



Revitalising Indian Criminal Justice System

*This editorial is based on [“The death penalty and humanising criminal justice”](#) which was published in *The Hindu* on 29/10/2022. It talks about the need for reform in the Criminal Justice System of India.*

For Prelims: Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), National Crime Records Bureau (NCRB), Section 66A of the Information Technology Act 2000, AI Portal SUPACE, Interoperable Criminal Justice System (ICJS) Project, V S Malimath Committee (2003), Alternative Dispute Resolution

For Mains: Evolution of Criminal Justice System in India, Current Issues Related to the Criminal Justice System in India, Judicial Language Parity, Raising the Bar on Death Penalty.

The transition of the [Criminal Justice System](#) with the waves of time is something worth notice. From the premature, **primitive, customary legal system** to the present, modern complicated judicial framework is the outcome of the **evolving nature of crimes and administration**.

- The synthesis of the above factors has **increased appetite for change in the Indian Justice Delivery System** highlighting the demands for **affordable and effective [dispute resolution mechanisms](#)**, and technology driven speedy trials to prepare India for a **potential game-changing transformation** in the justice delivery framework.

What is the Structure of the Criminal Justice System in India?

- The Indian Criminal Justice System is composed of government agencies that enforce the law, adjudicate crimes, and correct criminal behaviour.
- It has four subsystems:
 - **Legislature** ([Parliament](#))
 - **Enforcement** ([Police](#))
 - **Adjudication** ([Courts](#))
 - **Corrections** ([Prisons, Community Facilities](#))

How the Criminal Justice System Evolved in India?

- Throughout India's history, different criminal justice systems have evolved and gained prominence in different regions under different rulers.
- During British rule, criminal laws were codified in India, which remain largely unchanged even today.
- **[Indian Penal Code \(IPC\)](#)** is the **official criminal code of India** drafted in 1860 in the wake of the **first law commission** established in 1834 under the **Charter Act of 1833**.
- In line, the **[Code of Criminal Procedure \(CrPC\)](#)** provides **procedures for administering criminal law in India**. It was enacted in 1973 and became effective on **1 April 1974**.

What are the Current Issues Related to the Criminal Justice System in India?

- **Pendency of Cases:** As per the records of 2022, over **4.7 crore cases are pending in Indian courts across different levels of the judiciary**. Amid the rising trend of litigation, more people and organisations are approaching courts. This spike, however, is not reflected in the number of judges available to hear these cases.
 - Also, according to [National Crime Records Bureau \(NCRB\)-Prison Statistics India](#), 67.2% of total prison population in India comprises trial **prisoners**.
- **Colonial Nature:** Both **substantive and procedural aspects** of the criminal justice system were designed with the purpose of ruling the nation in British colonial times.
 - In light of this, the **relevance of these 19th century laws is debatable in the 21st century**.
- **Slow Enforcement of Judicial Orders:** Lack of coordination between the Judiciary and Police often results in **judgements remaining on paper rather than percolating to the ground**.
 - For instance, [Section 66A of the Information Technology Act 2000](#) that prescribed **punishment for sending offensive messages** through a computer or any other communication device.
 - Even after [Section 66A was struck down by the Supreme Court](#), **police continued to carry out arrests**. It shows a lack of coordination and a **failure to apply judgements on the ground**.
- **Inhumane Behaviour Behind Bars:** Over the years, critics have repeatedly complained about the **indifferent and even inhuman behaviour of prison staff**. Also, there have been many instances of [custodial rapes and deaths](#) resulting in **violation of prisoners' human rights**.
- **Language Barrier:** As per the **current constitutional scheme**, **English** is the **official language** for the Supreme Court and High Court of India until Parliament by law otherwise provides. (**Article 348(1)**).
 - For those coming from different linguistic backgrounds, the complexity of statutory language makes the legal system difficult to understand.
 - This **language barrier limits the understanding regarding their rights**, exacerbates lack of awareness and effectively **prevents them from accessing justice**.

What are Recent initiatives to Improve the Criminal Justice System?

- **National Mission for Justice Delivery and Legal Reforms**
- [AI Portal SUPACE](#)
- [Interoperable Criminal Justice System \(ICJS\) Project](#)
- [Live-Streaming Supreme Court Proceedings](#)

What Should be the Way Forward?

- **Restorative Justice:** Identifying the **rights of crime victims** must be given a major thrust in reforming laws. Introducing **victim and witness protection schemes, utilising victim impact statements**, and enhancing **victim compensation and restitution rights** will be a step towards restorative justice.
 - The [V S Malimath Committee \(2003\)](#) and 268th Law Commission Report of India, (2017) championed the **victim's right to participate in grant or cancellation of bail** and suggested **"victim impact assessment"** reports in bail matters.
- **Increasing Strength of Judicial Service:** The 2020 India Justice Report revealed that **India has one judge for every 50,000 citizens**. There is a need to substantially **increase the strength of the judicial services** by appointing more judges at the subordinate level. Improvements **must start from the bottom of the pyramid**.
 - As part of strengthening the subordinate judiciary, it must also receive technical and administrative support including **digitisation of documents to help in speeding up investigations and trials**.
 - Also, institutionalising [All-India Judicial Service](#) can be a step in the right direction.
- **Polishing the Police:** A **progressive, modern India must have a police force which meets**

the democratic aspirations of the people. In line, there is a need to reform the [Police Act](#) and upgrade the skills of our police force to effectively tackle 21st century crimes such as **cybercrimes and economic offences.**

- The Supreme Court in the case of **Pratap Singh v. The Union of India** has also given guidelines suggesting reforms in the police system including separation between the **functions of police in maintaining law and order and investigation.**
- **Overcoming Judicial Backlog:** Right to a speedy trial is the essence of criminal justice. To overcome the backlog of cases, the judiciary needs to embrace a host of reforms in court procedure. At the same time, it can stress on measures such as adopting [Alternative Dispute Resolution mechanisms](#) like [Mediation](#), [Arbitration for petty offences](#) and the **effective use of technology for proper case management.**
- **Judicial Language Parity: Communication of justice is as important as the determination of justice.** To cultivate the confidence of the common citizen, the goal of the legal system should be to **eliminate language difficulties** making the process of **entering courts less burdensome** for non-English speakers.
 - Reducing the language barrier would be a step towards '**Indianisation**' of a country's **legal system.**
- **Raising the Bar on Death Penalty:** Supreme Court suggested that while delivering judgement in case related to death penalty the **convict's social background, age, educational levels should be taken into account.**
 - Recently, the Supreme Court bench has also laid emphasis upon framing **guidelines regarding potential [mitigating circumstances](#) to be considered while imposing death sentences.**

Drishti Mains Question:

The evolution of criminal practises has increased appetite for change in the Indian Justice Delivery System. Comment.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Mains

Q.1 Instances of the President's delay in commuting death sentences has come under public debate as denial of justice. Should there be a time specified for the President to accept/reject such petitions? Analyse. **(2014)**

Q.2 National Human Rights Commission (NHRC) in India can be most effective when its tasks are adequately supported by other mechanisms that ensure the accountability of a government. In light of above observation assess the role of NHRC as an effective complement to the judiciary and other institutions in promoting and protecting human rights standards. **(2014)**