



RETHINKING CRIME, CORRECTIONS AND VICTIM PROTECTION IN INDIA

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ABSTRACT

“An eye for an eye, will turn the whole world blind.”

- Mahatama Gandhi

The panorama of crime and victims is going through a massive shift these days, and all these changes are driven by economic, social and environmental factors. Traditionally, the meaning of crime and correction facilities was influenced and embedded from the colonial methods and were based on harsh punishments and demonic activities. However, every strict nominal rule has to adapt to change as time changes. Criminal, crime and correction facilities have been a talk of the town for ages, but we haven't heard much about the victims, about their rights, and what measures are taken to protect them. A few challenges are also met with the upcoming crimes, such as cybercrimes and online fraud. This paper talks about the criminological theory and the need of the hour to look after the victims in India, how victims suffer not only physical but also mental trauma. It also analyses the drawbacks of correctional facilities and how they should be transformed into reform centres. Justice should be served in the form of a fair and just process, and the victim must also receive some kind of monetary benefit, as a measure that the victim does not have to wait for a prolonged period. This calls for a rethinking of criminological aspects, ideologies and victim-based justice mechanisms.

Keywords: Criminological, Punishments, Victims, Cybercrimes.

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INTRODUCTION: SHIFTING PARADIGMS IN INDIA'S CRIMINAL JUSTICE SYSTEM

India has adopted three new criminal acts, primarily known as The Bharatiya Nyaya Sanhita, 2023; The Bharatiya Nagarik Suraksha Sanhita, 2023; and The Bharatiya Sakshya Adhiniyam Act, 2023, which mark a significant departure in the nation's approach to law enforcement and protection of citizens' rights.¹ Criminal law is such a field that changes with the modernised way of crimes; it cannot always stay static. It has reformed through the British era to the modernised period now. Crimes have become more heinous, due to which the criminal justice system has had to reform itself to punish the wrongdoer and serve justice to the sufferer.

STRUCTURAL GAPS IN POLICING AND CRIME INVESTIGATION

It is deeply rooted in its colonial-era Police Act of 1861, leading to systemic issues such as severe understaffing, political interference, a lack of modern technology and training, and an erosion of public trust. This often leads to non-trusted forces and overworked officers. In a country like India, where the population is 1,469,372,668 (1950 – 2025),² crime rates are increasing daily, and the police officers are already overburdened with previous cases. India faces a significant deficit in police personnel, with a police-to-population ratio of approximately 192 officers per 100,000 people, significantly lower than the UN's recommended standard of 222. Political influence plays a major role in criminal activities; many sensitive case files get closed even before an enquiry, and some are not even registered. The public has lost faith in both general policing and investigations. Nowadays, crimes are mostly related to cyber investigation and forensic science. Modern technologies are required, and highly trained officers, but India lacks in providing training and also has a shortage of well-trained laboratories. Funding is inadequate, which often leads to low pay, which can also affect the morale of the officer and further erode public trust.

THE ROLE OF TECHNOLOGY IN CRIME DETECTION AND PREVENTION

As technology advances, cybercrime has become a significant threat; if one has a phone or a network system, they are already a part of it. Government and businesses use cybersecurity

¹ Government of India, 'Exploring India's New Criminal Laws: A Paradigm Shift in Legal Framework' (MyGov Blog, 2024) <https://blog.mygov.in/exploring-indias-new-criminal-laws-a-paradigm-shift-in-legal-framework/>

² Worldometers, 'India Population (2025)' (Worldometers) <https://www.worldometers.info/world-population/india-population/>

measures to protect sensitive data from hacking and online fraud.³ Technology can be both a boon and a bane. Some fraudsters leak personal photographs of women or make AI-generated faces to defame individuals. The right to be forgotten dovetails with people's right to access their personal information in Article 15. In Article 17, the GDPR outlines the specific circumstances under which the right to be forgotten applies. An individual has the right to have their personal data erased if:

1. The personal data is no longer necessary for the purpose for which an organisation originally collected or processed it.
2. An organisation is relying on an individual's consent as the lawful basis for processing the data, and that individual withdraws their consent.
3. An organisation processed an individual's personal data unlawfully.
4. An organisation must erase personal data to comply with a legal ruling or obligation.

IT Act 2000, Section 66A. Punishment for sending offensive messages through a communication service, etc.—Any person who sends, by means of a computer resource or a communication device,⁴ plays a huge role in punishing the offender with a term which may extend to three years or a fine.

EVALUATING CORRECTIONAL INSTITUTIONS: FROM PUNITIVE TO REFORMATIVE

From the independence era to date, our correctional facilities have seen a drastic change, and they have evolved to a better system. The existence of a prison facility plays a crucial role in every country, as there is no civilisation without crimes and criminals, and the prison system serves as the essential method of transition of criminals into law-abiding citizens. In older days, punishments such as the death penalty were given, which was termed as capital punishment if found guilty of murder or terrorism. They were hanged, lethal injection, etc. Their sole purpose was retribution and deterrence.

Then came the corporal punishment, or a physical punishment, which is a punishment which is intended to cause physical pain to a person. When it is inflicted on minors, especially in

³ 'Virtual Legal Services: A Game-Changer for Legal Accessibility' (Lawvs) <https://lawvs.com/articles/virtual-legal-services-a-game-changer-for-legal-accessibility>

⁴ Information Technology Act 2000

home and school settings, its methods may include spanking. When it is inflicted on adults, it may be inflicted on prisoners and slaves, and can involve methods such as whipping.⁵.

According to Durkheim, “Crimes exist in every society which does not have laws, courts and the police. He says that crimes take place everywhere, and all actions are immoral, but not all immoral actions are considered illegal. The term prison was reformed into correctional facilities to show the adaptation.

Every saint has a past, and every sinner has a future.

- Justice V.R.K. Iyer.

Modern punishments aim at reforming criminals as they are also a part of society. They will use methods such as community services and solitary confinement to restore justice. This method condemns all kinds of corporal punishments and transforms the citizen into a law-abiding citizen. This theory gives every sinner a new beginning and a new chance in their lives.

In Nrotam Singh V/S State of Punjab, the SC held that- “Reformative approach should be the object of criminal law, to promote rehabilitation without offending community conscience and to secure social justice”.

Charles Sobhraj V/S Superintendent, Central Jail, Tihar is a landmark Indian Supreme Court judgment from 1978 that significantly impacted prisoners' rights, particularly concerning humane treatment and discrimination.⁶

PRISON OVERCROWDING, HUMAN RIGHTS AND REHABILITATION CHALLENGES

It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.”⁷

Prison overcrowding is another factor contributing to low-grade facilities and poor prison conditions. Prisons in over 118 countries have exceeded their capacity, with 11 national prison

⁵ Jeremy Bentham, ‘Panopticon; or, The Inspection-House’ (Econlib) <https://www.econlib.org/library/Bentham/bnthPML.html>

⁶ Ms Rama Dutt, ‘Prison Reforms and Human Rights of Prisoners: Implementation of Supreme Court Guidelines on Overcrowding and Health, A Comparative Analysis with International Standards’ (2025) IJIRT 12(5) https://ijirt.org/publishedpaper/IJIRT185460_PAPER.pdf

⁷ Nelson Mandela

systems at more than double their capacity. Overcrowding also increases the rate of mental health problems, self-harm, and violence. The problem of overcrowding in prisons in India has been in existence for a long time. However, it is not uniform in all prisons in India. The District Prisons are more overcrowded than the other Prisons. As per the statistics published by the National Crime Record Bureau, as on 31.12.2008, there were 384753 prisoners in various prisons of the country against its total authorised capacity of 297777 prisoners. Out of this, the number of undertrial prisoners was 257928, which constitutes 67% of the total prison population. The prison in India is overcrowded to the extent of 129%. While in some States, there was no overcrowding, the jails of some States are still heavily overcrowded.

Many steps are taken to stop overcrowding in prisons. Fast-track courts for expeditious disposal of long-pending cases in the Sessions Courts. The FTCs were established to expeditiously dispose of long-pending cases in the Sessions Courts and long-pending cases of undertrial prisoners. Then comes the open prisons where surveillance is less with less security, and prisoners are often permitted to take up employment while serving a sentence in these prisons. This helps them to connect with the outside world and become a better citizen by changing themselves.

Using a human rights framework to change prisons means recognising and taking into account the different needs of men and women. These approaches give access to the health care facilities and support for family responsibilities. They are not only essential for upholding human rights in detention settings and for facilitating the successful rehabilitation and reintegration of women prisoners into the community.

VICTIMOLOGY IN INDIA: EVOLUTION AND CURRENT FRAMEWORK

Any person who has suffered any kind of harm, loss or damage mentally or physically is referred to as the victim. The term "victim" includes a victim's guardian or legal heir as well as anyone who has suffered loss or harm as a result of the accused person's activities for which they have been charged. Every criminal justice system's most important and aggrieved party is the victim. Benjamin Mendelsohn coined the term "victimology" in 1947 and defined it as a scientific study of crime victims. Victimology places a greater emphasis on the victim than on the perpetrator, in contrast to criminology, which places more emphasis on the offender. Victimology is the scientific study of the quantity, kind, and causes of criminal victimisation, as well as the effects on the victims and the reactions of society, particularly the police and the criminal justice system, volunteers, and professional assistance. The victimology movement,

which started in the United States in the late 1970s, is credited with bringing attention to the plight of victims who were designated as the underserved constituent of any criminal justice system.⁸ Victims are not given much importance; any victim or any person who has suffered loss not only suffers physical but also mental, and that incident stays as a scar for a lifetime. They go through a massive change in their body, their body always panics, and stays in a situation of fight or flight response. The loss of control over emotions.

As for the impact of abuse of power, during recent years armed conflict has claimed innumerable victims, largely among civilian populations, with women and children often the primary targets. Tribal warfare, ethnic strife and other fratricidal conflicts, mass rapes, kidnappings or expulsions, “ethnic cleansing”, torture, arbitrary detention and killings have greatly added to the human toll. The Office of the United Nations High Commissioner for Refugees estimates that at the beginning of 1996, there were approximately 13.2 million refugees, 3.4 million returnees, 4.6 million internally displaced persons and 4.8 million victims of armed conflict worldwide.

Few reforms have been made in the new laws to strengthen victim participation in the current framework.⁹

1. The 2008 CrPC Amendment added Section 357A, which requires state governments to set up victim compensation schemes and lets victims appeal if an accused person is acquitted.
2. The Criminal Law Amendment Act, 2013: Enacted after the Delhi gang rape case, this comprehensive reform included enhanced protection for sexual assault victims, expanded definitions of sexual offences, and victim-friendly procedural changes.
3. The Protection of Children from Sexual Offences Act, 2012 (POCSO): Established special courts with victim-friendly procedures for child sexual abuse cases, including in-camera trials and preventing confrontation with the accused.

⁸ Ann Wolbert Burgess, Cheryl Regehr and Albert R Roberts, *Victimology: Theories and Applications* (Jones and Bartlett Publishers 2010) 31–32

⁹ ‘Victimology in India: Historical Roots and Modern Developments’ (TheLaw Institute, 13 January 2024) <https://thelaw.institute/criminal-justice-system/victimology-india-historical-modern-developments/>

CONCLUSION: TOWARDS A HOLISTIC AND RESPONSIVE JUSTICE SYSTEM

People who have prior experience with prison records or the justice system have a deep impact on their minds, which affects them in their daily lives. They tend to become more dangerous to society. Their exposure to trauma is quite deep and leads to chronic health issues. Earlier, the punishments were harsh and did not give the offender any chance to reform themselves. The modern justice system has evolved and works on a reformative system. It gives offenders a chance to reform themselves. Senior Justice workers, such as prison managers, probation officers, and high-ranking officials within correctional facilities, play a pivotal role in the administration and oversight of Justice services. In a reformative justice system, offenders who commit heinous crimes are primarily incarcerated for a significant period. But the major focus is to educate them, give psychological treatments, look for the root cause and treat them. No individual should be kept unchecked. Giving them jobs, providing them with vocational training, these help the system to stop overcrowding in jails as well and help them to become a good law-abiding citizen.