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# Misery of Silent Sufferers: The Urgent Need for Prosecution and Investigation Reforms to Protect Human Rights

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SUSHIL YADAV<sup>1</sup>

## ABSTRACT

*Ability of a justice system to function effectively largely depends on way the investigation and prosecution is carried out. However, systemic inefficiencies, political meddling, and human rights abuses taint these pillars of justice in India. In “Misery of Silent Sufferers: The Urgent Need for Prosecution and Investigation Reforms to Protect Human Rights”, the limitations in investigative and prosecution system of India are critically examined, with special emphasis on how they result in wrongful detentions, custodial tortures, postponed trials, and tainted justice. Even today the investigative agencies use antiquated and coercive techniques, frequently giving confessions precedence over forensic evidence, despite there being constitutional protections and international human rights commitments. Political pressures, lack of resources, and lack of accountability often taint investigations, and public prosecutors operate under influence rather than as impartial officers of justice which further exacerbates the issues. As a result, the trust of citizens is damaged leading to rampant fundamental rights violations. Through comparisons with legal systems that have effectively reformed their investigative and prosecutorial bodies, this paper analyses the international best practices. It makes the case that if we need to halt power abuse, India needs to move away from confession-based policing and towards forensic-led investigations, guarantee prosecutorial independence, and put in place strong oversight procedures. The overall impact of the new criminal laws (BNS, BNSS, and BSA) on police accountability and prosecution effectiveness is also analysed well, raising stipulations about whether they result in real reform or only surface-level adjustments. This study further elucidates the urgent need for systemic changes by putting forth specific policy recommendations, such as independent investigative agencies, specialised training, and technology improvements.*

**Keywords:** *Accountability, Antiquated Techniques, Human Rights, Investigation, Prosecution.*

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## I. INTRODUCTION

A blindfolded Statue which earlier represented impartiality, equity, and the rule of law. However, the former Chief Justice of India, Hon'ble Justice DY. Chandrachud recently inaugurated the new justice Statue in which the blindfold is removed, suggesting that justice is not blind rather it will see everyone equally. But rather than guaranteeing justice, our system often closes its eyes to injustice. Albeit investigation and prosecution are those cornerstones of justice which are supposed to protect human rights and provide accountability, in reality, they frequently serve as tools of oppression and hold up the process.<sup>2</sup> The current system is rife with inefficiencies that hinder justice rather than administer it, ranging from politically motivated prosecutions to erroneous arrests.<sup>3</sup>

The strength of a criminal case is relied on the how well investigations are carried out. Police being primary body for investigation is tasked with finding the truth, gathering evidence, and making sure that those responsible are held accountable and not the innocent.<sup>4</sup> The situation is far from ideal, though. Corruption, political influence, torture in detention, and procedural errors are commonplace in Indian police investigations, which frequently result in erroneous convictions or the escape of real offenders<sup>5</sup>. Investigative failure is exemplified by the prevalence of "fabricated confessions." Many cases are based on coerced admissions obtained through third-degree tactics, such as psychological coercion, torture, and intimidation, rather than scientific evidence.<sup>6</sup>

Witness intimidation and evidence tampering are also serious problems. Powerful organisations, including politicians, business titans, and criminal syndicates, are able to influence the system because there is no independent investigative agency.<sup>7</sup> Threats frequently cause witnesses to become hostile, and forensic reports are occasionally changed to support a story.<sup>8</sup> The outcome? While innocent people suffer in prisons for crimes they never committed, the guilty get away with it. Prosecution is the driving force behind a criminal case, while investigation serves as its framework.<sup>9</sup> In order to ensure that cases are presented based on the evidence and not outside influence, prosecutors are expected to be unbiased officers of justice.

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<sup>2</sup> Abhinav Sekhri, *The Idea of the Criminal Justice System*, 4(3) Indian J.L. & Pol'y 234, 237 (2020).

<sup>3</sup> Law Commission of India, *Report on Wrongful Prosecution*, Report No. 277 (2018).

<sup>4</sup> K. K. Dutta, *History of the Indian Police*, 192 (1997).

<sup>5</sup> National Human Rights Commission of India, *Custodial Deaths and Human Rights Violations* (2022), available at <https://nhrc.nic.in/>.

<sup>6</sup> People's Union for Civil Liberties (PUCL), *Third-Degree Torture in India: A Grim Reality*, Report (2019).

<sup>7</sup> Prakash Singh v. Union of India, (2006) 8 SCC 1.

<sup>8</sup> CBI v. Anil Sharma, (1997) 7 SCC 187.

<sup>9</sup> B.B. Pande, *Witness Protection in India: Legislative Gaps and Judicial Initiatives*, 12 Nat'l L. Univ. Delhi L. Rev. 56 (2021).

However, rather than operating as separate legal bodies, prosecutors in India frequently serve as branches of the government.

The appointment procedure is not transparent in a way it should be, and maximum are subject to political pressure from special interests to either defend particular people or vigorously prosecute others and both these are fatal to justice.<sup>10</sup> The low conviction rate for serious crimes cannot be overlooked. India's conviction rate for rape, murder, and corruption cases is still shockingly low, according to NCRB data, primarily as a result of inadequate prosecution and sometimes corruption or personal agendas.<sup>11</sup>

Ineffective trial tactics are frequently the result of prosecutors managing an excessive volume of cases with insufficient resources. Missing evidence, ill-prepared arguments, and a lack of coordination between the legal and police departments are the main reasons why many cases end in failure.

The painfully slow pace of justice is another obvious flaw in the current system. With more than 4.5 crore cases still pending in various courts, India's judiciary is notorious for its backlog<sup>12</sup>.

Ineffective investigations, poor prosecution tactics, and procedural obstacles that drag out trials for decades are frequently the causes of this delay<sup>13</sup>. As a result, justice is not only postponed but frequently denied in this legal system. Prominent cases—whether they involve sexual assault trials, deaths in custody, or politically delicate situations—showcase how easily investigations can be swayed in favour of the powerful.<sup>14</sup> Investigative and prosecutorial shortcomings have led to long-lasting injustice in a number of cases, including the 2002 Gujarat riots,<sup>15</sup> the Arushi Talwar double murder case<sup>16</sup>, and the Tamil Nadu custody deaths of Jayaraj and Bennicks<sup>17</sup>.

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<sup>10</sup> Vineet Bhalla, *The Crisis in India's Public Prosecutor System: A Structural and Political Analysis*, 54 Indian J. Const. L. 235, 239 (2020)

<sup>11</sup> Nat'l Crime Records Bureau, *Crime in India 2023: Conviction Rates and Case Disposals*, Ministry of Home Affairs, Govt. of India (2024), <https://ncrb.gov.in>

<sup>12</sup> Nat'l Judicial Data Grid, *Pending Cases in Indian Courts: A Statistical Overview*, Ministry of Law & Justice, Govt. of India (2024), <https://njdg.ecourts.gov.in>

<sup>13</sup> K.K. Venugopal, *The State of Prosecution in India: Institutional Weaknesses and Challenges*, 50 Indian J. Criminology 87, 92 (2021)

<sup>14</sup> Law Comm'n of India, *Judicial Delays & Backlog: A Roadmap for Reform*, Rep. No. 245 (2014), <https://lawcommissionofindia.nic.in>

<sup>15</sup> Manoj Mitta, *The 2002 Gujarat Riots: Investigative Failures and Legal Implications*, 55 J. Indian L. & Soc'y 67, 72 (2018)

<sup>16</sup> R.V. Sreekumar, *The Aarushi Talwar Case: A Case Study in Investigative and Prosecutorial Failure*, 51 Indian J. Criminology 23, 27 (2019)

<sup>17</sup> P. Sasikumar, *Custodial Deaths in India: The Case of Jayaraj and Bennicks*, 58 Soc. Change 112, 115 (2021)

## II. RAMPANT ABUSE OF HUMAN RIGHTS

The main test of justice in a democracy is the protection of human rights. Sadly, the very organisations which are established for protecting these rights end up being the biggest violators of them in India. The fundamental rights of victims and accused people are rampantly violated by adopting flawed investigation and prosecution procedures, which are beset by systemic inefficiencies, corruption, and mainly lack of accountability. Thousands of lives are destroyed and compromised as a result of a system where justice is not just postponed but also denied. Confessions by means of force and custodial violence are two of the major threats to human rights in Indian criminal justice system. The police mostly uses third-degree torture techniques, which violates a person's right to dignity and freedom from torture as guaranteed by Article 21 of the Constitution, because they are in a hurry to lighten the burden off their shoulders and also to silent the rage in public.<sup>18</sup> Accused persons end up getting beatings, psychological torture, verbal abuses, rape and unlawful detentions just to coerce confessions, and this is more common with people belonging to marginalised communities.<sup>19</sup> The level of unchecked police brutality is well depicted by high-profile cases like the 2019 Hyderabad encounter killings and the notorious custodial deaths of Jayaraj and Bennix in Tamil Nadu. Investigation rooms become haunting rooms rather than places which find truth, this happens when strict oversight procedures aren't in place, allowing these violations to go unchecked. Apart from this, even systematic delays and indifferent attitude of Judiciary sometimes represent a serious human rights crisis in Indian investigation and prosecution system. Even though the legal maxim "justice delayed is justice denied" is frequently preached, the overburdened courts and slow investigative processes often results into innumerable people spending years behind bars without being given a chance to be tried.

Nearly 77% of India's prison population is made up of undertrial inmates, many of whom have been detained for lengths of time longer than their possible sentences in the event of a conviction, according to the National Crime Records Bureau (NCRB)<sup>20</sup>.

Marginalised and people under penury who don't have the legal means to defend themselves are disadvantageously affected. Justice is nowadays seen as a dream for many due to the protracted investigations, tampered forensic evidence and flaws in charge sheets.

The disparity in the rights of the victims and the accused further emphasises how flawed the

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<sup>18</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India)

<sup>19</sup> D.K. Basu v. State of West Bengal, (1997) 1 SCC 416 (India)

<sup>20</sup> National Crime Records Bureau, Prison Statistics India 2021, Ministry of Home Affairs, Govt. of India, (2022), <https://ncrb.gov.in/en/prison-statistics-india>.

system is. Crime victims must deal with an equally harsh reality, even though the accused are frequently the targets of torture, false accusations, and arbitrary detentions. Due to political meddling, social pressure, and police indifference, many cases—especially those involving sexual violence—never go to trial. Law enforcement officials discourage survivors of rape and assault from seeking legal action, and they frequently have their credibility called into question more than the offenders<sup>21</sup>. Prominent incidents like the rape cases in Kathua and Hathras show how the system is rigged to shield the wealthy while further traumatising the victims<sup>22</sup>. The Indian criminal justice system is still operating in a way that place political interests much ahead of justice and human rights, despite of constitutional protections and international human rights commitments. The ‘silent victims’ which includes accused people, victims denied justice, and families split apart by ineffective legal procedures will continue to bear the brunt of this flawed and dysfunctional system unless police investigation and prosecution procedures are urgently reformed in a real manner<sup>23</sup>. Hence, there is a need for fast-track courts, forensic-driven investigations, independent investigative agencies, and more stringent accountability procedures. India can only expect to restore trust in its legal system and genuinely uphold the principles of human rights and a fair trial by resolving these potential issues.

### III. A DISSECTION OF FLAWS IN INVESTIGATIONS

In India, investigation carried by police which is a very vital procedure is often tainted by structural inefficiencies, corruption, and antiquated practices. Whether the innocent are wrongfully convicted or the guilty are punished depends largely on the integrity of the investigation and then on the trial, both go hand in hand. However, Indian law is beset by procedural flaws that effect the search for the truth, lack scientific rigour, and frequently work under umbrella of political pressure. Inadequate investigations, ranging from forced confessions to missing evidence, seriously violate human rights in addition to jeopardising court decisions. Political meddling in police investigations is among the most obvious problems. Law enforcement organisations are commonly employed to further political agendas, quell dissent, and protect the wealthy. Police operations that lack autonomy frequently result in biased investigations, postponed action, and manipulated evidence. This is especially found in high-profile cases where political interests are at stake, and the weaker side is suppressed in the end

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<sup>21</sup> Vrinda Grover & Kalpana Kannabiran, *Challenging Criminal Justice System's Response to Sexual Violence in India*, 5 Nat'l L. Sch. J. 125, 130 (2018)

<sup>22</sup> Rukmini S., *Kathua & Hathras: A Tale of Two Justice Systems*, The Hindu (Oct. 15, 2020), <https://www.thehindu.com/news/national/kathua-hathras-justice-system-failures/article32853714.ece>.

<sup>23</sup> Amnesty Int'l, *India: Victim Blaming & Police Failures in Rape Investigations*, Amnesty Int'l (Dec. 10, 2020), <https://www.amnesty.org/en/latest/news/2020/12/india-victim-blaming-police-failures-in-rape-investigations/>

wither by money or threat.. The confidence of people in the legal system of India has become weak due to the numerous cases remaining unresolved or ending up in wrong convictions.

India's strong reliance on confessions rather than forensic evidence is another serious problem. Even when a confession is untrue, it is frequently obtained through the notorious "third-degree" interrogation techniques, which include coercion and torture<sup>24</sup>. This sometimes violate fundamental human rights guaranteed by the Indian Constitution<sup>25</sup> and international treaties in addition to resulting in wrongful incarcerations. Advanced legal systems, on the other hand, place a higher priority on expert testimony, digital evidence, and forensic science in order to prove guilt beyond a reasonable doubt<sup>26</sup>. But in India, investigations are still severely hampered by a lack of forensic resources and skilled staff, which results in feeble cases that fail in court.

Evidence manipulation and witness intimidation further erode the credibility of investigations. Important evidence has frequently been misplaced or deliberately altered to the advantage of influential individuals across the country. Because witnesses, who are often intimidated by powerful forces, either change their minds or disappear entirely, convictions are difficult. Many people are too afraid to testify because of the inadequate implementation of witness protection programs, even though they exist<sup>27</sup>. This falsification of the facts during the investigation phase guarantees that victims will never receive justice while criminals escape punishment.

Systemic investigational delays also play a role in the denial of justice. Due to a dearth of resources and an excessive volume of cases, law enforcement organisations frequently neglect to carry out prompt and comprehensive investigations<sup>28</sup>. Both victims and the accused suffer for a long time when evidence collection, charge sheet filing, and trial proceedings are delayed. On the other hand, countries with effective legal models guarantee prompt, fair and efficient administration of justice by having stringent and well monitored investigation and specialised units to deal with their areas in complex crimes.

Urgent reforms are necessary to address these deeply embedded problems. Restoring the credibility of process requires strong witness protection procedures, forensic technology investment, and police independence from political influence otherwise all efforts will go in vain. Coercive tactics can also be avoided by educating officers about human rights legislation

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<sup>24</sup> K. Sreedhar Rao & Nisha Kaur Uberoi, *Police Interrogation & Human Rights Violations in India*, 46 *J. Indian L. Inst.* 205, 209 (2021).

<sup>25</sup> INDIA CONST. arts. 20(3), 21.

<sup>26</sup> *R. v. Kearley*, [1992] 2 A.C. 228 (H.L.) (Eng.) (highlighting the role of forensic and expert testimony in investigations).

<sup>27</sup> *The Witness Protection Scheme, 2018*, Gazette of India, Dec. 5, 2018

<sup>28</sup> Nat'l Crime Records Bureau, *Crime in India Report 2022*, at 64 (2023)

and contemporary investigative methods. India's criminal justice system will remain a battleground where justice is an illusion and truth is lost in the absence of these reforms.<sup>29</sup>

#### IV. PROSECUTION TRYING TO CATCH FISH WITH TORN NET

Despite being tasked with enforcing justice, the Indian prosecution is at a point that is paradoxical because of systemic inefficiencies, political influence, and resource limitations. Although the judiciary depends on prosecutors to make convincing arguments, the truth is that many prosecutions fall short because of poor investigative methods, a lack of legal knowledge, and outside influences that undermine the process's integrity. The end result is a criminal justice system that violates the fundamental human rights of both the accused and the victims by maintaining low conviction rates, increasing wrongful prosecutions, and eroding public trust in the legal system<sup>30</sup>.

The prosecution system's lack of independence is among its most obvious shortcomings. In India, public prosecutors are appointed by the government and frequently act as political operatives rather than as unbiased defenders of the rule of law. Indian prosecutors are usually under pressure to either defend the powerful or vigorously pursue cases based on public or political sentiment rather than legal merit, in a contrast to many developed legal systems where prosecutors function independently<sup>31</sup>. Their impartiality as truth-seekers is compromised by this dependence, which results in selective prosecution, needless hold-ups, and cases ending because of poor evidence handling or lack of merit.

Additionally, prosecutors in India are often ill-equipped to handle complex legal battles, especially in cases involving white-collar crimes, cybercrimes, and organized offenses.<sup>32</sup> Many are unprepared to take on well-funded defence teams because they lack specialised training in forensic science, digital evidence, and financial crimes<sup>33</sup>. Prosecutors frequently use antiquated techniques in the absence of a systematic and ongoing training system, failing to take advantage of technological developments that could bolster their arguments.<sup>34</sup> Because of this knowledge gap, offenders who take advantage of these inefficiencies are frequently acquitted, their cases are presented poorly, and their arguments are weak. In addition, the prosecution is severely understaffed and underfunded. Due to their overwhelming caseload, overworked prosecutors

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<sup>29</sup> Law Commission of India, Reforms in the Criminal Justice System 122 (2003), <https://lawcommissionofindia.nic.in/reports.htm>

<sup>30</sup> Pratiksha Baxi, *Justice is Delay: An Empirical Analysis of Indian Courts*, 45 *Econ. & Pol. Weekly* 47, 48 (2015)

<sup>31</sup> Ved Kumari, *Prosecutorial Discretion and Accountability in India*, 39 *Ind. J. Legal Stud.* 123, 130 (2019)

<sup>32</sup> D.P. Agarwal, *Challenges in Prosecuting White-Collar Crimes in India*, 50 *J. Ind. Crim. Law* 301, 310 (2022)

<sup>33</sup> S.K. Verma, *Bridging the Gap: The Need for Specialized Training in Digital and Forensic Prosecution*, 8 *Cyber L. Rev.* 215, 220 (2023)

<sup>34</sup> Megha Katheria, *Strengthening the Role of Public Prosecutors in India*, 14 *J. Indian L. & Soc'y* 203, 210 (2022)

find it difficult to give each case the time and attention it deserves, which results in ill-prepared trials and mediocre arguments. Private defence attorneys, on the other hand, have a lot more time and resources available to them, so they can carefully prepare their cases, which frequently leads to convictions being overturned or trials going on forever. The prosecution bears the burden of proof, but they are not given the resources they need to successfully meet this challenge<sup>35</sup>. These shortcomings have led to a legal system in which the underprivileged frequently lack access to justice. Immediate reforms are required in order to resolve this prosecution paradox. The system can be changed by guaranteeing independence of prosecution wing by removing them from the influence of the government, improving their education in legal and forensic innovations, lowering their caseload, and strengthening accountability measures.<sup>36</sup> The prosecution will continue to be an ineffectual, untrustworthy, and grave threat to human rights tool in the struggle for justice unless these reforms are swiftly put into place.

## V. LESSONS FROM GLOBAL PRACTICES

Any democratic society's foundation is its criminal justice system, which makes sure that the innocent are protected and the guilty are punished. But justice suffers when the processes of investigation and prosecution are tainted by ineffectiveness, prejudice, and political meddling. While many nations have successfully enacted reforms that improve the independence, effectiveness, and fairness of investigations and prosecutions, India struggles with systemic flaws in its Criminal Justice System<sup>37</sup>. India can set the path for a more equitable and responsible system by researching international best practices.

The Crown Prosecution Service (CPS) in the United Kingdom, which operates as a distinct entity from the police, offers one of the most important lessons. The CPS makes sure that there is a clear separation between investigation and prosecution, in contrast to India, where police officers investigate crimes in addition to participating in prosecution.<sup>38</sup> Conflicts of interest are avoided, prejudice is reduced, and the impartiality of court proceedings is improved by this division. Wrongful prosecutions and politically motivated cases might be avoided in India by putting into practice a similar model, in which an independent prosecution body assumes responsibility following police investigations. Important lessons can also be learnt from the adversarial system of the United States, especially in the area of forensic-based investigation.

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<sup>35</sup> A.K. Sharma, *Burden of Proof and the State's Responsibility in Criminal Trials: A Critical Analysis*, 25 Nat'l L. Sch. Rev. 67, 72 (2021)

<sup>36</sup> Prashant Bhushan, *Accountability & Independence: Reforming India's Criminal Prosecution System*, 3 Indian J. Hum. Rts. & Just. 45, 49 (2019).

<sup>37</sup> David Garland, *Punishment and Modern Society: A Study in Social Theory* 115 (Oxford Univ. Press 2018)

<sup>38</sup> Crown Prosecution Service, *About the CPS* (2024), <https://www.cps.gov.uk/about>.

The accuracy of investigations in the United States has greatly increased due to the use of scientific evidence, such as digital forensics, forensic pathology, and DNA analysis.<sup>39</sup> In contrast to India, where police investigations frequently rely on confessions—which are occasionally forced—the U.S. system places a higher priority on tangible evidence, which lowers the likelihood of erroneous convictions.

The credibility of India's investigations could be significantly increased by fortifying forensic infrastructure and requiring forensic evidence in serious cases. Another viewpoint is provided by Germany's inquisitorial system, which shows how judicial supervision of investigations can improve justice. In addition to being independent, public prosecutors in Germany are required by the constitution to conduct unbiased investigations, even if this means obtaining evidence that supports the accused<sup>40</sup>. This method guarantees that investigations stay fact-based and avoids erroneous prosecutions brought on by outside pressures. The prosecution system in India, on the other hand, frequently functions under political influence, which results in charges that are biased and selective. Human rights abuses, especially those involving torture in detention and false accusations, could be greatly decreased by establishing an unbiased prosecutorial system under judicial oversight.<sup>41</sup> Japan's elite prosecutor-led investigation system is another model worth looking at. In this system, sensitive cases are handled by specialised prosecutors, guaranteeing a thorough and corruption-free investigation process<sup>42</sup>. The CBI and other Indian investigative agencies are frequently criticised for their perceived inefficiency and political bias. Adopting Japan's strategy, in which prosecutors are independent, well-trained, and held responsible for their conclusions, might improve India's investigative agencies' reputation.

Also, police accountability and transparency are emphasised by the Scandinavian model, which is evident in Norway, Sweden, and Denmark. Civilian oversight organisations keep a close eye on police behaviour in these countries to prevent abuse of authority and violations of human rights. Establishing independent police oversight commissions with actual authority would be beneficial in India, where complaints against police misconduct rarely result in action. India has the chance to change its criminal justice system by taking inspiration from these global models<sup>43</sup>. Human rights can be kept at the centre of the legal process by bridging the gap

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<sup>39</sup> U.S. Dep't of Just., *Advancing Forensic Science: Guidelines and Best Practices*, Rep. No. 312, at 19 (2023)

<sup>40</sup> Code of Criminal Procedure (Strafprozessordnung) [StPO] (Ger.), § 160

<sup>41</sup> United Nations Office on Drugs and Crime, *Handbook on Police Accountability, Oversight, and Integrity* (2011).

<sup>42</sup> Daniel H. Foote, *Prosecutorial Discretion in Japan: Lessons for Comparative Law*, 92 *Yale L.J.* 353 (1983).

<sup>43</sup> U.N. Human Rights Comm., *General Comment No. 32: Right to Equality Before Courts and Tribunals and to a Fair Trial*, U.N. Doc. CCPR/C/GC/32 (2007).

between law and justice through the use of independent prosecution, forensic-based investigations, judicial oversight, and stringent police accountability procedures.

## **VI. A DIRE NEED OF SYSTEMIC FIXES**

The Criminal Justice System in India is at a turning point, with a clear choice between systemic collapse and long-standing reforms. Political meddling, poor training, a lack of forensic reliance, and almost complete lack of accountability have all plagued police investigation and prosecution processes for decades. Gross human rights violations, such as wrongful detentions, torture in detention, and drawn-out court cases that deprive victims and the accused of justice, have resulted from these inefficiencies.<sup>44</sup> It is impossible to overestimate the urgency of reform because it is crucial for the legitimacy of the legal and law enforcement systems. The current system will continue to support corruption, impunity, and an unfair culture unless significant changes are made. Breaking the political-police relationship that has permitted law enforcement to be abused as a tool for personal gain rather than justice is one of the most urgent reforms. Strong oversight procedures, like an independent police complaints authority and a more powerful judicial check on investigative agencies, are necessary to protect the independence of police investigations. To guarantee that investigations are motivated by the law and the evidence rather than outside pressures, political influence should be kept out of the hiring and transferring of police officers. India could take a cue from nations like the United Kingdom, which have implemented independent police watchdogs to keep an eye on misconduct. The ongoing use of third-degree interrogation techniques rather than scientific methods is another significant weakness in India's investigative process. Law enforcement organisations continue to value confessions over hard evidence in spite of advances in forensic sciences<sup>45</sup>. Numerous claims of forced confessions, torture in detention, and even deaths in custody have resulted from this. To ensure accuracy and fairness, forensic-based investigations—such as DNA analysis, cyber forensics, and AI-driven crime reconstruction—must be adopted. The establishment of cutting-edge forensic laboratories and the requirement that police officers complete forensic training would greatly lessen the need for coercive measure<sup>46</sup>.

In a similar vein, to guarantee fair trials and increased conviction rates for real offenders, prosecution services need to be improved. Public prosecutors today frequently lack autonomy, are overworked, and receive inadequate compensation<sup>47</sup>. Many are not unbiased judges; rather,

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<sup>44</sup> Fali S. Nariman, *Before Memory Fades: An Autobiography* 312 (2010)

<sup>45</sup> K. S. Subramanian, *Political Violence and the Police in India* 112 (Sage 2007)

<sup>46</sup> Ministry of Home Affairs, Govt. of India, *Modernization of Forensic Infrastructure and Investigation Techniques*, (2023)

<sup>47</sup> Madhav S. Aney et al., *Delays in the Indian Judiciary: Causes and Solutions*, 54 *Economic & Political*

they are merely representatives of the state's interests. Prosecutors should be granted more autonomy in order to solve this, much like in the United States, where district attorneys have significant control over case selection and legal tactics. To further enhance the calibre of prosecutions, specific training in trial advocacy, forensic interpretation, and international human rights law ought to be required.

Witness protection, which is still one of the weakest components of India's criminal justice system, is an often-overlooked but vital component of reform. Because of threats, intimidation, and a lack of state support, key witnesses often become hostile<sup>48</sup>. The integrity of prosecutions would be greatly enhanced by the establishment of a strong Witness Protection Program, similar to those in the United States and Italy<sup>49</sup>. Convictions in high-profile cases, particularly those involving organised crime or political violence, will remain elusive in the absence of witness security.

## **VII. WILL NEW CRIMINAL LAWS ACTUALLY ADDRESS THESE ISSUES?**

A revolutionary step in India's criminal justice system has been heralded with the introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA)<sup>50</sup>. Modernising the investigation and prosecution process is the goal of these laws, which supersede the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act from the colonial era<sup>51</sup>. But the true question still stands: do these laws actually bring about meaningful reform, or are they just repackaging outdated inefficiencies under a different name? Even though some of the provisions seem progressive, a closer look shows that they run the risk of becoming merely cosmetic adjustments that ignore the systemic problems with policing and prosecution<sup>52</sup>.

The digitisation of police investigations and the use of forensic evidence in criminal cases are two of the main promises of these new laws.<sup>53</sup> In order to ensure that investigations are based on scientific methods rather than forced confessions, the BNSS requires that forensic experts be involved in cases that carry a sentence of seven years or more.<sup>54</sup> Although this is a positive

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*Weekly* 47, 49 (2019)

<sup>48</sup> Malini Bhattacharya, *Witness Protection in India: A Legal Vacuum*, 45 *Indian Journal of Human Rights* 78, 80 (2021)

<sup>49</sup> *Witness Protection Act, 2000*, art. 2 (Italy); *Witness Security Program*, 18 U.S.C. § 3521

<sup>50</sup> *Bharatiya Nyaya Sanhita*, No. 45, Acts of Parliament, 2023 (India); *Bharatiya Nagarik Suraksha Sanhita*, No. 46, Acts of Parliament, 2023 (India); *Bharatiya Sakshya Adhinyam*, No. 47, Acts of Parliament, 2023 (India)

<sup>51</sup> *Indian Penal Code*, No. 45 of 1860 (India); *Code of Criminal Procedure*, No. 2 of 1974 (India); *Indian Evidence Act*, No. 1 of 1872 (India)

<sup>52</sup> *Law Commission of India, Reforms in Criminal Justice System*, Report No. 277, 2018, at 15

<sup>53</sup> *Bharatiya Nagarik Suraksha Sanhita*, No. 46, § 176 (2023) (India)

<sup>54</sup> *Id.* § 176(3)

step, the stark fact is that India does not have the forensic infrastructure or skilled staff to deal with this volume of cases. This provision might not be a revolutionary reform but rather an unrealised dream if significant funding is not allocated to forensic labs and staff<sup>55</sup>.

The implementation of stringent deadlines for investigations and trials, such as the completion of police investigations within 90 days and the resolution of criminal appeals within a year, is another noteworthy modification to the BNSS<sup>56</sup>. Although the goal is to reduce judicial delays, the viability of implementing such deadlines is still in doubt due to the overworked courts, understaffed police forces, and acute lack of funding. These deadlines could only result in hasty investigations and haphazard prosecutions if they are not combined with structural changes, further undermining rather than guaranteeing justice<sup>57</sup>. In keeping with the changing nature of crime in the digital age, the BSA, which supersedes the Indian Evidence Act, makes digital and electronic evidence the main admissible proof. On the subject of hacking, tampering, and the admissibility of digital evidence obtained unlawfully, the law is silent.<sup>58</sup> Without the clear protective measures, the use of electronic evidence could lead to abuse by law enforcement agencies, possibly violating fundamental rights such as privacy and due procedure<sup>59</sup>.

The BNS actually has ambiguous and broad definitions for some crimes, like its strict anti-terror legislation and sedition-like clauses, are another contentious feature. Although national security is a real concern, vague clauses could be abused, particularly against marginalised groups and political dissidents. The public's confidence in law enforcement and prosecution may be further damaged if these laws are used as instruments of oppression rather than justice.

Lastly, the BNS, BNSS, and BSA do bring out certain reforms, but they fall short in addressing the core problems of prosecutorial independence, police autonomy, and judicial inefficiency. Actual changes on implementation level are very important for true reform, for instance enhancing forensic capabilities, depoliticising prosecution, investing in new age investigative training, and guaranteeing police accountability. The new laws run might just remain a dead letter if structural changes are not made in the right manner.

## VIII. CONCLUSION

The foundations of accountability, efficiency, and fairness support the existence of any legal system. But there have long been serious structural problems with Indian criminal justice system

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<sup>55</sup> Ministry of Home Affairs, Forensic Science Laboratories Development Report, 2021, at 22

<sup>56</sup> Bharatiya Nagarik Suraksha Sanhita, No. 46, § 193(2) (2023) (India)

<sup>57</sup> Prashant Bhushan, Judicial Delays and Their Impact on Justice Delivery, 59 J. Indian L. Inst. 224, 231 (2022)

<sup>58</sup> Bharatiya Sakshya Adhinyam, No. 46, Acts of Parliament, 2023 (India)

<sup>59</sup> Anup Surendranath, The Digital Evidence Dilemma in India's Criminal Justice System, 14 Ind. J.L. & Tech. 122, 130 (2023).

that undermine public confidence, especially regarding its investigation and prosecution procedures that are followed. The system has frequently fallen short of upholding the very principles of justice it is supposed to serve, from low conviction rates and delayed trials to wrongful prosecutions and violence in detention. In this situation, restoring faith in the legal system is not only required by law but also morally required. The rule of law itself will eventually be undermined if immediate reforms are not made to the public's trust in the legal and law enforcement systems. The general belief that police investigations are driven more by bureaucratic and political pressures than by the search for the truth is one of the main issues. Numerous erroneous convictions and human rights violations have resulted from instances of falsified evidence, forced confessions, and manipulated witness testimony. Furthermore, prosecutions that are based on shaky or circumstantial evidence have been hampered by the absence of scientific research techniques and the use of antiquated procedures. The public's trust in the system is weakened as a result of either incorrect punishments or the acquittal of real offenders. Restoring credibility thus requires embracing contemporary forensic technologies, guaranteeing police independence, and putting in place stringent accountability procedures.

In a similar vein, the prosecution system in India is severely lacking in efficiency and autonomy. Trial fairness is jeopardised because public prosecutors, who are supposed to be unbiased court officials, frequently work under government influence. Furthermore, excessive delays are caused by the overworked judiciary and antiquated legal processes, which greatly distress the accused as well as the victims. In addition to denying justice, a case that drags on for decades discourages people from pursuing legal action. In order to solve this, the prosecution system must be professionally strengthened and appointed on the basis of merit, with proper training and without political influence. Transparency and justice can be further improved by specialised prosecution units that deal with cases of corruption, police misconduct, and human rights violations.

Furthermore, it is impossible to overestimate the judiciary's contribution to rebuilding trust. To prevent police abuses, uphold due process, and guarantee prompt trials, courts must take proactive measures. Judicial supervision of investigations can serve as a deterrent against abuse of power, particularly in situations involving wrongful arrests, extrajudicial executions, and torture in detention. Mechanisms that can help speed up justice while preserving human rights include witness protection programs, fast-track courts, and alternative dispute resolution techniques. In order to make sure that new criminal laws like BNS, BNSS, and BSA are used for reform and not as instruments of further injustice, the judiciary must also actively monitor their implementation.

The willingness of legislators, law enforcement, and the judiciary to put reform ahead of complacency will ultimately determine the future of India's criminal justice system. Rebuilding public trust requires modernising prosecution procedures, bolstering judicial independence, and strengthening police accountability. For India's legal system to genuinely serve its citizens with equity, integrity, and dignity, justice must not only be carried out but also be perceived as having been carried out.

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