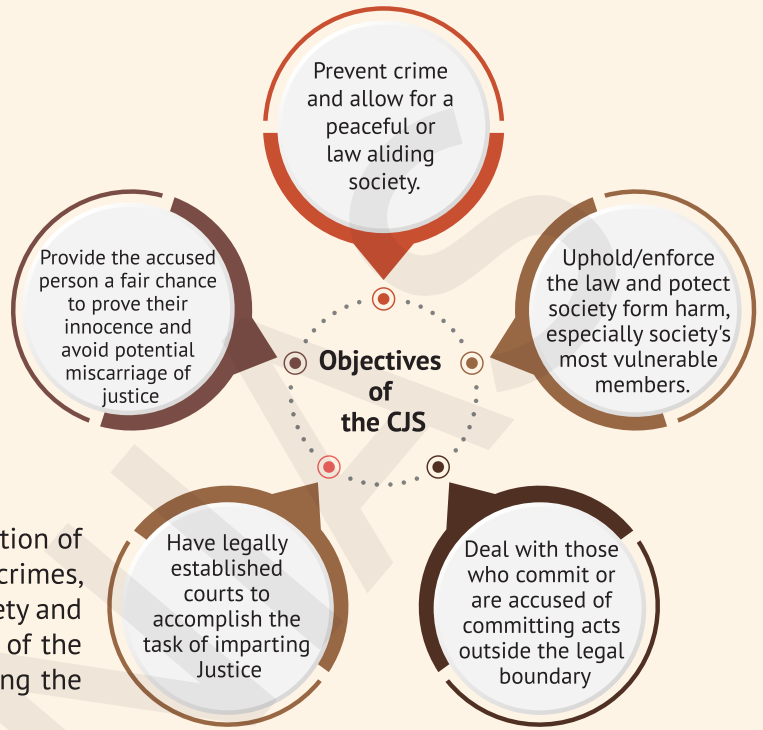
WHAT IS THE CRIMINAL JUSTICE SYSTEM AND WHAT ARE THE POSSIBLE APPROACHES TO ACHIEVE ITS OBJECTIVES?

The CJS refers to the structure, functions, and decisions or processes of formal agencies that deal with **crime prevention, investigation, prosecution, punishment and correction.**

In essence, **CJS is an instrument of social control.** Every society creates amongst itself a boundary for acceptable behavior which is dictated by the law. For example, practicing violence does not come under acceptable behavior and thus it is prohibited by the law. By helping enforce the law, the CJS enables the society as a collective in ensuring acceptable behavior from all its participants i.e., victims, criminals, witnesses and the society at large.

But how should the system approach the delivery of Criminal Justice? **The approach of the system is dependent upon the notion of Justice that the system holds.** As far as the contemporary law is concerned, criminal justice is approached in following ways:

- Ⓜ **Deterrence:** The logic of this theory is that if the imposition of criminal punishment deters people from committing crimes, then the general public can enjoy a greater sense of safety and security. For example, award of death penalty in 'rarest of the rare' cases deters potential perpetrators from committing the associated criminal actions.
- Ⓜ **Retribution:** According to this theory every individual who has committed a wrongful act, has done so based on a rational and conscious decision, and thus justice would be to provide them with punishment in proportion to the severity of the crime. For instance, **section 171E of IPC provides for a one-year punishment or fine or both for bribery** in addition to recovery of stolen assets.
- Ⓜ **Incapacitation:** This theory propagates prevention of future crime by disabling or restricting the offender's liberty, their movements or ability to commit a further wrong. Here, justice is being served by pre-emptive curtailment of actions of certain elements for protecting the society at large. Its several forms include imprisonment, curfews, house arrest, electronic monitoring and disqualification from performing certain tasks (e.g., driving for drunken drivers).
- Ⓜ **Rehabilitation:** The central premise of this theory is that punishment can prevent future crime by reforming the individual offender's behavior. It advocates that criminal behavior is not a rational choice, but determined by social pressures, psychological difficulties or situational problems of various kinds. Rehabilitation may involve education and vocational programmes, counseling, intervention programmes or skills training. For example, Section 48 of Juvenile Justice Act (JJ Act) provides for rehabilitation facility, namely, special homes for crimes committed by juveniles.



Retributive Justice	Restorative Justice
Crime is an act against the state and its laws.	Crime is an act against individuals and the community.
Accountability is punishment.	Accountability is taking responsibility and repairing harm.
The Justice process is adversarial.	The justice process involves all voices in dialogue to negotiate reparation to victim and community.
Victims are peripheral to the process.	Victims are central to the process.
Crime and misbehavior define the offender's personal deficits.	Taking responsibility and repairing harm defines the offender's capacity.
The justice process focuses on shaming, blaming, and establishing guilt.	The justice process on understanding and resolving problems, accepting accountability, and preventing problems in future.
The goal is to punish crime by inflicting pain and isolation from the community.	The goal is to restore and reconcile by making restitution and repairing harm.
Threat of punishment is an effective deterrent, and punishment will improve the offender's behavior.	Threats and punishments by themselves are more likely to produce anti-social attitudes and further disrupt community relationships.



⚖️ **Reparation (or Restorative):** The justification of reparation in criminal justice is based on the idea that crimes should be corrected by requiring that offenders make amends to victims to repair the wrong that they have done. Unlike above theories that are criminal centric, the theory of reparation is victim-centric, therefore, restitution and compensation to victims, their families or communities, should be a key objective of criminal justice. For instance, Section 357 of the Criminal Procedure Code (CrPC) provides payment of compensation in case of loss or injury to victims.

As can be seen, the contemporary Criminal Justice Systems across the world (including India's) are an amalgamation of these approaches. But these are not the only approaches to criminal justice. Community based informal systems still exist in various parts of the world including India such as Khap Panchayats in Northern India, tribal justice systems in various parts of the country etc.

LAW AND TRADITION: EXISTENCE OF ALTERNATE APPROACHES TO JUSTICE

Traditionally, **local village council or headpersons were responsible for delivery of Justice** and that continues to be the case in several remote tribal areas of the country. Their approach is tailored around the socio-economic context of the region. Following examples could provide a glimpse on existence of stark variations in the notion of Justice-

- ⚖️ In Northern India, **Nari adalats** or informal women's courts use **mediation, negotiation, conciliation** and fines in cases of **violence against women as tools to reconcile family relationships**.
- ⚖️ In contrast, the **tribes in the Garo hills would consider the entire community responsible** for such an offence, rather than attributing the blame to an individual.
- ⚖️ At variance with both of them, in this case, a village council in **Arunanchal Pradesh, called the Kebang**, would **seek to repair harm done to the woman by the offence** rather than deter the offenders.

Tradition plays an important role in helping to fill the gaps in CJS. This has also been acknowledged by the Indian Constitution with special provisions like Article 371A (which allows Naga community to administer criminal justice through Naga customary law). **But these systems are not a substitute to formal CJS** which has collectively evolved and refined for centuries.

HOW DID INDIA'S CURRENT CJS EVOLVE AND WHAT ARE ITS COMPONENTS?

The evolution of CJS has traversed a path from Ancient India, Medieval India and finally consolidated in the 20th century in the background of British rule in India. Following are some of the key events in its evolutionary process:

<p>Ancient India</p>	<ul style="list-style-type: none"> ● The jurisprudence of Ancient India was shaped by the concept of "Dharma", or rules of right conduct, as outlined in the Vedic scriptures. ● The Mauryan Dynasty, had a rigorous penal system which prescribed the death penalty for even trivial offenses. ● About the 2nd or 3rd Century A.D., the Dharmashastra code was drawn up by Manu.
<p>Medieval India</p>	<ul style="list-style-type: none"> ● The Mughal Empire enforced an alternate criminal law system that classified all offenses on the basis of the penalty which each merited. These included retaliation (blood for blood), specific penalties (as for theft and robbery) and discretionary penalties.
<p>Modern India</p>	<ul style="list-style-type: none"> ● An Indian Penal Code (IPC) defining crime and prescribing appropriate punishments was adopted in 1860. As a sequel to the IPC, a Code of Criminal Procedure was enacted in 1861. This code was repealed and a new Code came into effect in 1974. These two codes, along with parts of the Indian Evidence Act of 1872, form the essence of India's criminal law. ● A large number of special and local laws such as the Arms Act, Prohibition Act, Immoral Traffic (Prevention) Act, etc., take care of various other anti-social crimes.

PILLARS OF CRIMINAL JUSTICE SYSTEM

LEGAL FRAMEWORK

- ⦿ Parliament-IPC, CRPC
- ⦿ State legislative Assemblies
- ⦿ International Treaties & EXTRADITION*

29 April, 1999: Siddhartha Vashisht was accused under Section 201 and 302 of IPC and section 120 B of the Arms Act.

ENFORCEMENT

- ⦿ Union Police - CBI, ITBP, CISF
- ⦿ State Police-
 - Indian Police Act, 1961
 - Respective state Police laws as Police is a STATE SUBJECT.

30 April, 1999: First Information Report (FIR) was lodged by Shayan Munshi (witness of the incident).

1 May, 1999 - 2 Aug 1999: Investigation of the incident by the police.

2 Aug 1999: Police find the charges on the accused plausible and file the chargesheet

PROSECUTORS

- ⦿ Their job is to see, in the whole procedure of arrest to investigation & trial, whether the law was followed or not.

Prosecutor took the case forward and the trial started immediately.

Following the acquittal, the prosecution appealed in the Delhi High Court.

ADJUDICATION

- ⦿ Supreme Court & High Court
- ⦿ Subordinated Courts

21 Feb 2006: Prosecution lost the case and the accused Siddhartha Vashisht was acquitted

15 Dec 2006: Delhi High Court ruled Siddhartha Vashisht guilty.

CORRECTION

- ⦿ PRISONS for adult (**Though a state subject but Ministry of Home Affairs provides guidelines.**)
- ⦿ JUVENILE JUSTICE BOARDS OF CHILD WELFARE COMMITTEES for less than 18 years

20 Dec 2006: Court awarded the accused life imprisonment (rigorous imprisonment) and a fine.

During the course of imprisonment, accused was granted multiple paroles due to illnesses of his mother and his degree examinations.

2 June 2020: Siddhartha Vashisht was released on the grounds of good behaviour

Understanding CJS through Case Study : Sidhartha Vashisht Vs. NCT of Delhi (Jessica Lal Murder case)

***EXTRADITION:**

- ⦿ It is the recognised international mechanism for timely return of fugitives from foreign countries.
- ⦿ It is governed by bilateral treaties and multi-lateral conventions like:
 - Article 44 of UN conventions corruption (2003)
 - Article 16 of UN convention Against transnational organised crimes(2000)
 - Article 6 of UN convention against illicit traffic in Narcotic Drugs & Psychotropic substances (1998).
- ⦿ Extradition is usually not granted for "political offences; for nationals of the requested country offences where death penalty may be imposed; where there will be "double jeopardy"; or where there could be actual or potential discrimination on account of religion, race and nationality.

OTHER STAKEHOLDERS

Accused: The person in conflict with law is one of the center points in CJS. Among other things, a sound CJS system shall ensure that the accused is aware of his/her rights and the doctrine of "innocent until proven guilty" shall be followed in practice.

Victim: A victim's stake lies in a fair, transparent and timely justice delivery. Also, access to an advocate and victim's compensation are the points of discussion.

Witness: Witnesses are the eyes and ears of criminal justice system. They must be protected both from the accused and the cumbersome legal processes. In some sensitive matters like crime against women, their identity has to be kept confidential.

Society: The end goal of a sound CJS is the evolution of the society towards a civilised one, where not only law and order but social capital is also well maintained.

WHAT ARE THE FAULT LINES IN INDIA'S CJS THAT HINDERS EFFICIENT DELIVERY OF JUSTICE?

⚖️ **Law and treaties:** The rule of law enshrined in the IPC, 1861 was more about sovereignty of the British state than the rights of the people of India. Further, the IPC as well as the CrPC, since their inception, have been subjected to a very limited number of amendments as a result of which they fall short of capturing changes that have taken place in the complexion of crime and criminal justice dispensation, such as advancement in forensic sciences, focus on reformative and rehabilitative justice, etc. This left certain glaring gaps between the legal provisions and constitutional aspirations. Law on sedition is one such example.

● **Extradition treaties:** India's success rate in extraditing fugitives is abysmally low; only one in every three fugitives are being successfully extradited to India, some of the possible reasons for this could be attributed to following factors:

- ◆ **Categorising financial irregularities as a civil offence** rather than a criminal one. Since fiscal offenders are of no immediate security threat to foreign nations, there is no urgency to expedite their extradition process and return them to the requesting state.
- ◆ **Double jeopardy** which debars punishment for the same crime twice, is the primary reason why India, for example, has been unable to extradite David Headley (an American terrorist involved in plotting the 26/11 Mumbai attacks) from the US.
- ◆ **Concerns of Human rights violations** as India has not ratified the 1984, UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (or the UN Convention against Torture).

⚖️ **Enforcement (Police):** Some of the major issues that result in suboptimal performance of police are as follows:

- **Superintendence and control by political executives:** This has resulted in the lack of democratic functioning of police; police priorities are frequently altered based on the will of political executives.
- **Lack of accountability:** There is no mechanism for registering a complaint against erring police officials. Both the Second Administrative Reform Commission and the Supreme Court have accepted the need for having an independent complaint authority to inquire into the cases of police misconduct.
- **Resource scarcity:**
 - ◆ **Shortage of Human resource:** Currently 192 police personnel per lakh population against the UN recommendations of 222 police personnel.
 - ◆ **Weaponry:** The police machinery is still using obsolete and outdated weapons.
 - ◆ **Mobility:** Shortage of police vehicles compromises the swiftness of action and increases the response time of the police force.
 - ◆ **Communication networks:** In an era of ICT, there are many police stations in the country that have neither telephones nor wireless sets. The Police Telecommunication Network (POLNET), which is used in crime investigation and transmission of crime related data, is non-functional in certain States.
 - ◆ **Poor recruitment and training process:** The recruitment and training process of lower level police personnel, especially from lowest constabulary level to Sub-Inspector level, is mainly focused on the physical strength while other more essential skills like forensics, law, cyber-crime and financial frauds are either ignored or put on the back burner.
 - ◆ **Inadequate police housing facilities:** The Bureau of Police Research & Development (BPR&D) report of 2017 shows that although there is 8.06% increment in overall sanctioned strength of police force, the family accommodation has only been raised by 6.44% which means a chunk of police personnel do not have proper accommodation.





- **Underutilisation of funds:** The BPR&D data and the CAG (Comptroller and Auditor General) highlighted the underutilisation of funds allocated under the Modernisation of Police Forces (MPF) Scheme. In the year 2015-16, out of a total grant of Rs 9,203 crore that was made available for modernisation, States only utilised Rs 1330 crore (14%).
- ⚖️ **Prosecution:** For the proper adjudication of the criminal cases a number of courts have been set up and new recruitments of the judicial officers, police personals, etc. is being done but the number of prosecutors has not been increased commensurately. Due to lack of adequate number of public prosecutors, the hearing of cases has to be adjusted as per the availability of the public prosecutor in the court which in turn creates a big hindrance in achieving the goal of speedy Justice for all. Also, to a larger extent, it explains why Indian prosecution system is termed as one of the most slow and non-punctual wings of the CJS in India.
- ⚖️ **Adjudication (Courts)**
 - **Chronic pendency in the judicial system:** There is an unprecedented pile-up of over 38 million cases across courts in the country, due to problems such as-
 - ◆ **Low judge to population ratio:** The present judge-to-population ratio in India is at an abysmal 17 judges/million.
 - ◆ **Judicial vacancy:** There are about 5,000 vacancies in lower courts and more than around 419 posts lie vacant against a sanctioned strength of 1,080 in High courts. This has been happening mainly due to lengthy and complex procedures of appointment and “procedural” delays on the part of state governments.
 - **Gender imbalance in the judiciary:** Women judges constitute only 27.6% of the total judges in lower judiciary and a mere 10% of total judges in high courts across the country. Thus, Courts in India are not representative of the societies they serve, this could aggravate biases in the judiciary.
 - **Structural issues in lower judiciary:** The possibility of promotion of lower courts judges to High Courts (which in turns leads to appointment to the Supreme Court) is very less. There exist a disproportionately high number of judges selected as direct appointments from the Bar in the high courts, as compared to elevations from the subordinate judiciary. Therefore, many qualified law graduates prefer to practice as a lawyer in the High Courts rather than being appointed as a judge in the lower courts.
 - **Other issues:** Poor infrastructure, slow adoption of technology, inefficient and time taking legal processes, etc.
- ⚖️ **Corrections (Prisons)**
 - **Overcrowding:** According to a 2019 report by the National Crime Records Bureau (NCRB), the numbers of prisoners were 118.5% of the prison capacity, the highest since 2010. Also, 69% of all these prisoners were under trials. Tardy pre-trial investigation and the subsequent delay in judicial trial were documented as the principal cause of this.
 - **Other issues:** lack of proper healthcare and medical facilities, absence of rehabilitative training and psychological support for the inmates, understaffing and underfunding etc. have limited the capability of prisons to reform prisoners.
- ⚖️ **Witness turning hostile:** The edifice of administration of justice is based upon witnesses coming forward and deposing without fear or favour, without intimidation or allurements in Court of law. Witnesses face many challenges in Indian CJS related to **police harassment, delayed and complex court procedures and threats from accused** which many-a-times turn them hostile.

WHAT STEPS HAVE BEEN TAKEN SO FAR TO STRENGTHEN INDIA'S CJS?

- ⚖️ **Reforming criminal laws:** The Ministry of Home Affairs (MHA) has constituted a national level committee headed by Professor Ranbir Singh for reform in criminal law, with the following objectives-
 - **To modernise and reform the substantive criminal laws** and to align them with constitutional morality and social aspirations.
 - **To streamline, re-imagine and re-invigorate the laws of criminal procedure** and to align them with constitutional morality, social aspirations, and best global practices.
 - **To modernise, update and reform the law of evidence** in the country to address contemporary and future challenges.
- ⚖️ **Police reforms:**
 - **Enhancing autonomy:** To protect the police officials from political interference, the Supreme Court (SC), in 2018, had refrained State governments from appointing Director General of Police without first consulting the UPSC.

- **Enhancing accountability:** The SC has directed all the police stations and investigation agencies across the country (like CBI, ED, NIA, etc.) to install CCTV cameras to check if there was any human rights abuse taking place.
- **Innovative solutions:** Chakkarakkal Police Station in Kerala introduced measures to make the station more people-friendly like playing Classical Music in Police Station for stressed out patients, establishment of a library and reading room for the visitors and screening of awareness-creating videos on law enforcement, among others.

Empowering Stakeholders:

- **Witness Protection Scheme, 2018**, provides for protection of witnesses based on the threat assessment and protection measures through measures such as protection/change of identity of witnesses, their relocation, installation of security devices at the residence of witnesses, usage of specially designed Court rooms, etc.
- National Legal Services Authority (NALSA) strengthened the **National Legal Aid Helpline (15100)** and the State Legal Aid Helpline numbers for facilitating easy accessibility of legal aid institutions to the common people.
- Nyaya Bandhu (Pro Bono Legal Services) programme aims to provide free legal assistance and counsel to the persons eligible under section 12 of Legal Service Authorities Act, 1987.

Steps taken to modernize and strengthen judiciary and judicial process:

- **Centrally Sponsored Scheme (CSS) for Development of Infrastructure Facilities for Judiciary** aims to increase the availability of suitable number of Court Halls and Residential Accommodations for Judges / Judicial Officers of District and Subordinate Courts all over the country. This will help in improving the functioning and performance of the Judiciary across the country in reaching out to every citizen.
- **Setting up of fast Track Special Courts (FTSCs):** The Department of Justice is implementing a Scheme for setting up of 1023 FTSCs across the country for expeditious trial and disposal of pending cases related to rape and POCSO (Protection of Children from Sexual Offences) Act 2012.
- **Digitization of CJS:** It is being pursued at several levels to make the justice delivery system affordable, accessible, cost effective, predictable, reliable, and transparent.



DIGITIZATION OF THE CJS

The use of information technology in the judicial domain started with the preparation of '**National Policy and Action Plan for Implementation of ICT in the Indian Judiciary**' by the e-Committee of Supreme Court of India.

Since then, following initiatives have been taken for digitalization of the Indian CJS-

Use of Artificial Intelligence: With new tools like SUPACE and SUVAS, the SC has enhanced its ability to collect and process large amounts of data.

- SUPACE (Supreme Court's Portal for Assistance in Court's Efficiency) can **identify and extract various objective** facts from the file like date, time, place of occurrence of event, etc. It can prompt questions and the answers relevant to the case.
- **SUVAAS translates judgments and other legal documents** from English into nine vernacular dialects, and vice-versa.

Inter-operable Criminal Justice System (ICJS): It is an initiative of the e-Committee of the SC to enable seamless transfer of data and information among different pillars of the criminal justice system, like courts, police, jails, and forensic science laboratories, from one platform.



- **Tele-Law:** It aims to address the cases at pre-litigation stage. Legal advice is provided at the Common Service Centres (CSCs), through Video Conferencing/Telephone facility available at the CSCs, by Panel Lawyers.
- **Crime and Criminal Tracking Network Systems (CCTNS):** It is being implemented as a "Mission Mode Project (MMP)" under the National e-Governance Plan (NeGP) by the Ministry of Home Affairs. CCTNS aims at creating a nationwide networking infrastructure for evolution of IT-enabled-state-of-the-art tracking system around 'Investigation of crime and detection of criminals'.
- **Online FIRs:** Several states and UTs like Delhi, Gujarat, etc. have enabled citizens to lodge First Information Reports (FIRs) online with the police.
- **e-Courts Mission Mode Project:** The e-Courts Project was conceptualized based on the "National Policy and Action Plan for Implementation of Information and Communication Technology (ICT) in the Indian Judiciary – 2005" with the objective of improving access to justice using technology. Recently, the e-Committee Supreme Court released a draft vision document for the 3rd phase of e-Courts project.
 - Initiatives under the project include: **Wide Area Network (WAN) Project** for connecting all District and Subordinate court complexes, **National Judicial Data Grid** portal for providing information related to details of court cases and judgments, **National Service and Tracking of Electronic Processes (NSTEP)** for technology enabled process serving and issuing of summons, setting up of **Virtual Courts**, etc.

However, in its stride towards digitization of the CJS, India faces a number of hurdles like **lack of technical knowhow among court officials and staff, privacy concerns related to digital technologies, Digital divide, lack of aggregated and usable judicial data, etc. Also, virtual hearing cannot be universalized** as it won't be possible for the judges to accurately perceive behavioural aspects of the accused or the witness through video conferencing.

● **Focussing on reformation and rehabilitation in Prisons:**

- **Open prison:** An open prison can be understood to mean any penal establishment in which the prisoners serve their sentence with minimal supervision and perimeter security and are not locked up in prison cells. Several states and union territories like Rajasthan, Maharashtra, etc. have open jails in India.
 - ◆ Rajasthan's open prison system is considered a best practice in prisoners' welfare and rehabilitation in the NCRB's 2015 prison statistics and has been acclaimed for "facilitating social adjustment and financial independence" of prisoners before their final release.
- **Skill development of inmates:** Prisons across India have taken up initiatives to provide their inmates vocational and formal education, in a move towards reformatory justice. Examples-
 - ◆ Shimla jail has opened a 'book-café' exclusively run by the inmates.
 - ◆ **Aashayein: The jail shop (Jaipur)** is a unique departmental store selling handicrafts and paintings made by inmates. The revenue generated from the retail store goes towards the prisoners welfare fund.
 - ◆ **Literacy Campaigns** have been launched all over jails in Odisha. Full time teachers have been appointed to impart primary education to illiterate prisoners. Vocational training including tailoring, book binding, weaving, candle making, knitting and embroidery have also been scaled up.

WHAT STEPS NEED TO BE TAKEN FURTHER TO REVAMP INDIA'S CJS?

- **Legal framework reforms:** as mentioned above, a reformation of the IPC and CrPC is in the offing. Following principles can guide these amendments towards future of criminal law in India-
 - **Giving a central role to victims:** Use of victim impact statements, increased victim participation in criminal trials, enhanced access of victims to compensation and restitution can improve the efficiency as well as efficacy of the CJS.
 - **New punishments in line with changing socio-economic framework:** New types of punishments like community service orders, restitution orders, and other aspects of restorative and reformatory justice could also be brought in this fold.
 - **Scheme of chapters and classification of offences can be reworked:** Classification of offences needs to be done in a manner conducive to management of crimes in the future. For example, it is economically not feasible to have hundreds of sections in the category of property offences or existence of penalties like offences against coin and stamps.

⚖️ **Police Reforms:** The need for Police reforms can be broadly divided in following areas-

- **Legislative/ administrative changes within police organization:** Various committees have been formed for police reforms including the Ribeiro Committee (1998), Padmanabhaiah Committee (2000) and the Malimath Committee (2003). The essence of all these committees has been culminated in the Prakash Singh Case vs. Union of India case (2006).
- **Improvement in capacity and infrastructure:** This includes increasing the number of police personnel and improvement in recruitment, training and service conditions among others.
- **Technological scaling-up:** This includes moving towards technological techniques like digital and intelligent monitoring, data-based policing, integration of cyber systems like CCTNS, NATGRID, etc. This needs to be accompanied with development of human capacity to effectively integrate the technological changes.
- **Improving investigation methodologies:** The currently applied methods use torture as a tool for investigation. This could be altered by **giving a priority to Human Rights**. This can be done through ratification of the 1987 UN **CAT as well as enactment the anti-torture bill** proposed by the legal advisory body of the government.
- **Engaging in community crime prevention programmes:** It focuses on increasing the participation of individual citizens, small groups, and voluntary community organizations in activities designed to reduce crime and to improve the quality of neighborhood life. For example, SHE (#SafetyforHerEnsured) teams of the Telangana police aims to curb eve teasing and harassment of women.

⚖️ **Prosecution process reforms:** Prosecution acts as a link between the police and judiciary. By virtue of its position, it needs reforms in following areas-

- **Increasing independence of prosecutors:** A strong Department of Prosecution (DoP) in every state that is both operationally and financially independent is essential.
- **Improving coordination between investigation and prosecution wings:** This can be done by creating a formal coordination mechanism that will enable the police to seek legal advice from the prosecution prior to the framing of charges.

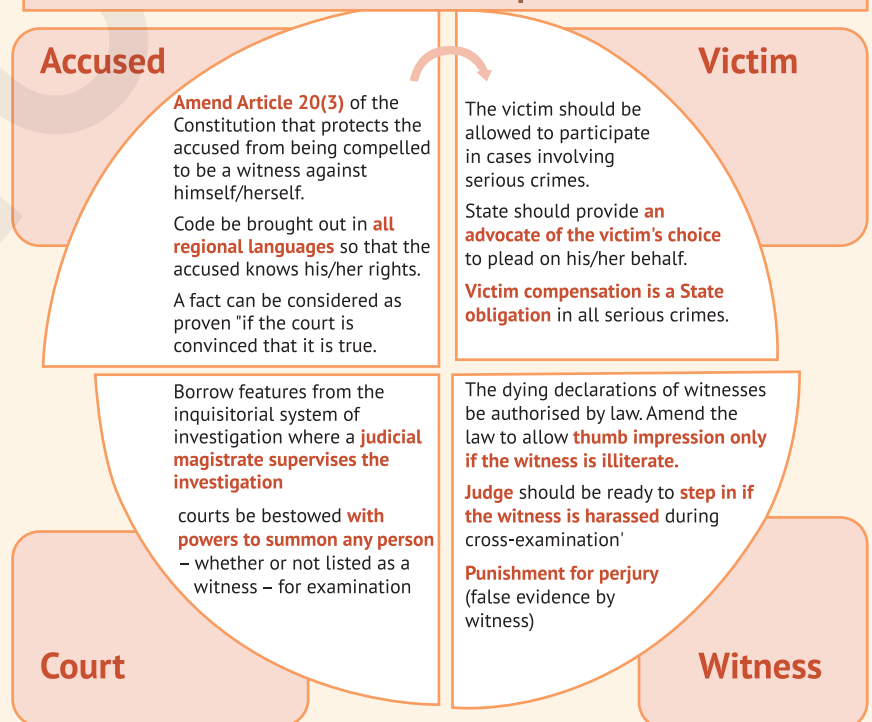
⚖️ **Adjudicatory (Judicial) process reforms:** Court management practices can be adopted by the judiciary to combat the challenges of backlogs. Such management practices may include-

- **Prehearing categorization of cases:** Certain cases that are susceptible to repetitive rounds of litigation and have slow rate of disposal have tendency to clog the justice delivery system. Prehearing categorization of cases can effectively identify such cases and improve the quality as well as timeliness of justice.

Police reforms directed by the Supreme Court in Prakash Singh vs. UoI, 2006

- ⚖️ **Establish State Security Commission** for eliminating Political or Governmental interference from the Police.
- ⚖️ **Appointment** of Director General of Police (DGP) on **merit-basis**.
- ⚖️ Minimum **tenure of two years for DGP**.
- ⚖️ **Minimum term for police officers** including Superintendents of Police should be two years.
- ⚖️ Establishing a **Police Establishment Board** to decide the transfers, postings, promotions, salaries of officers.
- ⚖️ Setting-up **National Security Commission (NSC)** for placement and selection of Chiefs of Central Police Organisations.
- ⚖️ **Minimum term for the NSC would be two years**.
- ⚖️ Constituting **Police Complaints Authority (PCA)** for looking into the cases of complaints against police officers.
- ⚖️ **Differentiating law and order with investigation** by constituting a separate Security Commission.

Recommendations of the Malimath Committee Report



- ◆ **Also**, categorization can immediately point to certain cases that may be equally, if not better, resolved through Alternate Dispute Resolution (ADR) mechanisms viz. arbitration, mediation, conciliation.
- **Litigation management:** This involves fixing a timetable for the main stages of a case and strictly adhering to it. Doing so also reduces the opportunity for advocates to seek multiple adjournments on flimsy grounds and thus, protract the case. As far as possible, interim applications must be disposed off in a single hearing.
- **Plea-bargaining:** Plea bargaining refers to a person charged with a criminal offence negotiating with the prosecution for a lesser punishment than what is provided in law by pleading guilty to a less serious offence. It is common in the United States and has been a successful method of avoiding protracted and complicated trials. In India also, admitted socio-economic offences, particularly white-collar crimes, may be quicker resolved through plea-bargaining.
 - ◆ It additionally offers visibility and compensation to victims of an offence.
- **Train the judges in writing precise and clear judgments:** A concise, clear and coherent judgment improves public accessibility to the Law.
- 🗑️ **Prison reforms:** Apart from the above-mentioned steps, various committees, law commissions and judicial recommendations have suggested following reforms-
 - **All India Prison Service:** The All-India Committee on Jail Reforms (1980– 1983), under Justice **A N Mulla recommended to develop an All-India Prison Service** as a professional career service with appropriate job requirements, sound training and proper promotional avenues.
 - **Adherence of Model Prison Manual 2016 by all the States and UTs:** The manual aims at bringing in basic uniformity in laws, rules and regulations governing the administration of prisons and the management of prisoners all over the country.
 - **Prison Infrastructure:** Technological up-gradations such as biometric identification facilities, prisoner information system, provision of CCTVs, video conferencing facilities along with critical infrastructure such as hospital infrastructure, sanitation systems among others.
 - **Reforming the Prison Monitor System:** Prison monitors are generally justices, magistrates and other people from civil society. Their job is to listen to prisoner's grievances and assess the prison conditions. But a jail, on an average gets only 4 visits a year, which needs to be substantially increased for more effectiveness.

CONCLUSION

The overall purpose of any criminal justice system is to prevent crime and create peaceful, law-abiding societies. The CJS in India has seen a spate of reforms and recommendations - most recent being digitization of courts (in view of the Covid-19 pandemic)- which has significantly brought down the costs of litigation and increased the ease of filing paperwork. However, it has been unsuccessful in delivering speedy and prompt justice to people and guaranteeing the certainty of penalization to perpetrators of crime.

CJS is an integral part of the democratic setup, therefore it is imperative that comprehensive steps are taken to make the system more effective. It is thus the responsibility of legislators and all the stakeholders to embark on the task of strengthening the system with a holistic and meticulous approach so as to reinforce faith of all concerned in the system.



CRIMINAL JUSTICE SYSTEM

