

- **‘The proper function of a government is to make it easy for the people to do good and difficult for them to do evil.’ — *William Ewart Gladstone***
- Rule of law entails
  - Protecting rights
  - Settling disputes
  - Maintaining public order
  - Enforcing justice equitably
    - Punishment for crime
    - Due process of law
    - All subject to same law
    - No one above law

India is **unique** among all major democracies in 3 ways:

1. **Large pendency and long delays in courts.**

**Table 1: Country-wise Pendency of Trial Courts**

Country	Pending Cases in Trial Courts (Million)	
	Civil	Criminal
India	9.9	26.6
USA (Federal Courts)	0.5	0.1
UK	NA	0.3

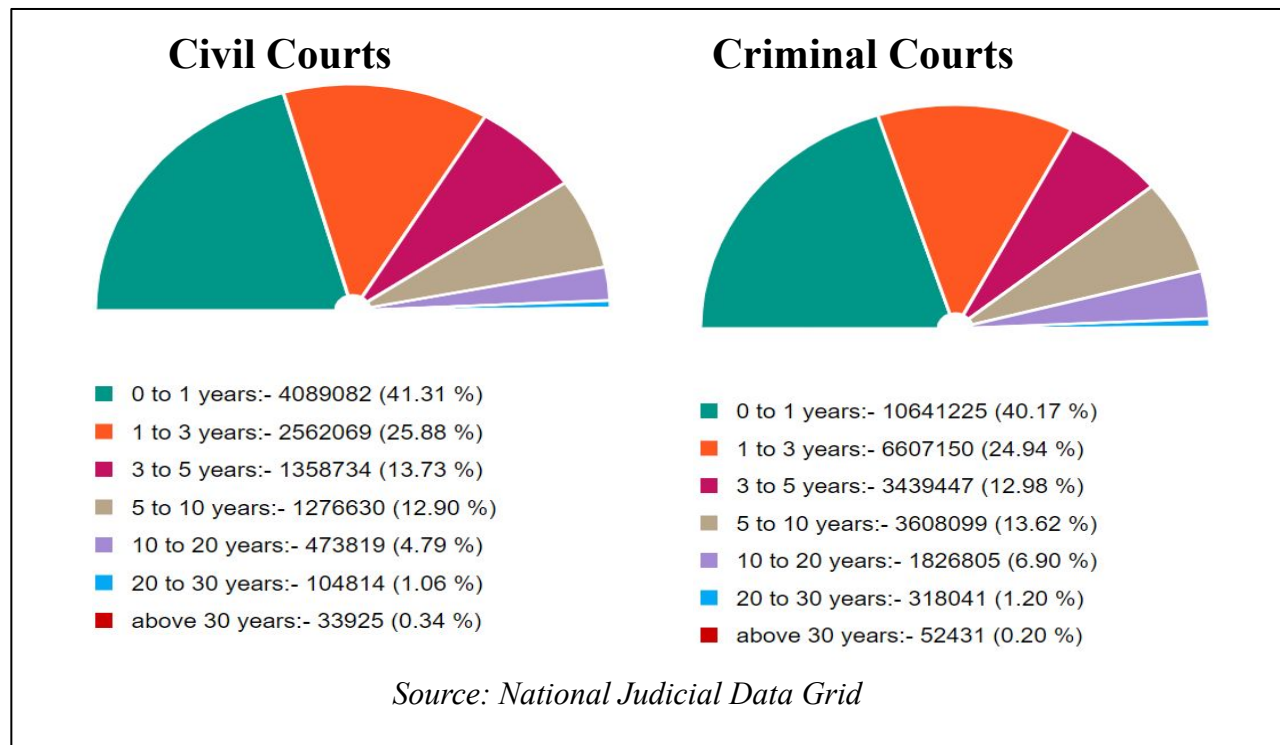
Note: Numbers are rounded to nearest 100,000.  
Sources - NJDG, US Courts Data Tables, UK House of Commons

India is **unique** among all major democracies in 3 ways:

## 1. Large pendency and long delays in courts.

➤ **60%** percent of cases are more than a year old.

**Figure 1: Age wise pendency in District and Taluka Courts in India**



2. **Criminal caseload significantly outnumbers civil caseload.**

**Table 2: Country-wise Civil and Criminal Caseload**

Country	Cases Filed/100,000 Population (2019)		Civil Cases Filed in a Year: Criminal Cases Filed in a Year Ratio
	Civil	Criminal	
India	257	998	1 : 3.9
USA (Federal Courts)	91	28	1 : 0.3
USA (State Courts)*	4911	5293	1 : 1.1
UK	3435	2371	1 : 0.7

\*Does not include Small Claims, Juvenile, Domestic Relations and Traffic Violations, Civil data for 18 states and and Criminal data for 21 states is missing.  
Sources - NJDG, US Courts Data Tables, US National Center for State Courts, UK House of Commons

## 2. Criminal caseload significantly outnumbers civil caseload.

- Crime rate lower in India than most other developed and developing countries.
- Indicates that people are avoiding courts to settle their civil disputes.
  - Extrajudicial methods of justice
  - Suffer in silence

**Table 3: Country-wise Crime Rate**

Country	Crimes per 100,000 Population
India	377.3
USA	2498.2*
UK	7486.5
Germany	6539.4
France	5621.8
Australia	2396.8
New Zealand	10154.1
Canada	5852.7

\*Includes only violent crimes and property crimes  
Source: NCRB, various countries' official crime statistics compiled by FDR

### 3. Lowest conviction rate

- Most of the convicted criminals are **poor** and not able to hire competent lawyers.
  - In many cases, third degree methods are applied to **coerce** a confession, resulting in conviction.
  - Without confession, India's conviction rate is much less than 50.4%.
- In the absence of the state's capacity to enforce law and mete out justice, rule of law has all but collapsed.
- It takes an average of **1445** days to enforce contracts in India; **400** days in other countries.
  - Debilitating impact on investment production and economic growth.

**Table 4: Country-wise Conviction Rate**

Country	Conviction Rate
India	50.4%* (2019)
USA	92% (2013)
UK	80% (2019)
Germany	81.7% (2019)
France	87.7% (2018)
Australia	98% (2020)
New Zealand	72% (2019)
Canada	62% (2018)

\*IPC crimes  
*Source: NCRB, various countries' official statistics compiled by FDR*

**Table 5: Crime in Cities**

City	Instances of Crime/100,000 Population				
	Abduction	Murder	Rape	Possession of drugs for Trafficking	Organized crime
Mexico City, Mexico	27.2	17.0	NA	NA	NA
Johannesburg, South Africa	80.5	102.6	NA	52.0	3.0
Karachi, Pakistan	NA	2.4	2.5	N/A	NA
Lahore, Pakistan	21.7	3.1	0.5	N/A	0.5
Delhi, India	24.3	1.9	4.1	1.0	0.1
Mumbai, India	11.9	0.8	1.9	2.7	0.1
Hyderabad, India	8.0	1.0	1.8	0.9	0.1

*Sources: Various countries' statistics compiled by FDR*

# Why is Rule of Law critical for India's future?

- Cities are the fulcrum of economic growth of the country.
- Rapid urbanization in India - cities with a population of >1 mn - **35** cities (2001), **53** cities (2011) & projected at **71** cities (2030)
- It is projected by CII that urban centres' contribution to the GDP would amount to **70%** by the year 2030.

**Increased economic growth**



**More property interactions & contracts**



**Non- resolution in courts**



**Rise in organized crime, corruption & violence**



**Reduced economic growth & equity**

**Greater population density**



**Increased anonymity**



**Impersonal lives**



**Lack of social controls**



**Higher crime rates**



- **7.3%** rise in the registration of crimes in metropolitan cities in 2018 vs nation-wide increase of **1.6%**.
- Civil disputes settled by **extra-judicial means** contribute to further rise in crime.
- Ultimately leads to reduced economic growth and disruption of society.

**Increased economic growth**



**More property interactions & contracts**



**Non- resolution in courts**



**Rise in organized crime, corruption & violence**



**Reduced economic growth & equity**

**Greater population density**



**Increased anonymity**



**Impersonal lives**



**Lack of social controls**



**Higher crime rates**

- **Overburdened** police due to shortage of personnel.
- **Lack of specialization** due to
  - the responsibility for multiple functions.
  - inadequate specialized training.
- **Centralization** of power
- Alienation owing to the public perception of policemen as mere symbols of **state power**, and **not** protectors of the society.
- Steady increase in crime per 100,000 population in India over the past decade from **181.4** in 2009 to **241.2** in 2019.

**Table 6: Country-wise police to Population Ratio**

Country	Police per 100K Population
India	152* (2019)
USA	238 (2018)
UK	355 (2020)
Germany	388 (2019)
France	373 (2020)
Australia	247 (2020)
New Zealand	265 (2019)
Canada	185 (2019)

\* At actual strength. At sanctioned strength, it is 198.  
*Sources: Government police workforce data compiled by FDR*

- Lack of state-of-the-art **technology and infrastructure**.
- India has **7** central forensic laboratories that are well-equipped and **30** state Forensic Science Laboratories with indifferent infrastructure.
- Of the 37 labs, only about **10** have the capability of handling DNA and together test about **20,000** DNA samples annually .

**Table 7: Forensic Infrastructure in India and USA**

Country	Number of labs	Number of DNA Samples Tested in a Year
India	37	20,000 (2019)
USA	409	1,200,000 (2014)

*Sources: Indian forensic expert, GTH-GA estimates for India, BJS*

- An average of 6 samples are tested for any given case, this translates to DNA testing in **3300** cases per year.
- There were **11,313** violent crimes in Delhi alone in 2019.

- **Undue** political interference in crime investigation.
- Shortage of highly **specialized**, trained crime investigation personnel.
  - Current sanctioned strength of CB CID is **23,006**, of which **60%** are constables.
- **Shortage** of prosecutors
- Prosecution is **subordinate** to the police.
- **Poor coordination** between crime investigation and prosecution.

**Table 8: Country-wise Prosecutors Strength**

Country	Prosecutors per 100K Population
India	0.56 (2020)
USA	17.63* (2013)
UK	4.2 (2018)
Germany	7.1 (2018)
France	3 (2018)
Australia	1.2** (2020)
New Zealand	7.1 (2020)
Canada	2.9** (2020)

\* 1.84 US Federal + 15.79 US State prosecutors \*\* Federal Prosecutors (does not include crown prosecutors).  
 Source: Different countries' government statistics compiled by FDR

**Table 9: Serious Crimes Caseload of Investigating Officers and Prosecutors in India and USA**

Item	India	US
	<b>Number of instances in 2018</b>	<b>Number of instances in 2018</b>
<b>Crime</b>		
Homicide	41632	16374
Suicide	134516	48344
Accidental Deaths	410949	167127
Deaths due to drug overdose	875	67367
Rape	33356	143756
<b>Total crimes</b>	<b>621328</b>	<b>442968</b>

Item	India	US
<b>Number of investigating officers/100K population</b>	1.32	32.18
<b>Caseload per investigating officer</b>	27	4.2
<b>Number of prosecutors/ 100K population</b>	0.56	17.63
<b>Caseload per prosecutor</b>	80	7.6

*Sources: National Crime Records Bureau, India; e-prosecution portal, India; Center for Disease Control and Prevention, USA; Federal Bureau of Investigation, USA; Bureau of Labour Statistics, USA*

- Enhancing **specialization** through **restructuring**; Jurisdiction of crimes punishable by **3 years or more** imprisonment (~20% cases registered in a year) must be under a specialized **independent** crime investigation agency.
  - Initial recruitment of **15%** of the current police officers of the rank of ASI, specially trained.
  - Subsequent specialized recruitment of officers for the agency.
  - Upon poor performance, police officers must be transferred back to the law and order department.
- Agency must be made **accountable** to an independent Crime Investigation and Prosecution Board.
  - The Chairman and Members of the Board must be appointed by a **high-powered collegium** as per the recommendations made by the second ARC.

- Strength of prosecutors to be increased by **10** fold over the next **5** years.
- A **District Attorney**, at the rank of **District Judge**, must be drawn from the judiciary to act as the head of prosecutions in a district and must be given technical and managerial control over all investigations and prosecutions in that district for **5** years, before returning to service as a judge.
  - **Impartial** prosecutor with extensive knowledge of the law.
  - Effective **guidance** in investigation and prosecution.
  - Once judge returns to service, better assessment of cases of prosecution and defence through the **lens of truth rather than proof**.
- **Accountable** to the Board of Crime Investigation and Prosecution.

**Table 10: Judges per 1M Population in select countries**

Country	Judges per 1M Population
India	14* (2020)
USA	99 (2014)
UK	270** (2018)
Germany	245 (2018)
France	109*** (2018)
Australia	43 (2019)
New Zealand	53 (2020)
Canada	73** (2020)

\* This is based on the combined actual strength of the judges in the Trial Courts, High Courts and Supreme Court. At the sanctioned strength, the ratio is 21 judges per million population.  
\*\* Including Justices of Peace \*\*\* Not including the members of the labour and commercial courts.  
*Source: Different countries' government statistics compiled by FDR*

- Comparatively low **judge to population ratio** in India.
- At the ratio of **50** judges per million people recommended by the Law Commission, the requirement of judges stands at nearly **70,000**.
- However, the sanctioned strength of District & Subordinate judges in India is **24,203**, of which **5032** posts are vacant.
- There are **404** vacancies of judges in High Courts and **4** vacancies in the Supreme Court.



- Subordinate judiciary is overstretched, with **1,875** cases pending per judge at current capacity.
- Number of courtrooms is not adequate to cater to at least the sanctioned strength of judges - only **18,444** courtrooms (latest data available for March, 2018).
- The Union and the States on an average spend <1% of their respective budgetary expenditure on the judiciary.
  - Any increase in judicial expenditure over the years in most states is far **less** than the average increase in their total budgetary expenditure.

- **Delays, complex** procedures, **cost** of litigation deterring ordinary, semi-literate or illiterate, & poor people from approaching courts for simple disputes or minor offences.
- A system of local courts similar to small claims tracks (civil matters) and Justices of Peace/ Magistrate (criminal matters) courts in UK.
  - Small pecuniary limits - **£10,000**, minor violations of law.
  - Informal procedures, popular and effective.

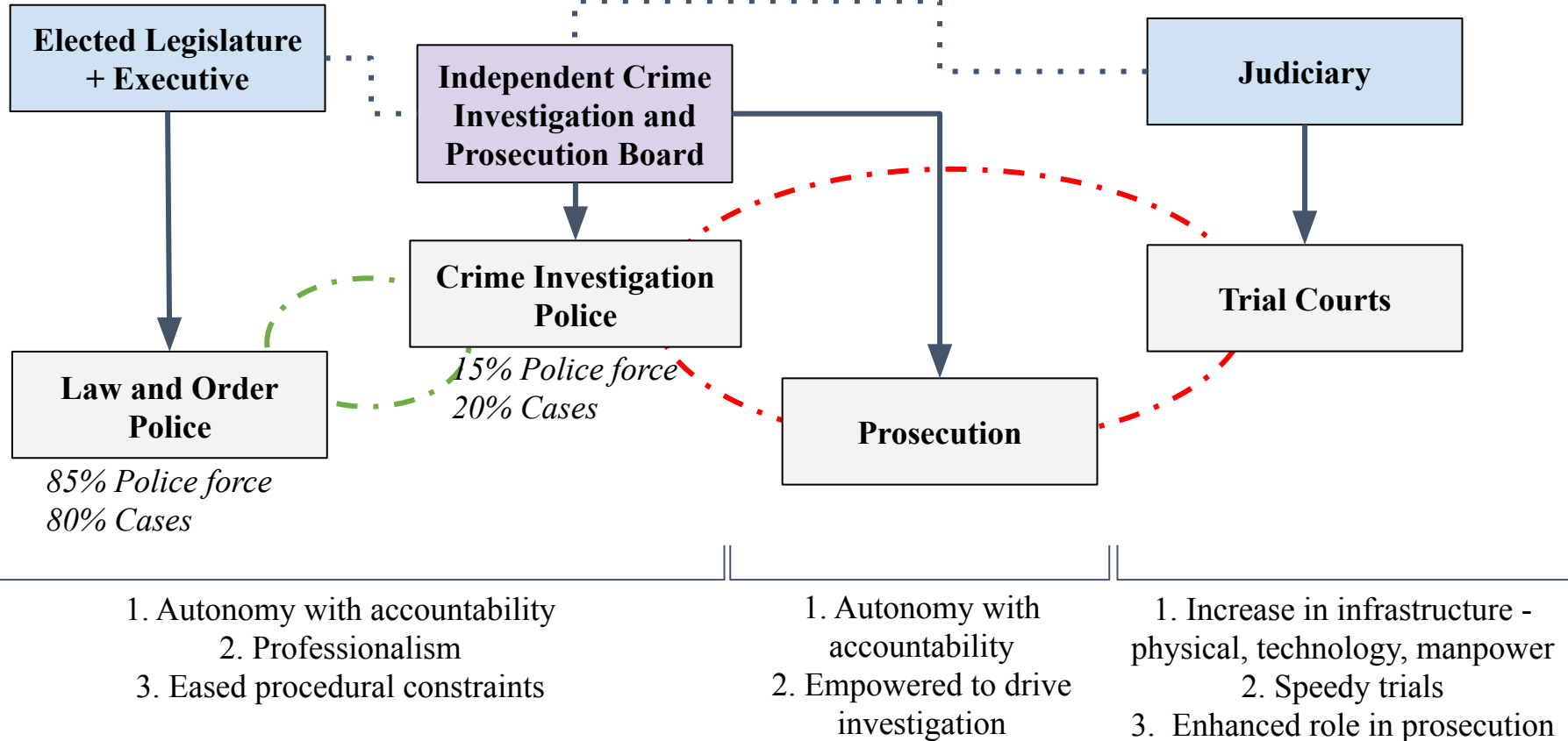
**Table 11: Magistrates' Courts (Justices of the Peace)**

Proportion of Magistrate's in the judiciary	Proportion of total caseload dealt with	Clearance Rate
83%	93.40%	99.8%
<i>Sources: UK House of Commons</i>		

**Table 12: Small Claims Track**

Caseload		Average time taken to go to trial
As a proportion of total cases allotted to tracks	As a proportion of total trials conducted	
60%	73%	37.2 weeks
<i>Source: Ministry of Justice, UK</i>		

# Overview of Recommendations



- Rule of law is the bedrock of constitutional governance and democratic society.
- Rectifying the various inadequacies of our institutions of rule of law is the need of the hour.
- Failure of justice extracts a heavy toll from the society and economy.
- Short term economic burden of these reforms is negligible when compared to the outcomes achieved in the long run.
  - Sustaining public order
  - Promoting economic growth of the country
- **‘Man’s capacity for justice makes democracy possible, man’s inclination to injustice makes democracy necessary’** — *Reinhold Niebuhr*