

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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CRITICAL ANALYSIS OF LOSS OF JUSTICE THROUGH PROCEDURAL AND INVESTIGATIVE LAPSES

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Abstract

The criminal justice system, founded on the principles of fairness, equity, and rule of law, serves as the backbone of democratic governance. However, the system often falters when procedural and investigative lapses occur, resulting in the miscarriage of justice. This research critically examines how deviations from due process — including faulty investigations, procedural irregularities, and negligence by law enforcement agencies — culminate in loss of justice. Through an analytical approach, this paper explores the interplay between procedural safeguards and investigative obligations under Indian criminal jurisprudence. It highlights instances where errors in procedure have led to wrongful convictions or acquittals, undermining public trust in judicial institutions.

Judicial pronouncements and case studies are discussed to underscore the systemic weaknesses. The paper concludes by proposing reforms for enhancing accountability, transparency, and efficiency in criminal investigations, thereby aligning the administration of justice with the constitutional promise of fair trial and due process.

1. INTRODUCTION

The administration of criminal justice in India is governed by the fundamental principle that no person shall be condemned unheard, and every accused must be presumed innocent until proven guilty. The purpose of criminal procedure is to ensure that justice is not only done but is also seen to be done through a fair and transparent process. However, procedural and investigative lapses frequently frustrate these objectives, leading to wrongful convictions, acquittals of the guilty, and overall loss of faith in the justice delivery system.

The Code of Criminal Procedure, 1973 (CrPC) provides the procedural framework within which criminal trials are conducted. Similarly, the Indian Evidence Act, 1872, and Indian Penal Code, 1860 form the backbone of India's substantive and evidentiary law. Despite such a robust legal architecture, justice often eludes the victims and the accused due to errors, negligence, or willful disregard of procedural and investigative norms.

Procedural lapses may occur in various forms — failure to register an FIR, illegal arrest, denial of legal representation, improper examination of witnesses, or failure to adhere to evidentiary requirements. On the other hand, investigative lapses include failure to collect or preserve evidence, manipulation of witnesses, biased investigations, or police misconduct. These lapses often lead to *miscarriage of justice* — a term that embodies both wrongful conviction and wrongful acquittal.

In *Zahira Habibulla H. Sheikh v. State of Gujarat* (2004) 4 SCC 158, famously known as the *Best Bakery case*, the Supreme Court observed that “a fair trial is the heart of criminal jurisprudence” and that when investigation or prosecution is flawed, “it shakes the very foundation of the criminal justice system.” The Court directed a retrial outside Gujarat due to grave procedural and investigative lapses.

Similarly, in *State of Bihar v. P.P. Sharma* (1992 Supp (1) SCC 222)¹, the Court emphasized that criminal justice cannot survive if procedural safeguards are violated or investigations are carried out with mala fide intentions.

These precedents highlight the recurring tension between law and its enforcement. While the judiciary has often intervened to correct such failures, the systemic issues persist due to lack of accountability, political interference, and structural inefficiencies.

Therefore, the objective of this research is to critically examine —

1. How procedural and investigative lapses lead to loss of justice,
2. The judicial responses and interpretations addressing such lapses, and
3. The need for reforms in procedural law and investigative mechanisms to uphold constitutional guarantees under **Articles 20, 21, and 22** of the Indian Constitution.

¹ *State of Bihar v. P.P. Sharma* (1992 Supp (1) SCC 222)

Ultimately, the paper argues that justice in India suffers not due to the absence of law but due to its improper implementation, procedural rigidity, and institutional apathy.

2. Conceptual Framework: Understanding Procedural and Investigative Justice

The criminal justice system is a composite of three essential components — investigation, prosecution, and adjudication. The credibility of the system depends not merely on the final verdict but on the fairness and transparency of the process leading to it. **Procedural justice** and **investigative justice** are, therefore, two vital pillars ensuring that justice is achieved through lawful means rather than arbitrary exercise of power.

2.1 Procedural Justice

Procedural justice refers to the adherence to established legal procedures in the investigation, prosecution, and trial of offences. It encompasses the *due process of law*, ensuring that the accused is treated fairly and that the rule of law prevails over administrative convenience or executive arbitrariness.

Article 21 of the **Constitution of India** guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law.” However, the Supreme Court in *Maneka Gandhi v. Union of India*² interpreted this to mean that such procedure must be “**just, fair, and reasonable**”, not arbitrary or oppressive. This interpretation forms the constitutional foundation of procedural justice in India.

Procedural justice ensures:

- Proper registration of First Information Report (FIR) under Section 154 of CrPC,
- Lawful arrest following the guidelines in *D.K. Basu v. State of West Bengal*,³
- Timely filing of charge sheets under Section 173 of CrPC,
- Right to legal representation under Article 22(1) of the Constitution, and
- A fair trial as mandated under Article 21.

In *Hussainara Khatoon v. Home Secretary, State of Bihar*⁴, the Supreme Court highlighted that

² *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

³ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416.

⁴ *Hussainara Khatoon v. Home Secretary, State of Bihar*, (1980) 1 SCC 81. https://lawbhoomi.com/case-analysis-hussainara-khatoon-ors-v-home-secretary-state-of-bihar-air-1979-sc-1369/?utm_source=chatgpt.com

prolonged detention of undertrial prisoners due to procedural delays amounted to denial of personal liberty under Article 21. Similarly, in *A.R. Antulay v. R.S. Nayak*⁵, the Court held that a fair and speedy trial is an integral part of the right to life and liberty. Thus, procedural justice protects both the rights of the accused and the integrity of the judicial process, ensuring that justice is neither delayed nor denied.

2.2 Investigative Justice

Investigative justice relates to the process by which evidence is collected, preserved, and presented. The investigation stage is critical because it lays the foundation for prosecution. A defective or biased investigation can render the entire trial meaningless. The **Code of Criminal Procedure, 1973 (Sections 154–173)** provides the statutory framework for police investigation in India.

The Supreme Court in *Pooja Pal v. Union of India*⁶ emphasized that “a fair investigation is the bedrock of fair trial.” The Court noted that when an investigation is motivated by bias, negligence, or influence, it leads to distortion of facts and miscarriage of justice.

Investigative justice demands:

- Impartiality in collecting evidence,
- Proper forensic and scientific examination,
- Adherence to chain-of-custody norms,
- Protection of witnesses under the Witness Protection Scheme, and
- Avoidance of third-degree methods or coercion.

In *State of Bihar v. P.P. Sharma*,⁷ the Court observed that manipulation of investigation or fabrication of evidence amounts to abuse of process and violates the principle of fairness under Article 14. Similarly, *CBI v. Rajesh Gandhi*⁸ held that while the right to investigate is statutory, it must be exercised responsibly and within the bounds of law.

2.3 Interrelationship Between Procedural and Investigative Justice

Procedural justice governs the legal framework of fairness, while investigative justice ensures

⁵ *A.R. Antulay v. R.S. Nayak*,

⁶ *Pooja Pal v. Union of India*, (2016) 3 SCC 135.

⁷ *State of Bihar v. P.P. Sharma*, 1992 Supp (1) SCC 222.

⁸ *CBI v. Rajesh Gandhi*, (1997) 4 SCC 478.

factual correctness and ethical conduct in gathering evidence. Both are interdependent: procedural irregularities can compromise investigation, and investigative flaws can undermine trial fairness.

For instance, in *Zahira Habibulla H. Sheikh v. State of Gujarat*,⁹ the Supreme Court held that when investigation and prosecution fail in their duties, the judicial process becomes a “mockery of justice.” Therefore, effective justice delivery requires harmony between procedural compliance and investigative integrity.

2.4 Constitutional Dimensions

The procedural and investigative aspects of criminal justice are intertwined with fundamental rights:

- **Article 20** – Protection in respect of conviction for offences,
- **Article 21** – Right to life and personal liberty, and
- **Article 22** – Protection of rights of arrested person¹⁰

The judiciary has repeatedly reinforced that any breach of these constitutional safeguards renders the process unconstitutional.⁹ The phrase “procedure established by law” has thus evolved to mean “fair, just, and reasonable procedure,” which integrates both procedural and investigative fairness.

2.5 International Perspective

The concept of procedural and investigative fairness also aligns with international human rights standards. Article 14 of the **International Covenant on Civil and Political Rights (ICCPR)** recognizes the right to a fair trial, while Article 7 prohibits coercion or torture to obtain confessions. India, as a signatory to the ICCPR, is obligated to incorporate these principles within its domestic framework.

3. Procedural Lapses and Their Impact on Justice (Expanded)

Procedural lapses are deviations or violations from the prescribed legal process established by the **Code of Criminal Procedure, 1973 (CrPC)** and other procedural statutes. These lapses undermine the fairness, legality, and transparency of criminal proceedings, leading to either wrongful conviction or unwarranted acquittal — both of which amount to a loss of justice.

⁹ *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

The very essence of criminal jurisprudence lies not merely in punishing the guilty but in doing so through a process that is just, equitable, and consistent with the rule of law. However, when police, prosecutors, or judicial officers fail to adhere to procedural mandates, the legitimacy of justice delivery is compromised.

3.1 Procedural Lapses During Investigation Initiation – FIR and Arrest

The foundation of any criminal case begins with the registration of a **First Information Report (FIR)** under Section 154 of the CrPC. Delay or refusal to register an FIR is one of the most common procedural failures in India. Such refusal not only delays the investigation but may also destroy crucial evidence in the early stages.

In **Lalita Kumari v. Government of Uttar Pradesh**,¹⁰ the Supreme Court held that registration of an FIR is *mandatory* when information discloses the commission of a cognizable offence, and any failure amounts to a dereliction of duty by the police. The Court clarified that preliminary inquiry can only be conducted in exceptional cases.

Similarly, arrest without following due process is another major procedural lapse. In **Joginder Kumar v. State of Uttar Pradesh**,¹¹ the Court observed that an arrest should not be made merely because it is lawful to do so; it must be justified based on necessity and reasonableness. Arbitrary arrests violate **Article 21** of the Constitution and erode public confidence in law enforcement.

3.2 Custodial Violations and Denial of Legal Rights

The **right to legal representation** and the **right against self-incrimination** are protected under Articles 20(3) and 22(1) of the Constitution. Procedural violations such as denial of access to counsel, torture, or forced confessions strike at the heart of fair trial principles.

In **D.K. Basu v. State of West Bengal**,¹² the Supreme Court issued detailed guidelines on arrest and detention procedures, including the requirement to maintain arrest memos, inform relatives, and conduct medical examinations. Non-compliance with these procedural

¹⁰ Lalita Kumari v. Government of Uttar Pradesh, (2014) 2 SCC 1. <https://legalvidhiya.com/case-analysis-lalita-kumari-v- government-of-uttar-pradesh-2014/?utm>

¹¹ Joginder Kumar v. State of Uttar Pradesh, (1994) 4 SCC 260.

¹² D.K. Basu v. State of West Bengal, (1997) 1 SCC 416. <https://www.juscorpus.com/wp-content/uploads/2021/10/57.- Maitreyee-Dubey.pdf?utm>

safeguards constitutes a grave constitutional violation.

Moreover, custodial torture remains a persistent problem despite statutory prohibitions. In **Munshi Singh Gautam v. State of M.P.**,¹³ the Court remarked that custodial violence “strikes a blow at the rule of law” and that procedural safeguards must not be treated as empty formalities. Such violations not only lead to the collapse of prosecution cases but also tarnish India’s human rights record internationally.

3.3 Procedural Defects During Trial

Procedural irregularities during trial stages — such as improper framing of charges, denial of cross-examination, or non-compliance with evidentiary rules — can seriously prejudice the accused and affect the fairness of adjudication.

In **State of Punjab v. Baldev Singh**,¹⁴ the Supreme Court ruled that failure to inform the accused of their right to be searched in the presence of a gazetted officer or magistrate under Section 50 of the **NDPS Act, 1985** was a *fatal procedural lapse*, rendering the conviction invalid. The Court reaffirmed that procedural compliance is not a mere technicality but a constitutional obligation.

Likewise, in **Rattiram v. State of Madhya Pradesh**,¹⁵ it was held that procedural irregularities during trial that prejudice the accused cannot be overlooked under Section 465 CrPC, as they strike at the very root of justice.

These cases highlight how procedural negligence during trial can vitiate the entire proceedings, no matter how strong the evidence might be.

3.4 Delays and Denial of Speedy Trial

One of the most serious procedural lapses is *delay* in investigation and trial. Justice delayed is justice denied — an adage recognized both constitutionally and judicially. The Supreme Court in **A.R. Antulay v. R.S. Nayak**¹⁶ held that the right to a *speedy trial* is implicit in Article 21.

¹³ *Munshi Singh Gautam v. State of Madhya Pradesh*, (2005) 9 SCC 631.

¹⁴ *State of Punjab v. Baldev Singh*, (1999) 6 SCC 172.

¹⁵ *Rattiram v. State of Madhya Pradesh*, (2012) 4 SCC 516.

¹⁶ *A.R. Antulay v. R.S. Nayak*, (1992) 1 SCC 225.

Similarly, in **Hussainara Khatoon (I) v. Home Secretary, State of Bihar**,¹⁷ the Court ordered the release of thousands of undertrial prisoners who had been incarcerated for years without trial.

The causes of delay include inadequate manpower, lack of infrastructure, excessive adjournments, and procedural inefficiency. Such delays not only prolong the agony of victims and accused persons but also diminish the deterrent value of criminal law.

3.5 Administrative and Prosecutorial Lapses

Another dimension of procedural failure lies in the functioning of the **prosecution machinery**. Poor case preparation, non-production of evidence, or failure to examine witnesses diligently lead to acquittals of offenders who might otherwise be guilty.

In **Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble**,¹⁸ the Court observed that the prosecution's failure to discharge its statutory duties is as damaging to justice as investigative corruption. The judiciary cannot function effectively when procedural duties are neglected by investigating and prosecuting agencies.

3.6 Consequences of Procedural Lapses

Procedural lapses produce multiple consequences:

- Violation of constitutional rights (Articles 20–22).
- Weakening of prosecution's case leading to acquittal.
- Wrongful conviction due to procedural negligence.
- Erosion of public trust in judicial institutions.
- Increased burden on appellate courts and retrials.

Thus, procedural justice is not a mere formality — it is the soul of criminal adjudication. Failure to follow due process is tantamount to denial of justice itself.

¹⁷ *Hussainara Khatoon (I) v. Home Secretary, State of Bihar*, (1980) 1 SCC 81. <https://lawbhoomi.com/case-analysis-hussainara-khatoon-ors-v-home-secretary-state-of-bihar-air-1979-sc-1369/?utm>

¹⁸ *Shakila Abdul Gafar Khan v. Vasant Raghunath Dhoble*, (2003) 7 SCC 749.

4. INVESTIGATIVE LAPSES: A MAJOR CAUSE FOR MISCARRIAGE OF JUSTICE

Investigative lapses are among the most significant factors contributing to the loss of justice in India's criminal justice system. The investigation stage is the foundation of every criminal trial, as it determines how facts are established and evidence is collected. When this process is marred by negligence, bias, or manipulation, the entire trial structure collapses. Despite having robust procedural safeguards under the **Code of Criminal Procedure, 1973 (CrPC)** and various judicial precedents, the quality of investigations in India remains a matter of deep concern.

A. *Nature and Causes of Investigative Lapses*

Investigative lapses typically arise from:

1. **Poor evidence collection** – failure to preserve physical evidence, non-seizure of relevant materials, or improper chain of custody.
2. **Lack of forensic support** – minimal use of modern forensic tools such as DNA testing, fingerprinting, and ballistic analysis.
3. **Bias and external influence** – political pressure, corruption, or media influence often distort the neutrality of investigations.
4. **Delay in investigation** – slow response times and delays in filing charge sheets weaken the evidentiary value of collected materials.
5. **Inadequate training** – lack of modern training among investigating officers results in procedural errors and non-compliance with statutory guidelines.

These deficiencies collectively result in weak prosecution cases, wrongful acquittals, and erosion of public confidence in the justice system.

B. *Judicial Perspective on Investigative Lapses*

Indian courts have repeatedly emphasized the importance of fair and impartial investigation as part of the fundamental right to a fair trial under **Article 21** of the Constitution.

In **State of Rajasthan v. Kishore (1996) 8 SCC 217¹⁹**, the Supreme Court held that a defective investigation cannot automatically lead to acquittal if the rest of the evidence is credible. However, when such defects affect the core of the prosecution case, they become fatal to

¹⁹ State of Rajasthan v. Kishore, (1996) 8 SCC 217.

justice.

In **Babubhai v. State of Gujarat (2010) 12 SCC 254**,²⁰ the Court stated that investigation must be fair, transparent, and unbiased. Any manipulation or bias violates the right to fair trial and can amount to a miscarriage of justice.

In **Manu Sharma v. State (NCT of Delhi) (2010) 6 SCC 1**²¹, concerning the Jessica Lal murder case, investigative lapses, such as failure to collect ballistic evidence and witness tampering, were widely criticized. The Supreme Court intervened, emphasizing the duty of investigating officers to act independently and professionally.

C. Consequences of Investigative Lapses

The failure of investigative agencies has far-reaching consequences:

- **Wrongful acquittals** due to lack of credible evidence.
- **Conviction of innocents** where fabricated or coerced evidence is used.
- **Erosion of faith** in the justice delivery system.
- **Delay in justice** leading to loss of witness memory and evidence tampering.

D. Need for Reforms

To address these lapses, several reforms are essential:

- Establishment of **independent investigative wings** free from political control.
- **Mandatory forensic training** for police personnel.
- Strengthening of **internal accountability** through departmental action against negligent officers.
- Integration of **technology and digital evidence** management to ensure transparency.

E. Case Analysis: The Aarushi Talwar Case

The **Aarushi Talwar & Hemraj double murder case (2013)**²² is a prime example of investigative failure. The initial investigation by the Noida Police was marred by contamination of the crime scene, loss of crucial forensic evidence, and premature media leaks. The subsequent CBI investigation also faced contradictions and lacked conclusive evidence,

²⁰ Babubhai v. State of Gujarat, (2010) 12 SCC 254.

²¹ Manu Sharma v. State (NCT of Delhi), (2010) 6 SCC 1.

²² CBI v. Aarushi Talwar & Anr., (2013) Allahabad HC — highlighting systemic investigation failures.

ultimately leading to acquittal. The case exposed the systemic flaws in India's investigative processes, including lack of coordination and professionalism.

5. Case Studies and Judicial Pronouncements

Examining real-life cases provides critical insight into how procedural and investigative lapses lead to the loss of justice. The judiciary in India has consistently intervened to correct systemic failures, but patterns of recurring errors highlight the need for reforms.

5.1 Best Bakery Case – *Zahira Habibulla H. Sheikh v. State of Gujarat (2004)*

The *Best Bakery case* arose from communal riots in Gujarat in 2002, where 14 people were killed. Initial investigation by the Gujarat Police was marred by intimidation of witnesses, delayed evidence collection, and bias. Many witnesses retracted statements due to fear and coercion.

The Supreme Court held that the trial conducted in Gujarat was unfair and ordered the case to be retried outside the state. The Court emphasized:

“Where investigation and prosecution are biased or flawed, it shakes the foundation of the criminal justice system and amounts to miscarriage of justice.”

Significance: Demonstrates how investigative lapses, coupled with procedural negligence, undermine public confidence and can nullify even serious criminal charges.²³

5.2 Aarushi Talwar Case (2013)

In the double murder case of Aarushi Talwar and Hemraj, investigative lapses included:

- Contamination of the crime scene by local police.
- Loss of critical forensic evidence.
- Premature media leaks compromising witness statements.

Even the CBI's reinvestigation faced inconsistencies, leading ultimately to acquittals.²⁴

Significance: Highlights the catastrophic impact of investigative lapses and improper crime scene management on justice delivery.

²³ *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

²⁴ *CBI v. Aarushi Talwar & Anr.*, Allahabad HC, 2013. <https://www.casemine.com/judgement/in/5609af32e4b0149711415c7f?utm>

5.3 Nirbhaya Gang Rape Case (2012)

While the judicial process ultimately led to convictions and capital punishment for the accused, the initial police response demonstrated procedural deficiencies:

- Delay in transferring the victim to an appropriate medical facility.
- Delay in registration of FIR and incomplete documentation of evidence.

Supreme Court observations stressed that procedural lapses in handling evidence and the victim's rights could have jeopardized the trial.²⁵

Significance: Even high-profile cases with eventual justice underscore the need for strict adherence to procedural protocols.

5.4 State of Punjab v. Baldev Singh (1999)

The case involved drug-related offences under the NDPS Act. The Supreme Court held that failure to comply with Section 50 of the NDPS Act (informing the accused about search rights in presence of a gazetted officer) constituted a fatal procedural lapse.²⁶

Significance: Reinforces the principle that procedural lapses are not mere technicalities but fundamental safeguards.

5.5 Lessons from Case Studies

1. **Investigative bias and manipulation** directly contribute to miscarriages of justice.
2. **Procedural compliance**, including rights of the accused and evidence handling, is critical to upholding constitutional guarantees.
3. Judicial interventions often **correct systemic failures**, but reliance on courts alone is insufficient; preventive reforms are necessary.
4. Public trust in law enforcement and judicial institutions hinges on **consistent procedural and investigative integrity**.

6. Consequences of Procedural and Investigative Failures

Procedural and investigative lapses in criminal cases have **far-reaching consequences** that undermine the criminal justice system. These consequences affect not only the immediate parties to the case but also the credibility of the judiciary, public trust, and the overall rule of

²⁵ Mukesh & Anr. v. State for NCT of Delhi, (2017) 6 SCC 1 – Nirbhaya case. Law of Crimes by K.N. Chandrasekharan Pillai

²⁶ State of Punjab v. Baldev Singh, (1999) 6 SCC 172.

law.

6.1 Wrongful Convictions

One of the most severe consequences is the **conviction of innocent individuals**. When investigative lapses, such as coerced confessions, tampering of evidence, or bias, occur, innocent persons are sometimes convicted. This is a direct violation of the principle of “**presumption of innocence**” under Indian criminal law.

- **Case Reference:** *Joginder Kumar v. State of Uttar Pradesh*²⁷ highlighted that arrests and investigations conducted without justification can lead to the wrongful prosecution of innocent citizens.
- **Impact:** Wrongful convictions destroy lives, impose social stigma, and can lead to loss of liberty for extended periods.

6.2 Wrongful Acquittals

Conversely, investigative lapses can result in the **acquittal of guilty persons**. When evidence is mishandled, lost, or improperly examined, the prosecution fails to establish the case beyond a reasonable doubt.

- **Case Reference:** *Best Bakery Case – Zahira Habibulla H. Sheikh v. State of Gujarat*²⁸, where witness intimidation and flawed investigation initially led to acquittals of accused despite strong evidence.
- **Impact:** Acquittals in serious criminal matters erode public confidence in law enforcement and the judicial system.

6.3 Delay in Justice

Delays in investigation, filing charge sheets, or trial proceedings constitute another major consequence. Delay in justice is effectively **denial of justice** and violates **Article 21 of the Constitution**.

- **Case Reference:** *Hussainara Khatoon (I) v. Home Secretary, State of Bihar*²⁹, where the Court ordered release of thousands of undertrial prisoners languishing due to procedural inefficiency.

²⁷ *Joginder Kumar v. State of Uttar Pradesh*, (1994) 4 SCC 260.

²⁸ *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158.

²⁹ *Hussainara Khatoon (I) v. Home Secretary, State of Bihar*, (1980) 1 SCC 81. https://blog.ipleaders.in/hussainara-khatoon-v-state-of-bihar-1979-case-analysis/?utm_source=chatgpt.com

- **Impact:** Prolonged detention without conviction causes psychological trauma, economic hardship, and social disruption.

6.4 *Violation of Constitutional Rights*

Procedural and investigative failures often result in the violation of constitutional safeguards:

- **Article 20** – protection against self-incrimination and double jeopardy.
- **Article 21** – right to life and liberty.
- **Article 22** – rights of arrested persons.
- **Case Reference:** *D.K. Basu v. State of West Bengal*³⁰ emphasized that violation of arrest and detention procedures constitutes a breach of constitutional rights.
- **Impact:** Such violations erode the legitimacy of the criminal justice system and open doors to human rights violations.

6.5 *Loss of Public Trust*

Repeated procedural and investigative failures lead to **public disillusionment with the justice system**. High-profile cases like the *Aarushi Talwar case*³¹ exposed media leaks, tampering of evidence, and bias, undermining faith in law enforcement agencies.

- **Impact:** Citizens may lose confidence in the state's ability to deliver justice, which can increase social unrest and vigilante tendencies.

6.6 *Economic and Social Costs*

Procedural delays and investigative lapses result in significant **economic burden**:

- Costs of retrials and appeals.
- Resources spent on undertrial incarceration.
- Social costs due to prolonged uncertainty in criminal matters.
- **Case Reference:** Law Commission of India, *239th Report on Expeditious Investigation and Trial of Criminal Cases*³² emphasizes that inefficiency in investigation and prosecution leads to resource wastage.

³⁰ D.K. Basu v. State of West Bengal, (1997) 1 SCC 416. <https://www.juscorpus.com/wp-content/uploads/2021/10/57.-Maitreyee-Dubey.pdf?utm>

³¹ CBI v. Aarushi Talwar & Anr., Allahabad HC, 2013.

³² Law Commission of India, 239th Report on Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities, 2012.

6.7 Summary

The consequences of procedural and investigative failures are interlinked: wrongful convictions destroy lives, wrongful acquittals threaten public safety, delays erode trust, and constitutional violations compromise fundamental rights. The judiciary has repeatedly acknowledged that justice is **not only the result but the process itself**, and lapses in procedure or investigation directly undermine both.

7. Suggestions and Reforms: Strengthening Procedural and Investigative Justice

The recurring procedural and investigative lapses in India's criminal justice system necessitate **comprehensive reforms** to ensure justice is delivered fairly, efficiently, and transparently. Both legislative and administrative measures, coupled with judicial oversight, are critical to address systemic weaknesses.

7.1 Strengthening Investigation Mechanisms

1. Independent Investigative Agencies

- Establish autonomous investigative bodies for sensitive or high-profile cases to prevent political influence and bias.
- Example: CBI, SITs, and state-level Special Investigation Teams have been effective in certain cases but require insulation from administrative pressure.

2. Modern Forensic Infrastructure

- Equipping police and investigative agencies with advanced forensic laboratories and DNA analysis facilities ensures scientific reliability of evidence.
- **Case Reference:** In *State of Maharashtra v. Mohd. Yakub*,³³ ballistic and forensic evidence played a key role in conviction.

3. Mandatory Training and Certification

- Police personnel and investigators should undergo periodic training in evidence collection, chain- of-custody management, digital forensics, and ethical investigation practices.

4. Digital Evidence Management

Digitization of FIRs, investigation reports, and evidence logs reduces the risk of

³³ *State of Maharashtra v. Mohd. Yakub*, (2007) 5 SCC 21 – importance of forensic evidence in investigation.

tampering and facilitates audit trails.

7.2 *Procedural Reforms*

1. **Strict Adherence to Arrest and Detention Guidelines**

- Police must comply with *D.K. Basu v. State of West Bengal*³⁴ guidelines to ensure lawful and transparent arrests.
- Arrest memos, informing relatives, and medical examination at the time of arrest should be mandatory.

2. **Timely Filing of Charge Sheets**

- Enforcement of statutory timelines under Sections 167 and 173 of the CrPC reduces prolonged detention and delays in trials.

3. **Ensuring Right to Counsel**

- Legal aid must be provided to all accused promptly. Courts should actively monitor the availability and effectiveness of legal representation.

4. **Fast-Track and Specialized Courts**

- Fast-track courts for serious crimes and specialized courts for cases involving sexual assault, organized crime, or economic offences can reduce procedural delays and ensure expertise.

7.3 *Judicial Oversight and Accountability*

1. **Regular Audits of Investigations**

- Courts can periodically monitor investigations in complex cases to ensure compliance with procedural norms.

2. **Internal Police Accountability**

- Establishment of independent internal vigilance units to investigate police misconduct, negligence, or corruption.

1. **Compulsory Review Mechanisms**

- For acquittals in serious cases caused by investigative lapses, there should be structured review mechanisms to assess the need for reinvestigation.

³⁴ *D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 – arrest and detention guidelines. <https://www.juscorpus.com/wp-content/uploads/2021/10/57.-Maitreyee-Dubey.pdf?utm>

7.4 *Legislative Reforms*

1. *Codification of Investigation Standards*

- Enactment of a statutory framework outlining mandatory investigation procedures, forensic protocols, and accountability measures.

1. *Witness Protection and Anti-Intimidation Laws*

- Strengthen witness protection schemes to prevent retraction of statements due to fear or coercion.

2. *Digital Forensics and Cyber Evidence Act*

- Legislation to integrate cyber and digital forensic evidence into the criminal justice process with defined protocols.

7.5 *Promoting Public Awareness and Transparency*

1. *Public Education on Rights*

- Citizens should be made aware of their rights during investigation and trial, such as the right to legal counsel and protection against illegal detention.

2. *Transparent Reporting*

- Periodic publication of investigation and trial statistics by the National Crime Records Bureau (NCRB) increases accountability and public confidence.

7.6 *Summary*

Reforms in both **procedural and investigative mechanisms** are essential to prevent miscarriage of justice. A combination of judicial oversight, administrative accountability, technological intervention, and legislative support can ensure:

- Fair and unbiased investigation,
- Timely adjudication, and
- Protection of constitutional rights.

The ultimate objective is to create a criminal justice system that not only punishes the guilty but does so while preserving the dignity, liberty, and rights of all stakeholders.

8. *Conclusion*

Procedural and investigative lapses represent significant challenges to India's criminal justice system. As examined through case studies such as *Zahira Habibulla H. Sheikh v. State of Gujarat*, *Aarushi Talwar case*, and *Hussainara Khatoon v. State of Bihar*, failures in evidence

collection, improper arrests, delays, and biased investigations compromise both constitutional safeguards and public confidence.

The judiciary has repeatedly emphasized that justice must not only be done but must be seen to be done. Strengthening investigative mechanisms, modernizing forensic infrastructure, ensuring adherence to procedural safeguards, providing timely legal aid, and judicial oversight are essential to mitigate these lapses.

The proposed reforms—ranging from independent investigative agencies to legislative amendments and public awareness—aim to enhance transparency, accountability, and efficiency. Ultimately, a criminal justice system that prioritizes both procedural and investigative integrity safeguards the rights of individuals while maintaining public trust in the rule of law.

