

## **Proposal on Criminal Justice Reforms**

### **Why in news?**

The Home Ministry is set to amend various sections of the Indian Penal Code (IPC) and the Code of Criminal Procedure (CrPC).

### **What is the rationale?**

- The IPC, introduced by the British in 1860, is primarily based on the spirit of “master and servant”.
- In the British era, the police were raised to protect the British’s interests.
- But now, the duty of the police is to “protect the people.”
- Also, in the exiting codes, there is uneven punishment for crimes of grievous nature.
- E.g. snatching of chains or bags on road
- It could be life-threatening in some cases but the punishment is not commensurate with the gravity of the crime.
- Notably, after it was framed, the IPC has never been amended in totality, and only some additions and deletions have been made.
- Hence, it is necessary to make an overhaul now to standardise the punishment and align it to present needs.
- The key idea behind the overhaul is that the master-servant concept envisaged in IPC should change.

### **What is the proposal?**

- The Home Minister recently said that the Bureau of Police Research and Development should work on the proposal to amend the codes.
- The Ministry wrote to all States and Union Territories seeking suggestions in this regard.
- Two committees comprising legal luminaries have also been constituted by the Ministry.

### **What is the need for caution?**

- While the revision of the codes is essential in many ways, it should not be unprincipled or unguided amendments.
- In the process, it is suggested to first look into -

1. the general principles of criminal law
  2. the language of the IPC
  3. the rules which should govern its interpretation
- Criminal law is considered to be the most apparent expression of the relationship between a state and its citizens.
  - Any revision of the IPC, therefore, needs to be done while keeping several principles in mind.

### **What are the principles to be considered?**

- **Victims** - Victimological underpinnings ought to be given a major thrust in reforming laws to identify the rights of crime victims.
- The following point towards the increased role of victims in the criminal justice system:
  - i. launch of victim and witness protection schemes
  - ii. use of victim impact statements
  - iii. advent of victim advocacy
  - iv. increased victim participation in criminal trials
  - v. enhanced access of victims to compensation and restitution
- **Offences** - Construction of new offences and reworking of the existing classification of offences is another priority.
- This process must be informed by the principles of criminal jurisprudence which have substantially been altered in the past four decades.
- For instance, liability questions in offences need a fresh look.
- Criminal liability could be graded better to assign the degree of punishments.
- New types of punishments like community service orders, restitution orders, and other aspects of restorative and reformatory justice could also be brought in this fold.
- **Classification** - Chapters of the IPC are overloaded at several places.
- It is unnecessary to have hundreds of sections in the category of property offences.
- The scheme of chapters and classification of offences can be drastically reworked.
- Offences like criminal conspiracy, sedition, offences against coin and stamps, etc must be abolished or replaced.
- Even the chapters on offences against public servants, contempt of authority, public tranquility, and trespass can be redefined and narrowed.
- New offences under a fresh classification scheme, like those suggested by the [Malimath Committee](#) on criminal justice reforms, can be introduced.

## What are the shortfalls to be addressed?

- Unprincipled criminalisation must be avoided to save the state from dealing with too many entrants into the criminal justice system.
- It also often leads to not only the creation of new offences on unscientific grounds, but also arbitrariness in the criminal justice system.
- Guiding principles need to be developed after sufficient debate before criminalising an act as a crime.
- On the procedural side, sentencing reforms are highly imperative.
- Principled sentencing is needed as judges at present have the discretion to decide the quantum and nature of sentence to be imposed.
- They often sentence convicts differently for crimes of the same nature and/or gravity.
- Another systemic error is that of non-adherence to a particular theory of punishment.
- The criminal justice system often swings between the three theories of deterrence, retribution and reformation depending on its convenience.

## What is the way forward?

- India needs to draft a clear policy that should inform the changes to be envisaged in the IPC or CrPC.
- Simultaneous improvements should be made in the police, prosecution, judiciary and in prisons, for the above measures to be truly effective.
- A Criminal Justice Reform Committee with a mandate to evolve criminal justice policy should be formed for this exercise.
- It should be in furtherance to the work done by the Menon Committee on Criminal Justice System, the Malimath Committee, and the Law Commission in India in this regard.

**Source: The Hindu**