



Mains Practice Question

Q. Criminal Justice System in India (CJSI) has been in a state of peril. Identify the major issues and suggest policy measures to reform the CJSI. (250 words)

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Approach:

- Define the Criminal Justice System and briefly mention its status in India.
- Explain the major issues involved and give policy suggestions to improve the condition.
- Include recommendations of various committees, relevant data and examples.

Introduction

- Criminal Justice System is an instrument of social control, with an objective to prevent the occurrence of crime, punish the criminals, their rehabilitation, and ensuring justice to the victims.
- The Indian Criminal Justice System faces challenges of delays and ineffectiveness in ensuring justice to the victim. The Malimath Committee (2000) report highlighted that the existing system “weighed in favour of the accused and did not adequately focus on justice to the victims of crime.”

Body

Major issues in Indian Criminal Justice System (ICJS):

- **Ineffectiveness:** The Indian Penal Code (IPC), the official criminal code of India was drafted in 1860 and the Code of Criminal Procedure (CrPC) was enacted in 1973.
 - Hundreds of outdated laws still exist in India which highlight the colonial legacy of ICJS, making it less effective for the contemporary needs of the society.
- **Pendency of cases:** According to Economic Survey 2018-19, there are about 3.5 crore cases pending in the judiciary, especially in the district and subordinate courts, which lead to actualization of the maxim “justice delayed is justice denied.”
- **Huge undertrials:** India has one of the world’s largest number of undertrial prisoners. According to NCRB -Prison Statistics India (2015), 67.2% of our total prison population comprises of undertrial prisoners.
- **Poor investigative machinery:** Corruption, huge workload of the police department, poor infrastructure of forensic labs, lack of efficient workforce, etc are few major hurdles in the speedy and transparent investigation of crimes.

Suggested policy measures:

- Reforming Witness Protection Scheme 2018: The Jessica Lal Murder case and the recent Unnao rape case highlighted the lacunae of witness protection mechanisms in India. Following suggestions should be implemented to address the drawbacks of the current Witness Protection Scheme introduced in 2018:
 - Removing the cap on the duration of protection to witnesses
 - Reforming the procedure of categorization based on threat perception which gives leverage to investigation agencies for random assessment

- Strict penalization for violation of confidentiality of personal information should exist
- **Malimath Committee (2000) recommendations** should be implemented which include:
 - **Rights of the Accused:** The Committee suggested that a Schedule to the Code be brought out in all regional languages so that the accused knows his/her rights, as well as how to enforce them and whom to approach when there is a denial of those rights.
 - **Police Investigation:** The Committee suggested hiving off the investigation wing from Law and Order.
 - **Court and Judges:** It suggested the increase in strength of judges and courts. The judge-population ratio in India is 19.66 per million people as of 2017.
 - **Vacations of Court:** It recommended reducing the vacations of court on account of long pendency of cases.
- **Madhav Menon Committee 2007:** It favours the complete revamp of the entire criminal procedure system. It suggested setting up separate authority at the national level to deal with crimes threatening national security.
- The **classification of offences** must be done in a manner conducive to the management of crimes in the future. The chapters of IPC on offences against public servants, contempt of authority, public tranquility, and trespass can be redefined and narrowed.
- The **construction of new offences and reworking of the existing classification of offences** must be guided by the principles of criminal jurisprudence.

Conclusion

In the words of Edmund Burke “A bad law is the worst tyranny”. Thus, to uphold the true spirit of ‘Rule of Law’, there is an urgent need to reform the Criminal Justice System in India.