

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 existing 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