



# The limitations of Indian Criminal Justice System in Comparison With Other Countries

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## Chapter 1: Introduction

India as a country has always been an exception in the grand map of geo-politics , economics and etc. The actual fascination stems from the judicial system that in itself is unique combination of research , observations and studies done over a period of time . India as a country that has the imprints of colonial rule in its judicial system in the 200 years of history , this nation has gone through many changes that in itself accounts to the current scenario of the judicial system. The system in our country occurred due to the a result of accountability , responsibility that aims on creating a safer environment for the citizens of the country as the previous authority before independence has always been focused on creating a sense of fear in order to control the narrative of the country to fulfill the personal obligations of the crown , so that there is no change in the regime and control . India has always focused on creating laws that are in tune with the spirit of the country, but with the changing circumstances the aspect of people and their reactions to the society has also changed and with this the nature of offences has also drastically changed. As the structure of society changed from independence, hence the notion of offences against human has also seen many new developments. Criminal laws in India were created to be a source of power to victims in the light of societal pressure and stigma, but with the increasing crime rate in the country and the changes in the nature of crime has lead to the rise of limitations in the Indian Criminal Justice System. Hence there is a need for checks and balances to cure these limitations and these checks and balances can be created by carefully analyzing the criminal laws of other countries that should also include European countries. As a country, it is very important to observe and modernize the criminal laws, so that the procedures can be conducted with legal aspects.

## 1.1- The Dimensions of Indian Criminal Justice System

Indian constitution is a product of debates, agreements, research and observation. As it is a living breathing organism that has a rich history inter related with political aspects especially with the colonial history. The Constitution of India has roots intertwined with Europe, Asia and etc. The history of Indian Constitution dates back to the crux of colonial history with the country being the colonial vassal of Great Britain. India in order to sever the ties and impression of the colonial rule constructed the constitution with great details that constituted the essence of multiple nations, so that the newly independent country does not become just another one of the many shadows of the English Crown. The statutes under Indian law are a testament of how country is a mixture of various theories of law. Among the many statutes under Indian law , BNS and BNSS, these two are the pillars of the criminal justice system in India . The acts highlight the procedure, evidences and the right of victims in one way or the other. Through these acts we can understand the inner workings of the criminal justice system in great detail. Statement of object and reasons in both of the acts are a important aspect. Further, the interesting aspect of the Indian criminal justice system can be understood through multiple legal measures as it is not limited by number of acts. The Indian Criminal Justice System is a collaboration between contemporary and technological advancements. It is also a system of technology and forensic science. Indian Criminal Justice system is a careful result of observation, judgements and parliamentary discussions. It is a combination of detailed understanding and it is a umbrella system that covers each and every offence against women , children , men and even pre – teens . But like any other democratic nation of the third world, India too has some of the limitations in regarding to its laws. Despite its comprehensive framework, the system struggles with inefficiency, lack of modernization and implementation gaps . Although these are not just the only limitations , as the biggest limitation arises with administrative inefficiency and disbalanced coordination . In order to deal with the limitations it is also necessary to understand the historical development of criminal laws as it is essential to identify the root cause of these limitations which will help in evaluating and creating the required reforms that will develop the criminal justice system. The limitations of the Indian criminal justice system is the virus that constantly destroy aspirations, hopes and the will of survivors.

## 1.2 Historical development of these “Swords of Justice”

The Criminal laws in India have a very unique history embedded with in the notion of this country. So here we will be highlighting some of the acts in great detail.

### 1. The Bharatiya Nyaya Sanhita , 2023

The first Indian law Commission was constituted in 1834 for the need of the hour . It was meant to examine overall legal systems in India as well as the existing policing system . The suggestion given by the law commission in India consisted several steps , including various new enactments. One of the enactments was the Indian Penal Code which was enacted across the country in 1860 as the will of the British empire . The Indian Penal Code was a legal testament that was created for the purpose of serializing and categorizing the criminal law in India for the ease of the British crown , so as India can be well maintained as a colony. The Indian Penal Code although presented with the notion of a grand idea of law and order was not as grand as it was presented , rather it required a complete overhaul so as to make it more contemporary and practical so that it suits to the requirements of modern India . The influence of various legal systems can be observed in the code as the roots were also taken from Napoleonic Code , European Law , Sharia and Hindu Law . This code was also created to deal with colonial consideration so as to handle the Indian social dynamics and customs. The creation of Indian Penal Code was the colonial masterpiece of Lord Thomas Babington Macaulay that was created to examine the jurisdiction , power and rules of the existing courts as well as the police establishments and the laws applicable in India . However , the code required complete overhaul so as to re – adjust in the modern India with more contemporary and practical approach . Various stakeholders were consulted and a bill , the Bhartiya Nyaya Sanhita , 2023 was introduced in the parliament and with this , the IPC was reformed . The number of sections were changed and reduced after the reformation .

### 2. The Bhartiya Nagarik Suraksha Sanhita, 2023

The historical development of this act can be traced through many stages at different point of time. The Code of Criminal Procedure (CrPC) in India, mainly focuses on governing procedural criminal law, evolved from British-era codes, with major versions in 1861, 1882, and 1898. The Code was applicable and enacted in 1973, effective from April 1, 1974, to modernize procedures, separating the judiciary from the executive and ensuring fair trials in a country that was plagued by unfair law and judgements. The first Code of Criminal Procedure was applicable and enacted in 1898 in the British India. This was the development related with the aspect of colonialism in one way or the other. It was replaced by a new act of modern India which was

modernized and created encompassing extensive changes. This new act after the formation also handled several amendments during the course of time. However, the existing code required complete changes with the new period of time. In order to deal with the upcoming issues, a bill the *Bhartiya Nagarik Suraksha Sanhita*, 2023 was introduced in the parliament.

### 3. The *Bharatiya Sakshya Adhiniyam*, 2023

The historical development of this act is related with the British India as In the year 1868, a commission was set up under the chairmanship of **Sir Henry Mayne**. Although the draft he submitted was later found unsuitable to Indian conditions. Then later in the year 1870, this task of codification of the rules of law of evidence was entrusted to **Sir James Fitz James Stephen**. A draft was also submitted by Stephen and then it was referred to the select committee and also to High Courts and members of Bar to select the opinion, and then after gathering opinion, the draft was placed before the legislature and it was enacted and made applicable throughout the country. At last, “The evidence Act” came in to force on 1<sup>st</sup> September, 1872. The act was created with the aspect of modern India as it dictated rules governing the admissibility, relevancy, and proof of facts in judicial proceedings. Although this act was reformed in the prospect of new India, but in order in to deal with the upcoming legal problems of the modern society it was transformed into *The Bharatiya Sakshya Adhiniyam*, 2023.

#### 1.3 Research Questions

In regards with the historical evolution of criminal laws in India and the transition from colonial stamps to the living breathing organisms for the modern and independent India, the research questions are also focused on creating a detailed structure for understanding the essence of criminal system. The research questions highlighting the inter – related legal scenario are as such -

- 1- What are the major limitations of the Indian Criminal Justice System that corrupts the whole system?
2. What is the way in which historical development has influenced the inefficiencies of the current laws?
3. How do other countries address similar challenges and the limitations?
4. In what way reforms can be adopted and applied throughout the country?

#### 1.4 Research Objectives

1. Examining the limitations and legal fabric of the system.
2. Tracing the relations between the historical evolution of criminal laws and the current legal scenario.
3. Analysis with other legal jurisdictions around the world in regards with the Indian system.

4. Comparative study with nations that are one of the biggest stakeholders in world politics.
5. Reforms that can be applied throughout the country and will result in to further development.

## **1.5 Research Methodology**

The approach regarding the methodology will be through understanding concepts, thoughts, or experiences through non-numerical data. The approach will be widened to numerical data if it is needed for a particular aspect to deal with a research problem.

## **1.6 Background of the Study**

The background of the study is focused on understanding the criminal justice system through the meaning, structural composition and how it is a system that has been built through observation and by learning from past outcomes. It will also be focused on the importance of rule of law under Indian criminal laws.

## **Chapter 2: Development of Criminal law in India through stages**

### **2.1 Pre – colonial legal fabric**

#### **1.1 - Hindu law [DHARAMSHASTRA ]**

Hindu law as Pre – colonial legal fabric of India was a creation between religious prescriptions, philosophical discourse and local customs as it was categorized with multi- layer legal environment .The word DHARAMSHASTRA is a signal of how crime under Hindu law is a sin or violation against socio-religious duties . Hindu law was a testament that covered a society that was pluralistic and have a diverse cultural, religious, and political structure. Hindu law before the entrance of Britain in India was fluid as a system and was based on duty rather than rigid state-enforced statutes. The sources through which Hindu law derives the authority were religious texts such as Vedas and etc. Further there were religious commentaries of scholarly leaders on this aspect.

#### **1.2- Muslim Law**

Before the chains of colonialism, Muslim law in India was categorized as personal law. It was also a unique blend of legal principles and customary practices. One of the primary functions was acting as the personal law for Muslims (marriage, inheritance) and, along with customary practices it also governed civil transactions, moreover it was applied with flexibility across the Sultanate and Mughal periods. The important sources through which this law derives it's power and authority are primary in nature. Through the original nature we can understand the legal fabric of this law as the Muslim law has originated from the Al-Quran

which is believed by the Muslims to have existed from eternity. The Quran is the genesis of Islam and also the primary source. The significance is spiritual and sacred.

### **1.3- Nature of Decentralized Justice**

This aspect can be understood as through the notion that self – governing bodies were present to hear out the grievances of the people. Decentralized justice in India before the influence of British was characterized and categorized by self-governing local bodies, primarily village panchayats for Hindus and qazi-led systems for Muslims, focusing on reconciliation, local custom, and informal dispute resolution. Hindu law relied on caste-based rule, elders and panchayats, while Muslim rule utilized qazis for applying Sharia, yet both systems heavily emphasized local, community-based arbitration.

## **2.2 Colonial Codification of Criminal laws in India**

### **1.1- The Indian Penal Code, 1860**

#### **Through the lens of Thomas Babington Macaulay**

Primary architect and mastermind behind this hammer of authority as he was the chairman of the First Law Commission in 1834-1837. The code created under his guidance aimed to unify India's diverse, inconsistent legal systems (Hindu, Muslim, and British) into a single, comprehensive, and utilitarian framework. Though the code was submitted in 1837, it was finalized in 1850 and passed in 1860 after revisions and much observations. This code was the will of the powerful British empire.

### **1.2- Objectives and structure**

The objectives of this code was focused on to categorize the scattered legal system of India with a uniformity in order to handle the Indian notion. It was also focused on to create a definition of crime, as in what precisely constitutes a crime so that there is no room for ambiguities. It was also devoted towards establishing a consistent system of penalties for defined crimes . The structure is also detailed like the objectives and the key components of the structure include Introduction and Scope, Definitions, General Explanations, Offences and Punishments. These are some of the important parts related with the structural components in one way or the other.

### **1.3- Influence of English law**

The influence can be understood that how there was the presence of British common law, English criminal law statutes, and Benthamite principles, emphasizing codification, uniformity, and clear definitions, while largely ignoring existing Hindu/Muslim law in India.

## **2.3 Code of the Criminal Procedure, 1973**

### **1.1 Evolution and reforms**

Evolution of the code can be understood through colonial era to Independent India. As The first structured criminal procedure was introduced in 1882, later amended and replaced by the Code of Criminal Procedure, 1898. In order to work better with the legal fabric of the country, it was further evolved through by following the 41st Law Commission report, through which the CrPC 1973 was passed, creating a uniform legal system across India. Then through a new bill focused on incorporating several recommendations lead to the BNSS, 2023. The reforms can be understood as the need of the hour and they are as such - Digital Integration, Speedy Justice, Police Accountability and Transparency, Use of technology in legal systems.

### **1.2 Shift towards fair trial principles**

This shift can be understood as the need for being victim centric, which was there with presumption of innocence which is a cornerstone under which the accused is considered innocent until proven guilty, requiring the prosecution to prove guilt beyond reasonable doubt. Then there was the question for the rights of an accused through which person arrested to be informed of grounds of arrest and right to bail. Independent and open trial to avoid any form of impartiality towards any person involved. Although these judicial interpretations highlight a moment of fair, transparent criminal justice system achieved through the years but due to many of the shortcomings such as complex legal procedures and delay in justice has resulted in to the creation of a threat towards the shift to fair trial principles. In order to avoid any problems towards the shift, the new approach in the form of BNSS was accepted.

## **2.4 Indian Evidence Act, 1872**

### **1.1 Through the lens of Sir James Fitzjames Stephen**

The Indian Evidence Act was created to unify the fragmented evidentiary rules in India, so that the criminal laws in the country can be modernized. This process can be through the year 1868, as a commission was set up under the chairmanship of Sir Henry Mayne. The draft that was submitted was not meant for Indian conditions. Later in the year 1870, this task of codification of the rules of law of evidence was entrusted to Sir James Fitz James Stephen. The draft submitted by him Stephen submitted was referred to the select committee and also to High Courts and members of Bar to elicit the opinion, and, after gathering opinion on the matter, the draft was placed before the legislature and it was enacted and made applicable. At last, “The evidence Act” came in to force on 1<sup>st</sup> September, 1872.

## 1.2 Standardization of Evidence Law

This concept can be understood as how the evidences will be categorized and that they would also be tested to the aspect that whether they are applicable in court or not. The evidences will also be judged on the basis of the method of their collection and their types. This concept is meant to replace chaotic practices. It also helps to understand the relevancy of evidences. Standardization of evidences has evolved for the evidentiary standards of the digital age through the evidence act to BSA. Furthermore, this concept is useful in understanding about how it is a effort that aims on modernization with technological advancements that is also focused on standardizing the admissibility of electronic and digital records. This aspect is further achieved through the new code after the discussed legal changes.

## 2.5 Police Act, 1861

### 1.1 Colonial Objective of Control

This act is one of the most important aspect of the Indian history. As it is the is the foundational legislation that was created to observe the ways for regulating police forces in most Indian states, enacted after the 1857 revolt that changed the way of the crown in one way or the other. It was further focused on to create an efficient, state-controlled instrument for crime detection and prevention. It also established a rigid, hierarchical structure focused on accountability to the government rather than the public. In one way or the other, it can be related with the aspect of being as one of the important assets of the government.

### 1.2 Continued Relevance in the modern times

The act shares the importance in regards with the modern world as it is about maintaining law and order in a country that shares a unique legal fabric. This act is one of the crucial instruments for public peace. It is also related with the foundational hierarchical structure, including the roles of Inspector General and Superintendent, that defines state police forces. The Act is also related with the aspect of operational power as it provides the legal authority for police to manage law and order, prevent crime, and conduct investigations. Despite the importance it doesn't means that the act is perfect and there is no need for reforms as the act was created through focusing on the concept of coercive power rather than community service. Disregard for human rights can be seen as a issue through one form or the other as the act through the nature in a inter related way is against modern democratic principles, leading to challenges with fundamental rights. Colonial Framework is one of the issues as the act through the history is related with being designed for colonial

administration, the Act enforces a hierarchical and authoritarian structure that conflicts with democratic values like accountability and citizen participation, which in one way or the other can create issues.

The Influence of politics is also one of the components for certain scenarios that can be problem as The statute is not a shield where police forces can protect themselves from political interference, often which results in to a biased or a selective enforcement of law. Then there is also aspects such as accountability gaps which results into scenarios like Weak disciplinary mechanisms which allows misconduct, corruption, and human rights abuses to persist unchecked. So in one way or the other these are some of the scenarios due to which reforms are required.

## **2.6 Post – Independence Developments**

### **1.1 Constitutional Influence**

The Constitution of India has a great influence as it acts through the designation of being the foundational bedrock for criminal law, ensuring that criminal statutes adhere to fundamental rights and due process. The precious gems of the constitution such as Articles 20, 21, and 22 are of nature that adheres the aspect of being critical, prohibiting ex-post-facto laws, protecting life and personal liberty, and regulating arrests through out the country. In this aspect the judiciary frequently interprets these provisions to ensure procedural fairness and human rights and their applicability in the country. At the outset of understanding, we can understand that there is the existence of a deep commitment in securing criminal justice that is deeply rooted as one of the main aspects within the Constitution of India. As this ultimate harbinger of justice ensures that their should always be a vision in securing human rights and dignity that should so be deeply incorporated within the very criminal laws as in important part of the influence. This can further be understood as 'Justice' itself is present in the preamble as one of the noble objectives and supreme values of the Constitution, its importance manifest in the various provisions relating with criminal laws. At last constitutional influence is a very necessary part related with this notion.

### **1.2 Amendments and Law Commissions Recommendations**

Reforms in management of cases related to crime against women is also one of the highlighted suggestions as by observing the scenarios in the society. As this one of such aspects that effects a very large part of the society.

Among reforms a efficient Rape Crisis Cell that actually works in adherence to the society should be set up. The Cell should be immediately notified urgently in regards with matters when an FIR in relation to sexual assault in any kind of scenario is made. The Cell must provide legal assistance to the victim in assisting during one of the crucial hours of the said incident.

All police stations should have fully working CCTVs at the entrance that are up to date to the present aspect and they should also be there in the questioning room, so that at times if the situation arises to handle aspects that are extra sensitive, they can be handled.

A complainant should not face problem while filing FIRs online.

Police officers should know that they are duty bound to assist victims of sexual offences irrespective of the scenario regarding crime's jurisdiction.

There should not be any chaos regarding the state of sensible members of the public who help the victims regarding their situation as they are not related in anyway with all of the psychological chaos going around.

The police should be trained to understand and deal with sexual offences appropriately and accordingly in also being related with the law.

Number of police personnel should be increased in order to match the need for the required matters. As it will help to deal with any type of chaos that could arise from sensitive matters. Community policing should be developed by providing training to volunteers so that the first signs of offences can be highlighted.

### **1.3 Contemporary Reforms**

The contemporary reforms have created the present notion of criminal justice in India that lies in addressing emerging crimes like cybercrime and organized digital offenses in relation to the emerging new world and the opportunities that have arisen with it, while shifting the focus from punitive measures (danda) to justice (nyaya). A robust criminal justice system is being promoted that is focused to go beyond laws on paper to convert in to legal procedures which are the supporters of effective enforcement and institutional accountability as they are very important in relation with the current scenario. The contemporary reforms are also focused on the use of digital courts and forensic developments as this in one way or the other has opened domains where the focus can be shifted on emphasizing victim rights, due process, technology-enabled investigations, and restorative justice as this will help build a more equitable, responsive, and humane system

that will truly be devoted to the people. Another aspect is also focused on strengthening police and prosecutorial capacities, judicial efficiency, and inter-agency coordination as it is essential in a way to ensure that justice is not just a mere promise, but it is also delivered when the right moment and time demands it. Despite the judicial concerns, case delays in India remain rampant due to ineffective strategies. Through with the guidance of the Supreme Court now a new aspect is highlighted which is focused on the aspect that advocates better Bench-Bar coordination, pre-trial planning, ADR, and tailored approaches. Moreover as a unique prospect , a new aspect is also being highlighted which is a data-driven Differentiated Case Management (DCM) framework to bridge the gap between intent and action, aiming to reduce extreme pendency. The reforms in one way or the other are also devoted towards destroying the inspector raj mentality that present instruments of law as something of a weapon. The reformative measures of the new era for the ever-growing society are focused on the prospect that allows them to be sufficient, fair, and prepared for the future, as criminal laws with the notion of the reforms adapt and keep pace with the evolving times. The recently approved legislations by the Parliament in India serve as a clear reminder and indication of how the transformative shift within the justice system can only be achieved through reforms as they are the only tool that can ultimately help in strengthening public trust and confidence in the judiciary, so that criminal laws can truly be the savior for the people in need. As now the time is truly for the nation because there are no more the shackles of the past to withhold these new developments any more.

## **1.4 Critical Analysis**

### **1.1 Persistence of Colonial Mindset**

The mindset that derives it's existence from colonialism is always a matter of great concern and critical analysis as it reveals the very picture of a mind that is still dependent on a colonial view that originated from the root of destruction. So as long as there is the link of colonial thinking or mindset no matter how many reforms are applied , they would not be successful as there still would be a persistent colonial mindset and this is so still deep in the country that despite all of this the reforms are still focusing on restructuring rather than transforming the fundamentally authoritarian, state-centric, and punitive philosophy inherited from the colonial era.

## 1.2 The Fantasy of Decolonization

Although the new laws renamed the colonial statutes and their applicability but it can be understood as a notion that it is still a condition where, often repackaging of old provisions under new headings is still conducted and presented through one form or the other. The core is still there in the form of the "colonial mindset"- as in through it is still where the law is a tool for the state to control the subjects in a way where it dominates there way of thinking , understanding and the power of applying their skills in the working of the society and so it does not empower citizens rather it traps them in procedural mechanisms. The focus is also there on retributive justice rather than rehabilitative justice, maintaining a power imbalance between the citizen and the state machinery.

The national prospects still have to deal with the issue of persistent colonial mindset as the 2024 reforms in one way or the other are, at best, a "marginal improvement" or a "cosmetic overhaul" that presented as being the best, but still there is a long way, as a fundamental decolonization of the Indian legal system is still required in one way or the other due to the current scenarios. Although some colonial vestiges are removed, but still the structural DNA of the laws still prioritizes state authority over individual liberty. For the nation, it is very important to free itself from the clutches of colonisation as then only the country can focus on rights, strict accountability related with police and judiciary. Further prospect that it is inter related with this scenarios are Gaps which are technological and procedural in nature as through introducing the notion of technology like video trials is a step that can be considered positive for development in a true sense, it is still not up to the mark as it cannot cover up the lack of structural reforms. The mindset that is still under the chains of colonialism is also there and in a way it is the defeat as it has resulted for a complete need to dismantle the police, prison, and investigation systems, thus destroying the very core of the issue that needs to be treated as now it is the administrative rather than as a pressing human rights issue. In one twisted intricate way or the other aspect these prospects are still there to insert the influence on the narrative. The critical analysis is also present on the way reforms in the law dealing with crime regarding a nation are interrelated with two prospects that denotes whether they are substantive or structural in nature. As the reforms in the year 2024 are created to be predominantly structural in nature and this scenario is a result that is interrelated with the notion of how the reforms are there in the legal fabric of the country. There have been update in the context of the "architecture" of Indian criminal law that is related with the digital age that

consist — faster investigation, promoting the use of digital evidence, and further development in the matter regarding the strengthening of the state control over the investigations but there have not been any radical re-imagination involving the substance of criminal law, as still there are many concepts of the old era concepts even after the updating of the format.

## **Chapter 3: Structure and Functioning of the Indian Criminal Justice System**

### **3.1 Components**

#### **1.1 Police**

The Indian police derives the power to act in accordance through by under the domain of the Constitution, as they are the primary law enforcement agency responsible for maintaining public order, preventing crime, and investigating offenses under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. They are also focused on functioning through a state-level structure headed by the Director General of Police (DGP), with specialized units and district police under the overall control of the State Government, often with IPS officers leading the hierarchy.

#### **Key Aspects of the Indian Police System**

- **Structure and Organization of this Hammer of Justice:**
  - **State Police:** Powers and functioning ability is related with the aspect that through this they are responsible for maintaining law and order, divided into district, city, and armed police.
  - **Indian Police Service (IPS):** Officers recruited centrally through UPSC Civil Services Exam to fill senior leadership roles.
  - **Central Agencies:** Agencies like the Central Bureau of Investigation (CBI), National Investigation Agency (NIA), and Intelligence Bureau (IB) handle inter-state, national security, and special cases, these aspects are also one of the important parts.

- Role under Criminal Justice System of this Hammer of Justice:
  - Investigation: Empowered to investigate cognizable offenses (those listed in Indian Penal Code / Bharatiya Nyaya Sanhita) without a warrant, including collecting evidence and arresting suspects.
  - Prevention of Crime: Patrolling, gathering intelligence, and taking preventive actions (e.g., Sections 149-153 of the Criminal Procedure Code, now corresponding sections in BNSS).
  - One of the prime scenarios are Maintenance of Law and Order by Controlling the riots, public protests, and also ensuring that there is peace during festivals.
  - Another aspect is the Protection of Human Rights in a way that Ensures the rights of victims and also a way where the accused are respected to the basic extent, moving with another goal which is preventing illegal detention, and enforcing laws against the discrimination.
- Legal Framework:
  - The foundational act is a necessary element that is required for governing the organization of police forces in a adequate matter for most of the states and to create the boundaries under which the forces should be creating their working dilemma in accordance to the power and further domain.
  - The procedures that are required for the investigation, arrest, and search can be understood through the legal statutes [CrPc] , 1973 and BNSS 2023 .
- Key Challenges:
  - Political Interference: High levels of interference in day-to-day policing and investigations.
  - Resource Constraints can be understood through the notion of the Shortage of personnel, inadequate modern equipment and machines, then further deficiencies in training.
  - Image Issues that is interrelated with the aspect of scenarios that stems from concerns regarding corruption, large scenarios involving custodial violence, and even more slow police reforms.

Police Reforms:

Recommendations can also be taken in to considerations through Various commissions that are devoted towards denoting very immediate need for operational autonomy, highly professional investigation units, and a adequate set that is focused on grievance redressal mechanism for the ever increasing need required by police personnel.

Modernization is there in the form of Efforts conducted to enforce and implement technology through by means such as (CCTNS), to improve efficiency regarding the work .

## 1.2 Judiciary

One of the most important components related with the structural abilities of the nation. As a component of a democratic and independent nation it is the harbinger of fair trial , equal opportunities and a scale that always remembers to listen to the poor and innocent and also further The Indian judiciary, a cornerstone of the criminal justice system (CJS), operates as a unified, three-tier hierarchy (Supreme Court, High Courts, Subordinate Courts) that interprets law, protects fundamental rights, and adjudicates guilt. It functions alongside police and prison systems, serving as the final arbiter in criminal cases based on statutory law. Key components of the judiciary that never left the poor and the innocent :

Supreme Court of India (Apex Level): The highest appellate court, setting precedents for all criminal proceedings and acting as the guardian of the Constitution.

High Courts (State Level): The highest judicial authority in a state/UT, supervising subordinate courts and hearing criminal appeals.

Subordinate/District Courts (District Level): Handles most criminal trials, including the Sessions Court (for grave crimes) and courts of Judicial Magistrates.

Key Powers: Includes judicial review to ensure laws comply with the Constitution, and issuing writs (Article 32/226) for enforcing fundamental rights.

Role in Criminal Process: While police investigate, the judiciary determines innocence or guilt based on evidence, with a focus on fair trial and protection of accused rights.

Challenges: The judiciary faces issues such as backlog of cases, lack of resources and delay in justice to the people in need. There are also further challenges such as poor infrastructure and administration.

### 1.3 Correctional System

This can be understood as an attempt by the government and the authorities of the law to create an environment where there is a chance presented to the lowest beings of the society to change their fate of despair. The correctional system in India believes in the concept of forgiveness, if there are circumstances and scenarios in which there is a hope of improvement, then it is provided. As the correctional system in India, part of the Criminal Justice System, focuses on rehabilitating offenders rather than just punishment, aiming to reintegrate them into society. Governed primarily by states under the Prisons Act, 1894, it faces challenges like overcrowding (117.6% capacity) and aims for reformation through vocational training, education, and open jails, often guided by the Model Prison Manual. Correctional systems is also related with the influence created with in the constitution. Key Aspects of the Indian Correctional System

- On the Constitutional and Legal Basis, the aspect of Prisons are a State List subject that means administration varies by state to state. Key legislation that involves prison are mainly devoted towards the aspect and the development regarding it .
- Objectives denotes that there has been a Shift from purely punitive measures to reformation, rehabilitation, and reintegration of offenders in order for development, so that they can be integrated into society without any problems.
- Components:
  - Central Jails are devoted towards over seeing High-security prisons for long-term prisoners.
  - District Jails are the administrative seat for Principal places of confinement in districts.
  - Open Jails/Camps they are lacking in terms of security as they provide Minimum security, focus on rehabilitation through agriculture/work.
  - Borstal Schools can be considered as centres that are focused on the re – development of individuals as they are Specialized institutions for rehabilitating young offenders (minors).

- Rights of Prisoners can be attributed through Article 21 as it reaffirms that prisoners have the right to retain basic human rights, including protection against torture and the right to fair treatment, as they are not animals.
- In order to create Reforms and stabilise the Future , it is the work of The Ministry of Home Affairs as to achieve this aspect they have introduced the prospect of statutes focused on model prisons and the correction services related with this notion , with the aspect on the use of technology there will be more focus on the aspect of enhancing inmate welfare, and improving administration so that there can be development.

### Challenges

- Overcrowding: High occupancy rates, especially with undertrial prisoners.
- Conditions: Issues with sanitation, medical facilities, and adequate staff.
- Slow Justice: Delays in trials leading to extended detention.

The system is evolving towards a more humanitarian approach, emphasizing correctional efforts over mere custodial management. In one way or the other these concepts can be taken as a lens to understand the society.

## 3.2 Functions

### 1.1 Investigations

Investigations is one of the most necessary functions under the domain of police in India. As being one of the primary functions , it is related with the the Code of Criminal Procedure (CrPC), 1973 (Sections 157-173), aiming to collect evidence, identify offenders, and determine if a trial is warranted. Police can investigate cognizable offenses *suo motu* (without warrant) but require magistrate permission for non-cognizable cases. Police play a crucial role in the investigation of a crime, and customarily it is the police that first come in contact with the witnesses, victims and accused.

Key aspects of investigation by the Indian police include:

Initiation: Triggered by filing a First Information Report (FIR) under Section 154 CrPC, or by magistrate order (Section 156(3)).

Process: Involves visiting the crime scene, collecting forensic evidence, examining witnesses, recording statements (Section 161 CrPC), conducting searches, and making arrests.

Documentation: Police must maintain a Case Diary (Section 172) and file a Final Report or Charge Sheet (Section 173) before a magistrate to conclude the investigation.

Preventive/Investigative Role: Beyond reaction, police conduct preventive actions to maintain law and order. The core objective and goal of investigations under the police is mainly determined by the notion that it is to gather evidence to aid in the fair administration of justice.

## 1.2 Prosecution

It is one of the necessary functions related with the legal fabric of the country, as regarding the country in India's adversarial criminal justice system, prosecution acts as a quasi-judicial function designed to assist courts in administering justice, rather than merely securing convictions. Prosecutors represent the State to fairly present evidence, protect the rights of both accused and victims, and ensure a trial's impartiality under CrPC provisions.

Key Aspects of it as a Judicial Function are as such -

- Quasi-Judicial Role as the Prosecutors are "harbingers of justice" in that way they should be honest and impartial as then only they can act in the public interest to protect the innocent and ensure the guilty are punished for their offenses.
- Separation from Police: Since the 1973 CrPC amendment, the prosecution wing is detached from the police department to act independently, often under a Directorate of Prosecution.
- Duty to the Court: They assist the court in the search for truth by thoroughly examining witnesses and ensuring relevant evidence is presented.
- Discretionary Powers: Under Section 321 of the CrPC, prosecutors have the authority to withdraw from cases, acting as a safeguard against unfounded prosecutions.
- Constitutional Mandate: The prosecution process is guided by Articles 14 (equality), 20 (protection against double jeopardy), and 21 (fair trial) of the Constitution.

## Key Stages and Functions

Scrutiny of Charge Sheet: Prosecutors review evidence gathered by police to determine if a case is ready for trial.

Pre-trial Functions: Prosecutors apply for arrest warrants, search warrants, and police custody remands.

Conducting Trial: Representing the state in sessions courts or magistrate courts, ensuring witnesses are examined efficiently.

### 1.3 Trial

It is one of the most unique and required functions for the legal fabric in India . Trial, as a judicial function in India, is the formal adjudication process where the judiciary determines an accused person's guilt or innocence based on evidence, adhering strictly to procedural law (CrPC/BNSS). It acts as a guardian of fair trial principles—presumption of innocence, impartiality, and speed—ensuring legal rights are protected from investigation to final verdict.

#### Key Aspects of the Trial Function:

- Adjudication Authority: The court conducts impartial hearings where prosecution and defense present evidence, aimed at establishing the truth.
- Procedural Framework: Trials follow structured procedures (Warrant, Summons, or Summary trials) laid down in the Criminal Procedure Code (CrPC), ensuring consistency and fairness.
- Core Judicial Responsibilities:
  - Framing Charges: Explicitly defining the charges against the accused to ensure a fair defense.
  - Recording Evidence: Taking evidence in the presence of the accused.
  - Ensuring Fair Trial: Ensuring a free legal aid pleader is provided if necessary (Section 304 CrPC) and ensuring the trial is not influenced by external factors.
  - Witness Examination: Supervising the examination and cross-examination of witnesses to elicit facts.

- Judgment: Delivering a final verdict, either acquitting or convicting the accused based on evidence.

Role in Protecting Rights: The judiciary acts as the guardian against illegal procedures, ensuring the right to a speedy trial and protecting the accused from self-incrimination. In essence, the trial court serves as the "grassroots of justice delivery," where the judiciary translates statutory law into practical justice.

### **1.4 Sentencing and Rehabilitation**

It is one of the most critical function as it is a requirement for the country in one way or the other. In India it is a critical judicial junction that follows the reason behind conviction, where judges are there to exercise wide discretion in order to determine the fate that will be given through punishment which will be based on proportionality, crime seriousness, and offender characteristics relating with the crime. While it will be lacking through a way related with a formalized, statutory sentencing policy, as courts are there to utilize principles of deterrence and rehabilitation in order to balance punishment with reformatory goals as they are in the heart of the decisions.

Key Aspects of Sentencing by the Judiciary are mainly related with the notion that there should be the presence of the proportionality of crime.

Rehabilitation in the Indian Criminal Justice System is focused on creating an environment where there is a chance for development, so that the individuals can re enter into society without being a problem.

The Indian judiciary in this context continues to evolve from the point of purely retributive justice to a restorative and rehabilitative approach, seeking to balance social security with the reformation of the offender, so that the society does not fall in to chaos.

### **3.3 Interrelationship between Institutions**

The System is a collaboration of functions and it is maintained through the interrelationship of three core pillars required in any democratic society which are Police (investigation), Judiciary (adjudication), and Correctional Systems (rehabilitation) as the functions of these aspects are aimed to maintain the rule of law. As Police is behind to initiate cases, the Judiciary takes the responsibility to conduct the trials regarding them, and the Correctional systems are there to manage penalties, with each aspect depending on the others for the effectiveness.

Key Interrelationships & Functions are mainly focused around the workings under the society.

Interdependency and Challenges:

- **Inter-Operable Criminal Justice System (ICJS):** Initiatives are underway to align these pillars using a "one data one entry" principle to streamline sharing information between police, courts, and prisons.
- **Issues:** Challenges such as high undertrial populations indicate a breakdown in the timely interaction between the judiciary and correctional systems.

**Bail Process:** Courts rely on police reports to make decisions, and the judiciary oversees the detention, creating a delicate balance of power between police and the judiciary to prevent unlawful detention. This interrelationship can further be understood as a iron triangle of justice. As in the eyes of the law, these three wings form a relay race where the baton of "justice" must be passed seamlessly. If one runner trips, the entire race—and the victim's right to justice—is compromised. The goal of social defense is the main attribute of the interrelationship between these institutions. From a legal perspective, the interrelationship between these three wings must evolve from a "blame-game" culture to a "coordinated-response" culture. The new criminal laws (BNS/BNSS) emphasize timelines and technology, which will necessitate even closer cooperation.

### **3.4 Role under BNSS framework**

The criminal justice system of India is not just a set of laws and institutions—it is the living framework through which society seeks order, fairness, and accountability. With the enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, India has attempted to modernize its criminal procedure laws, replacing the colonial-era Code of Criminal Procedure (CrPC) of 1973.

The Role of Police under the BNSS

Registration of FIRs

Investigation

Use of Technology

Accountability and Oversight

## Community Policing

### The Role of the Judiciary under BNSS

The component is the soul of just decisions. As the statute strengthens its role by focusing on speedy trials, digital integration, and victim rights.

### Speedy Trials

Through by the statute, there is now a time limit for framing charges and conducting trials. This is a direct response and answer to India's massive backlog of cases.

### Digital Courts

The witnesses are now be examined with the help of video conferencing, and the documentation of this process is in electronic form. Through this aspect there is a reduction in logistical delays and it makes the process more efficient.

### Victim-Centric Approach

The victims' rights are ensured that includes compensation and protection. This aspect marks the shift from purely offender-centric system to one that balances the scales and is also there for the victims.

### Checks and Balances

A check on police powers is there due to judiciary. By which it is ensured that arrests, searches, and seizures are lawful and that trials remain fair.

### Upholding Constitutional Values

In the final move it is ultimately the judiciary that ensures that the statute aligns itself with the constitutional promise of justice, liberty, and equality.

### The Role of Correctional System under BNSS-

It is the aspect that is often overlooked, although it is the final stage in the delivery of justice. As the statute emphasizes reformation over retribution.

## Rehabilitation

One should know that Prisons are not just only the places of confinement further more they are the institutions of reform, to nurture this aspect the statute encourages skill development, education, and counseling for inmates.

## Probation and Parole

In the case of minor offences, the statute promotes the use of alternatives to imprisonment, which are probation, parole, and community service in the larger context. As this reduces the presence of overcrowding and allows offenders to reintegrate into society.

## Juvenile Justice

There are Special provisions to ensure that juveniles are treated differently with care and respect, with focus on the emphasis regarding rehabilitation rather than punishment.

## Human Rights Protection

In order to protect the human dignity Correctional authorities are there to protect the dignity of inmates in each and every sense, that in turn will prevent custodial torture, and moreover healthcare is also provided. The new statute is there to reinforce these obligations.

## Interconnectedness of Police, Judiciary, and Correctional System

The three pillars of order are not isolated in their working environment. As their effectiveness depends on coordination and balance which is as such -

- The police investigate and bring offenders before the courts.
- The judiciary ensures fair trial and pronounces judgment.
- The correctional system enforces sentences while focusing on rehabilitation.

There are still Challenges that need to be resolved to attain absolute result and they are as such - Overburdened police with limited resources.

Judicial backlog despite time-bound provisions.

- Prison overcrowding and lack of infrastructure.
- Public trust deficit due to past misuse of power.

The Conclusion related with the main object can be understood as the aspect that how The BNSS represents a paradigm shift in India's criminal justice system.

## **Chapter 4: Limitations of the Indian Criminal Justice System**

### **4.1 Judicial Delays and Backlog**

This has always been a spot of great pain for the country from a very long period of time. Like other institutions in the country, the Indian judiciary has found it challenging to function amid the risks and constraints created by the pandemic. Data from the National Judicial Data Grid shows that, in 2020, the country's high courts—the apex courts in each Indian state and union territory—disposed of fewer than half as many cases as they did in 2019. However, since the number of cases instituted fell only by one-third, the total number of pending cases increased. This problem has major consequences for India's judiciary and its wider political system. Of course, this pendency problem is a long-standing issue across the Indian judiciary. Pendency has always present issues that are quite difficult to understand. Judicial delays and a massive backlog, with over 5 crore cases pending, constitute a primary limitation of the Indian Criminal Justice System, often resulting in "justice delayed is justice denied."The crisis is there to the reason that attributes because of the severe shortage of judges, inadequate infrastructure and administration, frequent adjournments, and procedural rules that are quite complex. Consequently it is also related with how undertrials spend years in prison sometimes exceeding maximum potential sentences due to which their fundamental rights and the public trust is undermined. In this case the Government itself is one of the biggest litigant having 50% of the pending cases being sponsored and related to the state authorities. Moving forward Land and property disputes are one of the largest set of pending cases in the structure. Further About 20% of all pending cases that are related to land and property disputes among which they are 66% of all pending civil cases in India; and then 25% of all cases decided by the Supreme Court involve land disputes. These are the various aspects behind the judicial delays.

## 4.2 Undertrial Prisoners and Bail Issues -

This aspect in one way or the other presents one of the most suffered aspect of the legal fabric in the country. As Undertrial captures, constituting over 70 of Indian captivity convicts, represent a critical limitation in the felonious justice system, pressing issues of overcrowded jails( 131.4 residency) and the slow administration of justice. Despite the legal principle" bail is the rule, jail is an exception," numerous — largely poor and marginalized — emaciate in captivity due to incapability to furnish surety, lack of legal representation, and systemic backups, violating their right to a speedy trial under Composition 21.

crucial issues regarding undertrials and bail in India include these scripts

- Overcrowding and Demographics incarcerations are oppressively overcrowded, operating at over 130 capacity in some areas, with a maturity of convicts belonging to marginalized communities( SC, ST, nonages).
- Systemic Bail Failures Although bail is a right inailable offenses, poverty prevents numerous from paying sureties. The system frequently operates on" shamefaced until proven innocent," turning remand into discipline before conviction.
- Legal Aid scarcities numerous undertrials warrant timely, effective legal representation, delaying their bail operations.
- Lengthy Trials Slow judicial processes mean undertrials frequently spend further time in captivity than the maximum judgment for their alleged crime.
- Reforms and results

Section 436A CrPC Mandates the release of undertrials who have served half the maximum judgment ( now incorporated meliorated in new laws like section 479 of the Bharatiya Nagarik Suraksha Sanhita( BNSS)).

Undertrial Review panels( URCs) sections must hold regular meetings to recommend the release of eligible undertrials.

Alternative Reforms Promotion of better legal aid, digital shadowing of captures(e-prisons), and bail reforms to insure equity for the poor.

### 4.3 Inefficiency in Investigation

It's one of the most delicate aspect to deal with in the felonious justice system. As inefficiency in disquisition is a critical limitation of the Indian Criminal Justice System( ICJS), frequently acting as the weakest link that leads to low conviction rates and delayed justice. --The process of investigation in India, primarily driven by the police under the Code of Criminal Procedure (CrPC), is plagued by systemic, operational, and structural challenges, resulting in nearly 80% of reported crimes going unpunished due to loopholes. The criminal justice system in India has three important players, namely, the police, the prosecution, and the judiciary. The activities of the police are crucial to rendering justice in criminal cases and affect the operations of the entire criminal justice system. The police are usually the first to make contact with the victims, the witnesses, and the accused. The police play a key role through the course of investigation, particularly in the identification of the accused, and establishing the guilt of the accused during trial in criminal cases. The problem mainly arises from corruption as this evil hampers the growth of the investigation in such a way that certain issues are created in the way of justice. Criminal investigation can be improved by making each investigation a team effort, but this effort faces a problem when there is the presence of inefficiency in investigations. Many of other issues such as problematic administration can also be considered as a issue in these various scenarios. Key Reasons for Inefficient Investigation in India are as such -

**Shortage of Manpower and Overburdening:** Police forces are severely understaffed compared to international norms. Officers are frequently overburdened with law and order duties( business, personality security), leaving little time for professional disquisition.

**Lack of Scientific moxie and Forensic structure** numerous examinations calculate on outdated styles and private viewer evidence rather than scientific substantiation. Forensic labs are trespassed, with roughly 38 of particulars transferred for examination remaining pending for over a time.

**Poor substantiation Collection and Preservation** Subpar training results in defiled or missing forensic substantiation, making it delicate to prove cases beyond a reasonable mistrustfulness in court.

**Political hindrance and Corruption** probing officers face pressure from influential individualities or political leaders to impact, detention, or manipulate examinations. Corruption within the force also impacts unprejudiced substantiation collection.

Frequent Transfers of probing Officers( IOs) IOs are constantly transferred, frequently for political reasons.

A single case might be handled by multiple officers, dismembering durability and weakening the case.

Deficient Witness Protection Lack of a robust substantiation protection medium leads to substantiations turning hostile due to fear or intimidation, frequently performing in clearings.

Delay in Registration of FIRs Despite legal authorizations( Lalita Kumari vs. Govt. of U.P.), police frequently delay filing First Information Reports( FIRs), allowing pivotal substantiation to be destroyed. 4.4

Lack of Police Reforms This is also one of the aspects that in one way or the other creates issues for the legal fabric of the country. As the lack of comprehensive police reforms is a critical limitation of the Indian Criminal Justice System( ICJS), rendering the frontline agency frequently hamstrung, inexplicable, and susceptible to political influence. Despite colorful panels and Supreme Court directives, the Indian police system largely continues to operate under the Police Act of 1861, a social- period enactment designed to control the population rather than serve it, which hinders ultramodern, rights- grounded policing.

crucial limitations stemming from the lack of police reforms include

#### Political hindrance and Lack of Autonomy

- Nexus of Vested Interests A deep nexus between politicians, culprits, and the police frequently subverts the justice delivery system.
- Lack of Functional Autonomy The political superintendent holds inordinate power over police labor force, using them for particular or political interests, which interferes with professional examinations.
- Short Tenure Police officers constantly face arbitrary transfers, dismembering ongoing examinations and long- term advancements.

#### Poor Quality of examinations

- Low Conviction Rates Poorly handled examinations lead to low conviction rates, with in- depth analysis showing that examinations are frequently compromised by a lack of chops or coffers.
- Lack of Scientific Forensics Despite the preface of new felonious laws in 2024 aimed at calling forensics, a patient reliance on custodial interrogation and admissions rather than scientific substantiation still exists in numerous areas.

- **Overburdened Force** The police- population rate in numerous countries is far lower than the United Nations' recommended standard, leading to an over-burdened force that struggles to handle both law and order duties and detailed examinations.

#### Responsibility deficiency and Misconduct

- **Custodial Violence** A lack of independent oversight leads to continued cases of torture and custodial deaths, eroding public trust.
- **Ineffective Responsibility Mechanisms** Internal mechanisms for holding officers responsible are weak. The Supreme Court's Prakash Singh( 2006) directives for setting up independent Police Complaints Authorities have n't been completely enforced across all countries.

- **Resistance to Modernization**

Structure dearths CAG checkups have constantly set up dearths in artillery and ultramodern technology across state police forces.

- **Ineffective Use of finances** finances devoted to the modernization of structure are frequently not completely employed by state governments.
- **Social Leftover and Public Trust Deficit**

**Negative Public Perception** The public frequently fears the police rather than viewing them as defenders, leading to the underreporting of crimes.

**Unfriendly Policing:** The force is frequently described as "selectively efficient" and insensitive, particularly towards marginalized communities.

Recent Efforts are one of the steps that are focused on these issues although while the 2024 implementation of new laws—*Bharatiya Nyaya Sanhita*, *Bharatiya Nagarik Suraksha Sanhita*, and *Bharatiya Sakshya Adhinyam*—seeks to address some of these issues through technology, online FIRs, and enhanced victim rights, fundamental structural reforms regarding autonomy and accountability remain largely pending. Lack of police reforms is also related with the issue of criminalisation of politics and the instruments of the government. In India, various kinds of complaints are made against the police including complaints of

unwarranted arrests, unlawful searches, torture and custodial rapes. To avoid this fate there should be check against such abuse of power, various safeguards should be adopted, such as accountability of the police to the political executive, internal accountability to senior police officers, and independent police oversight authorities.

Lack of Resources is also one of the aspect that is related with the notion of police reforms as CAG audits have found shortages in weaponry with state police forces. For example, Rajasthan and West Bengal had shortages of 75% and 71% respectively in required weaponry with the state police. Also in one way or the other it is noted that the Bureau of Police Research and Development has also noted a 30.5% deficiency in stock of required vehicles with the state forces. Further, funds dedicated to the modernisation of infrastructure are typically not utilised fully. For example, in 2015-16, only 14% of such funds were used by the states.

#### **4.5 Access to Justice and Legal Aid**

This aspect has always been a major question for the Indian criminal justice system as it has always been a matter of great discussion and observations. It is there but at the same time it's accessibility has always been under the radar. In India it still remains as a significant challenge due to systemic inefficiencies, high costs, and low awareness, limiting the effectiveness of legal aid schemes for marginalized populations. Despite constitutional guarantees (Article 39A) and statutory frameworks like the Legal Services Authorities Act, 1987, the system faces limitations including inadequate funding, overworked, and poor-quality state-empanelled lawyers, and a massive case backlog (over 45 million).

#### **4.6 Prison Conditions and Overcrowding**

This aspect has always been a notion of critical analysis as Despite the importance of prisons it does not means that this legal arrangement does not require reforms as it is widely criticized for being ineffective in modern democratic contexts, leading to persistent issues with accountability, human rights violations, and a lack of citizen-centric policing , physical torture. As prison overcrowding in India, with more average occupancy rate, is a major systemic limitation driven by aspects such as the under trial population, causing inhumane living conditions, poor health, and severely hindered rehabilitation. This extremity, frequently nominated a “ systemic apathy, ” violates Article 21's guarantee of mortal quality and creates severe safety pitfalls for convicts and staff. crucial Aspects of Captivity Overcrowding in India that creates itself as a Limitation

High Undertrial Population roughly 75.8 of convicts are awaiting trial, frequently sagging in jail for longer than their implicit maximum judgment .

inhuman Conditions Overcrowding results in shy food, water, sanitation, and medical care.

Failed Reformation Crowded surroundings make it insolvable to insulate hardened culprits from first- time malefactors, defeating the purpose of recuperation. Violations of Human Rights: Prisoners' rights to life and dignity under Article 21 are severely impacted.

Causes and Consequences of prison overcrowding :

Root Causes: Excessive use of pre-trial detention, slow judicial processes, and lack of legal aid. This can be considered as one of the earlier aspects of the issue.

Systemic Consequences: Increased violence, high health risks, and the inability of prison administrations to manage, leading to a breakdown in secure custody. It highlights that how at times , the various implications get ignored just because it belongs to the part of the society that is not acceptable easily by anyone.

Legal Implications: The situation violates the United Nations Standard Minimum Rules for the Treatment of Prisoners, which India is a signatory to. As United Nations has always been a governing body of human rights, so this aspect is important for understanding that how these conditions are a requirement for a society that is build on law .

Key Data Points highlighting the various aspects of the issue:

Occupancy Rate: Often exceeds 130–180% in many facilities, particularly in states like Uttar Pradesh, Bihar, and Delhi. This is also one of the scenarios of the aspect .

Overcrowded Facilities: As per and, many prisons hold up to four times their capacity. It is also one of the reasons that can be understood.

#### **4.7 Corruption and accountability Issue.**

It is also one of the most complex situation that have some serious implications. As Corruption in India is a problem that has some serious results so as for Both protecting the rule of law and ensuring access to justice in the country , it is a required aspect that in which this issue should be dealt with in a proper way . Corruption is pervasive in the system of governance in India, Undermining the effectiveness of all institutions of

governance. Since Independence, successive governments have attempted to take Numerous measures to reduce the levels of corruption in the country, Including legislative and institutional measures. However, absence of The political will and sincerity in taking concrete steps to eliminate corruption has resulted in most of these measures not achieving the Results that were intended. It is not just a issue of law enforcement as it is also one of the reasons due to which the existing laws of the state are violated. This issue has also affected the criminal justice system in a very intricaded level as it violated the line of duty , justice and fair verdict. Corrupted politician, administration has always been the reason for the death of justice and trial . As when powerful people misuse authority, corruption arises. Corruption may be large, petty, or political depending on sector and money lost. Petty corruption includes lower-ranking officials and less money than grand corruption. Politician corruption affects institutions, policies, and processes. Low income, institutions, transparency, accountability, nepotism, tribalism, poverty, social norms, and culture may induce corruption. To avoid this scenario accountability is very important and necessary and to achieve this there need to be scenarios where there is strengthened legal framework and enforcement mechanisms, increased transparency and access to information, more citizen participation and oversight, improved public sector management and accountability, reformed political financing and lobbying regulations, integrity and ethics, and empowered civil society and media. But still there is a long way to achieve accountability as still there are key limitations such as -

Ineffective Internal Accountability: The judiciary's in-house vigilance mechanism for accountability is widely regarded as "faulty, weak, and toothless". It lacks statutory backing, acts inconsistently, and functions in secretiveness, precluding independent assessment of its effectiveness. Judicial Corruption and "Uncle Judge" Syndrome Legal reports frequently point to corruption in lower and high courts, including bribery for favorable bail orders or to accelerate sounds. The opaque collegium system for judicial movables has faced review for encouraging nepotism and political hindrance. So as we can say that these are the reasons due to which there are still ongoing issues with the Indian criminal justice system that makes it a double-edged sword as because it works but it also harm the one that wields it . The Indian criminal justice system can only be successful in a true way when there are no more such scenarios where it face limitations under these conditions.

#### 4.8 Limitations of New Laws [ BNS and BNSS]

##### Practical challenges in implementation

The challenges can be considered as through the way in which the new shift is promoted as significant challenges, primarily driven by inadequate digital infrastructure, training deficits among police and judiciary, and high public unawareness are there as one of the aspects . Key hurdles include training personnel on new procedures, potential misuse of extended police custody, and the strain of upgrading technological capabilities across rural areas. Furthermore there is still digital inadequacy in ways such as how Police stations lack sufficient tablets/devices for mandatory digital documentation, with some utilizing personal phones .Then there is also the matter of personnel transition as Law enforcement bodies , public prosecutors, and judicial officers need extensive retraining to transition from the old regime .Moving forward there is also the matter of Understanding the parallel application of old laws and new laws and how to avoid creating procedural confusion. Operational and legal hurdles are also there in one way or the other as there is the matter of extended police custody, ambiguity in definitions and all of this aspect is connected with administrative and systematic overload. These are some of the aspects that are quite important.

##### Continuity of systemic issues

These issues are of the nature that is related with the minimal influence but they still have serious implications as it is about how police vacancies, poor forensic capacity, and potential for abuse of power is still there. Despite aiming for modernization, challenges persist in training, legal nebulosity, and structure, frequently replicating social- period power imbalances while adding eventuality for delayed justice due to resemblant systems. Further in a way systemic issues are continued as through the aspect of how the new felonious laws represent a significant step toward contemporizing India's legal frame, although their successful perpetration and alignment with the National Litigation Policy will depend on addressing transitional challenges, icing acceptable training, and enhancing judicial structure. Supreme Court precedents will remain list, furnishing durability and legal certainty during the transition. The ultimate thing of speeding up the judicial process and reducing case backlogs will bear sustained sweats and coffers. also the farther Key Continuing Systemic Issues include

Police Power Overreach & Custodial enterprises The( BNSS) allows extended police guardianship from 15 days to over to 60 or 90 days, raising pitfalls of custodial violence and abuse.

structure Gaps obligatory vittles like videography of hunt and seizure and digital FIRs face backups due to a lack of technology and forensic capacity in pastoral police stations.

nebulosity and Legal query Vague delineations of offenses could lead to private interpretations by law enforcement and produce confusion, leading to dragged action to establish new precedents.

perpetration Hurdles & Training The bar and police bear expansive, ongoing training, and the contemporaneous operation of old( IPC) and new laws( BNS) creates logistical agonies and confusion in ongoing cases. Underlying Structural Weaknesses: The reforms do not address the foundational shortages in police staff and judiciary, which are the main causes of pending cases and delayed justice. As the continuity of systemic issues arises due to many reasons, one such aspect that is related with this is about that how success of the new laws, which aim to provide faster, technology-driven justice, largely depends on overcoming these persistent structural inefficiencies. Then the more continuity of systemic issues can also be related with the fact that the criminal justice system in one way or the other is focused on the aspect of reforming the criminal.

## **Chapter 5: Comparative Analysis with other Jurisdictions of a Democratic World**

### **5.1 Overview of Selected Jurisdictions**

#### **1.1 USA**

This country is a segment related with the aspect of how indigenous populations for thousands of years before European colonization in the 16th century were also there . Following the establishment of British colonies in the 17th century, the Thirteen Colonies declared independence in 1776, overcoming Britain in the Revolutionary War. The nation expanded westward, fought a Civil War over slavery (1861–1865), and rose to become a global superpower through industrialization and two World Wars. Then as time moved forward and with this new developments were seen, among one such prospects there was the period focused on the Britishers. Major developments of this period started with Increased taxation and control by Britain, including the Intolerable Acts, as it triggered the American Revolution. The Declaration of Independence was signed on July 4, 1776. The Constitution was ratified in 1789.

## 1.2 Jurisdictional Structure of the Country

The country works under the federal system with dual sovereignty, where power is divided between the federal government and 50 independent state governments, each with its own three-branch structure (legislative, executive, judicial). Under this division of power, the branches legislative, executive, and judicial — operate within a constitutional system of “checks and balances.” This means that although each branch is formally separate from the other two, the Constitution often requires cooperation among the branches. Federal laws, for example, are passed by Congress and signed by the President. The judicial branch, in turn, has the authority to decide the constitutionality of federal laws and resolve other cases involving federal laws. This is one of the aspects which is deeply related. Moving forward, the American judicial system has judges distributed through on a very different basis as the Supreme Court has nine justices. In one of the initial working stages, the first Congress established not only the Supreme Court, but also a system of trial courts (District Courts) and intermediate Appeals Courts (Courts of Appeal).

## 1.3 In Comparison with India

The countries have a very different temperament although they share similarities but the reaction to the surrounding legal environment and fabric is very different. As the US features a dual, decentralized court system (separate federal and state courts), while India maintains a unified, integrated judicial hierarchy with the Supreme Court at the apex. The US follows a presidential system with stricter separation of powers, whereas India operates a parliamentary system. Even the difference can be observed between the nature of the constitution. As US in being a country believes in presenting their government officials as the supreme source of power, but India as a country created itself into a nation that is focused on the aspect that the will of the people is supreme and the government officials can be questioned, further they are not the supreme source of power. Key differences highlighting the jurisdictional structure between the most unique political players of the country are as such -

Judicial Structure:

USA: Dual structure. Federal courts handle federal matters, while state courts manage state law. Each state has its own constitution and court system.

India: Unified hierarchy. A single, integrated system handles both central and state laws, with the Supreme Court controlling High Courts and subordinate courts.

Supreme Court Scope:

USA: Primarily focuses on federal and constitutional matters.

India: Functions as a final court of appeal for constitutional, civil, and criminal matters, with broad discretionary jurisdiction (Special Leave to Appeal).

Advisory Jurisdiction:

USA: No provision for advisory opinions.

India: The President may refer questions of public importance to the Supreme Court for advice.

Appointments & Tenure:

USA: Federal judges are appointed by the President, confirmed by the Senate, and hold lifetime tenure.

India: Judges are appointed by the President using a Collegium system and retire at 65 (Supreme Court) or 62 (High Courts).

Key federal differences are as such:

Federalism Type: The US has "dual federalism" with greater state autonomy. India has a "quasi-federal" or "cooperative federalism" structure that often acts as a unitary system in emergencies.

Citizenship: The US has dual citizenship (federal and state). India provides for single citizenship.

Residuary Powers: In the US, powers not assigned to the federal government are reserved for the states. In India, residuary powers lie with the central government.

Uniformity of Laws: India generally maintains uniformity in laws (particularly criminal). The US has significant legal variation between states.

## 5.2 UK

### History of the Greatest Shareholders of Politics in the Grand Map

UK or The Great Britain, has always been a major player in the world history starting from the conception of monarchy to the being the great colony holders during the great wars. The earliest known name for Great Britain is Albion and the history of this nation has seen many different and unique periods such as the pre-historic times. Although two world wars and the end of empire diminished its role in the 20th Century, and the 2016 referendum vote to leave the European Union has raised significant questions about the country's global role.

Nonetheless, despite the scenarios the United Kingdom remains an economic and military power with great political and cultural influence around the world. Moreover it's history is also entwined with the aspect that how The United Kingdom is a state made up of the historic countries of England, Wales and Scotland, as well as Northern Ireland. It is known as the home of both modern parliamentary democracy and the Industrial Revolution. In the case of the head of the government there have been 63 monarchs of England and Britain spread over a period of approximately 1200 years. So we can understand that mainly the history of the United Kingdom begins in 1707 with the Treaty of Union and Acts of Union. The core of the United Kingdom as a unified state came into being with the political union of the kingdoms of England and Scotland,<sup>[1]</sup> into a new unitary state called Great Britain. So at last we can say that the history of this nation is created through passion, ambition and a drive to thrive.

### 1.1 Jurisdictional Structure of the Country that occupied the Power and Wealth of more than Half of the World

The English legal structure comprises of structure that in one way or the other depends on unitary sovereign state with three distinct legal jurisdictions: England & Wales, Scotland, and Northern Ireland. Many parts of England have 2 tiers of local government: county councils and district, borough or city councils. Key jurisdictional components expressing the main structure of the government are as such -

The seat of supreme power England and Wales: A common law jurisdiction where courts are headed by the Senior Courts of England and Wales, covering both nations.

The ever important Scotland: A distinct, hybrid system blending common law and civil law principles, governed by the High Court of Justiciary (criminal) and Court of Session (civil).

Northern Ireland, one of the Operatives to gain Power: Operates its own common law system, distinct from the other two.

Structure of Power that defined Politics

UK Supreme Court, The Coin of Law : The final court of appeal for all civil cases and criminal cases (except Scottish criminal cases).

Devolution, one of the steps of the working Government : The Scottish Parliament, Senedd (Welsh Parliament), and Northern Ireland Assembly legislate on devolved matters, such as health and education.

Westminster Parliament, the Hammer of Administration : Retains sovereignty and handles "reserved" matters for the whole UK (e.g., defense, foreign policy).

So in one way or the other we can say that the country has influence and there are also various conditions as such it can be understood through as it while Great Britain (England, Scotland, Wales) shares commonalities, Scotland remains legally distinct, and Wales is increasingly distinct from England in legislation, though they share a legal system.

## 1.2 In comparison with India

The comparison with India will be slightly different as both of the countries share a intense history that consist of war and rebellion . Although India operates a unified, hierarchical judicial system based on a written constitution, while the UK has a more fragmented structure (separate systems for England & Wales, Scotland, and Northern Ireland) operating under parliamentary sovereignty. Both share common law traditions, but India's Supreme Court can strike down laws, whereas UK courts only review the legality of executive actions. Then further the jurisdictional differences between India and the UK can be understood through that India and UK are liberal democratic states where the judiciary enjoys a very important and powerful position. The written Indian Constitution, the supreme law of the land, defines the judicial powers but in the UK the judicial system is the result of slow and gradual evolution under an unwritten Constitution. This has resulted in

convergence as well as divergence in the two judicial systems visible in areas like judicial review, independence, accountability and separation from the executive etc.

### 5.3 Germany

As a nation , Germany has a very unique identity in terms of their political stance and national values . Through by tracing the existence of the history it can be understood that German history spans from ancient Germanic tribes resisting Rome to a modern, unified European power. Key eras that define the very rich cycle of events include :- The Holy Roman Empire (962–1806), Unification under Prussia in 1871, The devastation of two World Wars, Cold War division into East and West (1949–1990), and reunification in 1990. Then moving forward we can also understand the personal history through facts such as that how following the German surrender to the Allied powers on May 8, 1945, Germany was occupied and divided into four zones. Each of the main Allied powers (the United States, the Soviet Union, Great Britain, and France) was responsible for the administration of its zone. In 1947, the United States and Great Britain merged their zones. After tensions arose between Soviets and the western powers, the German Federal Republic (FRG, commonly as West Germany) was created out of the American, British, and French zones on September 21, 1949. The Soviets then oversaw the creation of the German Democratic Republic (GDR, commonly known as East Germany) out of their zone of occupation on October 7, 1949.

### 1.2 Jurisdictional Structure of One of the Most Aggressive Political Player in the World History

The structure consists of many aspects such as it is shared at the federal level (Bund) and the 16 states (Länder). The judiciary is divided into five independent, specialized branches—ordinary, labor, administrative, social, and fiscal—each with its own hierarchy of courts. Specialized courts handle specific areas of law, with federal courts serving as the final instance for all branches. Then , the key components of the German judicial system is as such - Federal Constitutional Court (Bundesverfassungsgericht – BverfG): The supreme constitutional body, separate from all other branches, it ensures adherence to the Basic Law (Constitution).

Five Specialized Branches:

Ordinary Jurisdiction (Ordentliche Gerichtsbarkeit): Covers civil and criminal matters. It has four levels: Local Courts (Amtsgerichte), Regional Courts (Landgerichte), Higher Regional Courts (Oberlandesgerichte), and the Federal Court of Justice (Bundesgerichtshof – BGH).

Labour Jurisdiction (Arbeitsgerichtsbarkeit): Handles disputes between employees and employers.

Administrative Jurisdiction (Verwaltungsgerichtsbarkeit): Reviews disputes regarding public law matters, excluding those specifically assigned to other branches. -

Social Jurisdiction( Sozialgerichtsbarkeit) Handles cases related to social security law, similar as severance benefits and pensions.

financial governance( Finanzgerichtsbarkeit) Covers duty and customs controversies.

Structure and scale utmost cases begin in state courts( Original or Regional), with technical high- position civil courts( e.g., Federal Administrative Court) acting as courts of appeal to insure invariant legal operation.

In comparison with India When we observe India and Germany, we can understand that how these two countries are the most famed and robust in the world as these countries have forged their fates in the fire of hard work, so the comparison between these two would be most intriguing as these two countries handle their legal “ plumbing ” in veritably different ways. While both countries use their courts to balance the power between the central government and the countries, the way they’ve erected their judicial graduations is unnaturally distinct. This aspect can be further understood through these scripts similar as-

Unified vs. fractured Structures

The most striking difference is the “ shape ” of the scale. India follows a unified, three- league aggregate. At the base, you have the District Courts; in the middle, the High Courts( generally one per state); and at the top, the Supreme Court of India. It’s an intertwined system, meaning the Supreme Court has the final word on everything — from a original property disagreement in Kerala to indigenous challenges in Delhi.

Germany, by discrepancy, uses a technical, vertical system. rather of one single aggregate, they've five distinct branches of governance Ordinary( civil/ miscreant), Labor, Administrative, Social, and financial. Each branch is its own silo with its own civil supreme court.However, it stays within the “ financial ” lane all the way to the top, If you have a duty problem in Munich. There is n’t one “ Godzilla ” court that oversees all these branches unless a indigenous right is violated.

## The part of the Supreme Courts

In India, the Supreme Court is a hustler. It is n't just a indigenous court; it's the ultimate court of appeal for every legal matter in the country. Because of this, it handles thousands of cases a time, ranging from the mundane to the major.

Germany handles this through a unique separation. The Civil indigenous Court( Bundesverfassungsgericht) sits entirely outside the “ regular ” court system. It does n't hear to routine prayers about a breach of contract or a theft. Its only job is to cover the Basic Law( the Constitution). You only end up there if you can prove that a lower court's decision — or a specific law — directly infringed on your indigenous rights.

## State vs. Federal Power

In India, the High Courts are the loftiest judicial bodies at the state position, but they're “ brutes of the Constitution ” rather than “ brutes of the state. ” The President of India appoints High Court judges, which gives the central government a significant hand in the state bar.

Germany's system is more “ nethermost-heavy. ” The vast maturity of courts — and the judges who staff them — belong to the 16 countries( Länder). The civil government only steps in at the very top of each of those five technical branches. This reflects Germany's deep commitment to federalism, icing that the countries maintain a high degree of autonomy in administering justice.

## Legal Tradition and Judges

The “ vibe ” of the courtroom is also different. India inherited the Common Law tradition from the British. It's inimical; the judge acts as a neutral arbiter while two attorneys battle it out. Precedents( former court rulings) are basically law.

Germany follows the Civil Law( Inquisitorial) tradition. Then, the judge is much more active, leading the disquisition and questioning substantiations to find the “ verity ” rather than just letting attorneys control the narrative. bills and written canons are the primary authority, while former cases are influential but not technically binding in the same way they're in India.

In the end, the conclusion can be deduced on the base of this idea that eventually, India's system is erected for integration, icing a single legal standard across a massive, different key. Germany's system is erected for specialization, icing that experts handle specific types of law in a way that protects individual rights against the state. One is a massive, each- encompassing aggregate; the other is a set of precise, technical pillars.

## 5.4 Judicial Efficiency

### 1.1 Case Disposal Systems

Case Disposal is one of the most important aspect of the legal fabric of India and it is also one of the necessary procedure to complete the judicial obligations . Just any other country in the world this aspect is also present in USA , UK and Germany . In this context the case disposal systems are conducted under such methods which can be understood as through Germany uses a structured civil law approach, while the US and UK rely on adversarial common law systems. Then moving forward with Germany as the country focuses on inquisitorial, codified procedures. In this aspect The US relies on jury trials, extensive pretrial discovery, and plea bargaining. Then The UK utilizes a “split” profession (solicitors/barristers) with both in-court and out-of-court disposals.

### 1.2 Time Bound Trials

The three countries handle their ticking clock in a very different way as in their courts, they take very unique and different paths to keep things moving. Then’s a breakdown of how they attack judicial effectiveness

#### The United States The “ Speedy Trial ” Right

In the US, effectiveness is actually a indigenous right. The Sixth Amendment guarantees a “ speedy trial, ” but in reality, this is frequently a double- whetted brand.

The Strategy To help the system from collapsing under its own weight, the US relies heavily on Plea Bargaining. About 90- 95 of cases noway see a trial because they're settled behind unrestricted doors.

The Catch that defines reality While this clears the program presto, the “ pretrial ” phase( discovery) can drag on for times. The timepiece only really starts ticking presto once a jury is seated.

#### The United Kingdom Strict operation

The UK( specifically England and Wales) has moved toward a “ directorial ” style of justice. They don’t just leave it to the attorneys; the judges are now the bones driving the schedule.

The Strategy Under the Criminal Procedure Rules, judges have a duty to manage cases laboriously. They set “ guardianship time limits ”( generally 6 months) to insure people are n’t sitting in jail ever before a trial.

The Catch that defines reality The UK system is presently floundering with a massive backlog due to backing cuts, showing that indeed the stylish rules ca n’t fix a lack of coffers.

## Germany Professionalism over Procedure

Germany's effectiveness comes from its Inquisitorial System. Because the judge is the one leading the disquisition and calling substantiations, there's far less "theatrical" back and-forth between attorneys. The Strategy: German courts use a principle called Concentration. The goal is to finish a trial in one continuous block of time rather than spreading it out over months of sporadic hearings. There is no jury selection to slow things down, and the "Day in Court" is much more streamlined.

The Catch that defines reality : While it's faster, the judge has an enormous amount of power, and there are fewer opportunities for the "legal maneuvering" that defines the US/UK systems.

Key Takeaway that can be used for further research and development is as such -

US: Efficiency is driven by settlements (avoiding trial).

UK: Efficiency is driven by judicial oversight (strict scheduling).

Germany: Efficiency is driven by system design (removing the adversarial hurdles).

## 5.5 Police and Investigation Systems

### 1.1 Autonomy and Accountability

This aspect is one of the most important component of any jurisdiction and just any other jurisdiction it is also in present in the jurisdictions such as USA , UK and Germany . We can understand this that how these countries achieve this goal as Police autonomy means the freedom to make operational decisions without political interference and the notion of accountability means the mechanisms holding police responsible for their actions and this notion differs significantly across the USA, UK, and Germany, reflecting their respective legal and political systems. Generally, the UK relies on "policing by concurrence" with strong professional independence, Germany focuses on strict adherence to law and state-position responsibility, and the USA shows high fragmentation with varying situations of oversight and autonomy. The Key factors that punctuate this aspect are as similar- America The Harbinger of Order From a veritably long time, American policing is characterized by extreme decentralization, with roughly 18,000 state and original law enforcement agencies, performing in largely variable responsibility norms.

Autonomy Police departments retain high functional autonomy, though they're subject to original political control, generally through mayors or megacity councils.

## Responsibility

Internal Affairs utmost departments have internal units for misconduct examinations, frequently blamed for bias.

Mercenary Review Boards( CRBs) numerous metropolises use independent bodies to review complaints, though their correctional authority varies. Concurrence rulings The U.S. Department of Justice( DOJ) can bring “ pattern or practice ” suits against departments, frequently performing in court- ordered reforms.

Challenges The “ blue wall of silence ” and good impunity, which protects officers from civil liability unless they violated “ easily established law, ” are significant responsibility hurdles. UK The Kohinoor in the Crown of Politics.

The UK model represents absolute authority as it hinges on the “Office of Constable,” where officers act independently of political direction regarding operational matters, but are accountable to the law and the public. The certain aspects relating to the scenario are as such -

Autonomy: Chief Constables enjoy significant autonomy in directing their forces (“operational independence”).

Accountability:

Tripartite Structure: Accountability is split between local police authorities (Police and Crime Commissioners), the Home Secretary (central government), and the chief constables.

Independent Oversight: The Independent Office for Police Conduct (IOPC) investigates serious complaints against police in England and Wales.

HMICFRS: His Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) independently assesses the efficiency and effectiveness of police forces.

## 1.2 Use of Forensic Science

Forensic Science has been always a benefit in order to deal with the underlying complexities of law . This aspect is one of the most important profiles under law as it bridges the gap between the known and unknown. Forensic science is integral to police investigations in the USA, UK, and Germany, providing scientific analysis . Analysis of DNA, fingerprints, digital data are some of the fears that can be achieved through this way . In order to fully understand the criminal justice system, it is important to grasp the aspect of this issue. Further can be understood by looking on this aspect through these lens which are as such - USA (United States of America)

Infrastructure: Heavily reliant on forensic labs at local, state, and federal levels, with the FBI Laboratory acting as one of the world's most advanced, providing services from DNA to forensics.

Key Techniques: Widespread use of DNA, fingerprints, and advanced digital forensics for crime scenes.

Investigation Focus: Focuses on gathering evidence, such as ballistics, fire debris analysis, and Toxicology, to build cases for trial and link crimes.

UK (United Kingdom)

System Structure: Operates on a hybrid model, using both government-supported labs and private, accredited commercial providers for forensic services.

Key Techniques: Heavily utilizes the National DNA Database (NDNAD), which is one of the world's largest, alongside sophisticated CCTV analysis and advanced digital forensics.

Focus Strong emphasis on maintaining quality norms in substantiation collection and interpretation to insure courtroom admissibility.

Germany

Structure Primarily driven by technical state- position forensic labs( Landeskriminalämter – LKA) and the Federal Criminal Police Office( Bundeskriminalamt – BKA).

Key ways Advanced moxie in ballistics, trace substantiation, toxicology, and forensic genetics.

Focus Known for rigorous scientific norms and the methodical collection of substantiation by forensic experts at scenes. Germany focuses on integrating digital analysis with traditional physical substantiation gathering.

Database Maintains strong centralized databases for DNA and fingerprints, operating under strict aspect.

## **5.6. Treatment of Under trials**

### **1.1 Plea Bargaining (USA)**

In the country, this aspect of the law structure is n't a minor point. In the United States, plea logrolling isn't just a minor point of the legal system it is effectively the system itself. While television shows focus on dramatic jury trials, the reality is that roughly 97 of civil cases and 94 of state cases are resolved through a plea deal.

What does it convey?

At its core, a plea bargain is a contract between a defendant and a prosecutor. The defendant agrees to waive their indigenous right to a jury trial and maintain shamefaced. In return, the prosecutor offers “concessions,” similar as

Charge Bargaining Reducing a serious charge( like a felony) to a less severe one( like a misdemeanor).

judgment Logrolling Agreeing on a specific, lighter discipline than what might be handed down after a trial.

Count Bargaining Dropping several charges if the defendant pleads shamefaced to just one or two.

Why does the US calculate on it so heavily?

The sheer volume of felonious cases moment would literally break the courts if every person demanded a trial.

Lack of Oversight: This can be understood as the aspect in which deals are conducted behind the closed doors mostly in a very quite way between the lawyers. In these matters Judges only have a supervisory role and often just “rubber stamp” the agreement.

Hidden Misconduct: Because cases don’t go to trial, police errors or prosecutorial misconduct often never come to light.

Key Legal Standing that represents the aspect of law

The Supreme Court officially sanctioned the practice in cases like Santobello v. New York (1971), calling it an “essential component” of justice that should be encouraged. However, for a plea to be legal, it must be voluntary and knowing—the defendant must understand exactly what rights they are giving up.

## 1.2 Speedy Trial Systems

Right to have a speedy trial is one of the most necessary aspect of criminal justice system , as it generates the need and result for procedures based on law . The right to a speedy trial protects the basic interests of our criminal justice system. This provision is related with an important notion that it is an important safeguard to prevent undue and oppressive incarceration prior to trial, to minimize anxiety and concern accompanying public accusation. Moving with Germany’s criminal justice system is designed for efficiency, focusing on a rapid investigation phase and a trial where the judge plays an active role in gathering evidence rather than relying solely on adversarial debate. The further aspects that defines the concept in a way that is for everyone are as such - Active Judge Role: The presiding judge leads the examination of witnesses, often making proceedings faster than adversarial systems.

Procedural Speed: While they have a “speedy trial” principle, it is not explicitly defined by strict daily limits but by ensuring “reasonable time” under the European Convention on Human Rights (ECHR). In the same way, UK is also under the influence and need for this concept in order to stabilize the structure for law, as the UK is facing a major crisis with over 78,000 cases pending in Crown Courts, with delays leading to reforms intended to prioritize speed.

In order to achieve this aspect that is related with the notion, the certain conditions are adopted and are as such - Swift Courts Initiative (Proposed): The government is introducing “Swift Courts” within the Crown Court, which aim to deliver justice 20% faster than current jury trials, primarily for cases with a likely sentence of 3 years or less.

Reduction of Jury Trials: To tackle the backlog (extending to 2029), proposals include removing jury trials for “either-way” offenses—crimes that can be heard in either magistrates’ or Crown courts—such as petty theft or non-custodial offenses.

Magistrates’ Court Powers: Sentencing powers in magistrate courts (which handle over 82% of cases) are increased to up to 18 months or two years to alleviate pressure on the Crown Court.

### **5.7 Legal Aid and Access to Justice**

Legal Aid and access to Justice has always been the priority for a society that cares about the citizens as this aspect is the building block of the society. It is one of the important components as it decides the result of a nation. Through a way it makes sure that individuals regardless of their financial standing are able to access the justice system, further they are able to assert their rights in matters like housing, family, and criminal defence in matters of different causes. This aspect is also recognized as a globally accepted human right and the most important element in the law. Although systems vary and with this many countries such as the UK are also facing sustainability challenges in the matter of civil aid further in the case of Germany the focus is there on the comprehensive statutory representation and when it comes to the USA the matter is relied on a aspect of patchwork that consist of private, state, and pro bono services. This concept is there as a part in understanding that how such notions and aspects are interconnected with each other in a way and through a way they are related with the influence of global significance. Legal aid as a concept is there as an attempt to create a bridge in order cover the gap between formal rights and the ability to enforce them for the greater good of the public. It is a crucial part of the system as it is there for ensuring that the poor and marginalized can contest on the behalf of their legal issues thus it will reduce social inequality, and it will increase state

legitimacy. In the absence of legal aid the access to justice is often denied and restricted to those with no economic means thus creating a hindrance in the rights for many people. In order to understand this concept and the various sub – concepts related to it , the notion focused on the various country are as such -

United Kingdom mostly covers up the England and Wales and the system under the area has shifted from a broad, post-WWII legal aid section to a heavily regulated system.

Germany as a country has the system which is comprehensive and derives the roots from the principle of a welfare state. As it also provides legal representation in matters that also include court costs and attorney fees in both civil and administrative cases in which individuals are unable to pay. Moving forward Legal aid in Germany is related with the concept under it is widely viewed as a matter of right rather than charity.

USA as a country categorise the Legal aid by the identity of a “patchwork” system. As the system relies heavily on a mix of funding sources.

## **5.8 Prison Systems.**

### **1.1 Rehabilitation Models**

These models are a representation of a culture under the system. As it is a reflection of the legal philosophies from the view of right to resocialization to a focus on risk management and public safety in order to maintain peace and calm. The motives that are followed by these famous countries are as such -

Germany: The Resocialization Model

Germany as a nation is famous for their system as it is widely considered a gold standard for rehabilitation, rooted in the constitutional principle of resocialization, as here they do not consider prisoners as wild animals.

The Legal Mandate is followed through The Prison Act as it is the codification for how the primary purpose of imprisonment is to enable prisoners to lead a socially responsible life free of crime, so they are not a problem to the society.

Normalization Principle is a aspect as Prisons are often designed with a motive to mirror life in the outside world as closely as possible to ease reintegration for the people that are in it. This includes motives that allow inmates to wear their own clothes, cook their own meals, and in some cases, keep pets to avoid any mental issues that can cause a problem.

Open Prisons are the feature of the government in Germany as they make extensive use of “open prisons”, where eligible inmates can leave during the day for work or education and return at night, as one of the components of the rehabilitation model.

Through the lens of Human Scale, the Institutions are typically smaller than those in the US, with most housing fewer than 500 inmates, allowing for more individualized attention from specialized staff like social workers in order to reform their lives through one way or the other.

#### United Kingdom: The Offender Management Model

The Current Challenges that are related with this model are through that how in Recent years have seen a shift toward “tough on crime” rhetoric, leading to prison overcrowding that often hinders the delivery of rehabilitative program in one way or the other .

#### USA: The Risk-Management and Retributive Model

In contrast to the European focus on resocialization, the US system has historically leaned more toward retribution and incapacitation.

Retributive Focus: The US has the world’s highest incarceration rate, and its system often emphasizes proportionate punishment (“just deserts”) over transformation.

“Nothing Works” Legacy: Following a mid-20<sup>th</sup>-century shift, many rehabilitative programs were cut in the 1970s and 80s, though there has been a recent resurgence in interest in reform due to high costs and recidivism rates.

Patchwork Programs: Rehabilitation is often decentralized; while some federal and state prisons offer vocational training and “clubhouse” models for mental health, access is highly inconsistent.

Recidivism Rates: The US reports significantly higher re-incarceration rates (around 66% within three years) compared to Germany’s (roughly 40%), often attributed to the lack of social support in the various scenarios which are related with each other .

### **5.8 Key lessons for India**

India as although the country that was created on the basis of equality, justice and freedom still suffers from the stings under the Indian criminal justice system as the country is a victim of colonial approach that sets on to destroy the very spirit of the nation . Unlike the countries of the world , especially the European countries we need to change our approach on victims , criminals and the idea that how does the criminal mentality takes place in the mind of the citizens. We need to strengthen the basis of the criminal justice system and it can only

be achieved if the organs of the government such as the police and judiciary are strengthened to deal with any adversaries and opposition that will come in the way of justice. The various components that are almost achieved in one form or the other are as such - Modernization and Digitalization

**Leveraging Technology:** The new laws mandate the use of electronic means for serving summons, recording evidence (including video evidence), and conducting trials, reducing paperwork and delays.

**Forensic-Led Investigation:** Forensic visits are mandatory for crimes punishable by 7 years or more, reducing reliance on oral testimony and increasing the conviction rate, which was historically below 45%.

#### Victim-Centric Approach and Restorative Justice

**Prioritizing Victims:** The reforms shift from a purely retributive, punitive focus to a restorative one, including enhanced protections for victims of sexual assault and provisions for victim compensation.

**Community Service:** The introduction of community service as a punishment for minor offences helps reduce prison overcrowding and focus on reformation rather than incarceration.

**Gender Neutrality:** Certain offences, such as voyeurism and sexual harassment, are now gender-neutral, allowing women perpetrators to be prosecuted. Certain new offences are also introduced through one way or the other.

#### Police and Institutional Accountability

**Separation of Duties:** There is a critical need to separate the investigation wing from the law-and-order wing of the police to improve efficiency, accountability, and impartiality, as recommended by the Malimath Committee.

**Handling Custodial Violence:** The new laws mandate video recording of search and seizure operations to curb custodial torture and ensure transparency.

**Reducing Undertrials:** With nearly 75-76% of inmates in Indian prisons being undertrials, reforms focus on accelerating bail processes.

#### Addressing Systemic Gaps

**Filling Vacancies:** The system is heavily impacted by the shortage of judges (only 21 per million, compared to the target of 50) and high police vacancies, which require urgent filling.

**Legal Aid Awareness:** Many undertrials are from poor backgrounds, making enhanced access to legal aid services a crucial, often overlooked aspect that in one way or the other can be ignored.

Moreover , The system is also focused on transitioning from a focus on punishment to one that prioritizes rehabilitation, restorative justice, and the protection of constitutional rights.

Procedural Efficiency and Accountability.

Limiting Adjournments: Stricter rules on adjournments aim to curb the “tarikh pe tarikh” (date after date) culture. This aspect is one of the reasons that needs to be improved.

Separation of Functions: A key lesson remains the need to separate investigation from law and order duties to improve focus and quality of police investigations. This notion can also be taken as a sign in order to restructure the functioning model .

Bail and Under trial Reforms

Bail is the Rule as it highlights the principle that how bail is the rule, jail is an exception is critical, as the people related with under trials consist of a massive group (over 75%) of the population that is in the prisons . This aspect is also one of the components through which the system can finally be cured .

Police Reforms and Accountability

Preventing Misuse of Power: Strict checks are needed against custodial violence, illegal detention, and “third-degree” methods.

Witness Protection: Establishing witness protection schemes is crucial for improving the credibility of trials and encouraging cooperation.

These aspects are directly related with the underlying objectives that are needed to be achieved in India through increased measures and counter- measures.

Addressing Structural Deficiencies with the focus on Judicial Infrastructure is a important aspect to be focused on as Upgrading courtroom facilities with the increase in the judges related to the total population is essential as a part in reduction to the massive backlog of the cases in a country where the corrupt are always ready to access the ultimate power .

## **Chapter 6 : Analysis and Findings.**

### **6.1 Structural and Procedural limitations**

The structural limitations of the system are the result related with the colonial framework that has captured the soul of the country from a very long time and the procedural limitations can be attributed towards the notion that the procedural aspect is not in lieu with the upcoming developments of the society. As through by structural aspect , it is more focused on Judicial Vacancies and Population Ratio which denotes that how due

to lack of availability for the post of officials, there is a less chance for speedy trials. Then moving with it is also attributed towards the notion of that how Police Personnel and Infrastructure that consists The actual police to a large scale often falls short of the UN standard of 222 personnel per lakh population, with many states operating at roughly 137 per lakh. This number in a very intricate way is not up to the mark, as in one way or the other it is not enough to deal with the sentiments and the various political scenarios that are created within. Another component behind the situation is Lack of Separation in Police Wings as the same police wing and its personnel are often responsible for both maintaining “law and order” (crowd control, VIP duties) and “investigation”. Dual burden often slows down the working process as it creates scenarios where frequently there are situations in which investigation work is side lined in favour of immediate public order crises. Then after the structural limitations, there is the aspect of procedural limitations. Then the further focus is also there on the procedural limitations in one form or another as the Under trial Crisis is related with the aspect that how Approximately 76% of the population in prisons are of the under trials matters —people who have not yet been convicted.

Adjournment Culture highlights the aspect that how Frequent adjournments remain a standard feature of trials. Even with new laws aiming to limit them, the lack of “day-to-day” hearing infrastructure in subordinate courts often makes these mandates hard to enforce in practice. Plea Bargaining Limitations as a aspect is related with both of the limitations in such a intricate way as while plea bargaining exists, it is rarely utilized due to a lack of awareness among the accused and a deep suspicion of the process by both the prosecution and the judiciary. Then there is also the aspect of limitations that are related with issues that in a way deals with the prospect that is related with dual things and are as such - Offences that are still not criminalised as in this case there are offences such as martial rape, in which there is still a need to establish a stable law that will confront the offenders as there is still a large part of survivors and victims that are still due to the lack of structural and procedural aspects.

## **6.2 Linking Findings to Research Questions**

### **1.1 Direct answers to each research question**

The limitations of the Indian legal fabric arises from lack of administration, structural and procedure limitations and lack of awareness. Then for the other question the answer can be derived from the notion that the historical evolution is directly interrelated with the current laws as the current laws are the developed versions of the previous legal enactments. With the comparative study and legal analysis with other

jurisdictions, we can grasp the notion that in this context, India has the issue of applicability, awareness in matters of law enforcement and statutes. Then in order to establish a stabilized legal structure there need to be reforms of structural and procedural aspects.

## **Chapter 7 : Recommendations and Reforms**

### **7.1 Legislative Reforms**

#### **1.1 Strengthening BNS and BNSS**

These two components are the aspect which is important under the system as it is the backbone of the country's legal structure. As they are the assimilation of how procedures established by law works. Legislative Reforms are necessary in order to bring peace and tranquillity through these notions. The aspects through which we can understand are as such -

##### **Modernizing Substantive Law**

The BNS should alleviate with several critical updates:

New Offense Categories that should Explicitly defines and penalizes modern crimes such as organized crime, terrorism, mob lynching, and snatching.

Restorative Justice should create a clear structure of law that should also include community service as the part of the formal punishment for the minor offenses (e.g., small-value theft, misconduct in public) to promote rehabilitation and reduce jail overcrowding.

Protection of Women and Children should also be strengthened with aspects that moves these offenses to a prioritized chapter. It should also increase the minimum punishment and the nature of punishment so that it can deal properly for crimes that are insane through the human lenses.

Gender Neutrality will help in understanding that how when several offenses, especially those against children, are related with the aspect of gender-neutral as there is no specific group of people to commit an offences as these types of offences related with children involves any type of person and this aspect in one way or the other will help to cover all victims and perpetrators.

##### **Streamlining Procedures and Timelines**

Replacing the old statute, the BNSS should enforce strict timelines to ensure a speedy trial and these aspects in one way or the other are related with the issue:

Time-Bound Decisions:

Judgments through by adequate procedures Must be delivered within 30 days of completing arguments (extendable to 45 days).

Chargesheets also Must be filed within 60 to 90 days, with a total limit of 180 days for serious offenses, so that there is no problem during the investigations .

Framing of Charges should also be done , so that when Courts frame charges within 60 days of the first hearing , it will increase the environment for a judgement that is true in nature .

Reduced Delays will help in the long run as when there is the scenario where it is Limited for the courts to a maximum of two adjournments per case to prevent indefinite pendency. As this notion will prevent this issue.

Trial in Absentia is also one of the aspect that can be a great help as it allows courts to try and sentence “proclaimed offenders” in their absence, preventing them from stalling justice by absconding.

Technology and Evidence Integration

Electronic Records as Primary Evidence can be very helpful as Digital records like emails, SMS, and server logs are now recognized as primary evidence under the accompanying legal statutes related with the structure of law .

Mandatory Videography is one of the necessary element as videography of crime scenes during evidence collection is now mandatory to prevent evidence tampering and other misuses that can occur in one way or the other .

Compulsory Forensics is also one of the necessary elements as through by Forensic examination we can grasp the aspect that under which legal scenarios it is mandated for all crimes punishable by seven years or more.

Victim Empowerment and Rights

Information Updates are also one of the important elements for strengthening as by Victims able to access this statutory right to receive progress reports on investigations within 90 days, will be very helpful and necessary in one way or the other .

Right to Be Heard can also be considered as a important element as the government cannot withdraw the case in which the punishment can be of seven years or more without first consulting the victim.

Immediate Support in the matters of free first-aid or medical treatment regarding the victims of crimes against women and children will be provided at all hospitals.

Prison and Bail Reforms

Undertrial Relief should be provided to First-time offenders as they can be released on a personal bond after completing one-third of their maximum sentence and the continuous follow – up will be seen as a development in one way or the other .

Plea Bargaining: It is one of the important component and it can be further understood through method of Simplification and setting a 30-day timeline from the date of framing charges to apply for it , thus encouraging faster case disposal.

## **7.2 Judicial Reforms**

### **1.1 Increasing Judges**

The increased judges are a necessary for the reforms in the country as they are the building blocks of a society that should be built on equality and justice. Moving with this aspect we can understand that increase in the judges is the solution that can cover all of the issues with the administration in judiciary. As the new laws are a bold move that intend to revolutionize the legal structure for the country but without the increase in judges , these new laws will only remain as paper tigers , further one can't run 21<sup>st</sup>-century software on 19<sup>th</sup>-century hardware. Changing the laws without increasing the number of judges is like adding more lanes to a highway but keeping the same old, broken toll booth—the bottleneck remains. Further the aspect involving Death of the “Adjournment Culture” is only possible under the scenarios where there is increase in judges as through this aspect adjournments will be limited as there will be more judges to deal with the cases in a very fast and efficient way . As In reality, cases are often pushed not because lawyers want to delay, but because the judge simply doesn't have the “judicial minutes” to hear a long-winded witness. To truly kill the Tareekh-par-Tareekh culture, we need enough benches so that when a case is listed, it actually gets heard.

Science Takes Time, this can be denoted for the use of forensic science as through with

The new reforms it is more focused on the use of forensics and digital evidence to be mandatory for serious crimes. Evaluating a DNA report, cross-examining a cyber expert, or reviewing videographed crime scene evidence these are the tasks that takes significantly more mental bandwidth and time than traditional oral testimony. This is difficult for the judges to move from “hearsay” to “hard science,” we have to give them the breathing room to do it and this can be done in a efficient way through more judges in one way or the other.

## Managing “Reformative” Justice

For the first time, India is now moving towards introducing Community Service for petty crimes. This is a progressive move, but it adds a new layer of work. A judge now has to decide what service fits the crime and potentially monitor the progress. This “oversight” role is impossible to perform if a judge is drowning in a backlog of 50 million cases nationwide and that too if these cases are of highly sensitive nature, then it will result into punishments that are not appropriate, the problems regarding this issue can be handled with the increase in the number for judges.

## The Bottom Line that defines the nature of the problem

We have replaced the colonial legal statute but the vacancy rate in the courts still hovers around 30%. To make the new BNS and BNSS successful, the government needs to treat judicial appointments as an emergency infrastructure project, not just an administrative task.

### 1.2 Fast track Mechanisms

Fast-track mechanisms are the new face of the system as it is no longer just about setting up special courtrooms moreover it is about now that how the law will be inserted through the statute. By replacing the flexible timelines of the old CrPC with strict statutory deadlines, the entire system is being pushed to function like a fast-track court by default.

## Chapter 8 : The end that defines the Good

System has always been the unique predicament as it thrives on a structured system that is related with procedures that are established by law but at the same time it deals with pendency of cases, lack of awareness and ever – increasing crime rates. Moving forward system has always been apt with the matter of dealing in regards to every crime related with the offenders, but the only thing that keeps the limitations still alive is the lack of administrative structure, corrupt authorities and the VIP culture for criminals. As mostly the issues in the system occurred as a result of a prolonged culture that accepts injustice, lack of legal advice as the acceptable part of the society. Although the ----- system after long discussions, observation and study has now moved towards the scenarios where it is in phase that is a critical transitional phase in nature, attempting to move from a punitive, colonial-based framework to a faster, victim-friendly, technology-enabled system. However, still the systemic limitations of infrastructural deficit, immense judicial burden, and inadequate police training pose significant challenges. To stand alongside developed systems like Norway or Japan, USA and the other highly efficient European systems, India still have to bridge the gap between "law in books" and

"law in action," prioritizing speedy trials, forensic-based investigation, and reducing the undertrial population through judicial reform so that it become the aspect of daily workings under the legal structure. In order to transform the judicial structure there are also judicial Pronouncements that are focused on this particular aspect. At the end, one should always remember the aspect that rule of Law, republic, development, and mortal rights are dependent on the degree of success that the governments are suitable to achieve on the felonious justice front, if this front is good and available. The objects of the felonious justice in India are forestallment and control of crime, conservation of public order and peace, protection of the rights of victims as well as persons in conflict with law, discipline and recuperation of those arbitrated shamefaced of committing of crimes, and generally protection of life and property against crime and crime. It's considered the primary obligation of the state under the constitution of India.