

The Chairperson and Members,  
Committee for Reforms in Criminal Laws,  
National Law University, Delhi

16 July 2020

Dear Committee Members,

- 1) A representation by former judges, lawyers, academics and former bureaucrats was made to you on 8 July 2020 (copy is enclosure 1 to this representation).
- 2) Your Public Notice (dated 8 July 2020, first version forms enclosure 2 to this letter and second version forms enclosure 3 to this letter) responds to some of the public concerns regarding the constitution and functioning of the committee. We appreciate your clarification that the committee intends to be transparent in its working and functionally autonomous, that it is inclined to engage with all stakeholders, and that the 200-word limit for responses to the committee's questionnaire was only guidance and not rule.
- 3) We also appreciate your candour in informing, in response to concerns that the committee did not reflect diversity in social identity or professional experience, that the composition of the committee lies with the MHA.
- 4) Your Public Notice suggests that the Committee is cognizant of the enormity of the task before it in seeking to rewrite what are perhaps the three most important laws under the Constitution. And it is for this reason that we write to you once again with concerns that remain despite the Public Notice.
- 5) The scale of what this committee has set itself is unmatched by any law reform process at any time either before or after the Constitution of India came into force. For comparison, the First Law Commission presided over by Mr Macaulay (afterwards, Lord Macaulay) was set up in 1834 and submitted the draft Indian Penal Code 3 years later in 1837, drawing not only from English and Indian laws and regulations but also from Livingstone's Louisiana code and the Code Napoleon. The draft code underwent further revision and was completed in 1850, presented to the Legislative Council in 1856, and finally passed in October 1860.
- 6) Similarly, the Code of Criminal Procedure began as separate acts to guide procedure in courts in Presidency towns and provinces. These acts were first consolidated by the Criminal Procedure Supreme Court Act of 1852, which

was replaced by the Criminal Procedure Code, 1861 and the High Court Criminal Procedure Act 1865. The general Criminal Procedure Code of 1872 replaced the Criminal Procedure Code, 1861. A Criminal Procedure Code was enacted in 1882, which was then replaced by a new code in 1898. The 1898 code underwent substantial changes by the Criminal Law Amendment Act, 1923, and post-independence, by the Code of Criminal Procedure (Amendment) Act 1955. In 1961, the Law Commission undertook a detailed examination of the code with “a view to its complete revision” and four reports – the 32<sup>nd</sup>, 33<sup>rd</sup>, 35<sup>th</sup> and 36<sup>th</sup> report – on problems arising out of or in connection with specific provisions of the code, were completed. In 1968, a comprehensive report – the 37<sup>th</sup> report – on the first 14 chapters of the code was submitted. In March 1968, the 5<sup>th</sup> Law Commission was constituted with four whole-time members. Between January 15 and March 15, 1969, members of the commission visited eight High Courts and had personal discussions with High Court Judges, representatives of the bar, and officers of state governments. The 41<sup>st</sup> report of the Law Commission was submitted in September 1969. This then underwent some changes in Parliament and became the Code of Criminal Procedure, 1973.

- 7) Likewise, the law of evidence: while the Presidency towns applied English rules of evidence, mofussil courts were governed by evidence and procedure in Regulations made between 1793 and 1834 as well as by occasional directions. Enactment in 1835 applied common rules of evidence and proof to all courts in British India. Between 1835 and 1853, a series of acts introduced reforms for the improvement of the Law of Evidence that reflected developments in English law. In 1868 the Indian Law Commissioners prepared a draft bill which, however, did not proceed beyond the first reading because it was deemed unsuited to the wants of this country. In 1870, a new Evidence Act was prepared which finally passed into law in 1872.
- 8) More recently, the process followed by the Justice Verma Committee is also worth looking at. Note that the Justice Verma Committee was looking *only* at changes to the provisions on rape and sexual offences. Yet it took time to consult with representatives of all those who might have a view on this. The changes earlier, in 1984, following the Mathura Rape Case, themselves were a result of a mass movement.
- 9) An overhaul of criminal law as we have known it after 900 years of common law and almost hundred and fifty years of established jurisprudence, is too serious a matter to be wrapped up in all of six months with the method of time-bound questionnaires, the modus outlined in the public notice, and a five-member Committee.

- 10) Given this committee's wide remit and given that the final product of this committee's efforts is set to reconfigure fundamentally the relationship between citizens, and between citizens and the State, it is of utmost importance that the composition of the committee reflects at least some of India's rich diversity. We note that while the Public Notice initially stated that the composition of the committee "lies with the MHA" – and stated nothing more about diversity within the Committee – it was subsequently amended, without notice or explanation, to state that "the committee has a remarkable diversity and competence in professional experience, affiliations, and, scholarship...". We call on the Committee to reconsider its position. Most importantly, the committee must include representation from social groups and communities that have hitherto been failed by the justice delivery system.
- a) In the 21<sup>st</sup> century, how can a committee that is set to rewrite criminal law not have a woman? Especially when we know from learnings abroad that amendments intended to address concerns of women have had significant harmful effects on women's bodies and on gendered relations of power – for example, changes in the contours of the law on provocation attempted in other common law jurisdictions.
  - b) Dalits have faced a disproportionate share of prosecutions under criminal law and newspapers every day report the brutal violence visited on Dalit bodies by the police or under police protection. Is the Dalit community represented on the Committee?
  - c) Muslims, several studies have told us, bear a disproportionate share of prosecutions under the IPC as well as special legislations. Some studies have indicated that the targeting of Muslims through the law and legal process is intended to or has the effect of depressing Muslim participation in public life. One cannot think of rewriting criminal law without ensuring that the life experiences of the Muslim community are adequately represented at every stage of that process.
  - d) Adivasis in central India and elsewhere experience the Criminal Law as the brutal force used to silence dissent or opposition to unrestrained plunder of natural resources and destruction of ecosystems. They are subjected to criminal law processes that are both alien and alienating and suffer long incarcerations with barely any meaningful access to justice.
  - e) The transgender community, it is now well documented, has withstood the worst of the violence of unchecked and unaccounted power in the hands of the police.

- f) Trade unions and the labouring classes have for long complained about criminal laws being designed and applied to create the conditions for the most extreme violent transfers of wealth and power while visiting brutal punishments – including death – on the slightest ‘disobedience’ by these classes. Must Trade Unions not have representation on this committee?
  - g) Even from within the legal-academic complex, we note the absence of legal historians and constitutional law scholars whose expertise in understanding criminal law within a broader historical and constitutional perspective will be invaluable. Indian academia has seen a wealth of legal ethnographic work in the recent past, throwing into relief aspects of the functioning of the justice system that escaped practitioners and academics who were, understandably, more concerned with the judicial application of criminal law doctrine and jurisprudence.
  - h) While we welcome the expertise in Victimology on the committee, surely there must be space for one academic with expertise in Criminal Law and Criminal Jurisprudence?
  - i) Some bar associations have already drawn your attention to the fact that there is only one Senior Advocate on the committee and one retired District Judge but no representation from advocates practising in the trial court for whom the three codes are stock in trade.
- 11) If this seems like a call to include a wide array of stakeholders and persons affected, it is because such a root and branch rewriting of the three most important laws under the Constitution must be an exercise in extensive public deliberation with the widest representation at the high table to ensure rigorous procedure and robust outcome.
- 12) We, therefore, call upon this committee to communicate to the MHA that the process of suggesting root and branch reform of Indian Criminal Law cannot happen unless the committee is reconstituted to include representation from those communities that have endured the most of the failing criminal justice system, wider academic representation, and representation from trial court lawyers.
- 13) We welcome the commitment in your Public Notice to be “open, transparent, and fair”. The representation from former judges, lawyers, academics and former bureaucrats of 8 July 2020, however, had called on this committee to release its Terms of Reference and the project proposal or concept note submitted by the National Law University Delhi or its member research centres to the MHA. The committee’s website still does not have this

information. Please put the terms of reference and project proposal and concept note on the committee's website.

- 14) Importantly as well, we notice that the committee has not yet committed to making all responses received by it publicly available and has not yet committed to ensuring wide dissemination of its draft report for public feedback for at least one month.
- 15) While the committee's Public Notice states that "for its functional part we are completely autonomous" the request for clarity on whether the committee will work independently of the government, and whether the committee's report will be finalised in consultation with the Ministry of Home Affairs or any other ministry, made in the representation of 8 July 2020, remains unanswered.
- 16) The representation of 8 July had made specific queries and suggestions about procedure for the Committee, which have also not been addressed. It had pointed out that the three codes are interconnected and if the committee was determined to follow the questionnaire method, all questionnaires about all three codes must be released together and participants must be given at least three months to respond. Any comments about amending, deleting or reconfiguring offences or creating new offences cannot but happen along with engaging with procedural and evidentiary mechanics and due process requirements. The Public Notice does not deny or engage with the logic that asking participants to respond piecemeal will produce confusion but does not also commit to placing all questions in public, upfront. This should be a relatively easy matter and we can see no explicable reason for releasing questions in tranches.
- 17) Further, we note with concern the design of the first questionnaire, which appears to have been framed without serious study and engagement with the issues important to criminal justice. There is no indication whatsoever either in the questionnaire or on the committee's website about what international standards and what empirical research and domestic academic output have led to these questions. For example -
  - a) Whether sexual offences should be reclassified under a subset of "gender discrimination offences" or some other category of offences is not just a legal question but a fraught moral and political question with much debate and engagement and something to be said on all sides. What is it in the committee's research, study, and understanding that led to this question?

- b) What is it in the committee's understanding of the vitiation of consent by impersonation or by the victim being put in fear of injury other than physical hurt that has led to question 15?
  - c) What is it in the committee's research or understanding that has led to questions 1-3 and to it to consider whether strict liability offences should enter the IPC?
  - d) What is it in the committee's research or understanding that has prompted consideration of the age of consent for sex? Does the Committee have access to prosecutions in each state and the sociological profile of those involved? Would such material not be vital before a change is even considered?
- 18) We note with concern that the resources on the committee's website are a collection of 89 reports of the Law Commission, 7 Reports of other Committees, and 35 articles by the Convenor-member of the committee. Surely, it cannot be that the Committee studied nothing but the Law Commission Reports and the publications of the esteemed member of the Committee before framing its questionnaire?
- 19) Of the six researchers listed on the website of the committee, one of them appears to have co-authored six articles with the committee's Convenor-member, another has co-authored three op-eds with the Convenor-member, and a third has co-authored one op-ed with the Convenor-member. All six researchers appear to have been drawn from NLU-D alone.
- 20) We note also that even studying the 89 Law Commission Reports on the website of the Committee and the substantial work of your esteemed member so that responses are cognizant of their perspectives will require substantially more time than has been given the Committee by the MHA.
- 21) We appreciate the committee's commitment, stated in the Public Notice, to make the questions available in various regional languages. We note with concern however that the committee does not seem to have taken any steps so far to do so. When does the committee intend to make the questionnaires available in all regional languages? How does the committee intend to ensure wide circulation of its constitution and its questionnaires? In how many languages will the committee be conducting its public deliberative exercise? Does the committee have the capacity to ensure simultaneous cross translation of responses it receives to ensure that participants can engage with responses and thinking reaching the committee in different languages? How does the committee intend to do so?



- 22) We notice also that the Committee's website carried the state emblem and the logo of the MHA on all days until 10 July 2020. Please clarify why the state emblem and the logo have been dropped from the webpage of the committee.
- 23) Lastly, we note that the Public Notice states that the committee has developed a web-based platform for consultations because of the physical restrictions imposed by COVID 19 and that the short time is because "the assignment has to be completed within the duration of **six months**".
- 24) We are amid a pandemic, what the WHO described on 30 January 2020 as a "public health emergency of international concern", and the Supreme Court described as a "national calamity". (*Jerryl Banait v. Union of India & Anr.* WP (C) Diary No. 10795/20, order dated 08.04.20).
- 25) Even the Union Government has declared COVID19 a "disaster", as defined under S.2 (d) of the Disaster Management Act, 2005 - "a catastrophe, mishap, calamity or grave occurrence .....which results in substantial loss of life or human suffering..... and is of such a nature or magnitude as to be **beyond the coping capacity of the community**...." (Emphasis supplied).
- 26) According to official figures, 24,929 Indians have died because of COVID 19, while 3,31,146 are undergoing treatment, as on 15 July 2020. With over 9.68 lakh total infections, India has the third-highest number of COVID19 cases and the curve describing the rate of infection continues to rise precipitously and shows no signs of 'flattening': over 600 deaths and the biggest single-day spike in cases was recorded yesterday when 32, 695 cases of the virus were detected.
- 27) Despite the phased rollback of lockdown measures from 1<sup>st</sup> June 2020, the sharp increase in cases across the country has caused some cities to continue/re-introduce restrictions. During this unprecedented crisis, marginalised populations such as migrant workers and Dalits have been worst hit and will continue to be vulnerable. According to the Stranded Workers' Action Network, 89 % of migrant workers had not been paid by their employers during the lockdown, and at one point, 50 % workers had rations left for less than one day. Figures for various communities such as SCs, STs and other vulnerable groups are not available, but it is, unfortunately, safe to assume that they too are bearing an excessive burden of this health emergency. As of today, Delhi alone has 648 containment zones holding 3,75,822 people. State initiatives aimed at providing a modicum of relief to some of these communities through the provision of emergency food supplies and setting up of relief camps across the country are meagre and stretched. It is evident that as the number of cases in the country increase, COVID19 is going to continue

killing more Indians and wreaking havoc on our public infrastructure. Surely, humanity requires that the Committee not commit to an exercise of this scale when 600 Indians are dying every day and when large swathes of the country are in lockdown or containment. In the words of eminent historian Prof. Ramachandra Guha, “a pandemic is not the time to be doing law reform”.

28) We are also alarmed that the Committee appears to be labouring under some pre-conceived ideas on the law, crime control and the Constitution: Changing time-honoured principles such as those that govern the burden of proof and proof beyond reasonable doubt should not even be contemplated.

29) In light of the above, we call on you to take the following measures at the earliest:

- i) suspend the functioning of the committee while India remains in the grip of the COVID 19 pandemic;
- ii) write to the MHA asking for the committee to be reconstituted to reflect social diversity and diversity of professional and academic expertise in terms of paragraphs 10-12 of this representation;
- iii) place on the committee's website and ensure wide public circulation of the committee's Terms of Reference and project proposal and/or concept note submitted by National Law University Delhi or its member research centres to the MHA;
- iv) clarify both on the committee's website as well as through wide public circulation why the website carried the State Emblem and the logo of the MHA until 10 July 2020 and why they have subsequently been dropped from the website;
- v) clarify both on the committee's website as well as through wide public circulation, whether the committee will work independently of the executive and legislative arms of government;
- vi) clarify both on the committee's website as well as through wide public circulation, whether the committee's report will be finalised in consultation with the Ministry of home affairs or any other Ministry;
- vii) place on the committee's website the modalities for ensuring cross translation of all material that is reaching the committee and all material that the committee will be considering.

30) Further, we call on you to take the following measures after the pandemic is over:

- i) abandon the questionnaire put out by the committee and abandon the questionnaire method of public engagement. In their place, put out



- Think Papers on specific areas of concern that have their bases in empirical study and other research;
- ii) place on the committee's website all material that the committee has studied or is considering in dealing with this project;
  - iii) commit to placing on the committee's website all material that the committee receives;
  - iv) commit to publish and ensure wide dissemination of the committee's draft report for public feedback, and ensure at least one month for such feedback;
  - v) place on record the nationwide analysis of the trajectory followed by trials under particular heads, POCSO, Sedition, UAPA, and others that can be identified.

Signed/-

*(The list of signatories is attached below)*

**Encl:**

- 1) *Representation by former judges, lawyers, academics and former bureaucrats dated 8 July 2020*
- 2) *Public Notice dated 8 July 2020, first version*
- 3) *Public Notice dated 8 July 2020, second version*

Signatories [123]	
Former Judges	
1. Gopala Gowda (Former Judge, Supreme Court of India)	2. Kurian Joseph (Former Judge, Supreme Court of India)
3. M.N. Rao (Former Chief Justice, Himachal Pradesh High Court)	4. B. A. Khan (Former Chief Justice, Jammu and Kashmir High Court)
5. A.P Shah (Former Chief Justice, Delhi High Court)	6. Yatindra Singh (Former Chief Justice, Chhattisgarh High Court)

7. J Sahai (Former Judge, Allahabad High Court)	8. K Balakrishnan Nair (Former Judge, Kerala High Court)
9. Hariparanthaman (Former Judge, Madras High Court)	10. Anjana Prakash (Former Judge, Patna High Court)
11. V Ramkumar (Former Judge, Kerala High Court)	12. S. Nagamuthu (Former Judge, Madras High Court)
13. K. Kannan (Former Judge, Punjab and Haryana High Court)	14. G.M. Akbar Ali (Former Judge, Madras High Court)
15. CT Selvam (Former Judge, Madras High Court)	16. BG Harindranath (Former District Judge & Former Law Secretary, Govt of Kerala)
<b>Lawyers</b>	
1. Raju Ramachandran (Senior Advocate, Supreme Court of India)	2. Indira Jaising (Senior Advocate, Supreme Court of India)
3. R.S. Cheema (Senior Advocate, Supreme Court of India)	4. N.G.R. Prasad (Advocate, Chennai)
5. Rajani Iyer, (Senior Advocate, Bombay High Court)	6. Chander Uday Singh (Senior Advocate, Supreme Court of India)
7. Ravi Kiran Jain (Senior Advocate, Allahabad High Court)	8. Sanjay Singhvi (Senior Advocate, Bombay High Court)
9. Anand Grover (Senior Advocate, Supreme Court of India)	10. R Vaigai (Senior Advocate, Madras High Court)
11. Meenakshi Arora (Senior Advocate, Supreme Court of India)	12. Sanjay Parikh (Senior Advocate, Supreme Court of India)
13. Rebecca John (Senior Advocate, Delhi High Court)	14. Gayatri Singh (Senior Advocate, Bombay High Court)
15. Mihir Desai (Senior Advocate, Bombay High Court)	16. Sanjay Hegde (Senior Advocate, Supreme Court of India)
17. N Hari Haran (Senior Advocate, Delhi High Court)	18. Satish Tamta (Senior Advocate, Delhi High Court)
19. Kamini Jaiswal (Advocate, Supreme Court of India)	20. Nitya Ramakrishnan (Advocate Delhi High Court)
21. Sudha Ramalingam (Advocate, Chennai)	22. Nikhil Nayyar (Senior Advocate, Supreme Court of India)
23. Siddhartha Dave (Senior Advocate, Supreme Court of India)	24. Prasanto Sen (Senior Advocate, Delhi High Court)
25. Sushil Bajaj (Advocate, Delhi High Court)	26. Anna Mathew (Advocate, Madras High Court)
27. Dr V. Suresh (Advocate, Chennai)	28. D. Nagasaila (Advocate, Chennai)

29. Yug Mohit Chaudhry (Advocate, Bombay High Court)	30. Vrinda Grover (Advocate, Delhi High Court)
31. D. Geetha (Advocate, Madras High Court)	32. Diwakar, (Advocate, Madras High Court)
33. Veena Gowda (Advocate, Madras High Court)	34. Trideep Pais (Advocate, Delhi)
35. Ms.Sandhya Raju (Advocate, Kochi)	36. Vijay Hiremath (Advocate, Mumbai)
37. Anubha Rastogi (Advocate, Mumbai)	38. Abhinav Sekhri (Advocate, Delhi)
39. R.S. Akila (Advocate, Madras High Court)	40. Gautam Bhatia, (Advocate, Delhi)
41. Jawahar Raja (Advocate, Delhi)	42. Archit Krishna (Advocate, Delhi)
43. Anuradha Bindra (Advocate, Supreme Court of India)	44. Anjolie Singh (Advocate, Delhi)
45. Chinmay Kanojia (Advocate, Delhi)	46. Raghupathi (Advocate, Bengaluru)
47. M. A. Karthik (Advocate, Madras High Court)	48. Vrinda Bhandari (Advocate, Delhi)
49. Anuj Kapoor (Advocate, Delhi)	50. Rajat Kumar (Advocate, Delhi)
51. Sahana Manjesh (Advocate, Mumbai)	52. Shikha Pandey (Advocate, Delhi)
53. Abhey Narula (Advocate, Delhi)	54. Samrat Nigam (Advocate, Delhi)
55. Indira Unninayar (Advocate, Delhi)	56. Rishi Singh Gautam (Advocate, Delhi)
57. Humam Ahmed Siddiqui (Advocate, Delhi)	58. Amartya Kanjilal (Advocate, Delhi)
59. Vasuman Khandelwal (Advocate, Delhi)	60. Anita Abraham (Advocate, Bengaluru)
61. Malavika Prasad (Advocate, Bengaluru)	62. A S Vishwajith (Advocate, Bengaluru)
63. Kunal Ambasta (Advocate, Bengaluru)	64. Radhika Kolluru (Advocate, Delhi)
65. Kritika Padode Bhandari (Advocate, Delhi)	66. Satyajit Sarna (Advocate, Delhi)
67. Subhro Prokas Mukherjee (Advocate, Delhi)	68. Bipin Aspatwar (Advocate, Delhi)
69. Rajshekhar Rao (Advocate, Delhi)	70. Nandita Rao (Advocate, Delhi)
71. Sumita Hazarika (Advocate, Delhi)	72. Anuj Prakash (Advocate, Delhi)
73. Shomona Khanna (Advocate, Delhi)	74. Vinayak Bhandari (Advocate, Delhi)
75. Gautam Narayanan (Advocate, Delhi)	76. Amit Bhandari (Advocate, Delhi)
77. Arvind Narrain (Advocate, Bengaluru)	78. Maitreyi Krishnan (Advocate, Bengaluru)
79. Nitika Khaitan (Advocate, Delhi)	80. Maneka Khanna (Advocate, Delhi)
81. Sowjanya Shankaran (Advocate, Delhi)	82. Ninni Susan Thomas (Advocate, Delhi)
83. Shreya Munoth (Advocate, Delhi)	84. Sanjana Srikumar (Advocate, Delhi)
85. Aparajita Sinha (Advocate, Delhi)	86. Karishma Maria (Advocate, Delhi)

87. Anuj Aggarwal (Advocate, Delhi)	88. Tara Narula (Advocate, Delhi)
89. Clifton D' Rozario (Advocate, Bengaluru)	90. Kumar Shailabh (Advocate, Delhi)
91. Rupali Francesca Samuel (Advocate, Delhi)	92. Swathi Sukumar (Advocate, Delhi)
93. Nishant Kumar (Advocate, Delhi)	94. Aditi (Advocate, Delhi)
95. Ashok Agrwaal (Advocate, Delhi)	96. Arjun Sheoran (Advocate, Punjab And Haryana High Court)
97. Apar Gupta (Advocate, Delhi)	98. Women In Criminal Law Association
99. Oliullah Laskar (Advocate, Guwahati High Court)	100. Sridevi Panikkar (Advocate, Delhi)
<b>Academics</b>	
1. Prof G. Mohan Gopal	2. Prof. Ravi Vasudevan (CSDS, Delhi)
3. Prof. Ravi Sundaram (CSDS, Delhi)	4. Dr Pratiksha Baxi (Associate Professor, Centre for the Study of Law and Governance, JNU)
5. Prof. Anuj Bhuwania (Jindal Global Law School)	6. Dr Arudra Burra (Legal Academic)
7. Dr Manisha Sethi (Associate Professor, NALSAR University of Law, Hyderabad)	8. Ravi Nair (SAHRDC)
<b>Former Bureaucrats</b>	
1. S.P. Ambrose, IAS (Retd)	

The Chairperson and Members,  
Committee for Reforms in Criminal Laws,  
National Law University, Delhi

July 8, 2020

Dear Committee Members,

**SUBJECT: Transparency in the Functioning of the “Committee for Reforms in Criminal Laws”**

We are former judges, lawyers, academics and former bureaucrats working with the criminal justice system across the country. We are writing in response to the call for [consultation](#) issued by the [Committee for Reforms in Criminal Laws](#) on June 30, 2020.

As stakeholders in the criminal justice system, we recognize the need to bring the system in compliance with the Constitution, in a manner that “prioritises the constitutional values of justice, dignity and the inherent worth of the individual.” However, we are concerned that the composition of the present Committee lacks diversity both in terms of the social identity of the members, as well as their professional background and experience. Unlike previous law reform efforts of similar magnitude, this Committee does not consist of full time members. The members continue to discharge their full professional commitments alongside their work on this Committee. This, despite the fact that the 22nd Law Commission of India, which has the mandate to recommend law reform, has already been constituted, though it remains unstaffed.

Given these concerns, it is imperative for the Committee to engage with a wide range of stakeholders in the criminal justice system in a meaningful, substantive, and transparent manner. For such engagement to proceed on a good faith basis, we call upon the Committee to demonstrate its bonafides and its commitment to a rigorous law reform exercise by ensuring full transparency regarding its constitution and its functioning. In particular, we call upon the Committee to provide the following details which have not been published thus far on the Committee’s website:

- (1) The MHA notification constituting the Committee, and specifically any communication detailing:
  - a. The Terms of Reference of the Committee.
  - b. The time frame provided for completing this exercise.
- (2) Any project proposal or concept note submitted by National Law University, Delhi (NLUD) or its members or research centres, to the MHA or to any other competent authority with respect to the setting up or functioning of this Committee.

- (3) Details on whether the Committee will work independently of the MHA or any other ministry. Specifically, will the report of the Committee be finalized in consultation with, or after the approval of the MHA or any other ministry?

From the details available on the website [criminallawreforms.in](http://criminallawreforms.in), it appears that the Committee has a very broad mandate. Any report produced by the Committee is likely to impact the trajectories of criminal justice reform in the country. For this reason, it is imperative that the Committee should provide for *meaningful* public engagement with the work of the Committee. Since the Committee is located in a public university, it is also the responsibility of the University to ensure that the functioning of the Committee is consistent with the best traditions of rigorous academic research including robust peer review, combined with the highest ideals of public institutions, including transparency in functioning and close and meaningful engagement with all stakeholders. We therefore call on the Committee and the University to:

- a. **Release upfront, in one single tranche, the list of all questions/issues on which the Committee will be seeking inputs.** The Indian Penal Code, the Code of Criminal Procedure and the Indian Evidence Act are all intrinsically connected in their operation. Inviting answers to questions on one aspect of substantive or procedural criminal law, without knowing what reforms are being contemplated in other areas will be counterproductive and has the potential for much confusion.
- b. **Provide at least 3 months time for stakeholders to respond to *all* questions/issues.** A short window of 2 weeks (particularly in the middle of a pandemic) is not conducive to meaningful engagement with even one aspect of criminal justice reform, let alone 46 substantive questions in the first questionnaire or the many more to follow in the subsequent questionnaires.
- c. **Ensure that the questionnaires are made available in all major Indian languages.** There are many trial lawyers and people who will be affected by changes in criminal law. Considering the wide remit of this committee it is crucial that the widest possible consultation is enabled. Circulating the questionnaire only in a few languages will disable participation of large groups of stakeholders, let alone circulating it only in English.
- d. **Remove word limits for responding to the questions.** A 200-word limit, or any other word limit, in response to complex policy questions does not allow for any robust engagement with the questions. The Committee should welcome as comprehensive and detailed responses as stakeholders are able to provide.
- e. **Include more expertise and diversity.** Create sub-committees with outside experts and other consultants with established track records in the field of criminal justice



who can redress the lack of diversity and experience in the Committee's current composition.

- f. **Provide additional mechanisms for inputs.** Create mechanisms on the website, through email, mail/postal system for providing inputs on issues not covered by the questionnaire.
- g. **Commit to transparency and greater stakeholder engagement in the functioning of the Committee.** Agree to:
  - a. making all responses received by the Committee publicly available on the website of the Committee.
  - b. making public and ensuring wide dissemination of the Committee's draft report for public feedback on the website of the Committee for at least one month, with advance notice on when the report will be made available for feedback.

These measures will help induce confidence in the working of the Committee and are crucial for good faith engagement with the Committee's work.

Signed/-

*(The list of signatories is attached below)*

Signatories [69]	
Former Judges	
1. Aftab Alam (Former Judge, Supreme Court of India)	2. Madan Lokur (Former Judge, Supreme Court of India)
3. Gopala Gowda (Former Judge, Supreme Court of India)	4. AP Shah (Former Chief Justice, Delhi High Court)
5. KP Sivasubramaniam (Former Judge, Madras High Court)	6. RS Sodhi (Former Judge, Delhi High Court)
7. V Ramkumar (Former Judge, Kerala High Court)	8. KN Basha (Former Judge, Madras High Court)
9. T Sudanthiram (Former Judge, Madras High Court)	10. S Nagamuthu (Former Judge, Madras High Court)
11. K Kannan (Former Judge, Punjab & Haryana High Court)	12. GM Akbar Ali (Former Judge, Madras High Court)
13. D Hariparanthaman (Former Judge, Madras High Court)	14. CT Selvam (Former Judge, Madras High Court)
Lawyers	
1. Dinesh Mathur (Senior Advocate, Delhi High Court)	2. RS Cheema (Senior Advocate, Supreme Court of India)
3. Gopal Chaturvedi (Senior Advocate, Allahabad High Court)	4. Indira Jaising (Senior Advocate, Supreme Court of India)
5. Raju Ramachandran (Senior Advocate, Supreme Court of India)	6. NGR Prasad (Madras High Court)
7. V Gopinath (Senior Advocate, Madras High Court)	8. Navroz Seervai (Senior Advocate, Bombay High Court)
9. Ravi Kiran Jain (Senior Advocate, Allahabad High Court)	10. CU Singh (Senior Advocate, Supreme Court of India)
11. Huzefa Ahmadi (Senior Advocate, Supreme Court of India)	12. Maja Daruwala (Advocate and Former Director of CHRI)
13. Anand Grover (Senior Advocate, Bombay High Court)	14. Vikas Pahwa (Senior Advocate, Delhi High Court)
15. Meenakshi Arora (Senior Advocate, Supreme Court of India)	16. Rebecca John (Senior Advocate, Delhi High Court)
17. N Hariharan (Senior Advocate, Delhi High Court)	18. P Thirumalairajan (Senior Criminal Law Practitioner, Erode)

19. Sanjay Singhvi (Senior Advocate, Bombay High Court)	20. Dayan Krishnan (Senior Advocate, Delhi High Court)
21. Gayatri Singh (Senior Advocate, Bombay High Court)	22. Sanjay R. Hegde (Senior Advocate, Supreme Court of India)
23. Mihir Desai (Senior Advocate, Bombay High Court)	24. Mohit Mathur (Senior Advocate, Delhi High Court)
25. R Vaigai (Senior Advocate, Madras High Court)	26. NR Elango (Senior Advocate, Madras High Court)
27. Satish Tamta (Senior Advocate, Delhi High Court)	28. Prashanto Sen (Senior Advocate, Delhi High Court)
29. Jayna Kothari (Senior Advocate, Karnataka High Court)	30. George Poonthottam (Senior Advocate, Kerala High Court)
31. Sanjay Parikh (Senior Advocate, Supreme Court of India)	32. Siddhartha Dave (Senior Advocate, Supreme Court of India)
33. Sanjeev Sharma (Senior Advocate, Punjab & Haryana High Court)	34. Mandeep Bedi (Senior Advocate, Punjab & Haryana High Court)
35. Nitya Ramakrishnan (Advocate, Delhi High Court)	36. Geetha Ramaseshan (Advocate, Madras High Court)
37. Sudha Ramalingam (Advocate, Madras High Court)	38. Yug Mohit Chaudhry (Advocate, Bombay High Court)
39. PV Dinesh (Advocate, Supreme Court of India)	40. Sushil Bajaj (Advocate, Delhi High Court)
41. Anna Mathew (Advocate, Madras High Court)	42. D Geetha (Advocate, Madras High Court)
43. Diwakar (Advocate, Madras High Court)	44. T Mohan (Advocate, Madras High Court)
45. S Devika (Advocate, Madras High Court)	46. Sunkara Rajendra Prasad (Advocate, High Court of Andhra Pradesh)
47. BG Harindranath (Advocate, Kerala High Court)	48. PP Mohan (Advocate, Erode)
49. Henri Tiphagne (Advocate, Madurai)	50. D Nagasaila (Advocate, Chennai)
51. Dr. V Suresh (Advocate, Chennai)	52. Kranti Chaitanya (Advocate, Hyderabad)
<b>Academics and Former Bureaucrats</b>	
1. Dr. Vijay Raghavan (Professor, TISS Mumbai)	2. SP Ambrose (IAS, Retd.)
3. MG Devasahayam (IAS, Retd.)	



## COMMITTEE FOR REFORMS IN CRIMINAL LAWS

**Prof. (Dr.) Ranbir Singh**  
**Chairperson**  
Vice-Chancellor  
NLU Delhi

**Prof. (Dr.) G.S. Bajpai**  
**Member & Convenor**  
Registrar  
NLU Delhi

**Prof. (Dr.) Balraj Chauhan**  
**Member**  
Vice-Chancellor  
DNLU Jabalpur

**Mr. Mahesh Jethmalani**  
**Member**  
Senior Advocate  
Supreme Court of India

**Mr. G.P. Thareja**  
**Member**  
Former District and  
Sessions Judge  
Delhi

### PUBLIC NOTICE

**Sub:** In re- Constitution of Committee for Reforms in Criminal Laws and related Consultative Process

The Committee for Reforms in Criminal Laws has been set up by the Ministry of Home Affairs, Government of India, vide its notifications '1-2-19 Judicial Cell (Part I)' dated 02-03-2020, 04-05-2020 and 29-05-2020 with the **mandate "to recommend reforms in the criminal laws of the country in a principled, effective, and efficient manner which ensures the safety and security of the individual, the community and the nation; and which prioritises the constitutional values of justice, dignity and the inherent worth of the individual."** (available on the website). Since its establishment, the Committee has been inclined to be open, transparent and fair in its working. We fully respect all the opinions and suggestion made to us. The structural part of it .e.g. composition- lies with the M.H.A. but for its functional part we are completely autonomous and willing to respect the suggestions. The Committee has been operating as a team of nearly 30 individuals including Consultants, Researchers and Interns. The aims, guiding principles and objectives of the Committee are accessible online at the website of the Committee (<https://criminallawreforms.in/>) for public viewing.

To cope up with the physical restrictions imposed by the COVID-19 related circumstances, the Committee has developed a web based platform for consultations with domain experts and professionals including and the people at large having interests in these areas. The Committee has adopted an open methodology with respect the Consultative processes to be undertaken by the Committee. Registrations for the consultations are open to everyone irrespective of ideologies; views; preferences; sexual orientation; disabilities; race; ethnicity; class; caste; sex; gender; religion; place of residence; or, place of birth and as such, everyone is free to share their views, opinions, suggestions, recommendations, knowledge and experience on the questions of law. Towards this end, we have received an encouraging response in terms of registrations by several hundred professionals, stakeholders and functionaries of our Criminal Justice System. Moreover, the participants are free to exceed the word limit of 200 words as the same is not a hard rule but merely a guideline urging participants to exercise self-restraint for the sake of brevity. The shorter time notice of response is due to the fact that the assignment has to be completed within a duration of **six months**. We are willing to make the questionnaire available in various regional languages.

The Committee is inclined to engage with all the learned stakeholders in the criminal justice administration working in any capacity to please join us and extend your valuable inputs leading to the reforms in the criminal laws of this country. We intend to facilitate this engagement by way of our consultations and forthcoming discussions groups or the written submission that can be made to us through email at [criminallawreforms@nludelhi.ac.in](mailto:criminallawreforms@nludelhi.ac.in). We would be keen to have meetings with all such persons/organisations and professionals to share more about our work.

In order to maintain utmost transparency in our work, we would be posting all relevant updates for the public notice on website.

Looking forward to your valued cooperation.

Regards,

**Date:** 08-07-2020

Prof. (Dr.) Ranbir Singh  
(Chairperson)



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### ABOUT OUR APPROACH AND FUNCTIONS

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The Committee has been operating as a team of nearly 30 individuals including Consultants, Researchers and Interns. The aims, guiding principles and objectives of the Committee are accessible online at the website of the Committee (<https://criminallawreforms.in/>) for public viewing. Our mandate and mission is capable of addressing the crucial

concerns of criminal reforms in India and in doing so we are conscious of those social categories requiring prioritisation. Our approach is guided by the progressive and humane thinking in the realm of criminal law. We are also alive to the most relevant debates which are in the public domain and have a definite bearing on the need for just reforms in the criminal laws of this country.

To cope up with the physical restrictions imposed by the COVID-19 related circumstances, the Committee has developed a web based platform for consultations with domain experts and professionals including and the people at large having interests in these areas. The Committee has adopted an open methodology with respect the Consultative processes to be undertaken by the Committee. Registrations for the consultations are open to everyone irrespective of ideologies; views; preferences; sexual orientation; disabilities; race; ethnicity; class; caste; sex; gender; religion; place of residence; or, place of birth and as such, everyone is free to share their views, opinions, suggestions, recommendations, knowledge and experience on the questions of law. Towards this end, we have received an encouraging response in terms of registrations by several hundred professionals, stakeholders and functionaries of our Criminal Justice System. Moreover, the participants are free to exceed the word limit of 200 words as the same is not a hard rule but merely a guideline urging participants to exercise self-restraint for the sake of brevity. The shorter time notice of response is due to the fact that the assignment has to be completed within a duration of **six months**. We are willing to make the questionnaires available in various regional languages.

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