

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, 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)
Academics and Former Bureaucrats	
1. Dr. Vijay Raghavan (Professor, TISS Mumbai)	2. SP Ambrose (IAS, Retd.)
3. MG Devasahayam (IAS, Retd.)	

