



Study of the Criminal Justice System, Law Enforcement and its importance in India

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ABSTRACT

The Indian Criminal Justice System (ICJS) is undergoing a historic paradigm shift from its foundational colonial architecture to a digitized, victim-centric framework. For over a century and a half, criminal administration in India was tethered to statutory frameworks enacted during British rule—primarily the Indian Penal Code of 1860, the Code of Criminal Procedure of 1973 (which retained colonial-era procedures), and the Indian Evidence Act of 1872. These legacy systems prioritized state control, public order maintenance, and punitive retribution over citizens' liberties and comprehensive rehabilitation. The implementation of the **Bharatiya Nyaya Sanhita (BNS)**, **Bharatiya Nagarik Suraksha Sanhita (BNSS)**, and **Bharatiya Sakshya Adhiniyam (BSA)** marks a legislative decoupling from this colonial legacy. This paper evaluates the structural mechanics of the ICJS across its primary pillars: law enforcement, the judiciary, prosecution, and the correctional mechanism. It analyzes how technological interventions—such as the e-Courts Mission Mode Project, the National Automated Fingerprint Identification System (NAFIS), and the Interoperable Criminal Justice System (ICJS) platform—interact with deep-seated institutional friction points, including high judicial pendency, police understaffing, and an

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escalating undertrial crisis.

1. Introduction

A state's criminal justice system serves as the foundational apparatus for preserving the rule of law, protecting fundamental liberties, and maintaining civil order. In India, this apparatus governs a heterogeneous population of over 1.4 billion individuals, navigating complex socio-economic, regional, and digital landscapes. For decades, the structural machinery of the Indian Criminal Justice System operated under a framework designed by a colonial power to subjugate a populace rather than deliver equitable justice.

The statutory triad established under British administration—the Indian Penal Code (IPC), 1860; the Code of Criminal Procedure (CrPC), 1898 (later re-enacted in 1973); and the Indian Evidence Act (IEA), 1872—focused fundamentally on retributive deterrence and safeguarding the interests of the sovereign state over the rights of individual citizens.

This historic misalignment has generated persistent institutional challenges:

- Overburdened judicial dockets with millions of pending cases.
- Severely congested correctional facilities populated mostly by pretrial detainees.
- A low public-trust equilibrium regarding law enforcement.

Recognizing these structural limitations, the legislative implementation of the new criminal laws the **Bharatiya Nyaya Sanhita (BNS)**, the **Bharatiya Nagarik Suraksha Sanhita (BNSS)**, and the **Bharatiya Sakshya Adhiniyam (BSA)** seeks to shift the system from a punitive model toward a restorative, efficient, and technologically integrated framework.

This paper explores the structural components of the Indian justice system. It examines the operational constraints of law enforcement, assesses the impact of these legislative changes, evaluates the role of technological modernization, and identifies structural reforms required to build a more responsive and fair justice system.

2. Historical Context and Evolution: The Colonial Legacy

The contemporary structure of law enforcement and criminal administration in India remains deeply influenced by its historical development. Prior to British codification, criminal justice in the Indian subcontinent was decentralized, polycentric, and governed by a mosaic of customary laws, Islamic

jurisprudence (via the *Hedaya* and *Fatawa-e-Alamgiri*), and regional Hindu shastric traditions applied by local panchayats or royal courts. While these systems focused on community restitution and moral accountability, they lacked uniform procedural standards and often reinforced traditional social hierarchies.

The consolidation of British East India Company rule necessitated a uniform, predictable legal framework to secure commercial interests and exercise administrative control over a vast territory. The First Law Commission, established in 1834 under the chairmanship of Thomas Babington Macaulay, initiated a massive project of codification. This effort produced the Indian Penal Code of 1860, which systematically organized substantive offenses and unified criminal liability across British India. This was later supported by the Indian Evidence Act of 1872, drafted by Sir James Fitzjames Stephen, which established strict statutory guidelines for the admissibility of proof in judicial proceedings.

Crucially, the architecture of law enforcement was codified under the **Police Act of 1861**. Enacted in the immediate aftermath of the 1857 uprising, the primary objective of the 1861 Act was not to create a community-oriented public service agency, but rather an administrative tool designed to suppress dissent, command public obedience, and insulate the colonial administration from civil unrest. The organizational design established by the Act created a rigid hierarchy, placed the police under the complete control of executive administrators (the District Magistrate), and limited the operational autonomy of local officers.

Following Independence in 1947, India adopted this legal architecture through Article 372(1) of the Constitution, which preserved existing laws until altered or repealed by a competent legislature. While the re-enactment of the Code of Criminal Procedure in 1973 introduced important checks against executive overreach such as separating the judiciary from the executive branch in accordance with Article 50 of the Constitution the underlying institutional culture and organizational frameworks of law enforcement remained largely unchanged. As a result, the criminal justice system continued to focus primarily on state-centric public order enforcement rather than citizen-centric rights protection.

3. The Pillars of the Indian Criminal Justice System

The administration of criminal justice in India operates through four independent yet structurally linked institutional pillars:

THE FOUR PILLARS OF CRIMINAL JUSTICE DISPENSATION

1. LAW ENFORCEMENT

2. PROSECUTION

- | | |
|-----------------------------|-------------------------|
| - First Responders | - Case Evaluation |
| - FIR Registration | - Scrutiny of Evidence |
| - Investigation & Forensics | - Presenting State Case |

3. THE JUDICIARY

- Trial Adjudication
- Constitutional Oversight
- Sentencing & Bail Determinations

4. CORRECTIONS

- Custodial Management
- Prisoner Welfare
- Rehabilitation

3.1 Law Enforcement

As the first responders within the justice system, state police forces hold primary responsibility for crime prevention, maintaining public order, registering First Information Reports (FIRs), collecting material evidence, and apprehending suspects. Under Schedule VII of the Indian Constitution, "Police" and "Public Order" are designated as State subjects, meaning each of the 28 states maintains its own distinct police force governed by local variations of police regulations.

At the federal level, specialized agencies under the Ministry of Home Affairs such as the Central Bureau of Investigation (CBI), the National Investigation Agency (NIA), and the Enforcement Directorate (ED) exercise jurisdiction over complex financial crimes, terrorism, and interstate offenses.

3.2 Prosecution

The prosecution acts as a link between the investigative work of law enforcement and the adjudicative function of the courts. Represented by Public Prosecutors and Assistant Public Prosecutors appointed under Section 24 of the legacy CrPC (and updated under modern statutes), the prosecution is legally mandated to act as an officer of the court. Their duty is not simply to secure a conviction, but to ensure a fair trial by presenting all material evidence gathered during investigations.

Historically, this pillar has been weakened by structural vulnerabilities, including a lack of formal coordination with investigating officers, inadequate professional development, and systemic shortages of

personnel. These factors often lead to poorly managed case files and lower conviction rates in complex trials.

3.3 The Judiciary

The Indian judiciary is structured as an integrated, hierarchical pyramid:

- The **Supreme Court of India** serves as the apex constitutional court.
- **High Courts** oversee judicial administration within individual states.
- **Subordinate Courts**—comprising District and Sessions Courts, Court of Metropolitan Magistrates, and Judicial Magistrates of the First and Second Class—handle the initial filing, bail hearings, and trials for all criminal cases.

The judiciary operates under an adversarial system, where the presiding judge evaluates the competing factual arguments and legal presentations made by the defense and the prosecution.

3.4 Correctional Machinery and Prison Administration

Prisons constitute the final stage of the criminal justice process, operating under individual state jurisdictions and guided by the central **Prisons Act of 1894** alongside updated state-specific Prison Manuals. The modern correctional system faces a difficult dual mandate: maintaining secure containment for dangerous offenders while simultaneously implementing educational, vocational, and psychological rehabilitation programs to reduce recidivism.

However, severe overcrowding caused by a high volume of pretrial detainees often restricts the capacity of correctional facilities to deliver meaningful rehabilitative services.

4. Analytical Assessment of Core Institutional Challenges

4.1 Police Understaffing and Resource Deficits

The most significant operational constraint facing Indian law enforcement is a severe shortage of personnel relative to the population. The actual police-to-population ratio in India stands at approximately **152.8 police personnel per 100,000 citizens**, falling well short of the United Nations recommended baseline of **222 per 100,000**. This gap creates an unsustainable workload for investigative personnel, who often work extended shifts without structured rest cycles.

Furthermore, state police budgets face significant structural imbalances. Financial data indicates that between **70% to 80%** of total police budget allocations are consumed by fixed salary commitments, leaving minimal resources for:

- Technological modernization
- Advanced forensic tools
- Specialized investigative training
- Upgraded vehicular assets

This resource scarcity forces law enforcement to rely heavily on traditional eye-witness testimony and circumstantial evidence rather than more reliable scientific forensics.

4.2 The Burden of Judicial Pendency

The judicial branch faces a significant systemic backlog of cases. Data from the **National Judicial Data Grid (NJDG)** highlights that total case pendency across all levels of the judiciary exceeds **50 million cases**, with criminal matters constituting over **70%** of this accumulated volume.

This backlog stems from several interrelated structural factors:

1. **Judicial Vacancies:** Chronic delays in the appointment of judges leave subordinate courts operating significantly below their authorized strength.
2. **Procedural Adjournments:** The frequent granting of un-penalized adjournments, coupled with elaborate interlocutory appeals, can prolong simple trials across multiple years.
3. **Inadequate Court Infrastructure:** Insufficient digital systems, lack of stenographic assistance, and limited physical courtrooms slow down daily case management.

These systemic delays compromise the quality of justice dispensation. Over extended trial periods, witnesses may move away or suffer from memory attrition, evidence can degrade, and victims are forced to endure prolonged legal processes before reaching a resolution.

4.3 The Undertrial Crisis and Human Rights Concerns

The operational delays within the police and judicial systems directly contribute to an acute humanitarian issue within the correctional framework: the **undertrial crisis**. According to the annual **Prison Statistics**

India report published by the National Crime Records Bureau (NCRB), **undertrial prisoners account for approximately 75% to 77% of the total incarcerated population** within the country.

This reality has significant human rights and economic implications:

- **The Presumption of Innocence:** Individuals who have not been formally convicted are routinely detained for extended periods, sometimes exceeding the maximum prison sentence attached to their alleged offense.
- **Socio-Economic Disproportionality:** The overwhelming majority of these pretrial detainees belong to marginalized communities, including Scheduled Castes (SCs), Scheduled Tribes (STs), and economically disadvantaged groups who cannot afford the financial collateral required for traditional bail bonds.
- **Severe Prison Overcrowding:** The continuous inflow of undertrials results in national average prison occupancy rates exceeding **130%** of designated capacity. This overcrowding strains institutional infrastructure, compromises health standards, and creates volatile living conditions within correctional facilities.

5. The Paradigm Shift: The New Criminal Laws (BNS, BNSS, BSA)

In July 2024, the Parliament of India initiated a major transformation of the domestic legal landscape by replacing the foundational colonial-era criminal statutes with three modern enactments:

Legacy Statute	Modern Replacement	Core Statutory Objective
Indian Penal Code (IPC), 1860	Bharatiya Nyaya Sanhita (BNS), 2023	Modernizes substantive offenses; prioritizes individual safety and victim protections over state control.
Code of Criminal Procedure (CrPC), 1973	Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023	Establishes mandatory, time-bound legal procedures and standardizes investigation timelines.
Indian Evidence Act (IEA), 1872	Bharatiya Sakshya Adhiniyam (BSA), 2023	Broadens electronic and digital admissibility parameters to align with contemporary

Legacy Statute	Modern Replacement	Core Statutory Objective
		technology.

5.1 De-colonial Jurisprudence and Substantive Philosophy

The transition to the **Bharatiya Nyaya Sanhita (BNS)** introduces a fundamental shift in the philosophical basis of Indian criminal law, moving from colonial-era state preservation toward a citizen-centric, restorative model. A key example of this shift is the formal removal of **Section 124A of the IPC (Sedition)**, a provision frequently used by colonial administrations to suppress domestic political dissent.

In its place, the BNS introduces a more clearly defined framework under **Section 152**, which penalizes explicit acts that jeopardize the "sovereignty, unity, and integrity of India." This new standard is designed to require higher thresholds of proof, protecting legitimate free speech while safeguarding national security interests.

Furthermore, the BNS modifies the hierarchy of criminal offenses. In the legacy IPC, offenses against the state and public order were structurally positioned ahead of offenses against the human body. The BNS reorganizes this taxonomy by placing crimes targeting women, children, and individual bodily integrity at the beginning of the code, underscoring their societal priority.

The statute also introduces distinct criminal categories for contemporary safety challenges, such as:

- Organized crime networks
- Coercive sexual exploitation under false pretenses
- Mob-lynching incidents
- Transnational terrorist acts

5.2 Procedural Modernization and Accountability Under the BNSS

The **Bharatiya Nagarik Suraksha Sanhita (BNSS)** addresses persistent procedural delays by establishing strict statutory timelines for critical phases of criminal investigation and trial management.

To enhance operational accountability and protect civil liberties during field operations, the BNSS introduces a mandatory requirement for the **videographic recording of search and seizure operations**,

including the compiling of recovered items. This digital record must be submitted directly to the jurisdictional magistrate, a procedure designed to reduce instances of evidence tampering, unauthorized custodial manipulation, and false accusations.

Crucially, the BNSS introduces **community service** as an alternative punitive measure for minor, non-violent offenses. This integration of alternative sentencing represents an important step away from traditional, purely custodial punishment, offering an avenue to reduce overcrowding in local prisons while encouraging social rehabilitation for lower-risk offenders.

5.3 Evidentiary Expansion Under the BSA

The **Bharatiya Sakshya Adhiniyam (BSA)** overhauls domestic evidentiary rules to align with modern technological realities. The legacy Indian Evidence Act of 1872, despite late-stage updates for electronic records via the Information Technology Act of 2000, retained a structurally rigid focus on physical documentation.

The BSA simplifies the admissibility of digital materials by expanding the statutory definition of evidence to include:

- Server logs and cloud storage repositories
- Encrypted smartphone communications and messaging metadata
- Geolocation coordinates and digital biometric signatures

This expansion provides an explicit legal framework for the use of digital records in contemporary prosecutions. Additionally, the BSA establishes clear parameters for validating electronic data across its lifecycle, helping to ensure that digital evidence meets necessary security standards before presentation in court.

6. Strategic Imperatives and Comprehensive Reform Framework

6.1 Implementation of Long-Overdue Police Reforms

While updating statutory terminology is a constructive step, long-term efficiency within law enforcement requires implementing structural governance changes, such as those mandated by the Supreme Court of India in the landmark case *Prakash Singh v. Union of India* (2006).

1. **Separation of Investigation from Public Order Duties:** State police departments should separate dedicated criminal investigation units from routine public order and crowd-control details. This structural division allows investigative teams to focus on case preparation, forensics collection, and timely court submissions without being redirected to sudden civic security tasks.
2. **Insulating Law Enforcement from Political Influence:** Establishing independent **State Security Commissions (SSCs)** and ensuring fixed tenures for senior police leaders, such as the Director-General of Police (DGP), can help safeguard operational decisions from arbitrary external influence and improve institutional accountability.
3. **Operationalizing Police Complaints Authorities:** Setting up functional **Police Complaints Authorities (PCAs)** at both state and district levels provides an independent venue for investigating allegations of police misconduct, helping to strengthen public trust in law enforcement agencies.

6.2 Strengthening Judicial Capacity and Infrastructure

Addressing systemic judicial backlogs requires expanding both institutional capacity and infrastructure support:

- **Sustained Increases in Judicial Appointments:** Accelerating recruitment cycles for the subordinate judiciary can help bring local courts up to authorized staffing levels and maintain more manageable individual caseloads.
- **Expanding Courtroom Infrastructure:** Building additional physical courtrooms and upgrading digital systems can help judicial officers handle higher daily dockets without frequent procedural delays.
- **Developing Dedicated Case Management Frameworks:** Implementing structured pretrial conferences where judges, prosecutors, and defense counsel settle undisputed elements of proof prior to formal trials can streamline proceedings and focus court time on core legal disputes.

6.3 Expanding Forensic Infrastructure and Technical Expertise

The BNSS requires mandatory forensic examinations for offenses carrying statutory penalties of seven years or longer. Meeting this legal requirement necessitates an expansion of domestic scientific resources:

- **Establishing a Network of Forensic Laboratories:** Building regional and district-level forensic facilities can accelerate the processing of ballistics, toxicology, and DNA data, reducing reliance on central state laboratories.

- **Expanding Professional Forensic Personnel:** Creating structured career paths within state services for forensic scientists, digital evidence analysts, and specialized technicians can help meet the technical demands of modern investigations.
- **Standardizing Chain-of-Custody Protocols:** Developing clear, automated tracking systems for physical and electronic evidence from the collection point to presentation in court helps maintain evidentiary integrity and protect against challenges during trial.

7. Conclusion

The Indian Criminal Justice System stands at a defining historical crossroad. The sunset of the colonial statutory architecture—the IPC, CrPC, and Indian Evidence Act—and the implementation of the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam represent an important step toward a more contemporary legal framework. These legislative changes provide a foundation for a modern system by prioritizing victim welfare, setting structural timelines for investigations, and broadening rules for digital evidence.

However, statutory amendments alone cannot fully resolve deep-seated institutional challenges. The long-term efficacy of these reforms depends on addressing structural resource deficits: bridging police staffing shortages, expanding judicial capacity to reduce case backlogs, and upgrading national forensic infrastructure.

Technology platforms like the Interoperable Criminal Justice System (ICJS) and e-Courts provide valuable tools for modernizing case management. Moving forward, the primary challenge will be translating these statutory principles and digital tools into consistent, fair, and reliable daily administration across all levels of the justice system. Achieving an equitable and efficient rule of law requires sustained fiscal support, administrative independence for investigative bodies, and continuous training for all personnel within the system.

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