

## General Studies-2; Topic: Functioning of judiciary

### India's Criminal Justice System

#### 1) Introduction

- India has many crimes but very few criminals, according to crime statistics.
- The criminal justice system in place is unable to apprehend them, put them on trial with proper evidence and get them convicted.

#### 2) Present Status

- According to National Crime Records Bureau (NCRB) data, there is high level of backlog or the 'pendency rate' with India's courts and police.
- The backlog with courts appears much higher as compared to that in case of police.
- Crimes against women, such as rapes and dowry deaths, continue to see a low conviction rate, of around 20%.
- Under-trial prisoners are kept in overcrowded jails pending investigation and trial.
- Many of them are from weaker sections of society who are unable to get bail or proper legal assistance.
- Functions such as crime investigation, riot control, intelligence gathering, and security of VIPs by a single police force have a devastating effect on the criminal justice system.
- Enormous shortfalls in the number of police chowkis, weapons, and forensic science laboratories (FSLs).
- Secretive collegium system where it remains the world's only self-appointing judiciary.

#### 3) Present Crisis

- India faces an acute shortage of policemen, judges, prosecutors and inadequate judicial infrastructure.
- High levels of vacancies compound the staffing problem.
- As of 1 January 2017, the vacancy rate among police officers across the country (civil and armed) was 22%.
- Uttar Pradesh has the highest vacancy rate, with more than half of sanctioned posts vacant.
- The number of police personnel and judges (per capita) in India is lower than most other G-20 countries.
- State Governments have not implemented all the steps suggested for police reforms recommended by committees appointed from time to time.
- Criminal Law of India is a replica of colonial times. It is hostile to the poor and the weaker sections of society.

#### 4) Implications

- The lack of adequate personnel impedes the ability of the Indian state to maintain law and order, and effectively administer justice.
- Fewer judges explain why the judiciary is able to dispose of barely one in ten cases in a year.
- This poses a big challenge to Indian democracy and to the Indian economy.
- The lack of an effective and fast criminal justice system tends to dampen appetite for investments in the country.

- Lack of state capacity often encourages people to vote for local strong-men, who bypass formal channels while settling disputes and enforcing contracts in their areas of influence.
- The preponderance of such leaders in the political system in turn create vested interests against police and judicial reforms.
- Cases involving the security of the country and safety of women and children are getting delayed enabling evidence to disappear in the process.
- It puts heavy economic costs on the state for its maintenance without commensurate benefits in return.
- 239th Report of the Law Commission of India noted delays in the investigation and prosecution of criminal cases erodes faith in the rule of law and the criminal justice system.
- Justice delayed, is thus justice denied.

### 5) Way Forward

- Tackling the backlog crisis will require more resources for both the police and the judiciary.
- Increasing the strength of judges, diverting cases from the courts to alternate dispute resolution forums (such as Lok Adalats) and specialised tribunals.
- Clear separation of law and order and crime functions of the police.
- Police should be a SMART Police - a police which should be sensitive, mobile, alert, reliable and techno-savvy.
- Second ARC recommended that the government should declare certain crimes as “federal” and entrust their investigation to a Central agency.
- Insulating the police from political interference, with fixed tenures to prevent frequent transfers.
- Need to develop expertise in Evidence-based policing by majority in the IPS.
- The number of Forensic Science Institutions with modern technologies such as DNA fingerprinting technology should be enhanced.
- Malimath Committee in 2003 recommended incorporation of some aspects of an inquisitorial system to make the system more efficient.
- Inquisitorial system of investigation is practised in countries such as Germany and France, where a judicial magistrate supervises the investigation.