Reforming Criminal Laws

For Prelims: Criminal laws such as Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act

For Mains: Judiciary, Reforming Criminal Laws

Why in News?

Recently, the government has initiated the process of amendment to Criminal laws such as **Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act.**

- In this pursuit, the **Ministry of Home Affairs** has sought suggestions from various stakeholders like **Governors, Chief Ministers, Chief Justice of India, Chief Justices of various High Courts, etc.**
- Earlier, **the 111th, 128th & 146th Parliamentary Standing Committee report** had recommended that there is a need for a comprehensive review of the criminal justice system of the country.

What is the History of the Criminal Justice System?

- The **codification** of criminal laws in India was **done during British rule,** which more or less remains the same even in the **21st century.**
- **Lord Thomas Babington Macaulay** is said to be the chief architect of codifications of criminal laws in India.
- Criminal law in India is governed by **Indian Penal Code, 1860,** Code of Criminal Procedure**, 1973, and Indian Evidence Act, 1872**, etc.
- Criminal law is considered to be the **most apparent expression of the relationship between a state and its citizens.**

What is the Need for Reforms?

- **Colonial Era Laws:** The criminal justice system is a **replica of the British colonial jurisprudence,** which was designed with the purpose of ruling the nation and not serving the citizens.
- **Ineffectiveness:** The purpose of the criminal justice system was to protect the rights of the innocents and punish the guilty, but nowadays the system has become a tool of harassment of common people.
- **Pendency of Cases:** According to **Economic Survey 2018-19,** there are about 3.5 crore cases pending in the judicial system, especially in district and subordinate courts, which leads to actualisation of the maxim **"Justice delayed is justice denied."**
- **Huge Undertrials:** India has one of the world's largest number of undertrial prisoners.
    - According to **National Crime Records Bureau (NCRB)**-Prison Statistics India (2015), 67.2% of our total prison population comprises **undertrial prisoners.**
- **Investigation:** Corruption, huge workload and accountability of police is a major hurdle in speedy

and transparent delivery of justice.

- **Madhav Menon Committee:** It submitted its report in 2007, suggesting various recommendations on reforms in the **Criminal Justice System of India (CJSI).**
- **Malimath Committee Report:** It submitted its report in 2003 to the CJSI.
    - The Committee had opined that the existing system "weighed in favour of the accused and did not adequately focus on justice to the victims of crime."
    - It has provided various **recommendations** to be made in the CJSI, which were not implemented.

What should be the Framework of Reform?

- **Victim Protection:** The reason for victimisation ought to be given a major thrust in reforming laws to identify the rights of crime victims.
    - **For Example:** Launch of victim and **witness protection schemes,** use of victim impact statements, increased victim participation in criminal trials, enhanced access of victims to compensation and restitution.
- **Construction of New Offences:** The construction of new offences and reworking of the existing classification of offences must be guided by the principles of criminal jurisprudence which have substantially altered in the past four decades.
    - **For Example**: Criminal liability could be graded better to assign the degree of punishments.
    - **New types of punishments** like community service orders, restitution orders, and other aspects of restorative and reformative justice could also be brought into its fold.
- **Streamlining IPC & CrPC:** The classification of offences must be done in a manner conducive to management of crimes in the future.
    - Many chapters of the IPC are overloaded at several places.
    - The chapters on offences against public servants, contempt of authority, public tranquillity, and trespass can be redefined and narrowed.
- **Curbing Unprincipled Criminalisation:** Guiding **principles need to be developed** after sufficient debate before criminalising an act as a crime.
    - Unprincipled criminalisation not only leads to the creation of new offences on unscientific grounds, but also arbitrariness in the criminal justice system.

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