
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

**CONCEPTUAL FRAMEWORK OF CRIMINAL JUSTICE
ADMINISTRATION IN INDIA**- Soundarya Vats¹**THE CONSTITUTIONAL AND LEGISLATIVE FRAMEWORK**

Since, the Indian Constitution grants broad powers to the several branches of government. It contributes to maintaining social order and harmony in society. To offset the government's vast powers, citizens are also granted the Fundamental Rights established in Part III.

The following are the various criminal justice system provisions incorporated in the Indian Constitution:

According to Article 21, "No person shall be deprived of his life or personal liberty except according to the procedure established by law."

Article 20 provides protection against the conviction of offences. This recognises three fundamental elements of criminal liability: protection against the application of ex post facto law, the restriction on double jeopardy, and protection against self-incrimination.

Article 22 establishes three significant constraints on the State's authority to arrest someone. These include communicating the grounds of arrest to the arrestee, allowing the arrestee to confer with and be defended by a council of his choosing, and bringing the arrestee before a magistrate within 24 hours of his arrest.

Article 14 establishes the idea of "equality before the law," which assures that the criminalization process is applied to all individuals without discrimination.

Article 39A provides a direction for Equal Justice and Free Legal Aid. It was brought about by the 42nd Amendment to the Constitution. The National Legal Services Authorities Act of 1987 was adopted to carry out this clause.

Constitutional courts enforce fundamental rights through judicial remedies outlined in Articles 32 and 226, respectively.

All subjects relating to criminal law and criminal procedure, as outlined in the Indian Penal Code (IPC) and Criminal Procedure Code (CrPC), are included in the concurrent section of the Constitution's 7th Schedule, with the exclusions.

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RECOMMENDATIONS OF THE MALIMATH COMMITTEE ON INDIA'S CRIMINAL JUSTICE SYSTEM

In 2000, India's Home Ministry formed a committee to modernise the country's age-old Criminal Justice System. Justice V.S. Malimath, former Chief Justice of the High Courts of Karnataka and Kerala, chaired the committee. It examined India's criminal justice system, focusing on the Indian Penal Code (IPC) of 1860, the Indian Evidence Act of 1872, and the Code of Criminal Procedure (CrPC) of 1973².

As the group made 158 recommendations in 2003. Some of its key recommendations which have been summarised from the report are as follows³:

- i). The group recognised the need for adjustments to India's criminal justice system, which has become ineffectual. Several culpable parties escape unpunished, and the legal system has lost its deterrence effect on criminals.
- ii). It advised that some of the best characteristics of the Inquisitorial System be incorporated into India's Adversarial System to improve its efficiency.
- iii). The Inquisitorial System is used in Germany, France, and elsewhere. In this approach, the Magistrate personally supervises the investigation.
- iv). This led to a higher level of conviction as the group encouraged the Court and Judges to take a constructive role in the case and vigorously seek the truth.
- v). The court shall provide investigation-related directives to the prosecuting agency and investigating officers.
- vi). Section 311 of the Code of Criminal Procedure (CrPC) of 1973 should be modified so that the courts can summon anyone for questioning, regardless of whether they are designated witnesses.
- vii). The accused's Right to Silence, which is a Fundamental Right under Article 20(3), should be balanced against the court's power to collect the required information from him.

² Pooja Garg, "Shifting T Shifting Trends in Bur Ends in Burden of Pr Den of Proof and Standar Oof and Standard of Pr D of Proof: An Oof: An Analysis of the Malimath Committee Report" 17 *National Law School of India Review* (2005).

³ K. Deepalakshmi, "The Malimath Committee's Recommendations on Reforms in the Criminal Justice System in 20 Points", *The Hindu*, Jan. 17, 2018, available at: <https://www.thehindu.com/news/national/the-malimath-committees-recommendations-on-reforms-in-the-criminal-justice-system-in-20-points/article61493071.ece> (last visited on Apr. 26, 2024).

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- viii). The committee suggested drawing negative inferences against the accused if he refused to cooperate and answer.
- ix). The group recommended that all of the rights accessible to the accused under the Constitution, many laws, and several judicial declarations be compiled and included as a schedule to the Criminal Procedure Code.
- x). The committee determined that the concept of 'proof beyond reasonable doubt' should be abandoned. It proposed replacing it with a proof threshold that is lower than proof beyond reasonable doubt but higher than "proof on the preponderance of probabilities."
- xi). The commission recommended that the state provide justice for the victims. It should offer a lawyer and fund the cost if the victim cannot afford one.
- xii). The state is responsible for compensating victims. This can be accomplished by establishing a victim compensation fund.
- xiii). Ensure the victim's right to participate in the criminal trial by allowing them to present oral or documentary evidence with court permission.
- xiv). Allow him to question the witness and recommend questions for the court.
- xv). To be heard in case the offender is granted bail.
- xvi). In some circumstances, mental and other medical assistance should be provided as part of legal services.
- xvii). Separating the Investigation and Law & Order wings. Setting up a Police Establishment Board to handle transfers, postings, and so on. Creating the National Security Commission and the State Security Commissions.
- xviii). Creating a separate criminal division in the higher courts, which would comprise judges who specialise in criminal law.
- xix). Providing cutting-edge training to officials. The training infrastructure should be enhanced at both the national and state levels. Furthermore, hand-picked and effective officials should be assigned to such entities with appropriate monetary incentives.
- xx). The use of current technologies and forensic science should be promoted in the inquiry from the beginning.
- xxi). The country's forensic laboratory network has to be enhanced.
- xxii). The National Police Act of 1861 has become obsolete. The National Police Commission must create a new Police Act.
- xxiii). Use tape/video recording, especially if the sentence is more than seven years.
- xxiv). To boost prosecution, each state should have a position of Director of Prosecution.

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xxv). This position should be filled by an appropriate person with the rank of Director General of Police.

xxvi). Before making the appointment, speak with the State's Advocate General.

xxvii). A National Judicial Commission should be established to oversee the appointment and misconduct of Supreme Court and High Court judges.

VARIOUS AGENCIES OF CRIMINAL JUSTICE SYSTEM AND THEIR SIGNIFICANCE

The seamless and coordinated operation of the four most major agencies that make up the administration of criminal justice—namely, the Judiciary, Prison, Prosecution, and Police—is essential to the efficient operation of the criminal justice system. Over the course of this chapter, we will examine the significance of each of the four distinct agencies. All of the entities that deal with criminal justice in our country revolve around the laws that are enacted by the Union Parliament and the state legislatures alike. In any event, the cohesion and validity of the agencies of all the laws are dependent on their inherent quality or on eliminating the deficiencies of the many laws that are formed from time to time. Following the creation of laws by the legislature and higher administrative authorities, the authorization, application, and implication of those laws are determined by the many organisations that have been established by the legislature in accordance with various codes and acts for the aim of carrying out these functions. At this point in time, the police system appears to be one of the most important organisations responsible for the implementation of laws that fall within the authority of the state government. As an organisation, the primary purpose of the police is to eliminate criminal activity of any kind, as well as to take appropriate notice of all antisocial elements, as well as to discover the related instances and other disruptive probabilities associated with them, including the characterization and classification of the party that is responsible for the crime.

From the moment that an individual files a complaint and after the police have taken notice of the same, the matter is brought before the judiciary for trial. It is during this trial that the actual realities and reasons for the occurrence are discovered. This is accomplished through the appropriate discussion of the circumstances of the offence, the reasons for the offence, the outcome of the offence, the effects and the gravity of the offence, and after the individual who is being charged is given the opportunity to present and argue his side of the case. Upon the conclusion of the trial in the court, the judgement in the court demonstrates that the individual who is being blamed has been found guilty. The individual is then required to

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endure a punishment, which may include being held under the authority of the prisons for a predetermined period of time, being required to pay a certain amount of cash as a fine to the State Exchequer, or receiving compensation for the victim's unlawful activity. Furthermore, even in situations where a convicted individual is to be sentenced to detention, there are legal procurements for excluding him from this physical authority in particular scenarios to keep him under rare sense by remedial offices such as probation officers with the admitted objective of urging his possibilities to make a positive and smooth comeback to society. This is the case even in situations where the individual is to be sentenced to detention. The agencies that deal with criminal justice are responsible for handling the entire case, beginning with the commission of an offence and the violation of the law and continuing until the conclusion of the conviction term. It is the responsibility of the Judiciary, the Police, the Prosecutors, and the Correctional institutions to collaborate in order to give the necessary administrations for the prevention and elimination of any illegally unexpected occurrence and correctional institutions. One of the most important goals of the agencies that deal with criminal justice is to ensure that there is peace and discipline in the community, to take preventative measures and regulate illegal behaviour, and to maintain morale and lawfulness in the society as a whole.

The significance of the judicial system

The Judiciary is the branch of the administration of criminal justice that is entrusted with the primary responsibility of hearing and judging on the litigations, as well as providing justice to the residents of the country. When it comes to protecting the rights and liberties of its citizens, a state has the primary responsibility to do so. To protect those who are blameless and to repel those who are responsible in order to administer justice. In any socialised society that is governed by the principles of law, there is a Judiciary that serves as a key criminal justice agency. This is because of exactly this reason. The relevance of the legality in a culture that is founded on popularity is difficult to distort without much difficulty. One component of the equitable method is the legal system. The legal system is responsible for not only ensuring that equity is maintained, but also protecting the rights of indigenous people and acting as a translator and watchman for the constitution. In many jurisdictions, the legal system recognises the importance of the vitality of legal survey, which is the procedure by which the legal system determines the holy validity of the laws that are made or of the verdict that is given. These laws and pronouncements that have not been established can be discredited as a result of this.

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A variety of essential responsibilities are carried out by the Judiciary in India, and these responsibilities do not adhere to the traditional jurisdiction of the Civil and Criminal laws. It is important to take measures to prevent the violation of laws, and in the event that a violation of the law does occur, the perpetrator of the violation will be held accountable. One of the judicial officers will listen to both sides of the argument and then judge whether or not there has been a violation of the law.

In the event that there is a violation of the law, the court will come to a decision on equity by imposing justice and punishing the criminal who has disobeyed the law. The judicial review is a supremacy that is possessed by the court, and it is through this supremacy that it determines whether or not the laws approved by parliament or the decrees that are issued constitute constitutionally legitimate. It has the ability to invalidate laws and statements that are declared to be unlawful.

When deciding any issue, the judges do so by interpreting the laws that are already in place and by adhering to the precedents that have been established in earlier rulings. Questions pertaining to the Constitution are resolved by the Supreme Court, which is the highest and most apex court. Issues of constitutional dispute or controversy between the Union and the States or between various states are brought to the Supreme Court, which is the guardian of the union constitution. The Supreme Court is also responsible for hearing and deciding on these issues. When it comes to the accumulation and resolution of conflicts, the responsibility of safeguarding and deciphering the constitution and the law falls on the shoulders of the judicial system. It is also the responsibility of the judiciary to carry out some supervisory activities, such as the nomination of officers, the preservation of records, the administration of personnel, and other similar tasks. When it is necessary to do so, the highest court in the country will occasionally provide the executive branch and the legislature with guidance on constitutional issues related to the constitution. As a result, the Judiciary also serves in an advisory capacity. The judicial system is given the responsibility of providing a suggestion in the event that a question of law or fact has arisen. In the role of a sentinel, the Judiciary is responsible for protecting the rights of citizens, which are protected by the constitution and the laws of the state. Any law that violates a basic right can be declared unconstitutional by the court when it is brought before it. The High Court of India is the judicial body that has the ability to issue writs in the name of Habeas Corpus, Prohibition, Mandamus, Quo Warranto, and Certiorari on behalf of the Indian government. It is for this reason that the Indian Judiciary is considered to be the guardian of the constitution.

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It was rightly stated by the Honourable Mr. Justice P. Sathasivam, a Judge of the Supreme Court of India, at the Tamil Nadu State Judicial Academy for the Newly Enlisted Civil Judges that the Magistrate is the kingpin in the administration of criminal justice⁴. He stated that criminal justice echoes the reactions of the general public to crimes and criminals. In order to accomplish this mission, the courts, the police, the prosecution, and the defence are the primary components involved. In a democratic society that is controlled by the rule of law and guarantees fundamental rights, it is a challenging undertaking to administer criminal justice in an acceptable manner. It is against this backdrop that the subordinate judiciary takes on a significant amount of importance. The remarks of former Chief Justice Ranganath Mishra, which were included in a writ petition that dealt with the problems of subordinate judiciary in the case of *All India Judges' Association vs. Union of India*⁵ (1992), are an effective way to summarise the function of the magistrate. In this particular instance, he made the following statement: "The Trial judge is the highest level in the hierarchical system of applying justice." In the course of the proceedings in court, he makes direct contact with the plaintiff. He is the one who is responsible for constructing the case in an appropriate manner, and the foundation of justice is initially responded to based on his comprehension of the relevant circumstances. Furthermore, the personalities, expertise, judicial restraint, and the capacity to retain dignity are the extra characteristics that contribute to the proper operation of the Court. After mentioning the lofty expectations that society has of judges, he goes on to provide the following piece of advice: "A judicial officer needs to be competent enough to understand that he is fallible and, as a result, always ready to learn and be courageous enough to accept his errors."

One of the fundamental rights that is protected by the Constitution of India is the right to a speedy investigation. On the one hand, there is a significant backlog of criminal cases, and on the other, there is an excessive amount of delay in the disposal of such cases. On the other hand, the percentage of conviction in instances involving major crimes is extremely low. The duties and responsibilities of judicial judges are outlined in the Code of Criminal Procedure (Cr.PC) at each stage of the process, including before the trial, during the trial, and after the trial is completed. On the other hand, magistrates have been given a number of authorities and tasks, all of which are to be carried out in the name of communal faith in order to fully satisfy the constitutional command of providing a fair and speedy trial for both

⁴ Tamil Nadu State Judicial Academy, "Speeches Delivered by Hon'ble Justice P. Sathasivam" *Tamil Nadu State Judicial Academy*.

⁵ *All India Judges' Association v. Union of India*, 1992 AIR 165.

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the accused and the complainant. In order for the criminal justice system to be completely impartial and fully just. There should be equity in the legal system; else, the people would lose all hope of receiving justice from any source. When it comes to criminal law, one of the most fundamental concepts is that every single person is presumed to be innocent unless the defendant's guilt is proven beyond a reasonable doubt in a trial that takes place in front of a court that is impartial and competent.

A declaration of justice states that no one should be punished for not having a fair trial, and judicial personnel do everything in their power to guarantee that this is the case.

In India, the judicial system is organised into four distinct levels. There is a Court of Judicial Officers that is located at the bottom level. When attempting to commit offences that are punishable by a detention period of three years or less, it is a savvy move.

The Court of Chief Judicial Magistrates (CJM) is located above it and is responsible for deciding cases involving crimes that carry sentences of less than seven years. At the district level, there is a court known as the Court of District also Sessions Judge (SJ), which is involved in the trial of offences that are punishable by imprisonment for a period of time that is greater than seven years.

In point of fact, the Code delineates in particular offences that are exclusively subject to the jurisdiction of the Court of Sessions. A state's High Court is the highest court in the state's judicial system. It is a court that is responsible for redrafting and hearing claims against the petitions of conviction or absolution that were made by subordinate courts. It is distinct from having a writ ward. Along the same lines, it is a court of record. All of the courts in a state that are subordinate to the High Court are bound by the law that those courts have laid down. The highest point of the mountain is where you'll find the Supreme Court of India. It is the highest court in the country in terms of its status. The Supreme Court hears all appeals concerning the petitions made by the High Courts in situations pertaining to criminal law, common law, and other areas of law. This court takes a methodical approach to the matters that it hears and ultimately decides. The legislation that is established by the Supreme Court is binding and obligatory on all of the courts that are located throughout the country. In a nutshell, India possesses a judicial administration that is both very powerful and highly capable. This administration strives to administer justice in accordance with the principles that are outlined in our constitution, which is referred to as "Satya Mave Jayate."⁶

The Police force and its significance

⁶ Bennet University, "The Hierarchical Structure of Indian Courts-An Explainer" (2023).

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According to National Police Commission established up by the Government of India in 1977⁷, the duties and obligations of the police are guided as: To support and safeguard public order, Conduct an inquiry of crimes, detect problems and circumstances that are anticipated to lead to crimes; minimise the possibilities for the commission of crimes through proactive patrol and other police parameters; aid and collaborate with other pertinent agencies in carrying out appropriate measures for prevention of crimes; aid people who are in risk of physical harm; establish and maintain a logical sense of protection in the community; encourage orderly motion of people and vehicles; legal representation and resolve conflicts and promote amity; offer other suitable services and provides relief to individuals in distress; and collect intelligence.

The police are one of the organisations that are present in the society the most frequently. Therefore, it follows that the police officers are the representatives of the government that are most conspicuous. In situations where a citizen is in need, when there is a threat, when there is a crisis, when there is difficulty, and when the citizen does not know what to do or who to contact, the police station and a police officer are the most suitable and readily available unit and person for the citizen. In terms of connection with society, the police are the most dynamic, accessible, and engaging organisation that comes into direct contact with the people. On the one hand, their positions, functions, and responsibilities in the society are often too broad and multifarious, and on the other hand, they are complicated, problematic, and composite. The maintenance of law and order is the dual role that the police are expected to perform in a social order. In general, this may be said to be the case. However, the repercussions of these two obligations are numerous, which leads to the complicated performance of a large number of duties, functions, powers, positions, and responsibilities that are assigned to the police agency.

The police in overall are needed to promote and carry out the law impartially and to safeguard life, liberty, property, human rights, and dignity of the common citizens; to promote and preserve social order; to protect personal security, to avert and manage radical activities, violating of communal harmony, combative activities and other situations distressing social Security; to protect government belongings such as roads, railways, airports, bridges, vital installations and establishments etc. against acts of annihilation, violence or any kind of assault; to avert crimes, and reduce the opportunities for the

⁷ “The National Police Commission (NPC) Some Selected Recommendations of the National Police Commission” *Human Rights Initiatives*.

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committing of offenses through their own preventive action and procedures as well as by aiding and cooperating amid other significant agencies in applying due procedures for prevention of sins; to precisely record all grievances put forward before them by a complainant or his envoy; in person or got from any technical means, and take timely stern action thereon; after suitably acknowledging the acceptance of the complaint; to record and investigate all cognizable crimes impending to their observation from such complaints or else, appropriately giving a copy of the First Information Report to the complainant and wherever it is fitting, to detain lawbreaker and put forward necessary aid in the trial of offenders; to craft and uphold an emotion of sanctuary in the community, and as far as probable evade conflicts and promote harmony; to offer, as primary responders, all likely aid to public in circumstances arising out of natural disasters; and to afford active assistance to other agencies in respite and rehabilitation events; to assist individual; who are in peril of physical injury to their person or belongings, and to provide essential help and afford respite to people in suffering situations; to make possible methodical movement of people and vehicles; and to manage and regulate traffic on roads and highways; to gather intelligence concerning matters upsetting civil harmony, and all sorts of offence including crimes against general public, communalism, extremism, terrorism and other matters involving nationwide safety and distributing the same to all alarmed agencies, as well acting in the best way suitable to safeguard the social law.

It has come to our attention that a Code of Conduct for the Police in India was approved at the Conference of Inspectors General of Police in the year 1960 and then distributed to all of the State Governments. There are the following statements that accompany this code⁸:

- (1) The Indian Armed Forces are obligated to be devoted and loyal to the Constitution of India, as well as to respect the fundamental rights and privileges of the citizens, as guaranteed by the Constitution.
- (2) The police are essentially an entity that is authorised to enforce laws. It is expected of them to protect the law in an impartial and incorruptible manner, without any fear, support, or malice.
- (3) The police should make use of the processes and strategies for coercion, warning, and cautioning the person who is breaking the law in order to ensure that the law is recognised.

⁸ Antariksh Anant, "Code of Conduct for Police in India (National Police Commission 1977)

<https://www.legalbites.in/Code-Of-Conduct-For-Police-In-India/>" *Legal Bites* (2021).

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(4) It is the primary responsibility of the police to combat illegal activity and to find ways to dissipate them. But the proficiency of the police is demonstrated when they are successful in putting an end to operations of this nature.

(5) The police should always be considerate and courteous to all citizens, and they should be conscious of the welfare of the people they serve. Without regard to the wealth or social position of the individuals, they should always be ready to deal with any criminal conduct and provide essential assistance to anybody who needs it. (6) In order to carry out their duties in an appropriate manner, the police force should always be courteous, truthful, loyal, dutiful, determined, well-mannered, and dependable.

Due to the fact that the police are responsible for the tasks and activities that have been discussed above, it is evident that they are one of the most essential agencies in the administration of criminal justice, and they are tasked with a significant amount of accountability and obligation towards the public. In order to offer interventions for improved working collaboration between the police and other agencies of the criminal justice administration in India, the research has been able to identify the areas of concern and the gaps that need to be filled.

The concept of prosecution and its significance

The prosecution is the division of the criminal judicial system responsible for representing the state government in legal matters. Indian culture is one of the most ancient civilizations in the world and, due to its wealth and prosperity, has always been a target for foreign invaders throughout history⁹. Each invasion brought fresh opportunities and expertise, resulting in a blend of many cultures such as Persian, Roman, and British across several dynasties. As a result, the concept of natural justice and the laws of the kingdom were influenced by these diverse influences. Historical records indicate the presence of prosecutors in the royal courts under several dynasties. The monarch would consult with these prosecutors during court hearings to assist in making decisions regarding the cases.

Under British rule, the establishment of a prosecutor in the court was initiated to aid the judge and present the government's case. This provision was made during the development of modern criminal law, and since then, the prosecution has played a crucial role in the administration of criminal justice under the Indian Constitutional setup. The primary responsibility of the prosecution is to establish and uphold the trust of the court and the

⁹ Mudasir Bhat and Dr. Mehraj Ud Din Mir, "The Role of Prosecution in the Criminal Justice System in India: An Analytical Audit" 1 *Indraprasth Law Review* (2020).

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victim in ensuring that justice is served by the court and that the victim receives justice. Prosecution refers to the formal initiation and management of legal actions against an individual accused of engaging in criminal activities. The prosecutor plays a crucial role in the administration of justice. A prosecutor is a legal professional who advocates on behalf of the government in criminal proceedings. The prosecutor serves as the legal representative of the state, with the general public as their client, rather than the police agency or the specific victim of a crime. In addition, the prosecutor serves as more than just the lawyer who expresses society's concerns in court. They are also a public official whose role involves determining the extent to which society wishes to pursue punishment. Every participant in a legal proceeding is expected to diligently seek the truth and uphold the principles of justice. This concept is deeply rooted in the collective consciousness of the general population of the country, leading many to assume that everyone accused is probably guilty, rather than adhering to the conventional legal perspective that presumes innocence until proven guilty. Both the prosecution and defence have a legal entitlement to see all evidence in order to safeguard the rights of both sides. The inhabitants of the State can then have a reasonable expectation that justice has been delivered.

The purpose of prosecution is to furnish legal support to investigators, particularly police authorities, in intricate instances. The state always contests criminal trials, not on behalf of victims or individual individuals. A notable distinction between criminal cases and civil cases is that criminal cases are subject to a higher degree of regulation by the Constitution compared to civil proceedings. Several clauses, such as the right to confront witnesses and the right to a speedy trial, are specifically designed for criminal proceedings. The inclusion of this provision in the Constitution reflects the fact that, unlike civil proceedings that often deal with monetary compensation, criminal cases primarily involve the potential loss of the defendant's freedom and, in certain circumstances, even their life. In order to achieve this objective, the Constitution provides defendants with guarantees aimed at guaranteeing that their treatment by the state is suitable and that the proceedings they undergo will be impartial. Regarding the Indian prosecution system, it is often regarded as one of the most sluggish and imprudent departments. The prosecution system is perceived as a department that the general people do not anticipate receiving any assistance or adequate direction from, which may aid innocent individuals in obtaining justice. Over the years, the prosecution department has failed to uphold its image as the guardian of Truth and Justice, due to the rising crime rates in society. In Indian vernacular languages, the prosecutors are commonly referred to as 'Sarkari

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Vakil', which translates to Government Lawyer. However, unfortunately, this phrase has come to be understood by the general population as a person who is employed by the government, regardless of whether or not they really deliver justice.

Currently, the courts are seeing a significant increase in workload due to the rise in crime rates among the general population. This is also attributed to the increased awareness of individuals regarding their legal rights. However, it has been confirmed that there are fewer prosecutors compared to the number of courts. Currently, there is a higher number of Judges in comparison to the number of prosecutors, as revealed in this study. This incongruity emerged when there was a need to establish new courts and form new hearing benches. As a result, new courts are being established and the vacancies for judges have been filled. Thanks to the diligent efforts of the higher judiciary and the Department of Home and Justice, new judicial officers have been appointed. With the arrival and operation of new judicial officers, the number of cases being heard is decreasing and the pace of the hearings is increasing. However, the courts are currently facing a shortage of public prosecutors to assist them in these cases. Prior to 1973, the Assistant Public Prosecutors were under the direct supervision of the Police. Following the modification in the Code, Public Prosecutors have been completely removed from police oversight. Currently, they report to the district attorney at the local level and to the Director of Prosecutions at the state level.

The study suggests that due to a shortage of public prosecutors, the scheduling of cases in court must be adjusted based on the availability of the public prosecutor. While conducting the research, individuals from different agencies within the criminal justice administration disclosed information on the deficiencies in the prosecution department. The judicial officials have confirmed that during court proceedings, judges are frequently compelled to hear cases at a time convenient for the public prosecutor, and may even have to wait for the prosecutor if they are occupied in another court. The situation is extremely grave, to the extent that in many districts, one prosecutor has been assigned to handle multiple courts. The circumstances are so alarming that, due to a shortage of state counsel, the judicial officers are compelled to postpone cases to another day because the public prosecutor is unavailable in court, even after repeated calls for the case on that particular date.

The Significance of Prisons¹⁰

¹⁰Dalliandeep Kaur Tiwana and Payal Singh, "A Study on Concept of Prisons and Their Importance in Modern Society: With Reference to Prison Reform System" 1 *Ijlr* (2022).

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The Prisons are a crucial component of the Criminal Justice Administration under the framework of the Indian Constitution. Prisons in India are established by the constitution to restrict the freedom of individuals who have committed a social or civil offence that is punished according to Indian law. A prisoner is an individual who has been found guilty by a court of law for committing a crime against either a person or the state. This determination is made after the prisoner has exhausted all available legal options to defend their innocence before the court. Individuals found guilty of committing a crime that is punished by law are sent to prisons in the State of Punjab for the purpose of undergoing corrective measures. This is why these institutions are sometimes referred to as "SudhaarGhars". Therefore, the objective of imprisoning an offender is to confine them in a secluded facility, separate from society, in order to prevent them from engaging in, promoting, or instigating additional serious crimes against individuals or society. Renowned philosopher Oscar Wilde asserts that depriving a prisoner of their liberty, family, friends, and familiar surroundings while incarceration is an extremely distressing ordeal for them.

Prisons are institutions designed to house and rehabilitate offenders, with the goal of correcting their behaviour and transforming them into law-abiding individuals who can reintegrate into society upon their release. On the contrary, it is a location where individuals who have committed crimes are confined, thereby isolating them from society and therefore safeguarding the community from these perilous antisocial individuals.

Regarding the Indian jail system, it is evident that the prisons suffer from severe overcrowding and are insufficient in quantity. This is occurring despite a significant rise in crime rates and the number of convicts.

The jails in India are now witnessing a significant influx of convicts, namely under trials or individuals who have not yet been proven guilty. According to the 2010 UN global report on crime and justice¹¹ Research conducted in Asian nations have shown that over 30% of the jail population is made up of individuals who are awaiting trial or in remand custody. In several Asian countries, this percentage exceeds 50%. The data also indicates that between 1997 and 2007, there was a 52.6% rise in the jail population. Given the significant rise in the number of prisoners in Indian prisons during the mentioned time period, one would expect an increase in infrastructure, facilities, and staff to handle the influx. However, the situation in Indian prisons is instead deteriorating alarmingly.

¹¹ United Nation Office on Drugs and Crine, *INTERNATIONAL STATISTICS on CRIME and JUSTICE*.
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Our penitentiary institutions are overcrowded. In 1961, there were a total of 1176 jail organisations in the country. These consisted of 52 central correctional institutions, 180 county prisons, 919 sub-correctional facilities, 2 juvenile prisons, 9 borstals, 3 women's prisons, 6 specialised prisons, and 5 open prisons. In 1970, the total number of foundations decreased to 1170, but jail admissions increased to 1,378,657 compared to 1,005,896 in 1961. During this era, the number of undertrials also increased; in 1960, there were 593,398 undertrials compared to 412,498 convicts. In 1970, the number of individuals awaiting trial was 938,598, while the number of those convicted was 440,059. While the conviction rate increased by a mere 7%, the number of undertrials being held in custody increased by a significant 58%. The ongoing aggregate convenience has resulted in a growing number of undertrials living with criminals, which is against the requirement stated in section 27 of the Prison Act, 1894. The consolidation of a significant number of undertrials with indicted detainees and the integration of seasoned criminals with young first-time offenders tend to foster in the minds of all prisoners' feelings of guilt rather than remorse and regret for their past actions and a desire to change.

In addition to the overcrowding in prisons, the strict regulations and enforcement of daily life within correctional facilities often leads to the dehumanisation of the inmate, who is subjected to the harsh environment with all its brutalities, unpleasant odours, corruption, and disrespect. Instead of functioning as a rehabilitative institution aimed at transforming criminals and helping them recognise their mistakes, the current atmosphere within our prisons is disturbingly counterproductive, making it nearly impossible for any reformation process to be effective.

The penitentiary administration in India needs a substantial overhaul. The current state of staff and operations in jails is highly outdated, with a lack of adequate infrastructure and equipment.

Due to the inadequate conditions at the jail, there is a significant lack of agreement among the personnel. They are expected to excel in their duties, despite the few comforts and resources available to them. Consequently, there has been a significant increase in the occurrence of jailbreaks and attacks on prisons by organised criminal groups with the intention of freeing their fellow gang members.

Based on the aforementioned scenario, it is evident that the several agencies involved in the administration of criminal justice in India are encountering numerous obstacles. It is

important to identify these issues in order to address and rectify them, hence enhancing effective coordination among these organisations.



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