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Balancing Efficiency and Fairness: The Evolution and Challenges of Criminal Law Reforms in India

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ABSTRACT

Amendments to India's criminal code have been the subject of ongoing debate as they seek to balance the sometimes-opposing goals of efficiency and fairness. The criminal justice system suffers from inefficiencies, including case backlogs, procedural delays, and resource-deficient courts, which compromise its ability to respect the rule of law, ensure equity, and safeguard individual rights. This paper analyses the development and present condition of criminal law reforms in India, concentrating on legislative and judicial initiatives designed to improve efficiency while maintaining fundamental justice values. It examines key reform issues, including procedural streamlining, expedited courts, court digitisation, and victim-centred amendments, through a qualitative examination of pertinent legislation, judicial rulings, and scholarly viewpoints. The paper finds that, despite progress, India's criminal justice system requires a more comprehensive, institutionalised approach to properly synchronise justice with efficiency.

Keywords: Criminal reform, Criminal laws, Legislative framework, Amendments, Interpretations, Justice system.

I. INTRODUCTION

The criminal justice system of any democratic nation works as the bedrock of the rule of law, ensuring that order is maintained while individual freedom is safeguarded. In India, this system, inherited largely from the British colonial era, has long been under pressure. For decades, it has grappled with systemic inefficiencies, a staggering volume of pending cases, procedural delays, and resource-deficient courts. These deficiencies do not simply slow down the wheels of justice; they actively compromise the system's ability to guarantee equity and protect fundamental rights.

In recent years, India has witnessed a historic overhaul of its criminal jurisprudence. The legislative and judicial initiatives aimed at reforming these laws seek to strike a delicate balance between two sometimes-opposing goals: improving administrative efficiency and upholding the

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core values of fundamental justice. This paper offers a comprehensive analysis of the development, present condition, and main issues of criminal law reforms in India, examining procedural reform, court digitisation, expedited judicial mechanisms, and victim-centred amendments.

II. THE HISTORICAL CONTEXT AND THE NEED FOR REFORM

To understand the current landscape of criminal law reforms in India, one must examine the historical framework that governed the country for a long period. The *Indian Penal Code* of 1860,¹ the *Code of Criminal Procedure* of 1898 (later overhauled in 1973),² and the *Indian Evidence Act* of 1872³ formed the foundation of India's criminal justice architecture. While these laws provided a robust codified structure, they were deeply rooted in a colonial mindset designed more for state control than for the protection of citizens' rights.

As the population grew and society evolved, the mismatch between these old procedural laws and modern realities became stark. The consequences have been severe.

The pendency crisis. Millions of cases remain pending across various tiers of the judiciary, leaving both accused individuals and victims in legal limbo for years, and sometimes decades.

The undertrial population. A significant proportion of India's prison population consists of undertrials, that is, individuals awaiting trial who have not been convicted of any crime, often spending more time in jail than the maximum punishment prescribed for their alleged offence.

Investigative bottlenecks. Poor infrastructure, a lack of modern technological training for police personnel, and low police-to-population ratios have frequently resulted in compromised investigations and low conviction rates.

Recognising these systemic failures, various Law Commission studies, the landmark *Malimath Committee Report* of 2003,⁴ and the *Madhava Menon Committee Report* of 2007⁵ consistently advocated holistic reforms. The consensus was clear: the system needed to shift from a purely punitive approach to one built on institutional efficiency, technological integration, and fairness to all stakeholders.

¹ The Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India) (repealed 2024).

² The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India) (repealed 2024); replacing the Code of Criminal Procedure, 1898, No. 5, Acts of Parliament, 1898 (India).

³ The Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872 (India) (repealed 2024).

⁴ GOV'T OF INDIA, MINISTRY OF HOME AFFAIRS, Committee on Reforms of Criminal Justice System, Report (2003) (Chairman: Justice V.S. Malimath).

⁵ GOV'T OF INDIA, MINISTRY OF HOME AFFAIRS, Committee on Draft National Policy on Criminal Justice, Report (2007) (Chairman: Prof. N.R. Madhava Menon).

III. THE NEW LEGISLATIVE FRAMEWORK: A PARADIGM SHIFT

The most decisive step toward transforming India's criminal jurisprudence came with the introduction of three new major statutes designed to completely replace the colonial-era codes: the *Bharatiya Nyaya Sanhita* (BNS),⁶ the *Bharatiya Nagarik Suraksha Sanhita* (BNSS),⁷ and the *Bharatiya Sakshya Adhiniyam* (BSA).⁸ These statutes represent an attempt to decolonise Indian law, streamline criminal procedure, and incorporate contemporary societal standards.

A. Streamlining substantive law: *Bharatiya Nyaya Sanhita*

The BNS simplifies the penal code by reducing the total number of sections and modernising the definitions of offences. It expressly introduces community service as a form of punishment for petty offences, aiming to reduce prison overcrowding and foster a rehabilitative approach to justice. It also updates provisions relating to offences against women and children, cybercrimes, and state security, attempting to draw a clear distinction between legitimate dissent and acts that threaten the security of the nation.

B. Revamping procedure: *Bharatiya Nagarik Suraksha Sanhita*

The BNSS focuses heavily on procedural streamlining to address delays. It mandates strict timelines for various stages of the criminal process. For instance, it lays down specific timeframes for filing charge sheets, framing charges, and delivering judgment after the conclusion of arguments. By binding investigative agencies and courts to statutory landmarks, the BNSS aims to systematically eliminate the culture of endless adjournments.

C. Modernising evidence: *Bharatiya Sakshya Adhiniyam*

The BSA acknowledges the transformation of communication and technology in the twenty-first century. It expands the definitions of primary and secondary evidence to include electronic and digital records, such as server logs, smartphone messages, emails, and biometric data. This change ensures that the legal framework matches the technological ground reality of modern crime investigation and financial fraud.

IV. CORE REFORM ISSUES: EFFICIENCY VERSUS FAIRNESS

While legislative changes provide the framework, the realisation of reform hinges on addressing critical operational issues. The tension between making the system quick (efficiency) and ensuring that it remains just (fairness) is evident across four major areas.

⁶ The *Bharatiya Nyaya Sanhita*, 2023, No. 45, Acts of Parliament, 2023 (India).

⁷ The *Bharatiya Nagarik Suraksha Sanhita*, 2023, No. 46, Acts of Parliament, 2023 (India).

⁸ The *Bharatiya Sakshya Adhiniyam*, 2023, No. 47, Acts of Parliament, 2023 (India).

A. Procedural streamlining and law enforcement accountability

Efficiency in the criminal justice system starts at the police station. Historically, delays in filing First Information Reports (FIRs), prolonged investigations, and the delayed presentation of charge sheets have stalled trials before they even began.

The introduction of preliminary inquiries in selected offences helps prevent the misuse of criminal law, but it must be balanced carefully so that it does not become a tool for police inaction. Procedural streamlining also requires a strict separation between the law-and-order wing and the investigative wing of the police, a long-standing direction of the Supreme Court in *Prakash Singh v. Union of India*.⁹ Without this structural differentiation, investigative officers remain overburdened with daily policing duties, directly compromising the quality and speed of criminal inquiries.

B. Court digitisation and technological integration

Technology is perhaps the most powerful means available to enhance efficiency without sacrificing fairness. The Government of India's e-Courts Mission Mode Project has laid the groundwork for a digital judicial infrastructure.¹⁰

Virtual hearings and video conferencing. Conducting remand hearings and recording the testimony of witnesses or medical experts by video conferencing saves significant time and state resources. It also reduces the logistical burden of transporting high-risk prisoners from jails to courtrooms.

The Interoperable Criminal Justice System (ICJS). This initiative seeks to integrate the data systems of courts, police, prisons, and forensic laboratories into a single, flexible platform. When an FIR is registered, the data becomes available to the prosecution and, eventually, the court, reducing data-entry errors and transit delays.

However, rapid digitisation raises significant equity concerns. The digital divide in India means that poorer litigants, particularly in rural areas, may lack access to stable internet, digital devices, or the technological literacy required to navigate e-courts. Institutionalising digitisation therefore requires creating physical service centres (e-Sewa Kendras) within court complexes to ensure that technology acts as a facilitator rather than a barrier to access.

⁹ *Prakash Singh v. Union of India*, (2006) 8 SCC 1 (India).

¹⁰ GOV'T OF INDIA, DEP'T OF JUSTICE, eCourts Mission Mode Project (Interoperable Criminal Justice System), <https://ecommitteesci.gov.in/icjs/> (last visited July 1, 2026).

C. Expedited courts and special tribunals

To address backlogs in the standard judicial channels, India has relied heavily on Fast-Track Courts (FTCs) and Special Courts created under specific legislation, such as the *POCSO Act*¹¹ or the *NDPS Act*.¹² These courts are created exclusively for specific categories of heinous or sensitive crimes.

While FTCs have succeeded in disposing of cases at a faster rate, their efficacy is often undermined by the fact that they draw from the same pool of judicial officers and infrastructure as the regular courts. Simply redesignating an existing court as a fast-track court, without adding new judges or staff, leads to a bottleneck in the system. True efficiency requires an expansion of the judicial workforce to improve the judge-to-population ratio, which remains low compared with global standards.

D. Victim-centred amendments

For generations, criminal jurisprudence viewed crime solely as an offence against the State, leaving the actual victim as a mere witness in their own cause. Modern criminal law reforms have sought to correct this imbalance by shifting toward a more victim-centric model.

Victim compensation schemes place a statutory mandate on states to provide financial rehabilitation to victims of acid attacks, sexual assault, and other violent crimes. A right to participation gives victims a greater voice in the judicial process, including the right to be informed of the progress of the investigation and the right to appeal against an acquittal or an inadequate sentence. Witness protection initiatives, such as the implementation of witness protection protocols, ensure that vulnerable witnesses can testify without fear of retaliation from powerful defendants, thereby protecting the integrity of the truth-seeking process.

V. JUDICIAL INITIATIVES AND CONSTITUTIONAL PROTECTION

While the legislature creates the law, the higher judiciary in India, the Supreme Court and the High Courts, acts as the ultimate protector of fundamental justice values. The judiciary has consistently intervened to ensure that the pursuit of administrative efficiency does not trample upon constitutional guarantees, notably INDIA CONST. art. 21 (the right to life and personal liberty)¹³ and INDIA CONST. art. 22 (protection against arrest and detention).¹⁴ Through landmark rulings, the Supreme Court has affirmed critical doctrines. That a speedy trial is an implicit

¹¹ The Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).

¹² The Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61, Acts of Parliament, 1985 (India).

¹³ INDIA CONST. art. 21.

¹⁴ INDIA CONST. art. 22.

ingredient of a fair trial under Article 21 of the Constitution was a key holding in *Hussainara Khatoon v. State of Bihar*.¹⁵

In *Satender Kumar Antil v. CBI*,¹⁶ the Supreme Court introduced comprehensive guidelines to streamline the grant of bail, holding that arrest should be an exception rather than the rule and that unnecessary detention violates individual liberty. Similarly, in cases concerning digital evidence, the judiciary has strictly enforced certification requirements to ensure that electronic data is tamper-proof and authentic before it is presented in a court of law.

These judicial interventions provide a necessary check on state power, reminding law enforcement agencies that efficiency achieved by cutting corners or bypassing due process is inherently unconstitutional.

VI. TOWARDS A COMPREHENSIVE, INSTITUTIONALISED APPROACH

Despite significant legislative activity and judicial directives, India's criminal justice reforms remain a work in progress. The primary challenge lies in moving away from piecemeal solutions toward a deeply integrated and firmly rooted approach.

To fully synchronise justice with efficiency, several systemic gaps must be addressed. On judicial capacity, a severe shortage of judges and support staff leads to overburdened dockets; the creation of an All India Judicial Service (AIJS) would help recruit high-quality talent and strengthen the subordinate judiciary. On forensic science, delayed forensic reports hold up investigations and trials for months, so heavy investment in district-level forensic facilities, mobile forensic units, and specialised training for technicians is needed. On the legal aid system, the lack of quality representation for socio-economically marginalised undertrials calls for strengthening the Legal Services Authorities and funding focused on full-time public defenders. On data management, fragmented record-keeping across different states and police departments requires the full nationwide implementation of the Interoperable Criminal Justice System (ICJS) with strict compliance.

VII. CONCLUSION

The transformation of India's criminal justice system is a continuous evolutionary process. The transition from old colonial frameworks to a modern legislative system reflects a clear national commitment to creating a legal order suited to the needs of a contemporary society.

¹⁵ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81 (India).

¹⁶ *Satender Kumar Antil v. CBI*, (2022) 10 SCC 51 (India).

However, laws on paper are only as effective as the machinery that implements them. True reform cannot be achieved through legislative amendments or technological upgrades alone; it requires a cultural and structural shift across all branches of the justice system, namely the police, the judiciary, the legal fraternity, and correctional institutions. By maintaining an unwavering commitment to both procedural efficiency and the fundamental values of human rights and equity, India can build a criminal justice system that genuinely commands public trust and upholds the rule of law.
