
A STUDY ON INVESTIGATIVE INEFFICIENCIES CAUSING DELAYS IN CRIMINAL TRIAL

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ABSTRACT

The procedural delay in the criminal justice system is like a noxious substance that corrupts the entire body, and such are caused by many factors that affects the due process of the criminal trial. This study focuses only on the investigative inefficiencies that is caused by Police and other investigative agencies. In many heinous and gruesome cases, the trial is still ongoing and in some cases due to this negligence and the inefficiency by the investigative team, it has made the prosecution impossible to prove the case beyond reasonable doubt, and that eventually led to the acquittal of the accused. The mere failure by the investigative authorities causes more fatal doubt about the whole criminal Justice legal system. Without proper investigation it is impossible to find the real perpetrator who is actually responsible for the crime. This not only shatters the victim but also makes people to lose their hope on the justice system. This particular factor of investigative inefficiencies can be avoided by that definite measures or reforms that has to be introduced to the Police enforcement, which has been held by the Hon'ble Supreme Court as well, but their implementation remained weak. Following these measures the problem will be eradicated, and a new regime of more efficient and advanced investigative system can be born. This study focuses on the New Criminal procedure code i.e., Bharatiya Nagarik Suraksha Sanhita and their provisions on to curb the procedural delay. This study also focuses on the factor which causes inefficiency and gruesome impact it had on the cases which were brought before the Hon'ble Court. The study critically examines about the reforms and measures in investigative infrastructure, mandatory timelines for the investigation, method of handling and preserving the evidence and investigative training to expedite Justice system and to restore faith in Criminal justice legal system.

Keywords: Procedural delay- Investigative inefficiency- Police- Reforming measures- Criminal Justice legal system.

INTRODUCTION

“Denial of timely justice” amounts to a denial of “justice” itself. Two are integral to each other. Timely disposal of cases is essential for maintaining the rule of law and providing access to justice which is a guaranteed fundamental right.¹

The Indian criminal Justice legal system is the backbone for ensuring justice and protecting the fundamental rights of both accused and victim and also that the law and order are sustained. There are numerous criminal trials pending in the Courts because of the procedural barriers in the current system. Even though the delay of Justice in Criminal justice system, the liability is not only limited to the Investigation authorities. There are numerous numbers of factors that causes the delay to the Justice Department. This study just addresses the delay by the inefficiency by the investigative agencies that majorly affects the justice system by delay and how it also corrupts the justice. The mere negligence by the investigative agency affects many and a fatal doubt is created that Justice can really be served to the affected. Even there are many heinous cases where the Hon’ble courts criticised the Investigation authorities of their poor duties that their incapacibilities to find evidence in order to prove the guilt of the accused.

In most cases they pin the accused and they just want to close the cases just to reduce their burden. This not only shatters the victim but also the society which believes in the Justice. The inefficiency by police and other officers is also by the lack of training on how to handle the evidence that was procured in the crime scene and how to initiate and complete the criminal investigation in a proper manner. This paper deals with the factor of inefficiency in investigation causing delay to the justice system. In Malimath committee they stated that if a case is pending for more than two years it should be considered delayed² which is also said to be the upper limit in disposal. The BNSS has came up with some time about investigation procedure and many other reforms to curb the procedural delay procedure that was persistent in the current legal system. There are number of landmark cases which also mentioned about the procedural delay and how to address these delays in order uphold the justice. Also, the Right to speedy trial is a Fundamental Right enshrined in the Constitution, therefore in upholding this right is crucial. In order to overcome the barriers certain procedures and reform

¹Law Commission of India (Report No. 245)

²Justice Malimath Committee, Report on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003)

mechanisms must be followed.

The study deals with the necessary challenges that are pertaining in this Justice delivery system and also the measures which can be introduced in order to curtail the procedural delay, there are numerous pendency of cases which are due to failure of the investigation and Charge sheet delays by the police. **Justice Krishna Iyer** ruled on a bail plea that, *“Even in serious situations, our judicial system suffers from slow motion syndrome, which is fatal to a fair trial, regardless of the final judgment. Because the community cares about the criminal being treated with dignity and eventually punished within a fair time frame, and the innocent being spared from the disproportionate anguish of criminal processes, speedy justice is a component of social justice.”*³ There is a requirement for Guidelines of speedy and proper investigation mandate to the Investigation authorities so that the process need not get dragged unnecessarily. The Investigative agencies still use the outdated technology and adapting to the current digital and AI platforms are crucial in this modern era. The training for this can also be initiated. Thus, this paper will deal about the challenges and further reforms that was present and which can be introduced to the authorities will be dealt flowingly.

OBJECTIVE OF THE STUDY

1. To analyse the meaning and forms of investigative inefficiencies in India and their role in delaying Justice delivery.
2. To analyse the legal and constitutional framework for Criminal Investigation, including the Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 provisions.
3. To analyse the systematic consequences of investigative failures including pendency of cases, undertrial detention, wrongful acquittals.
4. To analyse the cases which are the examples of the impact of investigative inefficiencies.
5. To analyse the necessary reform mechanisms that can be introduced to strengthen the justice system.

³Babu Singh v. State of UP [1978] AIR 527.

REVIEW OF LITERATURE

1. INVESTIGATION AND TRIAL: ANALYSING PROCEDURAL CHALLENGES IN THE INDIAN CRIMINAL JUSTICE SYSTEM BY VINAY KUMAR AND YOGENDRA SINGH⁴

This paper deals with the procedural barriers that was present in the criminal Justice system, where the author dealt with the legal framework governing investigation and trial in India, such as constitution provisions, the Indian penal code, the code of criminal procedure the Indian evidence act, another some special legislations and judicial pronouncements. He also critically analysed the challenges that the police constantly facing the instigation process, such as slack of adequate training and expertise, technological backwardness, political interference, and corruption and etc. The paper also dealt with the comparison of legal framework and structure regarding the investigation process, trial process and witness protections of India, United States, United Kingdom, and Germany. The solution the author came up was to provide a proper multi stakeholder reform approach that should be backed by Political will, and adequate resources must be met. Only then the commitment to uphold the justice can be met.

2. EVALUATING THE EFFECTIVENESS OF INDIA'S CRIMINAL JUSTICE MECHANISMS BY BONALA KISHAN⁵

This paper deals with outlining the constitutional and statutory framework of the criminal justice system, also highlighting about the roles of stakeholders. The study also analysed about the challenges that was present in the criminal Justice system, such as judicial backlog, inadequate police reforms, low conviction rate, witness protection, forensic infrastructure, low funded legal aid and etc. The author also provided a comparative analysis of United Kingdom, United States and South Africa regarding their practices in the criminal justice system. He also stated that over 75% of the prison population are under trial prisoners. He further noted about the landmark judgements which states about the prevention of custodial torture, police reforms and also regarding the witness protection scheme. He further added about the policy

⁴Vinay Kumar and Yogendra Singh, *Investigation and trial: Analysing procedural challenges in the Indian criminal justice system*, International Journal of Criminal, Common and Statutory Law 2024; 4(2): 196-203, <https://dx.doi.org/10.22271/27899497.2024.v4.i2c.106>

⁵Bonala Kishan, *Evaluating the Effectiveness of India's Criminal Justice Mechanisms*, EPRA International Journal of Research and Development (IJRD), Volume: 10 | Issue: 7 | July 2025, <https://doi.org/10.36713/epra2016>

initiatives and use of a technology in justice delivery system and also provided some suggestions such as foreign, technological modernisation, prison and correctional reform and institutional coordination.

3. A CRITICAL ANALYSIS OF THE PROCESS OF CRIMINAL INVESTIGATION AND TRIAL IN INDIA BY DR. VRUNDA JANI⁶

The author criticises that even though India has a well-established legal structure for criminal investigation and trial process, that are being affected by some systematic inefficiencies, such as police brutality, custodial deaths, and procedural delays. The author also identified the gaps in the current practises and proposed many reforms to ensure proper due process and fair trial rights on the trial process without being biased and politically interfered. He also added the investigative bias and misuse of law often led the court in a wrong direction. The author also suggested for the need of comprehensive reforms such as police reforms, enforcement of scientific investigations victim, Centre trials as such and also added that the law must shift from rhetoric to implementation and also was adopted the principles that was given in Arnesh Kumar and Prakash Singh cases only then the real-life justice can be attained.

4. DISPOSAL, DELAY AND DENIAL: CASE STUDY IN CRIMINAL JUSTICE SYSTEM BY DR. GIRJESH SHUKLA⁷

This research dealt with the problem of delay and the reasons for the same that are cited by the official professional professionals and academicians. The author also noted two set of questions in which one was the current society demands Stringent punishment for the new set of crimes and crime patterns that was being happening and the other set is Justice hurried is Justice buried that the protection of human rights is required. The two concepts where one is for looking remedies to avoid delay and that also ensure that the Rights of the accused are not violated. The author imply tested the two different procedural rule contain the CRPC that was dealing with the bail and grant of competition respectively and how these procedure results in delay and denial of justice which the result was the bond amount which was fixed in the bail is at higher rate and the to also requires a verification, which eventually turns as a delaying the

⁶Dr. Vrunda jani, *A Critical Analysis of The Process of Criminal Investigation and Trial in India*, *International Journal of Law*, www.lawjournals.org, ISSN: 2455-219, Volume 11, Issue 7, 2025, Page No. 111-113.

⁷Dr. Girjesh Shukla, *Disposal, Delay and Denial: Case Study in Criminal Justice System*, *Journal of University School of Law and Legal Studies*, *Indraprastha Law Review* Summer 2020: Vol. 1: Issue 1

process of release. Similarly, there can be a unique system where the victim is compensated without the case file being named as pending. The author promoted the multifaceted strategy to reduce the pendency of cases at different levels of Court thus the adoption of Alternative dispute resolution in compoundable cases and this reduces the delay, which is considered to be a win win situation.

5. A STUDY ON CAUSES OF DELAY IN TRIALS IN CRIMINAL COURT IN INDIA by R. JAGAN, MR. AARIYA N LLM, DR. S. SELVARAJU⁸

This paper deal with the causes of delay in trial, where he states that the criminal Justice system need to follow multifaceted approach, which often knows in procedural reforms and enhanced collaboration along all stakeholders of the justice system. He also addressed that that if his approaches there is a possibility to reduce the delays and timely access to justice. Also, further added that there is a need for implementing rules and procedures to fasten the discovery process evidence so that the unnecessary delays can be avoided. Promoting alternative dispute resolution methods reduces the bird of the Court, and these methods are cost effective and time effective, but it is particularly for the cases that do not involve serious offences. The author is also addressed about the case management system, which helps to track the cases by setting, clear timelines, and scheduled hearings, thus, by utilising technology, this can be achieved.

6. BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 & REFORMS IN CRIMINAL PROCEDURE: TOWARDS SPEEDY JUSTICE? BY RUDRANSH SHARMA.⁹

This paper mainly addresses on the question Whether the new act, Bharatiya Nagarik Suraksha Sangita, 2023 (BNSS) and their provisions and the provisions which was introduced in this act, address the issue of procedural delay and provides speedy justice. The author elucidated, many landmark case laws which held that right to speed justice is a constitutional right and also the court must intervene where delays amount to deny of justice. The author also critically examined about many provisions that was introduced under BNSS regarding the time procedure, increased use of technology and strengthening of victim rights. He also recommended that adequate judicial and Police training, infrastructure development, data,

⁸Jagan, Mr. Aariya N Llm, Dr. S. Selvaraju, *A Study on Causes Of Delay In Trials In Criminal Court In India*, International Journal of Research Publication and Reviews, Vol (6), Issue (7), July (2025), Page – 2710-2721

⁹Rudransh Sharma, *Bharatiya Nagarik Suraksha Sanhita, 2023 & reforms in criminal procedure: Towards speedy justice?*, International Journal of Civil Law and Legal Research 2025; 5(1): 150-156, DOI: <https://www.doi.org/10.22271/civillaw.2025.v5.i1b.132>

transparency, and monitoring the timeline procedural framework enables the criminal justice system to curb the delay and provide adequate justice.

7. JUSTICE ON TIME: A LEGAL APPRAISAL OF TIME- BOUND INVESTIGATIONS, ZERO FIR AND E-FIR UNDER BNSS, 2023 BY MR. SHIVANANDA SAHU¹⁰

In this paper, the author mentioned about the BNSS provisions which has potential to reform to provide timely justice delivery, and procedural delays. The study also addressed about the statutory mandate about the time bound investigation and further, he mentioned about the Zero FIR and E- FIR mechanisms. He further mentioned about promoting technology in criminal justice administration. The paper also mentioned about the challenges such as inadequate training and digital infrastructure. The author concluded the paper with unless the gaps are addressed on new reforms are being followed. The efficient justice system will remain stagnant, particularly it affects the backward regions like western states of India.

8. FAIR INVESTIGATION: BACKBONE OF CRIMINAL JUSTICE SYSTEM BY DR. PARMINDER KAUR.¹¹

This paper deals with what is fair investigation and how an investigation be carried forward. The defective investigation not only affects the victim but also shatters the faith of the people in the society. The author also expressed about how a proper investigation must be taken place. The major points include securing the crime scene, collecting, and preserving the crime scene and finding for other material evidence that are present in the crime scene and etc. Also further added that the investigation officers should be given adequate training regarding a good and proper investigation and also, he provided a suggestion of indulging them into a special crash course for the same. This paper dealt with the role of police, and forensic science teams and their help to the prosecution to prove the guilt.

RESEARCH GAP

The existing literatures have pointed out the procedural lapse of challenges that exist within India's criminal justice system. *Vinay Kumar, Dr. Vrunda Jani, and Dr. Girjesh Shukla* have

¹⁰Mr. Shivananda Sahu, *Justice on Time: A Legal Appraisal of Time- Bound Investigations, Zero FIR, and e-FIR under BNSS, 2023*, International Journal for Multidisciplinary Research (IJFMR) E-ISSN: 2582-2160

¹¹Dr. Parminder Kaur, *Fair Investigation: Backbone of Criminal Justice System*, The Haryana Police Journal, Vol.3 | 2020

discussed systemic delays, due process issues, and suggested reforms. Recent studies based on the BNSS 2023 by **Rudransh Sharma and Shivananda Sahu** are more concerned with how legislation responds to procedural inefficiency. Most of these studies treat investigative inefficiency as one among several factors contributing to delays rather than isolating it as the primary foundational cause from which other structural deficiencies. There is a significant gap in research where a detailed legal analysis of investigative failures has not been integrated with empirical NCRB data, accountability frameworks under the Constitution, and detailed case study analyses within one consolidated study. Further gaps in literature include the human costs from an investigation failure on victims belonging to marginalised communities and witnesses who have largely been ignored until now. This study seeks to address that issue by treating investigative inefficiency not as a footnote in procedures but rather as the structural root cause of delayed justice and proposing a reform framework addressing both legal and institutional dimensions of the problem.

RESEARCH METHODOLOGY

The methodology for this study is based on Doctrinal research, analysing both primary and secondary sources. Primary sources include Constitution of India, Bharatiya Nagarik Suraksha Sanhita 2023, along with landmark judicial judgments of the Supreme Court and High courts. Analysed the Official Reports of National Crime Records Bureau, Law commission, Malimath committee, Administrative Reforms commission, National Police Commission and relied upon their statistical and policy data. Also relied on the Secondary sources comprising journal articles and academic books to references.

LIMITATIONS OF THE STUDY

1. The study is based on doctrinal research, and it does not incorporate any field-based data collections and interviews with investigators, victims as such.
2. The study relies on the statistical data of NCRB reports in which while the inter state reporting may be inconsistent and may not be accurately reflect the true perspectives of investigative inefficiencies.
3. The study is confined to the examination of investigative inefficiencies as a cause of delay and doesn't deal with the other factors or judicial delay such as judicial vacancies,

infrastructure deficiencies as such.

4. The Landmark case studies analysed are the matters of high profile that attracted judicial and media scrutiny. The major investigative failures occurred in these cases are analysed and there are still more cases thus this study didn't cover.

MEANING AND DEFINITION OF INVESTIGATIVE INEFFICIENCY

The definition of the term investigate inefficiency is not defined under any statute of law. But it is often addressed more by the justice system. Before going to the context of investigative inefficiency, the first word investigative that is investigation is defined under Bhartiya Nagri Suraksha Sanhita, (herein after referred to BNSS). According to the Section 2(1)¹², the Investigation includes all the proceedings under the Sanhita for the collection of evidence conducted by police officer or by any person (other than a Magistrate) who is authorised by Magistrate in this behalf. Investigation is often done by police, CBI and forensic experts' team, but investigation is confident with the police officers who is majorly responsible for securing the crime scene and collection of primary and biological materials by evidence was present in the crime scene. The main difficulty is do not disturb the crime in to collect the entrances without disturbing the particular crime scene. That is mostly because the police may not be able to find some evidence but in future, if the case was transferred to some other team for investigation, then they may find new evidence regarding the crime scene, if the area is properly secured. The term inefficiency in general means failure to efficiently perform certain functions assigned by the employer. This includes mere gross negligence, carelessness, incompetence, in particular with the job assignment. The definition for investigative inefficiency means the gross negligence and carelessness that was done by the investigating authorities in collection and preservation of evidence and other duties which are respect to the crime. As in the case of *Surendra Koli vs State of Uttar Pradesh*¹³ the Hon'ble Supreme Court opined that, it is unfortunate that police and investigative agencies failed to identify the real perpetrator due to the faulty investigation.

WHAT ARE INVESTIGATIVE INEFFICIENCIES

To answer this question, one must start from the process of receiving the information regarding

¹²Bhartiya Nagrik Suraksha Sanhita, 2023, Sec. 2(1)

¹³ Surendra Koli vs State of Uttar Pradesh, MANU/SC/0119/2011

the crime and to the final stage of filing the appropriate Final report. The Supreme Court mentioned steps that are to be followed in Crime Scene Investigation, in the case of ***H.N. Rishbud v. State of Delhi***¹⁴;

i. Proceeding to the spot:

ii. Ascertainment of the facts & circumstances of the case.

iii. Discover and arrest the suspected offender.

iv. Collection of evidence relating to the commission of the offence which may consist of

(a) the examination of various persons (including the accused) and the reduction of their statements into writing, if the officer thinks fit,

(b) the search of places or seizure of things considered necessary for the investigation and to be produced at the trial; and

v. Formation of the opinion as to whether on the material collected there is a case to place the accused before a Magistrate for trial, and if so, taking necessary steps for the same by filing of a charge-sheet under section 173 of Cr.P.C. before the competent court.

It is necessary for the investigative agencies to do a proper investigation without any bias and impartiality and done in the reasonable stipulated time zone.

Some of the added investigative inefficiencies are given below:

i. Delay in filing First Information Report (FIR)

The First step of a criminal investigation is to file the FIR, mostly in many cases the Police refuses or delay the filing of FIRs, mostly in High profile cases. In ***Lalitha Kumari vs Government of Uttar Pradesh***,¹⁵ the Supreme court mandated the immediate registration of FIR, even though the non-compliance by the police is still a problem. Due to the Non-registration of FIR, many important evidence and witnesses

¹⁴H.N. Rishbud v. State of Delhi, Air 1955 SC 196

¹⁵ Lalitha Kumari vs Government of Uttar Pradesh, Air 2014 SC 187

can be induced by the accused.

ii. Not properly securing the crime scene

When the police first arrive at the crime scene, they must secure the crime scene, it is the mandatory thing which protects the crime scene from any external environment. Thus, only by doing this the evidence from the crime scene is not affected, and it further helps the police or forensic evidence team to conduct the investigation. Even in the case of Nithari killings, the police failed to secure the crime scene which is an open lay strip thus all the evidence were corrupted by the public thus it made difficult for the investigative authorities to find the material evidence. In another famous case of *State of Maharashtra vs Sukhdev Singh*¹⁶ the Hon'ble court highlighted the importance of securing crime scene is to ensure the accuracy of Forensic findings.

iii. Non documentation of the crime scene

Documentation of crime scene is so important that even if the investigative authorities failed to notice certain things from the crime scene, they could check the videos and photos that was taken. The Supreme court in the case of *State of West Bengal vs Surajit Sarkar*¹⁷ held that proper documentation of crime scene is only to prevent any misleading conclusions.

iv. Poor Collection and Preservation of the Evidence

After securing the crime scene the Police must start to find and collect the material evidence, each material must be collected in the manner in which the standard must not change, and it must be preserved in the same standard without affecting its nature. The evidence which are collected must be recorded at the time of recovery itself or else it causes a fatal doubt. The collected and preserve evidence must be sent to the respective investigating authorities so that they can assist the case and provide the report, respectively. If they fail to follow proper protocols, it leads to the contamination of the evidence that it is of no use to the prosecution. The Police must also state the link between the evidence collect and the accused before the Magistrate.

¹⁶ State of Maharashtra vs Sukhdev Singh, 1992 SCR (3) 480

¹⁷ State of West Bengal vs Surajit Sarkar, (2013) 2 SCC 146

v. Lack of Co-ordination between Investigative agencies

The relationship between the police, forensic team, and any other investigative agencies, which assist the investigation must be coordinated accordingly. Even the lack of coordination between these agencies affects the investigation that causes the inefficiency. The report submitted from one investigative team to other helps the flow of investigation. The **Malimath committee report of 2003**¹⁸, mentioned that the weak investigation the coffin request, Court's additional time to clarify the facts and evidence. Also, in **2012 Law commission report** they cited *"inept, unscientific investigation by the police and lack of proper coordination between police and prosecution machinery"*¹⁹ the major factor for prolonged trials and low conviction rate.

vi. Biased and corrupted investigation

The investigation done by the authorities must be free from any bias and corruption only then the investigation is efficient. Even in the case of *Sidhartha Vashisht @ Manu Sharma Versus State (NCT of Delhi)*²⁰, the Supreme Court agreed with the point of defence where the police might be involved turning the victim into hostile. And it was also done in the recent custody, death of *Ajith Kumar*, where the police higher officials themselves, try to threaten the family of the victim to accept the money given by them and not to speak to the press. This activity repeatedly reminds us that if these kinds of bias and corrupted minds are working, there cannot be any hope in the Justice in the minds of the people. In *Prakash Singh and others vs Union of India and others*²¹ the Supreme Court held that while dealing with the high profile and VIP cases, their influence must not be in the investigation so the Supreme Court directed the state government to constitute state security commission and to ensure that the government does not exercise any influence or pressure on the police.

vii. Delay in filing of Charge sheet

Due to the improper investigation by the police, they try to stall the filing of charge

¹⁸Justice Malimath Committee, Report on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003)

¹⁹Law Commission of India, Report (2012), The Need for a Reliable Code of Police Investigation in India, Supreme Court observations

²⁰ *Sidhartha Vashisht @ Manu Sharma Versus State (NCT of Delhi)*, Air 2010 Supreme Court 2352

²¹ *Prakash Singh and others vs Union of India and others*, (2006) 8 SCC 1

sheet. And also, if they file improper charge sheet it causes the necessary delay to the court in order to find the real facts and fix the evidentiary gaps in the case, the also mentioned in the Malimath Committee Report. The Charge sheet must be filed within 60- 90 days as the statutory mandates, and the failure to do such benefits the accused. The Supreme Court recently stated that Investigation cannot go endlessly and the long unreasonable delay in filing chargesheet can be a ground to squash proceedings against the accused.

GUIDELINES FOR SPEEDY INVESTIGATION

The Karnataka High court in the case of *Sujit v. Superintendent of Police*²², addressed the causes in completion of the investigation and also provided with the Guidelines for Speedy Investigation.

i) Offences may be categorised into (a) petty offences (b) serious offences and (c) heinous offences. As regards petty offences, time limit of 60 days could be fixed for completion of investigation which could be extended by the Special Judge/Magistrate upon request made, assigning reasons for extension of time for investigation to be completed. As regards serious and heinous offences, time limit of 90 days could be stipulated with provision to extend such time period upon request by the Special Judge / Magistrate upon reasons being made out.

ii) In the event the investigation is not completed within the time prescribed, and the superior officer is of the opinion that there are no justifiable reasons for completion of the investigation, power can be exercised under Section 36 of CrPC by the Superior Officer.

iii) The Magistrate / Special Judge can invoke power under Section 156(3) of CrPC to ensure investigation is expeditious and pass appropriate directions where the investigation appears to be procrastinated to the prejudice of the complainant and would have the effect of derailing the investigation. The Magistrate can upon application filed or otherwise seek report from the concerned authority as regards delay in investigation.

(iv) Where grievance relates to non-registration of first information report and application under 156(3) has been filed, same may be disposed off within a period preferably not exceeding

²²Sujit v. Superintendent of Police, 2022 SCC OnLine Kar 912,

thirty days as relief sought for it is relating to non-registration of FIR.

(v) Setting up separate investigation wing with dedicated personnel in police stations with necessary training imparted so as to inculcate professionalism in investigation.

(vi) Personnel involved may be subjected to training relating to modus operandi in commission of crime, strategies of unearthing crimes and their detection, and steps to be taken to familiarise them with necessary knowledge relating to technology involved in commission of cyber crimes, money laundering and corruption offences.

(vii) The delay in investigation and consequent delay in trial, places the complainant as well as the witnesses in a vulnerable position and the protection mechanism requires to be evolved.

(viii) Necessary efforts for bifurcation of law and order, and crime investigation as regards personnel need to be implemented.

(ix) The Authorities concerned may consider having provisions for the purpose of speedy and effective investigation by framing Regulations in lines of Police Regulations Bengal, 1943.

(x) In cases involving influential public personalities, resort to Section 164 CrPC should be made more frequently.

(xi) While investigation of offences under the provisions of CrPC is the exclusive domain of the police, the Judicial Magistrate should have role to play to counter the moves of persons in influential positions to subvert the effective process of investigation. Accordingly, the I.O. shall bring to the notice of Magistrate the bottlenecks, if any, that are coming in the way of speedy investigation including the attempts being made by the accused to hinder the investigation. The Magistrate shall, apart from taking such steps as are permissible under law, for example, issuing summons for the production of documents in the custody of suspect/accused/or a third party, may also send a report to the District Judge for appropriate action on the administrative side to eliminate delays.²³

IMPACT OF THE INVESTIGATIVE INEFFICIENCIES ON THE JUSTICE SYSTEM

The investigative inefficiency not only slowdown the justice legal system, but also it violates

²³ Ibid

the constitutional right of Speedy trial. Due to the inefficiency, there is immense pressure on the stakeholders thus the burden falls on the court. The systematic failure of procedural delay affects the due process of law. Thus, there are certain impacts which were caused by the investigative in efficiency factor are discussed below.

A). Pendency of Cases

Due to the inefficiency, there are numerous cases which are pending in the court as already said the improper charge sheet that was filed by the investigative authorities or to be corrected by the Hon'ble courts this also request additional time to identify the facts and to fill the evidentiary gaps. The police are required to file the final report of the investigation within a period of 90 days which is mentioned in the *Section 193 of Bharatiya Nagarik Suraksha Sanhita (BNSS)*²⁴. If they filed an improper investigation report, the prosecution may never be able to prove the guilt of the accused as in criminal cases, the burden of the proof lies on the prosecution. Eventually, it only benefits the accused and leads to the acquittal and there are lots of acquittals in the criminal cases. According to the *National Crime Records Bureau (NCRB) report 2022*²⁵, there are over 55 lakhs criminal cases that are pending in the district and sessions court. Most of the pending cases or due to delay in filing of charge sheet, non-production of fitness, absence of any evidence and absence of medical and forensic reports as all this to be properly checked by the investigative agencies. And also, when the police fails to complete their enquiry within a statutory period prescribed under the *Section 187 of BNSS*,²⁶ the courts grant default bail to the accused, even the bail has certain conditions as not to threaten or induce any witness, the guarantee of the happening is not certain and it is also a barrier for the investigation authorities to complete their investigation.

B). Wrongful Detention of Undertrials

Due to the investigative inefficiency, the police may convict an individual and they are ought to remain in the police custody or judicial custody just because their cases did not progress. In the national crime records bureau's prison statistics India 2022 mentioned that in India's total prison population 75% are under trial prisoners. Many under trial prisoners are held for a long period that not only affects their mental state but also affects the prison environment. As if a

²⁴ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Sec. 193

²⁵ National Crime Records Bureau (NCRB), Crime in India Report 2022, Ministry of Home Affairs, Government of India (2023).

²⁶ Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Sec. 187

greater number of prisoners are kept in the cell, which was not sufficient for them and the authorities to maintain it would be such a mess. The Supreme Court address this issue in **Hussainara Khatoon vs State of Bihar**,²⁷ why the Supreme Court held that right to a speedy trial is a fundamental right under Article 21. And also, the court observed that keeping undertrial person in jail for a longer period than their sentence would amount to unlawful deprivation of liberty. Despite of this landmark judgement, this problem still persists thus led us to questioning the justice system.

C). Impact on Victims

The main impact of the ineffective investigation lies on the victim and their families. The delay or denial of Justice acts as a form of secondary victimisation and failure to provide justice. The failure to provide justice not only traumatise the victim but also make some loose the hope in the justice system. In the **Nithari killings case**²⁸ after long long years, the acquittal of the accused Surendra Koli was ordered by the Hon'ble Supreme Court Court at the families of the victim who waited for the justice for the children for these years or left hopeless, just because the investigating authorities failed to prove the guilt of the accused or to identify the real perpetrator. *The interview of the victim 's family where they questioned the authorities asking then who killed our children, is it the ghost?*²⁹ The prolonged delay of investigation in the sexual violence, case of affects the victim, more and more.

D). Acquittals of the Accused

Due to the ineffective investigation the prosecution will never be able to prove the case beyond reasonable doubt, which is a core principle of criminal justice system. In numerous numbers of cases the accused acquitted at the cost of defective investigation. Even in gruesome cases like **Surendra Koli vs State of Uttar Pradesh**³⁰, the accused was acquitted as the court held that the investigation agencies mere negligence costed them unable to find the real accused and which led to the acquittal of the accused, where he was accused of abduction, rape, murder 20+ children and women. This shattered the entire nation and left the family of the victims hopeless.

²⁷ Hussainara Khatoon vs State of Bihar, 1979 AIR 1369

²⁸Ibid 13

²⁹ Did ghost kill our children? Nithari victim family's long wait ends in heartbreak,
<https://www.indiatoday.in/india/story/noida-nithari-killings-victim-family-supreme-court-frees-surinder-koli->

³⁰ibid

And also, in the case of *Dashwanth vs State of Tamil Nadu*³¹, the Hon'ble Supreme Court acquitted the accused whose crime is of rape and murder of a seven-year-old child, and it was due to improper investigation by the authorities. Thus, the list goes on where the acquittal percentage is of 40-50 according to the NCRB Report³².

LEGAL FRAMEWORK GOVERNING CRIMINAL INVESTIGATION IN INDIA

A). Constitutional Provisions

The constitution of India provides the fundamental rights and there are certain principles that protects the individual. *Article 20, 21, 22*³³ acts as the major right in protection of the accused. *Article 20 protects the request from double jeopardy and self incrimination. Article 21 guarantees the right to life unprofessional liberty in which the Supreme Court has interpreted the Right to speedy trial, right to legal aid, the right to protection from custodial violence and humane treatment in the custody. Article 22 provides legal safeguards for the arrested person including the right to be informed of the grounds the right to inform to his family or his friends regarding the arrest, the right to consult advocate of his choice at the right to be produced before a magistrate within 24 hours of these arrest.*

The Supreme Court laid the foundation for all these rights of procedural safeguards through numerous numbers of landmark cases for example the right to speedy trial and right to human treatment during custody was held in the case of *Hussainara Khatoon vs State of Bihar*³⁴. If any violations to these constitutional provisions the remedies under *Article 32 or 226*³⁵ can be invoked.

B). Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) represents reform mechanism for India's criminal procedural law replacing the old Code of Criminal Procedure. The main objective is to modernise the procedure to ensure speedy justice which is addressed in the constitution. The introduction of procedure timelines ensures to curb the indefinite investigation practice by the officials. *Section 193 of the "BNSS" mandates that the*

³¹Dashwanth vs State of Tamil Nadu, 2023 LiveLaw SC 983

³²Ibid 24

³³Constitution of India, 1949, Art. 20, 21, 22

³⁴Ibid 26

³⁵Constitution of India, 1949, Art. 32, 226

investigation of an offence punishable with imprisonment for less than seven years must be completed within ninety days from the date on which the police officer is directed to investigate” As per the *Lalitha Kumari Case guidelines*³⁶, the mandatory registration of FIR with non-discretionary obligation was introduced. The concepts of zero FIR and E- FIR are introduced in the *Section 173*. The officer in charge of police station must immediately go to the spot of the crime scene upon receiving information about a cognizable offence or he must put his subordinate officer in the location immediately and start the investigation without any delay which was mentioned in the *provision 176*. The accused must be produced before the magistrate within 24 hours of his arrest, and this section also deals with the procedure where investigation cannot be completed within 24 hours. Additionally, the statute provides a time to complete the investigation of the accused within 60- 90 days time frame it was in the *Section 187*. Under section 230 the court must frame charges within 60 days from the first date of hearing after the cognisance is taken and once the charges are framed the court must complete the trial within 2 years time frame this was mentioned in the *Section 356*³⁷. And there were lots of provisions where the technological innovations were used in order to curtail the delays. The technological innovations such as introduction of electronic mode of summons and warrants digital recording of evidence video conferencing in trials as such.

C). Judicial Precedents on Speedy Investigation and Trial

The Hon’ble Supreme Court has, over several decades played an important role in building this system in-order to uphold the Justice. These landmark cases provide us the procedural progression in the society and a few cases deserve particular attention which are listed below regarding the Speedy Investigation and Trial.

a). Hussainara Khatoon v. State of Bihar (1979)³⁸

In this the immense Right of Speedy Trial was marked, and the case arose from a habeas corpus petition filed on behalf of undertrial prisoners in Bihar who had been in jail for longer than any sentence they could receive on conviction. The Supreme Court held that *Article 21's guarantee of personal liberty carries within it a right to a speedy trial*. The Court ordered the release of undertrials detained beyond their maximum possible sentence. The judgment remains the

³⁶Ibid 15

³⁷Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, Sec. 173, 176, 187, 193, 230, 356

³⁸ibid

foundational authority on investigative and trial delay, and the fact that its core problem, the mass detention of undertrials, remains unresolved is a measure of how resistant this system is to legal intervention alone.

b). Sheela Barse v. Union of India (1986)³⁹

Building on Hussainara Khatoon, the Court in Sheela Barse issued detailed directions for persons in police custody: mandatory legal aid at the point of arrest, medical examination of arrested persons, and a clear prohibition on torture and custodial violence. The case recognises something important, that what happens in custody is not separate from the investigation; it is part of it. An investigation built on coerced statements or brutalised witnesses is not really an investigation at all.

c). D.K. Basu v. State of West Bengal (1997)

This case is probably the most practically influential judgment on custodial conduct. The Court laid down requirements such as visible identification for arresting officers, an arrest memo with reasons, notification to a family member or friend, medical examination, and others. Non-compliance was declared contempt of court. It is worth acknowledging, however, that compliance with the D.K. Basu guidelines makes this case more reliable. Their significance lies less in perfect implementation than in establishing a public, judicially enforceable standard that advocates and courts can invoke.

d). Arnesh Kumar v. State of Bihar (2014)

The Hon'ble Supreme Court addressed the systematic abuse of Section 498A IPC, the provision criminalising cruelty to married women, where arrest had become automatic rather than considered. The direction is simple enough to record reasons, apply your mind, do not treat arrest as a default and many directions were given to the Police officers regarding the arrest thus these guidelines implementation is crucial. The broader principle has implications well beyond the specific provision at issue. Investigative power, the Court insists, is not a mechanical function. It requires judgment, and judgment requires accountability.

³⁹Sheela Barse v. Union of India (1986), JT 1986 136, 1986 SCALE (2)230

CASES AFFECTED BY THE INVESTIGATIVE FAILURES***A). DR. (SMT.) NUPUR TALWAR VS STATE OF U.P. AND ANR⁴⁰***

The fact of the case starts with the murder of 14-year-old schoolgirl Aarushi Talwar, and their house help Hemraj at their Noida home in May 2008 which was as sensation to the Indian media for years. For those who have followed the case it provides a complete education in how the investigation of a murder can also be fundamentally wrong the clear flowchart of ineffective investigation. The crime scene was not properly secured, and also other disaster struck the murder investigation of Indian teacher Shivani Poddar who is a neighbour, journalistic and senior police bilked all over the house before any forensic evaluation. The body of alleged murderer Hemraj was not found on the roof where the police say they found it until the following day. The initial examination of the scene was never going to be adequate. Important biological samples were apparently taken very late, that they were already compromised. The proper evidentiary base was compromised from the start of the investigation that is securing the crime scene.

Months after little Aarushi's murder the Uttar Pradesh Police had came up with a turning point in the story and accused domestic help. Within no time the end was in sight and the attention focused on the children's parents. The case was soon brought under the CBI control, and they filed two contradictory closure reports before framing the parents, both dentists. The outcome is a case where whatever actually happened that night no court can claim the certainty of the truth. One of the major points from the case is that there is no current procedure about what happens to an investigation when it is being transferred from the state police to the CBI. In other words, the evidence and theory of investigation can be confused in the transition and the handover agency has a tainted and investigative record from the start, and the case still remains unsolved and led to the acquittal of the accused i.e. the parents if the victim.

B). SANTOSH KUMAR SINGH VS STATE THR. CBI⁴¹

The facts of the case were that Priyadarshini Mattoo a law student was raped and murdered, and the main suspect Santosh Kumar Singh was the son of an influential person (Senior IPS officer). Thus, at the starting of the case itself the investigation was compromised by the

⁴⁰ DR. (SMT.) NUPUR TALWAR VS STATE OF U.P. AND ANR, CRIMINAL APPEAL No. - 293 of 2014

⁴¹ Santosh Kumar Singh vs State Thr. CBI, MANU/SC/0801/2010.

authorities. Thus, later it was transferred to the CBI, thus the problem was also not solved. The Trial court Court acquitted the accused in 1999, as the reasoning for their judgment is that the evidentiary record that was produced by the authorities were so defective, and the biological materials such as DNA evidence were not preserved and they are contaminated, there were also no forensic report and all these made the court to convict the accused legally impossible. But later the High court and Supreme Court convicted the accused even though it would have been better if the investigation is not biased from the start.

C). ZULFIKAR NASIR & ORS. VS STATE OF UTTAR PRADESH & ORS.⁴²

This is the most brutal case where the minority people were targeted and killed. In May 1987, during communal violence in Meerut, members of the Provincial Armed Constabulary reportedly rounded up around Forty-two Muslim men from the Hashimpura neighbourhood, put them in a truck, and shot and killed them at two separate canal sites. Only a handful of people were survived. What followed next is, even more brutal that the standards of India's legal system failure that is for years, nothing happened, no charge sheet was filed, and the accused were roaming around after committing such communal murders. The accused PAC personnel continued in active service. Later after investigation was started it was also not done in a proper manner, witnesses were not formally recorded, physical evidence from the canal sites was never secured and recorded. The case was effectively buried by the investigative authorities. It took immense pressure from the people of the society and eventually judicial intervention to get the CBI involved.

By then a decade had been lost that the witnesses had died and the memories had faded, the justice were buried. Evidence that might have existed was gone and tainted investigation led to no hope in the case. In 2015, after 28 years, a trial court acquitted all accused for want of sufficient evidence. Only on appeal did the Delhi High Court, in 2018, convicted 16 PAC personnel for culpable homicide, imposing life sentences. Thirty-one years after the massacre. The Hashimpura case is not really about individual investigator incompetence. It is about the system that protected its own, that allowed uniformed state actors to literally get away with killings for decades because no one was willing to hold them to account. Investigative neglect, in this case, was a deliberate institutional choice. The minority communities were most affected

⁴²Zulfikar Nasir & Ors. vs State Of Uttar Pradesh & Ors. on 31 October 2018, AIR ONLINE 2018 DEL 2086

and had no recourse and no voice.

D). SURENDRA KOLI VS STATE OF UTTAR PRADESH⁴³

This is the case which shook the entire nation because of its gruesome and heinous nature with the allegations of serial killings in labour- settlement areas in the village Nithari, Sector 32, Noida thus the case was also infamously addressed as Nithari killings. From the early 2005 the residents of Nithari started reporting the missing children and women at first the police rejected these complaints stating that it is not a case of kidnapping it was mere eloping. Even after several complaints to the police by the residents of Nithari, the police failed to identify the missing persons. The court held that the offences were so gruesome and heinous in nature but the Criminal principle “beyond reasonable doubt” was not satisfied and the court doesn’t permit to convict the accused based on a mere conjecture or on a hunch. The investigations by the police and the agencies failed to capture the real perpetrator as it was a matter of negligence on their side.

The confession retracted was untruthful and it was due to the threat and inducement by the investigating officer as there were undisturbed custody of 60 days which creates a fatal doubt of torture. The scene was also not properly secure and the disclosure by the police was not contemporaneously recorded and the contradictions between the panchanama and remand papers also creates a fatal doubt. And there was no biological material found inside the D5 house where the crime occurred and there was no weapon-link established. They also failed to probe the organ trade angle mentioned by the Central Government committee. The court also noted that these were the reasons the curative petition was allowed where the procedural lapse weakened the reliability of evidence. Even though this particular case is of a gruesome nature the court cannot convict a man based on a mere hunch, the conviction requires the prosecution to prove beyond reasonable doubt and must uphold the basics of the Criminal Justice legal system. The court held that the Petitioner is acquitted of all charges and fines imposed stand quashed and the Petitioner shall be released forthwith if not wanted in any other case or proceedings. Even though the heart faints to hear that the real perpetrator is still out there leading a life after committing these much gruesome crimes. The investigative agency’s negligence costed a lot that the officials must be given proper training to investigations and in securing crime scene so that this negligence shouldn’t be repeated. Echo of the Justice was

⁴³ Ibid

failed after 20 years of struggle.

E). DASWANTH VS STATE OF TAMIL NADU⁴⁴

This brutal rape and murder of a Seven-year-old girl child in Tamil Nadu created a tragic sadness and the outrage among the public. Police Investigation was very fatal and improper from the start and suspect Dashwanth was caught soon. It was alleged in the trial that he kidnaped the child, sexually assaulted her, murdered her, and attempted to destroy important evidence (body of the child) that was against him. The Trial Court found the accused guilty of capital offence on circumstantial evidence and sentenced him to death which was affirmed by the High Court but ultimately reversed by the Supreme Court of India mainly on the grounds which are basic to all criminal trials not proved beyond reasonable doubt. However, this Court has come to the conclusion that the evidence does not support the theory of last seen together and the said circumstantial evidence cannot safely and reasonably be construed as pointed against the accused. Testimony of witness is indeed a fabricated and told that he really seen the victim along with the Appellant, he would have certainly informed the parents, when they were on look out for the victim after about two months of his disappearance, and not for delayed period of about two months to the police, thus this was rejected. Further, no CCTV Footage of the Appellant walking around the said area was ever produced. Very serious and grave allegations are levelled against the Appellant. The case of the prosecution is that incidents took place within a space of about one hour, and it is not possible for the accused to cause disappearance, assault, murder and eventually disposal of body. On the record it is evident that by the time confession statement of the appellant was recorded the police had already informed the father of the victim as to the alleged murder and also about the place where the body was hidden.

For the first time, Administrative Officer admitted she was informed of the content of the confession even before it was made. Thus, the so called “discovery” of the confession was merely another scripted scene. The Court however threw out the DNA results due to the prosecution's failure to prove the "chain of custody" of the samples. There were no records showing how the samples were stored and maintained. Further, the very fact that the four-months period elapsed in bringing the sample of the Appellant to the Chemical Examiner is itself a strong indication of the fact that, somebody else might have interfered with him during

⁴⁴ Ibid

this period. Whatever the heinousness of the crime committed, the law does not convict upon moral convictions or conjectures, as the learned Trial Judge aptly observed, which would be sufficient to acquit the appellant, thus the ineffective investigation led this and the justice for the lost child was forgotten which is very crucial and heart breaking.

RECOMMENDATIONS AND SUGGESTIONS

The various research studies and law reports made on the police and the criminal justice system in India have repeatedly mentioned that their suggestions for reforms are critical. The reports by the Law Commission of India, the Malimath Committee on Correctional Reforms, the Second Administrative Reforms Commission (ARC), and the Justice Verma Committee etc., have made very elaborate suggestions and have explained out the detailed need for reforms. Most of the reforms face bottleneck of commitment within the system and institutional incapacity to carry out the changes that is the implementation. This study does not add anything new to the debate but tries to approach the subject with a reflective perspective and examine the necessary for the changes and answers the question of why earlier attempts failed to achieve their objectives.

A). Mandatory Time-bound Investigation mechanisms

The new statutory rules put time limits on investigations, a significant step towards reforms. But without any penalties for failing to meet those time limits, the restrictions are useless. And it's all the more meaningless without a redefined role for the investigator, wherein their failure to properly investigate is governed by a clear set of consequences rather than whether they tried hard enough. Of course, supervisors and magistrates should receive periodic updates from the investigators on their cases, perhaps once a month or as necessary depending on the case gravity of the case. More importantly, critical incidents such as these late submissions should be addressed in writing and included in any official review conducted by the supervisor usually on a quarterly basis for less serious cases or as needed for more serious incidents. Ultimately, if evidence supports allegations of intent to stalling, the consequences for such misconduct just must be as severe as the words and submitted in proof not suspending the particular officer is enough, new type of stringent machinery is required. It is equally important to hold senior police managers accountable for the actions of those for whom they are responsible. Focusing on numbers of arrests and solved cases does not encourage healthy police practice. By contrast, performance management strategies that truly take account of oversight include measures such

as successful convictions, correctly charged cases, and cases that are dismissed because of an unsound investigation must be done in order to uphold the institution.

B). Combining Technology and Changing Digitally

Technology is promising because in this era the pressure that creates on evidence placed to officers to act in a timely manner. Additionally, there are several existing technologies that can be implemented to help address the challenges facing custodians of evidence. The *Crime and Criminal Tracking Network and Systems (CCTNS)*⁴⁵ have been gradually expanded and made functional since 2009. As of date, 16,347 Police Stations have joined the platform across the country out of a total of 15,444 designated Police Stations. Joining the System alone is not enough. All Police Stations across the country need to strive continuously to record and required detail requisite for complete entry of FIRs; to update case diaries timely and to compile charge sheets timely and all these were also included in the BNSS but the implementation of this is still stagnant. While coverage of infrastructure is expanding, the challenge of covering depth of execution also needs to be addressed.

The Police Facilities set in a more accurate view for investigation but now it requires increasingly equipped with the necessary facilities. Their labs and crime scenes are now under equipped to handle the volume of work they currently process. *The BNSS now requires lab analysis for any crime which would carry a sentence of seven years or more, putting a massive strain on already working police facilities.* This has shown each division having their own regional lab. That's not an over inflation of requirements. The mobile units that they already have would then need to cover each district. Clearly, they have a commitment to meet here, and while it would be great if it were done with goodwill, it is not going to happen solely by thinking, the thought from paper to implementation is more necessary.

Having one police camera per officer could help prevent some of the confrontations that occur now when people object to being stopped and questioned or arrested. By capturing on video exactly what an officer did, how they interacted with the public and what the public did, it can focus attention on who is responsible for what action, often more than a paper log can do. The footage kept cautiously in accordance with laws can keep a record of what actually happened. When police behaviour goes on record, what matters most is not what can be remembered later

⁴⁵ Crime and Criminal Tracking Network and Systems (CCTNS), Digital police, Government of India, Ministry of Home Affairs

about it, but what can be seen. Once behaviour is recorded, it becomes harder to deny it. Thus, in BNSS provisions mostly the search, seizure, and the investigations are required to film as conveniently in even mobile phones are enough. All the stakeholders if they help each other and worked properly then maybe all this process would be easy and efficient.

C). Adequate Training and skill building

How an inquiry/ investigation is handled matters the most, after all the inefficiency of the investigation in the cases the necessary for the training of the police and investigative authorities are more than necessary it is compulsory. Training of police officers in India does not equip them to handle today's crimes effectively. The root of this problem lies in the initial training provided to the police officers. Proof of this is that even today, issues like contaminating crime scene, collecting evidence, maintaining proper chain of custody, examining electronic records, and recording statements of witnesses are treated as insignificant issues in police training programmes. These need to become the cornerstone of police training now. But that is asking for too much change in a system that is unwilling to change even small issues of its working. The need for special crash course will help the officers in the time being and then even the most hardship cases may be solved.

In many jurisdictions today, constables are tasked with conducting serious investigations into crimes such as murder and organised crimes, without much specialised training for the job. Those in control of serious investigations would more appropriately hold the rank of Inspector or higher officials. In addition, they should possess the skills necessary to properly handle scientific and physical evidence. Whether or not the person leading an investigation is a superintendent or not is largely irrelevant. What is important is that the person has the requisite skills to scrutinise the facts of a case and come to a sound conclusion. Without such skills, the early stages of an investigation will inevitably lead to a bad ending. While investigations led by those in authority may enhance public confidence in policing indirectly, in the end, the investigator must possess the relevant expertise for the job. Gender should never be overlooked in investigations. We have seen time and again how survivors of sexual violence are treated with cruelty or are made to wait for crucial medical examinations or other evidence. Training for investigators on interviewing survivors, children, and LGBTQ+ individuals is not an add-on but essential to the effective practice in the investigation.

D). Independent Oversight of Investigative Quality

But still the issue of lack of independent oversight, which makes any other reform for all intention and purpose, premature. In the principal agent problem, that investigating officers are answerable to their superiors, who in turn are answerable to the state governments who have political stakes in various cases being investigated or not. An Independent Investigation Oversight Authority into police abuses as now Human Right authority deals with this procedure may be any stringent mechanisms can be brought with real deal and real independence from the executive is what is urgently required. A model could be the UK's Independent Office for Police Conduct (IOPC)⁴⁶ as such can be implemented. Establishing a body which can receive complaints of police misconduct, investigate those complaints, advocate for prosecution where appropriate and publish detailed reports for public perusal would be an important first step. A very important step is recommended by many bodies before that is the *separation of the investigation wing from the law-and-order wing of the police*. This has been recommended by the *National Police Commission in its first report in 1977-81*⁴⁷, by the *Second Administrative Reforms Commission in 2007*⁴⁸ and most importantly by the Supreme Court in *Prakash Singh v. Union of India*⁴⁹. When the investigating officer is also supposed to maintain law and order, the investigating function has to automatically take a back seat.

E). Reforms Introduced Under BNSS 2023

BNSS has come with lots of technological integration, and many time bound procedures and provisions on Forensic Investigation, recording of statements (audio/video), videoconferencing in remand hearing and timelines for charge sheet are critical. However, this doesn't change the pending cases problem. Firstly, the extended custody provisions under Section 187 are likely to be considerable in the undertrial and remand issue in serious cases, and the Right to Statutory Bail helps the accused to protect his right. The provisions facilitating the production and use of electronic evidence are a step in the right direction but will need to be elaborated by subsidiary rules on the admissibility of particular types of digital evidence as well as by appropriate technical protocols for forensic analysis. Then the time bound procedure for filing the Final report after completion the investigation within 90 days are crucial and not only this

⁴⁶ Independent Office for Police Conduct, (IOPC)<https://www.policeconduct.gov.uk> › node

⁴⁷ Reports of the National Police Commission (1979-1981)

⁴⁸ Report of Second Administrative Reforms Commission in 2007, Department of Administrative Reforms and public grievances

⁴⁹ Ibid

is limited to the police it also included the Magistrate to frame the charges within 90 days of hearing the cognisance of the case and must conclude the trial within 2 years which was a recommendation from the Malimath committee. Those are some nice reforms and maybe this complete implementation may take years but the idea of the legislature to curb the timely procedural delay are appreciated.

CONCLUSION

The Criminal justice system is failing. Families of murder victims are forced to wait over a decade for a verdict. A man has just been released from death row after nineteen years for crimes for which there is no evidence to prove he was responsible of. Three out of every four people in prison are there without having been convicted of a crime. These are not special cases that go to the heart of the structured system to fail, they are just failures in the system. And at the root of most of these failures is a shoddy, corrupt or non-existent investigation as mentioned in the judgment of then Nithari killings case. The documentation of the present condition of the state in the undertrial custodies is as thorough as it is disheartening though the accused rights are being affected even in the Daswanth case, due to the gruesome facts he was not allowed to any legal aid before framing if charges, there are only indifferences. It is the same indifference that has driven report after report, commission after commission, inquiry after inquiry to conclude that the prisoner population and rights that must not be merely the detainees of the day but also citizens entitled to the timely trials and humane treatment. Yet the situation worsens. The cases pile up. The acquittal rates remain high, according to the NCRB report nearly 40-50% are acquittals in the criminal cases. Today, in Nithari, or Hashimpura, or in the many villages across the country, there are families of victims who hoped that the law would deliver justice but have long given up. The hardest part, for me, is that there are solutions that have been on the shelves in the government for decades, train your investigators properly, set up and maintain good forensic labs, keep the investigation away from political pressures, protect your witnesses, and allow the victims to play some role in the investigation beyond that of source of evidence. Prosecute when the evidence is there. Follow the time frames that the laws on the statutes to be established. Again, there are no radical ideas here. None of this requires a constitutional intervention to repair the system. None of it even requires changing or re-think of what we understand justice to be. It simply requires a full pledged determination to implement ideas which the stakeholders agree are good.

The Bharatiya Nagarik Suraksha Sanhita, 2023 will also be given a chance to work in the same way as the provision of forensic investigation, recording of audio-video, strict time limits etc. are. Law without its enforcement it is merely a document. India has never lacked adequate legislation. The real problem has been between what the legislation states and what actually happens at a police station in Sathankulam at 2 am, and in a forensic lab containing with 10,000 samples, or in a courtroom where a case is adjourned for the nth time because the investigating officer failed to turn up, and any witness turned hostile can change the entire case as happened in the hot blooded murder of Jessica Lal, these are trivial concerns. The Constitution of India granted to its citizens the right to “social, economic and political justice” and the criminal investigation department is responsible for upholding this right. But this right has never been granted to the powerful. It is denied even to the mother of the missing girl in Nithari who had to wait for two years and plead with the SHO to register the missing person’s complaint. It is denied to the under-trial prisoner who was in the judicial custody without any progress of the case and serving a sentence longer than the maximum permissible for the crime for which he was arrested. The poor rape survivor who courageously filed an FIR and got repulse at the very entry of the crime investigation department, that needs the most basic reform of the criminal investigation system. It is the minimum act of loyalty to the Constitution thus to uphold the Justice in the time bound and proper manner.

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