

ISSN: 2583-8725

Lex Scripta Journal

Quarterly Online and Print Edition

Law & Policy

“Join the League of
National & International Scholars”



EDITORIAL TEAM

DR. AJAY BHUPENDRA JAISWAL

Professor & Former Head
Department of Law
V.S.S.D. College, Nawabganj,
(C.S.J.M. University, Kanpur)

DR. MEGHA OJHA

Associate Professor | Legal Consultant
| Author | KLEF College of Law

PROF. DR. DEEVANSHU SHRIVASTAVA

Founding Dean and Professor,
GL Bajaj Institute of Law,
Greater Noida

DR. GAURAV GUPTA

Assistant Professor,
Faculty of Law, Lucknow

MR. TUHIN MUKHARJEE

Leadership Strategist | Business Coach
| Author | Speaker

MR. PRAKARSH PANDEY

Author and
Advocate, Allahabad High Court

MR. AMARESH PATEL

Assistant Professor
at Law School,
Amity University, Patna



**LEX SCRIPTA MAGAZINE OF
LAW AND POLICY (VOL-4, ISSUE-1)**

Copyright © 2025, LexScripta

ISSN-2583-8725

Vol - IV, Issue - I

Published by INTEGRITY EDUCATION INDIA

New Delhi

First Floor, 4598/12-B, 1st Floor,
Padam Chand Marg, Daryaganj,
New Delhi, Delhi 110002

Phone: +91 98 11 66 62 16 (M)

Phone: +91 70 11 60 56 18 (M)

Bengaluru

Jallahalli East

Bengaluru, Karnataka. India.

Phone: +91 98 11 66 62 16 (M)

Email: publisher.integrity@gmail.com

USA

New Jersey

14 Grandview Ave, Upper Saddle River,
NJ-07458, USA

Phone: +14805226504 (M)

London

37 Degree Media

64, Hodder Drive, Perivale, London UB68LL.
United Kingdom.

Phone: +44 7950 78 18 17 (M)

Website: integrityeducation.co.in

© Lex Scripta Magazine Of Law And Policy, 2025

Disclaimer

All Copyrights are reserved with the Authors. But, however, the Authors have granted to the Journal (Lex Scripta Magazine of Law and Policy), an irrevocable, non-exclusive, royalty-free and transferable license to publish, reproduce, store, transmit, display and distribute it in the Journal or books or in any form and all other media, retrieval systems and other formats now or hereafter known. No part of this publication may be reproduced, stored, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior permission of the publisher, except in the case of brief quotations embodied in critical reviews and certain other non-commercial uses permitted by copyright law.

The Editorial Team of Lex Scripta Magazine of Law and Policy Issues holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not necessarily reflect the views of the Editorial Team of Lex Scripta Magazine of Law and Policy.

[© Lex Scripta Magazine of Law and Policy. Any unauthorized use, circulation or reproduction shall attract suitable action under application law.]

For any Query / Feedback
Phone: +91 98 11 66 62 16 (Vineet Sharma)

Printed in India @ New Delhi

ISSN: 2583-8725

Lex Scripta Journal

Quarterly Online and Print Edition

Law & Policy

"Join the League of National
and International Scholars"



Lex Scripta Journal

Delayed Trial and Its Effect on the Undertrial Prisoners Post 2000: An Analysis

Author

Dolwin Choudhary

Ms. Shailja Khosla



Delayed Trial and Its Effect on the Undertrial Prisoners Post 2000: An Analysis

Dolwin Choudhary

Amity university, Noida.

Ms. Shailja Khosla

Assistant professor Grade 3

Amity University, Noida

Abstract

The problem of delayed trials remains one of the most persistent challenges within the Indian criminal justice system, disproportionately affecting undertrial prisoners who constitute a significant portion of the prison population. Despite constitutional guarantees of personal liberty and the right to a speedy trial under Article 21, judicial delays continue to undermine the administration of justice. This dissertation critically examines the phenomenon of delayed trials and its impact on undertrial prisoners in India in the post-2000 era, focusing on legal, institutional, and socio-economic dimensions.

The study analyses the evolution of the right to a speedy trial through judicial pronouncements, particularly under the expanded interpretation of Article 21 by the Supreme Court of India. It evaluates the effectiveness of statutory provisions and procedural safeguards under the Code of Criminal Procedure, 1973, as well as reforms introduced in recent years to expedite criminal proceedings. The research further investigates the structural causes of delay, including judicial backlog, inadequate infrastructure, shortage of judges, procedural complexities, and systemic inefficiencies in investigation and prosecution.

Special emphasis is placed on the lived realities of undertrial prisoners, who often face prolonged incarceration without conviction, leading to violations of fundamental rights, social stigmatization, economic hardship, and psychological distress. The dissertation also examines the role of legal aid mechanisms, bail jurisprudence, and judicial interventions aimed at reducing undertrial detention, including directives issued by the Supreme Court and various High Courts.

By adopting a doctrinal and analytical approach, the study identifies critical gaps between legal provisions and their practical implementation. It argues that delayed trials not only erode public confidence in the justice system but also result in a de facto denial of justice. The dissertation concludes by proposing comprehensive reforms, including procedural simplification, increased judicial capacity, technological integration, and stronger accountability mechanisms, to ensure timely justice and safeguard the rights of undertrial prisoners.

Keywords: *Delayed Trial; Undertrial Prisoners; Speedy Trial; Article 21; Criminal Justice System; Code of Criminal Procedure, 1973; Judicial Delay; Bail Jurisprudence; Prison Reforms; Legal Aid; India.*

Introduction

Rooted in principles like fairness, equity, and lawful order, India's criminal justice framework functions to protect individual liberties across all stages of legal process. Balancing public safety with safeguards against arbitrary state conduct lies at its heart. What stands out most is the promise of trials that are both just and timely. When proceedings drag on, the very purpose of legal resolution risks being undone - this truth underlines why speed matters. Delayed outcomes often mirror denial, a notion captured well by the long-held observation that slow justice fails those who seek it. Under India's legal umbrella, courts have treated speedy trials as part of life and freedom rights within Article 21 - despite silence in the constitutional text. Through gradual rulings, judges linked timely justice to fairness, embedding it into due process demands. Yet real-world functioning of criminal procedures often strays far from such principles, with backlogs becoming routine across levels. Because cases drag on, individuals face extended limbo - not only weakening confidence in institutions but also deepening personal strain over unresolved matters.¹

Long after 2000, trial delays became worse - this happened mainly because lawsuits multiplied faster than courts could keep up. Filing numbers climbed sharply across the country, driven by larger populations, broader awareness of rights, and more complex social and economic ties. Because judge appointments, courtroom construction, and staff resources did not grow at the same pace, case piles built up heavily throughout every judicial level. Criminal proceedings often stretch out much longer; one reason lies in their intricate steps, heavy dependence on proof and witnesses, along with multiple stages before closure. What drags the situation down further? Things like constant postponements, weak police probes, slow submission of charge sheets, poor coordination among investigators and legal teams, alongside outdated procedures. Courts struggle to function well when buildings are run-down, and tech barely exists inside them. Years - sometimes decades - pass before matters see resolution. This long wait doesn't just clog up justice; it turns the whole experience into something heavy, gruelling, particularly for those still waiting their day in court.²

A large part of India's prison population consists of individuals awaiting trial, deeply affected by slow legal processes.³ These people face charges without having received a conviction. The law treats them as innocent until proven otherwise. Yet many remain locked up for months - or even years - simply because courts move slowly. Their time served sometimes exceeds the longest

¹ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing, 1982).

² M.P. Jain, *Indian Constitutional Law* (8th edn., LexisNexis, 2018).

³ V.N. Shukla, *Constitution of India* (13th edn., Eastern Book Company, 2017).

possible punishment if they were eventually convicted. Lengthy waits become punishments themselves, regardless of guilt or innocence. This mismatch shows up when individuals endure penalties despite never being found guilty. Because most undertrial prisoners stem from disadvantaged communities, the imbalance grows sharper. Stuck in jail for months - or years - many cannot afford bail, struggle to find skilled lawyers, or navigate complex court procedures. Though unproven guilty, they live alongside sentenced offenders: packed cells, weak medical care, missing essentials - their dignity eroded. When conditions blur the line between accused and convicted, fairness begins to unravel. A pattern emerges, quietly but firmly, hitting those already on shaky ground the hardest. Justice, meant to protect all equally, instead leans heavier on some shoulders.⁴

Causes and Dimensions of Delayed Trials in India

One reason trials take too long in India lies buried in structures built long ago, still shaping outcomes today. Since 2000, things have gotten worse - courts face more cases than ever before, yet staffing and facilities remain insufficient. Instead of smooth processes, old rules keep slowing everything down. To grasp what's really happening, we must look beyond courtrooms, into how laws interact with social conditions, government capacity, and economic realities. When verdicts come late, it isn't just inefficiency - it strips people of freedom without conviction, especially those waiting behind bars while time passes slowly, sometimes for decades.

A single case stretching far past legal timelines marks delay within India's courtrooms. Though rules like the CrPC of 1973 and the newer BNSS from 2023 promise quicker hearings, their impact stays limited on the ground. Reports by the Law Commission repeatedly flag sluggish trials as a critical burden on justice delivery. One after another - starting with the 77th in 1978 on arrears, then the 239th in 2012 targeting slow probes - the findings echo: courts run behind, always catching up. Millions of court cases linger across India's legal system, according to figures from the NCRB and NJDG, where trials often stretch five, ten, or two decades without resolution. Behind such delays lies a complex web - deep-rooted inefficiencies shape the landscape, while individuals bear quiet burdens over time.⁵ Understanding what feeds these blockages means looking closely at how institutions function, why processes stall, who suffers most. Each stalled case adds weight, not just on courts but lives caught in waiting.⁶

Time slipping by means more than just court dates postponed - it shapes how people survive behind bars in India. Though often credited to William E. Gladstone, the idea that stalled justice equals broken justice fits tightly around daily prison life. Each day stretches longer when you wait without knowing what comes next. Lives stall while cases gather dust - jobs vanish, relationships strain,

⁴ K.N. Chandrasekharan Pillai, *R.V. Kelkar's Criminal Procedure* (7th edn., Eastern Book Company, 2016).

⁵ Law Commission of India, *77th Report* (1978).

⁶ Law Commission of India, *230th Report on Reforms in Judiciary* (2009).

bodies weaken. Behind every slow-moving file sits someone whose world changes whether they are guilty or not. Courtroom delays do not float above real life - they press down on homes, incomes, minds. To grasp why these holdups matter, one must see them through eyes worn thin by waiting. What looks like bureaucracy from outside feels like erosion from within.⁷

Looking back, how delays evolved tells a key part of the story. Right after independence, courts in India dealt with fewer cases, handling workloads without extreme strain. Yet as people multiplied fast, cities expanded quickly, daily life brought more disputes tied to crime, and common individuals began knowing their legal options better - these shifts piled up. The flood of new court matters soon overwhelmed what judges could manage. From two thousand to two thousand twenty-three, unresolved cases jumped from about twenty-five million to over forty-four million, rising much faster than new benches or appointments did. When courtroom availability fails to meet public need, slowdowns become inevitable; every other reason only deepens this core imbalance.⁸

Huge in scale, the issue unfolds through linked layers. Because structural flaws exist, procedures often fail to move efficiently. Investigations stumble, while prosecution teams struggle to keep pace. Since economic and social obstacles stand firm, delays grow deeper over time. One piece affects another; examining them apart still shows their joint weight. To grasp how serious this has become, connections matter just as much as individual parts. What follows digs into laws passed by parliament, rulings from courts, findings published by research bodies, plus numbers gathered on the ground. After 2000, trial waits stretched longer across India - here, reasons unfold clearly through evidence. Simple fixes fall short when systems themselves resist change. Progress demands steady work at many levels, hitting every cause without skipping weak spots.⁹

A clearer idea of what 'delay' means should come early on. When looking at criminal cases, timing judgments depend on whether the process takes a fair amount of time to settle an issue. Fairness here shifts - shaped by how serious or intricate the crime is, how much proof exists, who needs to speak, where things stand legally, and how well courts can manage their workload. What feels like an acceptable wait in a massive fraud trial with stacks of documents and many testimonies might seem far too long if it were just about one stolen item. Though definitions of a swift trial differ widely among courts, understanding delays demands attention to surrounding circumstances. Still, data showing cases drag on five, ten, even twenty years - regardless of crime type - reveals India's backlog outgrows any fair measure of timely justice.¹⁰

Beginning early, one must separate the different points where slowdowns can happen in handling criminal cases. At times before trial, holdups might come up

⁷ Law Commission of India, *245th Report on Arrears and Backlog* (2014).

⁸ NCRB, *Prison Statistics India* (2022).

⁹ NJDG Database Reports (2023).

¹⁰ DAKSH, *Judicial Data Analysis Report* (2016).

while gathering facts, preparing formal accusations, or waiting between detention and court start dates. Moving into proceedings, lags often appear when hearings are postponed too often, when those meant to speak fail to show, when reviewing proof takes longer than expected, or when lawyers stretch out their statements.¹¹ Delays may occur at the post-trial stage, as a result of the slow pronouncement of judgment, the initiation of appeals and revisions, and the prolonged pendency of such proceedings before higher courts. Each of these categories of delay has its own distinct causes and calls for its own distinct remedies, even as they are all interconnected as manifestations of a broader systemic failure.

Why delays happen in systems and organisations

Twenty-one judges for each million residents - this was India's reality at the dawn of the 2020s. Courts stretch thin because numbers like these leave too much ground to cover. Recognition of the shortage comes often: the Supreme Court notes it, so do government bodies and review panels. Yet movement stalls, despite repeated acknowledgment. Across the Atlantic, a different picture emerges - one hundred seven judges manage the same load in the United States. Britain, even with its smaller system, still assigns more legal personnel per person. Slow progress persists while ratios stay out of balance. Almost four decades later, the target set by the Law Commission in 1987 - fifty judges per million people - remains unmet across India. Because need outweighs supply, trial-level jurists carry overwhelming workloads every year. Hundreds of cases land on each desk: sorting through facts comes first, then listening closely, followed by decisions shaped under pressure. As sessions shrink, backlogs build, rescheduling becomes routine, and justice thins out over time. Lengthy waits tend to benefit only those who gain from stalling things down.¹²

Empty judge positions grow longer each year despite clear guidelines demanding faster choices. Since 2000, court levels across India have operated with missing members more often than not. One out of every five to two out of every five authorized High Court posts sits unclaimed - figures confirmed again by Justice Ministry reports. Lower courts mirror this shortfall closely, their workloads piling up silently under the strain. Instead of swift solutions, appointments funnel through what's called the collegium system - a method widely noted for delays and foggy procedures. Needed placements stall, sometimes forever, because decision paths remain tangled within this approach.¹³ Though appointments to district and lower courts emerge from ongoing talks between state bodies and High Courts, delays creep in - often nudged by politics rather than legal demand. Year on year, backlogs grow as staffing fails to match caseloads, leaving benches understaffed when volume rises.

Most delays come from shaky infrastructure and disorganized management. Scattered across India, countless courthouses - particularly beyond metropolitan

¹¹ Marc Galanter, *Law and Society in Modern India* (Oxford, 1989).

¹² Upendra Baxi, "Access to Justice" (1976) 18 JILI 1.

¹³ Justice Malimath Committee Report (2003).

zones - function with too little room or basic support systems. Outside urban hubs, hearings sometimes unfold in makeshift tents or crumbling buildings never meant for judicial activity. Without proper seating, secure document storage, reliable references, or working restrooms, routine tasks stall - attendance drops when conditions deter participation. Late arrivals - or absences - by attorneys, judges, or witnesses trigger cascading reschedules that deepen existing case piles. Even when national strategies roll out, progress crawls - especially far from city centers, where money and monitoring thin out. Results still wobble in places that depend on them the most, no matter how many programs launch.¹⁴

Constitutional Foundations and the Right to a Speedy Trial

Among foundational elements shaping undertrial prisoners' rights in India stands Part III of the Constitution - its provisions forming a core shield between detained individuals and unchecked state authority. Though accused, such persons retain entitlements; here, constitutional safeguards become vital when liberty hangs suspended before trial. Often, their sole defense against prolonged custody without sentencing rests within judicial interpretation of those very rights. When courts actively uphold these principles, outcomes shift - not just legally but humanly - for thousands awaiting verdicts. Meaningful access to fairness depends less on written laws alone, more on how firmly they're applied during uncertain periods behind bars.

Though the Constitution does not specifically list a right to a swift trial among fundamental rights, India's Supreme Court has woven it into Article 21 across four decades of evolving rulings. Because of key judgments beginning well before the pivotal Maneka Gandhi case in 1978, the idea took root that any process stripping someone of life or liberty must meet standards of fairness, justice, and reasonableness. That ruling acted as a turning point - expanding Article 21 beyond mere procedural safety into a broader shield covering multiple essential entitlements. Over time, the judiciary included within this provision such principles as living with human dignity, access to free legal support, equitable handling during prosecution, clean surroundings, learning opportunities - and notably - a prompt and impartial hearing. Each addition emerged gradually through careful reasoning rather than abrupt declaration, showing how constitutional meaning can deepen without altering words on paper. Such developments highlight an ongoing effort: enriching life and personal freedom in ways aligned with both original design and changing societal needs.

Code of Criminal Procedure and BNSS

One key source of legal rules shaping how undertrial detainees are treated in India is the Code of Criminal Procedure, 1973 - active across most years after 2000. That version took effect long before being swapped out for something new: the

¹⁴ World Bank, *Doing Business Report* (Judicial Efficiency) (2020).

Bharatiya Nagarik Suraksha Sanhita, 2023, launched on 1 July 2024.¹⁵ Earlier still stood an even older system - the 1898 model - which gave way when lawmakers saw room for improvement.¹⁶ When introduced, the 1973 code brought noticeable updates, aiming to protect people charged with crimes while also supporting police work. Yet over time, flaws emerged; delays piled up due to loose scheduling rules or weak oversight systems meant to keep courts moving. Some sections allowed too much flexibility, leading to repeated postponements without strong consequences. Since structures built to manage cases often fell short, backlogs grew despite good intentions. Though modeled closely on what came before it, the newer BNSS tries fixing past shortcomings by setting tighter deadlines, refining conditions around release during trial, and adding tools to track case movement more effectively.

Bail stands as the first real chance for those awaiting trial to regain freedom, making its rules within the CrPC and BNSS vital when studying how law shapes pre-trial rights. Though separate labels exist - bailable versus non-bailable - the difference lies simply in automatic release or judicial choice. When dealing with serious charges, judges weighed multiple aspects: severity of the crime, past conduct of the individual, chances they might avoid court appearances, along with risks tied to witness pressure or destroyed proof. Such room for judgment allowed adaptability; yet it opened doors to partiality, particularly against poorer defendants without influence or connections strong enough to convince authorities of their trustworthiness. Often, fairness bent under unspoken assumptions baked into decision-making.

Halfway through their possible prison term, some people held before trial get freedom automatically. That idea began in India when lawmakers changed the criminal rules in 2005, adding Section 436A to the CrPC. When someone accused of a crime spends time behind bars while authorities investigate or court proceedings drag on - up to half the longest sentence allowed - they must walk free unless facing charges that could bring capital punishment. Instead of waiting endlessly, they secure release on personal promise, sometimes with guarantors involved. Before this rule existed, such certainty was absent; now it stands firm regardless of how slowly justice moves or whether judges hesitate to grant bail. Later legislation replaced older codes - the Bharatiya Nagarik Suraksha Sanhita brought in Section 479, continuing the core concept but going further. First-time offenders reach eligibility sooner: after serving only one-third of the maximum penalty duration. A stronger safeguard emerges here, reflecting growth in legal care for those stuck awaiting judgment.¹⁷

Though passed into law smoothly, putting Section 436A into practice turned out to be unexpectedly difficult. Tracking down undertrial inmates who had spent enough time behind bars called for consistent documentation - something prisons

¹⁵ Bharatiya Nagarik Suraksha Sanhita, 2023.

¹⁶ Code of Criminal Procedure, 1973.

¹⁷ ICCPR, 1966.

and courts commonly lacked. Without strong legal help, numerous detainees did not even know they held rights under this section, leaving them powerless to act.¹⁸ Where support systems existed to spread awareness and guide applicants, gaps in structure often left people stranded. Though the Supreme Court has stepped in with clear orders across multiple rulings - aiming to enforce Section 436A, later mirrored by Section 479 of the BNSS - not every directive has translated into practice. Legal aid bodies were told to locate and support qualified undertrial detainees, yet gaps persist. A number of individuals still stay locked up beyond half their maximum sentence term, not due to legal barriers but because they do not know their status or officials fail to act.¹⁹

Rules about holding someone before trial matter just as much for those awaiting court outcomes. When investigations go beyond one day, procedures kick in through Section 167 of the CrPC - now mirrored in Section 187 of the BNSS - that lay out how suspects move into either police or court-ordered custody. Once there, authorities have a set window: sixty or ninety days to finish inquiries and submit charges, based on the crime's severity; if they miss it, release follows automatically - a feature often called statutory bail. Though informally named default bail, its role lies in blocking endless waits without conviction, something India's top court has backed repeatedly in key rulings. One such moment came forward in *Rakesh Kumar Paul v. State of Assam* (2017) that bail becomes due - no matter if charges arrive later. Though paperwork shifts, the moment an accused asks for release and the clock stops, freedom follows. Later, in *M. Ravindran v. Intelligence Officer* (2021),²⁰ judges reminded: this rule guards human dignity, tied deeply to life and liberty under Article 21. Even small delays or process tricks won't block what law already promises.

Impact of Delayed Trials on Undertrial Prisoners

Delayed trials within India's legal framework do not exist without effect. Instead, they trigger layers of hardship - especially felt by those awaiting trial behind bars while courts stall. These holdups ripple outward, shaping lives in ways both deep and lasting. Life inside prison often worsens due to overcrowding, poor health access, mental strain. Beyond walls, jobs vanish, relationships fracture, entire households unravel slowly. Constitutional promises like fair process and personal liberty erode when time stretches endlessly without verdict. To grasp what unfolds demands more than scholarly interest - it forms the ground on which real change must stand if any response hopes to match the weight of suffering involved.²¹

¹⁸ Supreme Court Legal Aid Judgments Compilation.

¹⁹ Body of Principles for Detention (1988).

²⁰ *M. Ravindran v. Intelligence Officer*, (2021) 2 SCC 485.

²¹ NHRC Reports on Prison Conditions (2020).

Since 2000, India has seen a sharp rise in criminal court cases, accompanied by greater public understanding of legal entitlements - along with growing scrutiny from academics, courts, and activist groups regarding how those awaiting trial are treated behind bars. Although official figures come from the National Crime Records Bureau through its yearly Prison Statistics India reports, their message remains unchanged: more than two out of every three people held in jails across the country await conviction, a rate rarely matched elsewhere globally, pointing toward deep-rooted flaws embedded within legal procedures explored earlier. Hidden beneath such numbers are vast personal accounts - stretched over months or years - involving loss, unfairness, pain, lives paused without resolution, overlooked by state machinery either incapable or indifferent to change. Through this section unfolds an examination shaped around prolonged hearings' consequences on preconviction detainees; it leans on constitutional principles, real-world data, rulings handed down by benches, plus recorded narratives collected from citizens caught in broken processes meant to serve fairness but often failing.²²

Conclusion

This work examines delays in India's criminal court cases after 2000, focusing on why trials take too long, how wide the problem spreads, also what happens to people held before conviction. Instead of moving fast, courts often stall - Chapter 2 looks at broken systems behind that slowness. While laws promise fairness, Chapter 3 checks whether constitutions, acts, or global standards actually protect those waiting trial. From old rulings like Hussainara Khatoon up to P. Ramachandra Rao, Chapter 4 follows how judges have shaped the idea of timely justice. Lives bent by years of unresolved charges fill Chapter 5, showing harm beyond statistics. Because patterns repeat across sections, this ending part connects insights found earlier. It measures existing fixes against real-world outcomes. Then it builds practical steps forward grounded in proof, not assumptions.

One clear outcome stands out after reviewing what came before: delays in court cases across India lead to long detentions without trial, pointing directly to deep flaws built into the legal structure. Far from being an occasional issue, it forms part of how courts function - keeping vast numbers locked up while awaiting judgment, harming those least able to cope, weakening core rights like freedom, fairness, identity, and access to justice. Reports from official sources - the National Crime Records Bureau's annual prison summaries, live tracking via the National Judicial Data Grid, findings from past Law Commission studies - all show similar results year after year: most inmates have not been convicted, many wait multiple years even for serious charges, some remain longer than the harshest possible penalty if found guilty. When these realities meet the

²² NCRB, *Prison Statistics India* (2022).

constitutional principles laid down earlier, along with rulings examined previously, no alternative interpretation remains viable - present enforcement methods repeatedly breach duties owed under the nation's highest law to countless people caught inside.

Rooted deep within the system, delays stem from long-standing gaps in staffing judges and maintaining court facilities. Because procedures drag on without clear fixes, cases pile up faster than they resolve. Instead of balancing needs against workload, past choices kept pouring funds into agencies while neglecting people caught inside the process. Over years, this tilt hardened - courts gained little, defendants lost more. Since 2000, new steps emerged: legal help spread wider, digital tracking began logging case flows nationwide, short-cuts like plea deals appeared in law books, and fresh statutes rewrote old rules. Even the highest court stepped in repeatedly, acting on its own when prisons overflowed with wait-listed accused. While these moves mark real movement forward, inertia remains too strong for tweaks alone to dismantle what delay has built. Embedded now as routine, slowness outlives reforms meant to stop it.

Looking at Chapter 3, one sees that laws meant to protect undertrial prisoners appear strong on paper. Thanks to evolving rulings by the Supreme Court, Article 21 now includes not just life and liberty but also quick trials, decent conditions behind bars, free legal help, along with release on bail when charges are light - forming a solid base for their rights. Instead of relying only on broad ideals, specific rules exist: criminal procedure codes, updated versions like BNSS, plus support from national and state-level acts related to legal aid, prisons, and official handbooks guiding jail management. Because India signed treaties such as the ICCPR, global norms back up these internal systems, adding weight to how detainees should be treated before trial. Despite all this structure, what actually happens to countless people held during investigations since 2000 falls short - not because principles lack clarity, but due to weak execution, poor resources, limited oversight, and missing urgency among decision-makers.

Guidelines for changes in lawmaking courts and government operations

What comes next stems from earlier analysis, rooted in India's constitutional structure, lessons from other countries, and the realities shaping its criminal justice system. Organised into three areas - changes to laws, improvements in courts, and shifts in administration and institutions - they reflect practical pathways forward. These steps speak indirectly to varied participants: lawmakers in Parliament and states, government bodies nationwide, judges, lawyers, and public groups. Each suggestion aims to match the size of the challenges uncovered, neither exaggerated nor minimalized. Built on the idea that even strong individual actions fall short when facing deeply woven issues, they underline collective effort without promising quick fixes.

Despite widespread claims, changing bail laws remains the key step toward fairer courts. Wealth shapes outcomes today because money decides freedom before

trial begins. Instead of asking if someone might run or harm others, the present method asks only whether they can pay. A shift to evaluating actual risk could change that pattern entirely. Starting from personal circumstances rather than bank balances allows fairness to guide decisions. Factors like job history, family connections, or past behavior offer clearer signals about safety than wealth ever does. Some people still need supervision; few require full detention - most do not. Evidence shows systems built around these ideas work elsewhere without raising crime rates. England has used such rules since 1976 through its Bail Act. Canadian courts assess each case using similar principles embedded in their Criminal Code. Several U.S. states now rely less on payments and more on evidence-driven evaluations. These examples form a useful reference when shaping new policies here.

Though tied to the seriousness of charges, time limits on custody before trial have long drawn support from repeated legal reviews. Instead of waiting indefinitely, suspects could benefit when courts step in early - especially if delays come from broken systems, not complicated cases. One option gains strength: requiring judges to reassess jail terms at fixed points, placing proof of need onto authorities after certain milestones pass. Rather than piling on repeat extensions unchecked, a new oversight body might shift outcomes. Staffed by assigned jurists, such a panel could free individuals or shape realistic bail steps - even for those low on funds. Its role? To block slow erosion of liberty under endless court adjournments lacking real scrutiny.

Reports and Committee Publication

1. Justice Jagannadha Rao Committee, Arrears Committee Report (2002).
2. Law Commission of India, 120th Report on Manpower Planning in Judiciary (1987).
3. Law Commission of India, 14th Report on Reform of Judicial Administration (1958).
4. Law Commission of India, 154th Report on Code of Criminal Procedure (1996).
5. Law Commission of India, 177th Report on Arrest (2001).
6. Law Commission of India, 230th Report on Reforms in the Judiciary (2009).
7. Law Commission of India, 239th Report on Expeditious Investigation and Trial (2012).
8. Law Commission of India, 245th Report on Arrears and Backlog (2014).
9. Law Commission of India, 41st Report on Code of Criminal Procedure (1969).
10. Law Commission of India, 77th Report on Delay and Arrears in Trial Courts (1978).
11. Law Commission of India, 78th Report on Congestion of Undertrial Prisoners (1979).
12. Malimath Committee Report, Committee on Reforms of Criminal Justice System (2003).
13. Ministry of Law and Justice, Report on Judicial Infrastructure and Pendency (Various Years).
14. National Crime Records Bureau, Prison Statistics India (Various Years).
15. National Human Rights Commission, Annual Reports (Various Years).
16. National Judicial Data Grid (NJDG), Judicial Statistics Reports.
17. National Police Commission Reports (1977–1981).
18. NITI Aayog, Strategy for New India @75 – Justice Delivery and Legal Reforms (2018).
19. Vidhi Centre for Legal Policy, Report on Bail and Undertrial Prisoners (Various Reports).

Books

1. A.V. Dicey, Introduction to the Study of the Law of the Constitution (Macmillan, 10th edn., 1959).
2. Andrew Ashworth, Human Rights, Serious Crime and Criminal Procedure (Sweet & Maxwell, 2002).
3. Andrew Sanders, Richard Young & Mandy Burton, Criminal Justice (Oxford University Press, 4th edn., 2010).
4. Aparna Chandra, Mrinal Satish & Siddharth Narrain, The Supreme Court of India: An Empirical Overview of the Institution (Oxford University Press, 2016).

5. C.K. Takwani, Lectures on Criminal Procedure (Eastern Book Company, 8th edn., 2019).
6. David Garland, Punishment and Modern Society (University of Chicago Press, 1990).
7. Glanville Williams, Textbook of Criminal Law (Sweet & Maxwell, 2nd edn., 1983).
8. H.L.A. Hart, The Concept of Law (Oxford University Press, 2nd edn., 1994).
9. J.W. Cecil Turner, Kenny's Outlines of Criminal Law (Cambridge University Press, 19th edn., 1966).
10. Jeremy Bentham, An Introduction to the Principles of Morals and Legislation (Oxford University Press, 1789/1996 edn.).
11. Justice V.R. Krishna Iyer, Law and the People (People's Publishing House, 1972).
12. K.N. Chandrasekharan Pillai, R.V. Kelkar's Criminal Procedure (Eastern Book Company, 6th edn., 2018).
13. M.P. Jain, Indian Constitutional Law (LexisNexis, 8th edn., 2018).
14. Malcolm M. Feeley, The Process is the Punishment (Russell Sage Foundation, 1992).
15. N.R. Madhava Menon, Criminal Justice System in India (LexisNexis, 2019).
16. P. Ishwara Bhat, Law and Social Transformation (Eastern Book Company, 2010).
17. Roscoe Pound, The Spirit of the Common Law (Beacon Press, 1921).
18. S.P. Sathe, Judicial Activism in India (Oxford University Press, 2002).
19. Upendra Baxi, The Crisis of the Indian Legal System (Vikas Publishing House, New Delhi, 1982).
20. V.N. Shukla, Constitution of India (Eastern Book Company, 13th edn., 2017).

Journal Articles

1. Baxi, Upendra, "*The Crisis of the Indian Legal System and the Right to Speedy Trial*" 25 **Journal of the Indian Law Institute** 1 (2003).
2. Bhardwaj, Ankit, "*Undertrial Prisoners and Judicial Delay in India: A Socio-Legal Analysis*" 8 **NLU Delhi Law Review** 67 (2019).
3. Choudhry, Sujit, "*Judicial Activism and the Enforcement of Fundamental Rights in India*" 12 **Indian Journal of Constitutional Law** 45 (2008).
4. Ghosh, Saptarshi, "*Delay in Criminal Trials and Its Impact on Justice Delivery System*" 5 **Journal of Criminal Law and Criminology (India)** 112 (2017).
5. Jain, M.P., "*Right to Speedy Trial as a Fundamental Right: A Constitutional Perspective*" 30 **Journal of the Indian Law Institute** 201 (2005).
6. Kalhan, Anil, "*Rethinking Criminal Justice Reform in India: Delay, Detention, and Due Process*" 14 **Asian Journal of Comparative Law** 89 (2019).
7. Kumar, Ashok, "*Undertrial Detention in India: Legal and Human Rights Dimensions*" 6 **Indian Journal of Human Rights Law Review** 123 (2016).
8. Mehta, Prashant, "*Judicial Backlog and Delay in India: Causes and Remedies*" 10 **Supreme Court Cases (Journal)** 34 (2014).
9. Narayan, R., "*Speedy Trial and Article 21: Expanding Horizons of Personal Liberty*" 7 **Indian Bar Review** 98 (2012).
10. Raghavan, Venkatesh, "*Prison Reforms and Undertrial Justice in India*" 9 **National Law School of India Review** 56 (2011).
11. Sharma, Neha, "*Access to Justice and Delay in Criminal Proceedings in India*" 3 **Indian Journal of Access to Justice** 77 (2020).
12. Singh, Avani, "*Bail Jurisprudence and the Plight of Undertrial Prisoners in India*" 11 **Criminal Law Journal (Journal Section)** 65 (2018).
13. Sinha, Rakesh, "*Legal Aid and Undertrial Prisoners: Bridging the Gap in Indian Justice System*" 4 **Journal of Legal Studies and Research** 140 (2017).
14. Verma, S.K., "*Delay in Criminal Justice Administration: Issues and Challenges*" 2 **Supreme Court Cases (Journal)** 21 (2010).
15. Yadav, Poonam, "*Human Rights of Undertrial Prisoners in India: A Critical Study*" 13 **Indian Journal of Human Rights** 89 (2021).

EDITORIAL TEAM

PROF. (DR.) BANSHI DHAR SINGH

Professor,
Ex. Dean & Head,
Faculty of Law,
University of Lucknow

DR. KALPESHKUMAR L GUPTA

Founder ProBono India, Legal Start-ups,
Law Teachers India

DR. SUDHANSHU CHANDRA

Assistant Professor, Manuu Law
School, Maulana Azad National Urdu
University (Central University),
Hyderabad

PROF. (DR.) SANJAY SINGH

Director
of IIMT College of Law

INTERNATIONAL EDITORIAL TEAM

PROF. DR. MARC OLIVER OPRESNIK

President and CEO
Opresnik Management Consulting
and Opresnik Business School

*PROF. DR . COMRADE AMB.
CHUKWUNONSO C
HARLES OFODUM ESQ*

Chancellor, ALSA University.
Legal Director for Nigeria, World
Association for Humanitarian Doctors

ABOUT LEX SCRIPTA JOURNAL

Lex Scripta Magazine is a premier peer-reviewed online and print journal dedicated to advancing scholarly research in law, policy, and social sciences. With the vision of promoting academic excellence and fostering a culture of intellectual exchange, the magazine provides a distinguished platform for academicians, researchers, legal professionals, and students to publish their original work and contribute to contemporary legal discourse.

Each submission undergoes a rigorous double-blind review process conducted by a panel of eminent national and international professors, ensuring the highest standards of quality and academic integrity. Lex Scripta not only encourages original and innovative research but also strives to bridge the gap between theoretical insights and real-world applications in the legal domain.

Contributors and editorial members receive global recognition through certificates and publication opportunities, while readers gain access to insightful, authoritative, and thought-provoking content across diverse areas of law and policy.

Now managed by Integrity Education India, Lex Scripta Magazine is committed to expanding its academic footprint through enhanced digital presence, global collaborations, and university partnerships. Upholding its ISSN identity, Lex Scripta continues to evolve as one of India's most trusted and respected journals in the field of legal research and education.

KEY FEATURES

- | **Scholarly Insights** – Access in-depth, peer-reviewed research articles written by distinguished academicians and legal experts.
- | **Global Perspectives** – Explore diverse viewpoints on law, policy, and governance from national and international scholars.
- | **Authentic Content** – Read verified and academically sound articles that uphold the highest standards of research quality.
- | **Knowledge Enhancement** – Stay updated with emerging trends, case studies, and policy developments across multiple legal domains.
- | **Easy Accessibility** – Enjoy seamless access to online editions and exclusive hardcover issues for academic and professional use.



CONNECT WITH US **9811 666 216**
7011 605 618

