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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

CRIMINAL JUSTICE REFORMS IN INDIA: BRIDGING THE GAP BETWEEN COLONIAL LEGACY AND CONSTITUTIONAL JUSTICE

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Abstract

India's criminal justice system stands at a critical juncture, caught between a colonial legacy of control and a constitutional promise of justice, liberty, and human dignity. Despite constitutional guarantees under Part III and progressive judicial interventions, systemic inefficiencies, procedural delays, custodial excesses, and disproportionate impacts on marginalised communities continue to plague the system. This essay critically examines the urgent need for comprehensive criminal justice reforms in India. It analyses structural deficiencies across policing, investigation, prosecution, trial, sentencing, and corrections, while evaluating recent legislative and judicial initiatives. The paper argues that meaningful reform must move beyond piecemeal amendments to embrace rights-based, victim-centric, and technology-enabled approaches grounded in constitutional morality. Only through holistic reform can India transform its criminal justice system from a punitive colonial instrument into a humane and effective mechanism of justice.

I. Introduction

The criminal justice system is the most coercive arm of the State, vested with the authority to arrest, prosecute, punish, and deprive individuals of liberty. In a constitutional democracy like India, this power must be exercised within the framework of due process, fairness, and human rights. However, India's criminal justice system continues to operate largely on colonial-era statutes such as the Indian Penal Code, 1860 (IPC), the Code of Criminal Procedure, 1973 (CrPC), and the Indian Evidence Act, 1872, laws originally designed to maintain imperial control rather than secure justice for citizens.¹

¹ Indian Penal Code 1860; Code of Criminal Procedure 1973.

Despite constitutional transformation post-1950, the lived reality of criminal justice remains grim: overcrowded prisons, prolonged undertrial detention, low conviction rates, custodial violence, and systemic discrimination against the poor, Dalits, Adivasis, and religious minorities.² These failures have eroded public confidence in the justice delivery mechanism and underscored the urgency for reform.

This essay examines the need for criminal justice reforms in India by analysing historical foundations, structural challenges, constitutional mandates, judicial interventions, and contemporary reform initiatives. It argues that reform must be holistic, rights-oriented, and institutionally coordinated to ensure justice is not merely punitive but restorative and equitable.

II. Colonial Legacy and Structural Deficiencies

A. Colonial Origins of Criminal Law

India's criminal justice system was conceived as an instrument of colonial governance. The IPC criminalised dissent and prioritised order over liberty, while procedural laws empowered the police with wide discretionary powers.³ These laws, though amended over time, continue to reflect a control-oriented mindset, resulting in excessive criminalisation and procedural rigidity.

B. Over-Criminalisation and Archaic Offences

Indian criminal law continues to criminalise conduct that is either obsolete or disproportionate. Offences such as sedition (Section 124A IPC) and criminal defamation have been widely criticised for chilling free speech.⁴ Over-criminalisation burdens courts, diverts resources from serious crimes, and disproportionately affects vulnerable populations.

III. Policing and Investigation: The Weakest Link

C. Police Excesses and Lack of Accountability

Policing remains the most problematic component of the criminal justice system. Custodial deaths, torture, illegal detentions, and misuse of arrest powers persist despite constitutional

² National Crime Records Bureau, Prison Statistics India 2022 (NCRB 2023).

³ Radhika Singha, *A Despotism of Law* (OUP 1998).

⁴ *Shreya Singhal v Union of India* (2015) 5 SCC 1.

safeguards.⁵ The Supreme Court's guidelines in *D.K. Basu v State of West Bengal* remain inadequately implemented.⁶

D. Structural and Political Constraints

The police suffer from understaffing, inadequate training, political interference, and poor forensic infrastructure. India has one of the lowest police-population ratios globally, undermining effective investigation.⁷ The absence of functional Police Complaints Authorities, as mandated in *Prakash Singh v Union of India*, reflects systemic resistance to accountability.⁸

IV. Undertrial Detention and Prison Reforms

E. Crisis of Undertrial Prisoners

Undertrial prisoners constitute over two-thirds of India's prison population, many incarcerated for offences carrying minor punishments.⁹ Prolonged detention violates Article 21 and the principle of "bail, not jail," repeatedly affirmed by constitutional courts.¹⁰

F. Inhumane Prison Conditions

Indian prisons suffer from overcrowding, inadequate healthcare, and lack of rehabilitation programmes. The punitive focus of incarceration undermines the reformatory goals articulated in *Sunil Batra v Delhi Administration*.¹¹ Prison reforms remain fragmented and poorly implemented across states.

V. Delays, Backlogs, and Trial Inefficiencies

G. Judicial Pendency

India's courts are overburdened with criminal cases, resulting in delays that often exceed the maximum sentence prescribed for offences.¹² The right to a speedy trial, recognised in *Hussainara Khatoon v State of Bihar*, remains largely illusory.¹³

⁵ NCRB (n 2).

⁶ *D.K. Basu v State of West Bengal* (1997) 1 SCC 416.

⁷ Bureau of Police Research and Development, Data on Police Organisations (2022).

⁸ *Prakash Singh v Union of India* (2006) 8 SCC 1.

⁹ NCRB (n 2).

¹⁰ *Sanjay Chandra v CBI* (2012) 1 SCC 40.

¹¹ *Sunil Batra v Delhi Administration* (1978) 4 SCC 494.

¹² Law Commission of India, 245th Report on Arrears and Backlog (2014).

¹³ *Hussainara Khatoon v State of Bihar* (1980) 1 SCC 81.

H. Procedural Complexities

Frequent adjournments, inadequate prosecution, hostile witnesses, and weak case management contribute to low conviction rates.¹⁴ Procedural reforms have been sporadic and insufficient to address systemic inefficiencies.

VI. Victim-Centric Justice and Restorative Approaches

Traditionally, Indian criminal law has been offender-centric, marginalising victims from the justice process. Recent jurisprudence has acknowledged victims' rights to participation, compensation, and dignity.¹⁵ However, implementation remains weak.

Restorative justice mechanisms, such as victim-offender mediation, plea bargaining, and community-based sentencing, offer alternatives to incarceration and align with constitutional values of dignity and proportionality.¹⁶ Integrating restorative models can humanise criminal justice and reduce recidivism.

VII. Technology, Forensics, and Digital Reforms

Technological integration is critical to modernising criminal justice. Digital FIRs, e-courts, forensic science, and data-driven policing can enhance efficiency and transparency. The Criminal Procedure (Identification) Act, 2022, seeks to modernise investigation but raises concerns regarding privacy and misuse of biometric data.¹⁷

Reforms must balance efficiency with safeguards against surveillance excesses, consistent with the right to privacy recognised in *Justice K.S. Puttaswamy v Union of India*.¹⁸

VIII. Recent Legislative Reforms: A Critical Appraisal

The Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam aim to replace colonial criminal laws. While these reforms promise simplification and modernisation, critics argue that several provisions expand State power without adequate

¹⁴ Law Commission of India, 154th Report on CrPC (1996).

¹⁵ Mallikarjun Kodagali v State of Karnataka (2018) 14 SCC 596.

¹⁶ UNODC, Handbook on Restorative Justice Programmes (2020).

¹⁷ Criminal Procedure (Identification) Act 2022.

¹⁸ Justice K.S. Puttaswamy v Union of India (2017) 10 SCC 1.

safeguards.¹⁹ True reform requires participatory law-making, transparency, and alignment with constitutional morality rather than symbolic decolonisation.

IX. The Way Forward: Towards Holistic Reform

Effective criminal justice reform in India must be multi-dimensional:

1. Police reforms ensuring autonomy, accountability, and training
2. Decriminalisation of minor and victimless offences
3. Strengthening legal aid and bail jurisprudence
4. Victim-centric frameworks and restorative justice
5. Prison reforms focused on rehabilitation
6. Judicial capacity building and procedural streamlining
7. Technology with rights-based safeguards

Reform must be guided by constitutional principles, empirical research, and comparative best practices rather than populist punitivism.

X. Conclusion

Criminal justice reform in India is not merely a legislative exercise but a constitutional imperative. The system must evolve from a colonial apparatus of control into a democratic institution rooted in fairness, dignity, and accountability. Piecemeal reforms cannot address structural deficiencies; what is required is a paradigm shift towards rights-based, victim-inclusive, and rehabilitative justice.

In a society governed by the rule of law, justice must not only punish the guilty but also protect the innocent, uphold human dignity, and inspire public confidence. Only then can India's criminal justice system truly reflect the transformative vision of its Constitution.

¹⁹ Parliamentary Standing Committee on Home Affairs, Report on Criminal Law Bills (2023).