



## Criminal Justice System

**For Prelims:** [Article 246](#), [State List](#), [Criminal Procedure Code, 1973](#), [Sessions Judge](#), [Prison System](#), [Vocational Training](#), [High Courts](#), [Supreme Court](#), [Fastrack Courts](#), [Human Rights](#), [Bail](#), [Law Commission of India](#), [Legal Aid](#).

**For Mains:** Flaws involved in India's Criminal Justice System and measures to alleviate them.

[Source: TH](#)

### Why in News?

Recently, a **fabricated rape accusation** and subsequent **imprisonment** revealed a range of systemic **shortcomings** in our **law enforcement machinery** and social complexities that demand urgent attention.

### How is the Criminal Justice System (CJS) in India?

#### ▪ About:

- The criminal justice system of any state is the set of **agencies** and **processes** established by governments for **administration** of criminal justice aimed at controlling **crime** and imposing [punishment](#) on persons who violate the law.
- India's criminal justice system is based on the [Indian Penal Code \(IPC\)](#) enacted in 1860.
- [Article 246](#) of the Constitution of India places the [police](#), [public order](#), [courts](#), [prisons](#), [reformatories](#) and other allied institutions in the [State List](#).
  - However, the **Union laws** are followed by the Police, Judiciary, and Correctional Institutes, which form the basic organs of the criminal justice system.

#### ▪ Structure of the CJS: It consists of the **four main pillars**.

- **Investigation by Police:** Section 161 of the [Criminal Procedure Code, 1973](#) allows the investigation officer to question anyone who may know about the case and write down their statement.
- **Prosecution of Case by the Prosecutors:** [Prosecutors](#) charge an accused with a crime and try to show that he/she is guilty in a court of law.
- **Determination of Guilt by the Courts:** The court pronounces the **sentence** using its **discretion**, considering aggravating and mitigating factors, the offender's background, and the likelihood of their **reform**.
- **Correction through the Prison System:** The imprisonment in India is used for the [reformation and rehabilitation](#) of the prisoner through [education](#), [labour](#), [vocational training](#) and [yoga](#) and **meditation**.

### What are the Challenges Involved in the Criminal Justice System in India?

- **Pendency of Cases:** As of July 2023, **over 5 crore** cases were pending across all courts in India.
  - Of them, **87.4%** are pending in [subordinate courts](#), **12.4%** in [High Courts](#), while nearly **1,82,000 cases** have been pending for over 30 years. The [Supreme Court](#) had **78,400**

pending cases.

- **Judicial Vacancies:** Despite a longstanding target of **50 judges per million people**, India has only **21 judges per million** people, laying the foundation for delays.
- **Slow Progress in Fastrack Courts:** The functioning of [fast-track courts](#) has been far from ideal.
  - **New courts** with the necessary infrastructure and dedicated judges are not set up for **fast-track purposes**.
  - Instead, **existing courts** are typically **designated** as **fast-track courts**, requiring judges to manage their **regular caseloads** in addition to these **expedited cases**.
- **Abuse of Power by Police:** Police are often accused of [unwarranted arrest, unlawful imprisonment](#), wrongful search, **harassment, custodial violence**, death etc.
  - In addition, police are continuously acquiring **more and more power** on the grounds of [prevention laws](#).
- **Complex Mechanism:** Present day justice mechanisms are too complex and it is completely far from the [marginalised people](#).
  - In a system focused on institutional arrangements rather than building capacity, [vulnerable sections](#) of society will inevitably be marginalised.
- **Perceived Biases:** In comparison to their percentage in the **total population, Adivasis, Christians, Dalits, Muslims and Sikhs** are all well **over-represented** in Indian prisons.
- **Violations of Human Rights in Prison:** In the name of extracting **confessions** and investigating crimes, authorities use **physical force** upon the prisoners.
  - **Torture** is also inflicted on women in the form of [custodial rape, molestation](#) and other forms of **sexual abuses**.

## How can the Criminal Justice System in India be Reformed?

- **Bail Reforms:** "[Bail is rule and jail is an exception](#)" is a judicial principle that was laid down by the Supreme Court during a landmark judgment of **State of Rajasthan v. Balchand alias Baliya** in 1978.
  - In its **268<sup>th</sup> Report**, the [Law Commission](#) of India stressed that urgent measures need to be taken to curtail the length of [detention](#), and concluded that the law relating to bail must be revisited to prevent this.
- **Reviving Fastrack Courts:** **Expeditious disposal** of long pending sessions cases should be done to make these courts "**truly fast-track**".
- **Legal Aid Reform:** **Training, mentoring and building capacities** of young professionals for improving quality of **socio-legal services** to make CJS more effective.
- **Filling Judicial Vacancies:** Filling judicial vacancies effectively is crucial for maintaining a **functional** and [fair judicial system](#). For this, [All India Judicial Service \(AIJS\)](#) can be explored for the recruitment of judges at the level of **additional district judges** and district judges.
- **Application of AI in Criminal Case Management:** AI can be used to help judges make decisions about **bail, sentencing, and parole**.
  - AI can be used to assess the risk of **recidivism** for offenders.

## Related initiatives Taken by Government:

- [National Mission for Justice Delivery and Legal Reforms](#)
- [AI Portal SUPACE](#)
- [Modernisation of Police Scheme](#)
- [Bharatiya Nyaya \(Second\) Sanhita, 2023](#)
- [Bharatiya Nagarik Suraksha \(Second\) Sanhita, 2023](#)
- [Bharatiya Sakshya \(Second\) Bill, 2023](#)
- [National Mission for Justice Delivery and Legal Reforms](#)

## What Commissions have been set up to Reform CJS?

- [National Police Commission \(NPC\)](#): It recommended that there must be a **judicial enquiry** in cases of **custodial death or rapes**.

- [Malimath Committee](#): It recommended that there is a need to have a **separate police force** for maintaining law and order and crime investigation.
- [All India Jail Reforms Committee \(Mulla Committee\)](#): It emphasised the recruitment of **proper** and **trained staff** for the administration of jails and, for this purpose, a correctional service should be established.
- [Krishnan Iyer Committee](#): It recommended the appointment of **women staff** in the police for handling **women** and **child offenders**.



## What are Judicial Pronouncements Related to Reformation of CJS?

- [Prakash Singh v. Union of India Case, 2006](#): The Hon'ble Supreme Court stated that a **state security commission** must be established in each state to keep a check on the work of the police and observe that there is no influence.
- [S.P. Anand v. State of Madhya Pradesh Case, 2007](#): Prisoners have basic **rights to a healthy life** even though their right to liberty and free movement is restricted.
- [State of Gujarat v. High Court of Gujarat Case, 1988](#): It was held that **reasonable** wages must be paid to prisoners in jail for the work or labour they have done.
- [Hussainara Khatoon v. Home Secretary, State of Bihar Case, 1979](#): Keeping the **undertrials** in jail



for a longer period than their punishment is a **clear violation** of their fundamental rights guaranteed under [Article 21](#).

- **Prem Shankar Shukla v. Delhi Administration Case, 1980:** The practice of **handcuffing** is **inhuman, unreasonable and harsh**, and thus, an accused person must not be handcuffed in the first instance.

## Conclusion

The Indian criminal justice system faces challenges such as a large backlog of cases, inefficiency, lack of resources, poor infrastructure, and insufficient training for personnel. However, efforts are being made to reform and improve the system, particularly to ensure that marginalised communities have better access to justice.

### **Drishti Mains Question:**

Q. The reform of the criminal justice system in India has become imperative especially considering the recent failures and shortcomings within the system. Do you agree?

### **UPSC Civil Services Examination, Previous Year Question:**

**Q.** Critically examine the Supreme Court's judgement on 'National Judicial Appointments Commission Act, 2014' with reference to appointment of judges of higher judiciary in India. **(2017)**

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