



CRIMINAL JUSTICE SYSTEM IN INDIA

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ABSTRACT

The idea of a crime-free society is a fantasy. Crime is deep rooted in society. Although most individuals believe in the "live and let live" philosophy, there are a few who, for whatever reason, break from this usual behavioural pattern and interact with anti-social elements. This clearly imposes a duty on the state to preserve social normality. For the existence of a crime-free society there should be a sound and efficient criminal justice system in a proper functioning manner. Criminal justice system usually provides punishment to the wrongdoer and provides protection to the innocent. However, due to rapidly changing societal norms and feelings of the people during the previous two centuries, the practice of punishment and public perception about it have been significantly altered. As a result, the issue of crime, criminals, and punishment is capturing the attention of criminologists and penologists all over the world. Thus, punishment can be applied to reduce the occurrence of criminal behaviour by discouraging potential offenders, incapacitating and preventing repeat offenders, rectifying the crime, or reforming people into law-abiding citizens. As a result, theories of punishment involve broad approaches for dealing with crime and criminals. There are four widely recognised punishment theories in India: deterrent, retributive, preventative, and reformative. It should be recognised, however, that these views are not mutually exclusive, and that each plays a vital role in dealing with prospective offenders.

Keywords: Society, crime, justice, punishment, wrongdoer.

INTRODUCTION

Crime has been in society for as long as the institution of society has existed. "An act that the law makes penal; the breach of a legal duty regarded as the subject of a criminal prosecution," according to Black's Law Dictionary¹. "Wickedness" and "Sin" were considered to be the earliest definitions of criminal activity. In other words, something is a crime if the relevant and applicable laws declare it to be so. A crime, sometimes known as a criminal offence, is an act that is harmful not just to one or more persons, but also to the community, society, or state, and is classified as a public wrong. Such behaviour is prohibited and penalised under the law. The "act of performing some criminal activity," or actus reus as in Latin, must be followed with the "intention to do something illegal," or mens rea, in order to be classified as a crime. Although there are some circumstances that may exempt a conduct from the definition of crime, the law of the land must be followed. Although every violation of the law can be said to be criminal, but not every such violation of the law is termed as a crime. Violations with respect to Private laws e.g. law of torts and law of contracts etc, are not prosecuted by the state on their own, but can always be enforced through relevant civil procedure or statutes.

Some religious societies and organizations consider sin as a crime and in certain origins, legends or mythologies, the crime of sin is made prominent early to send the required message to the society. The most known theory related to original sin is that God made humans to live on a paradise on the earth, specifically the Garden of Eden². They were, however, constrained to pay the price for their insubordination to God, and as a result thereof, they were expelled from the Garden of Eden by God, resulting in the current world of misery and injustice. The oldest known codes of law combined civil and criminal rules, but not always in formal writing. With the passage of time, the same became customs, and societies were regulated as a result. But at present crime is not absolute like sin, that can be defined and have an existence beyond the limits of what men may say and do.

CRIMINAL JUSTICE SYSTEM IN INDIA:

The term "criminal justice system" refers to the governmental entities tasked with upholding the law, deciding on criminal cases, and punishing offenders. The main objectives of every criminal justice system are as under:

- To stop crimes from happening.
- To punish offenders and transgressors.
- To rehabilitate offenders and transgressors.
- To offer the victims the maximum amount of compensation.
- To keep society's law and order.
- To stop offenders from committing any further crimes.

Indian Criminal Justice System: From Ancient Times to the Present, the idea of "Dharma" had a significant influence on ancient Indian law, which set forth a number of moral guidelines. The regulations of conduct can be linked to a number of texts, such as "Puranas" and "Smritis," that expounded the Vedic writings. The King was subject to 'Dharma,' which he was expected to preserve, and had no independent authority. A clear line was drawn between a civil wrong and a criminal offence. Civil wrongs typically involved disagreements over financial matters, whereas sin,

¹Black's Law Dictionary, West Publishing Company, 1990, Ed. 9th, P. 427

²Philipp W. Rosemann, Peter Lombard, Great Medieval Thinkers, Oxford University Press, 01-Apr2004, P. 11



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served as the yardstick by which crime was to be judged. For even minor offences, the Mauryas' strict penal code mandated mutilation in addition to the death penalty. Manu's Dharmasastra defined property crimes like stealing and robbery as well as assault and other bodily injuries. The guild, the people's assembly or council, and the monarch himself made constituted the judiciary during the Gupta era. Legal sources, common practise, and the king's order, which forbade him from disobeying the rulings, all guided judicial decisions. Based on laws created centuries ago, the delivery system has, to some extent, lost its ability to fulfil its intended function. The judiciary is under increasing pressure due to the massive backlog, which is impeding the administration of justice. The length of time it took to dispense justice and the resulting delay partially defeated the goal of preventing criminal offences or repeat offences. Because of a lack of coordination, a sizable portion of people who are awaiting trials languish in jails, which is why their crime needs to be determined and tried in a legal setting. The existing laws have not been able to confront the crime and provide justice to those who have been harmed in light of the development of technology and the increasingly complex nature of offences. For instance, cybercrimes necessitate updated legislation that takes into account developing technology and their potential for use in crime. It is necessary to boost the general public's trust in the legal system, which is occasionally undermined by unjustified delays. Separation of domains and specialisation in inquiry are required due to the nature of the offence.

COMPONENTS OF CRIMINAL JUSTICE SYSTEM

There are four basic components of criminal justice system which are explained as under:

1. POLICE:

A state has a responsibility to secure its residents from crime and provide them social security. The police force of state in the nation performs this responsibility, and at the same time armed forces defend the state from many external threats. Being one of the vital components of the criminal justice system they are obliged for preserving social order in a particular society. It shields the common people from violence, oppression, and disorder. The word 'Police' has been derived from Greek term "politeia," which means "state" or "administration." Even in ancient India, the police had already existed in some capacity. Manu himself emphasised the necessity of the state's police force. Today's police are responsible for much more than merely keeping the public safe. Police must save lives, control traffic, stop juvenile delinquency, defending the rights of vulnerable groups and investigating crimes. The British government in the pre-independence period recognized the value of strong police force after the 1857 rebellion and created the Police Commission in 1860. Their proposals led to the enactment of the Indian Police Act, 1861. Later in 1902, Lord Curzon set up a new Commission to recommend reforms in the Act. The Act has three features: the police forces are maintained and administered by Union States of India; That is divided vertically into armed and unarmed troops in each state; and be divided horizontally into boxes.

The functions of the police are various which include:

- Patrolling and surveillance
- Making arrests
- Lodging FIRs
- Releasing the accused on bail
- Investigation
- Interrogation

In order to reform the working nature of police, various committees have been set up from time to time and they have recommended certain measures and suggestions and these are as under:

National Police Commission (NPC)

This Commission was established in 1977 and has made many suggestions and these are as under:

- A judicial investigation must be conducted in cases of rapes or deaths that occur while in custody.
- Police must be trained to be more understanding of disadvantaged groups in society.
- A new Act was suggested in place of the Police Act of 1861.

Malimath Committee

This Committee has proposed that a separate police force must be established to uphold law and order at the federal and state levels, respectively; a national security commission and a state security commission should also be established. It further suggested that expanding the time spent in police custody for major offences should be from 30 to 90 days.

Supreme Court regulations

In Pratap Singh v. Union of India,³ the Honourable Supreme Court issued instructions recommending changes to the present police system. These are as under:

³ AIR 1991 SC 2261.



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- Each state must establish a state security body to oversee police operations and ensure that there are no outside influences;
- The DGP must be appointed through an open, merit-based procedure.
- Police officials must serve for a minimum of two years.
- The roles of law enforcement and inquiry ought to be kept apart.
- Create a Police Establishment Board to handle issues with transfers, promotions, and other things.
- Each district needs to establish a police complaints authority.
- A panel to choose candidates and police officers will be chosen by the National Security Commission, which has been established at the central level.

2. PRISON: It is a place where convicted criminals are held for several years' imprisonment or for life imprisonment. The prisoners live in a remote place and their movement is restricted. The prison system in India is based on British prison model. Prisons have existed in India since ancient time. The aim of prisons was to prevent the perpetrators from repeating the crime.

However, conditions in prison have deteriorated. Prisoners are treated well and subjected to inhumane treatment. So the Prison Inquiry Commission was established in 1836, who recommended the abolition of the practice prisoners working on roads.

Second Prison Inquiry committee which was established in 1862 drew attention to the unsanitary condition prisons, resulting in the deaths of several prisoners from diseases and unhealthy environment. The third committee suggested some recommendations for adequate food, clothing and their medical treatment, as a result of all these recommendations Prisons Act 1894, was enacted.

The Prisons Act 1894 sought to standardize the functioning of prisons across the country. It was stipulated that the provinces must have their own regulatory laws prison administration. The Act classified prisoners, the conditions of each prisoner were different. Despite these changes, the prison has not improved in real. The Indian Jail Reform Committee in 1919-20 proposed measures to reform prisons. This committee suggested fix capacity of every prison. After independence, the constitution of India established a "prison" with "Police and Law and Order" on the state list under the seventh schedule. Unfortunately not a priority was provided to the prison administration. The Supreme Court in Rama Murthy v. State of Karnataka⁴ identified specific issues faced by prisons and inmates in India. These problems made the government realize that there was a need to reform the prisons and prisoners in the country. The issues are as follows:

- Over crowdedness in the jail
- Delay in trial
- Inhuman and ill-treatment of prisoners
- Neglected health and hygiene
- Deficiency in communication
- Streamlined jail visits
- Need to manage open air prisons.

Reforms

The government has established various committees from time to time to report conditions in prisons across the country and propose measures to improve those deteriorating conditions. These committees are as under:

1. All India Jail Reforms Committee (1980)

Also known as the Mullah Committee, it was established by honourable Judge A.N. Mullah. He suggested the proper preparation of food, clothing, hygiene conditions etc. in prisons. This committee emphasised on the recruitment of suitable and trained staff for the administration in of prisons and for this purpose the prison correctional services should be set up. There is an urgent need to focus on rehabilitation and probation legislation. It recommended allowing the media to visit prisons usually. It stated that the government must allocate funds and resources for prison reform.

2. Committee chaired by Krishnan Iyer (1988)

This committee recommended for the appointment of women staff to deal with women and child offenders. It is believed that women may have been employed in non-combat roles that require patience and endurance.

3. Prison Rules : State governments have made many guidelines and prison rules for effective prison management and these are as under:

- A register must be kept containing the contact details of each prisoner kept in all prisons.
- No one can be held in prison without a valid commitment order.

⁴ 1997 2 SCC 642.



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- Inmates are classified by age, gender, criminal record, etc. and will be held in separate institutions. For example, juveniles will not be held in prison but must be sent to juvenile homes and under trial prisoners must be kept separated etc.
- Food, water, clothing and medical supplies should be provided to every prisoner.
- Women in prison must be provided prenatal and postnatal treatment with proper care.
- Inmates must be allowed to meet their friends and family at regular intervals.
- Prisons must be inspected regularly.

Judicial Pronouncements:

In the case of *S.P. Anand v. Madhya Pradesh State*⁵, the Supreme Court held that prisoners have basic rights to a healthy life even if their right to liberty and freedom of movement is restricted.

The Supreme Court in the case of *R.D. Upadhyay v. State of Andhra Pradesh*,⁶ observed that the death of women or their suicide during their imprisonment in prison is a serious problem and prison authorities should deal with it to prevent such cases by improving conditions and healthcare services.

In *Hussainara Khatun v. the interior Ministry State of Bihar*,⁷ the Supreme Court held that keeping suspects in prison for a period longer than their punishment is a clear violation Fundamental Rights guaranteed by Art. 21 of the Constitution, it was stated by honourable Court that the State cannot escape the obligation of "speedy trial".

The handcuffing practice is inhumane, unreasonable and harsh; therefore, defendant should not be handcuffed in the first instance. The police authorities must obtain the judge's permission before handcuffing the accused was stated in *Prem Shankar Shukla v. Administration of Delhi*⁸.

3. PROSECUTION

Crime is always committed against society as a whole and not against a specific person. There is a victim, who suffers at the criminal's hands, but it is scary in the minds of people in general, and then the state takes cognizance of case. It is also the duty of the state to ensure law and order in the society, so every time a crime disturbs public order, the state becomes a party and is represented by public prosecutor.

The following are the tasks of the public prosecutor:

- They are required to keep records.
- They appear in court and argue on behalf of the victim and represent the state.
- They ensure that aggravated punishment should be given to accused.
- They must not use unfair means or try to defend accused.
- They must record the evidence and interrogate witnesses.

4. COURTS : The Indian criminal justice system has a long and glorious history. It has achieved its goal of bringing justice to the victim through laws and due process of trials before the courts. The courts played an important role in the country's criminal justice system administration and made a strong justice system through various judgments. The criminal justice system reveals the role of the court as a pillar of the prison system is of great importance. The purpose of criminal judicial proceedings is to ensure fair and impartial justice to the victim. There is a hierarchy of criminal courts in the country to achieve this purpose. It consists of the Supreme Court as the apex court; the High Court in each state; the Sessions court in each district; and the Courts of Judicial Magistrate. The courts have pronounced historic decisions from time to time to strengthen and overthrow the criminal justice system defects. The courts are working on the development of criminal justice system in line with the needs of society.

TYPES OF CRIMINAL JUSTICE SYSTEMS

There are two major types of criminal justice systems in the world. These are as under:

1. Adversarial system

Common law nations that were formerly a certain country's colonies use this system. In this method, both the prosecution and the defence present arguments to the court, and the case is determined using procedural and evidence law standards. The judge makes a decision based on the arguments made by the two attorneys and the facts presented in court. According to this legal system, a person is presumed innocent until proven guilty beyond a reasonable doubt. India adheres to this system since it was formerly a colony of the British Empire and is hence known as a common law nation. Since it is assumed that a crime has been committed against the state as a whole, the prosecutor speaks for the state because it is the state's responsibility to uphold the law. Justice is delayed in this system because both parties have the right to a fair trial and hearing.

⁵ AIR 1982 SC 1473.

⁶ AIR 2006 SC 1946.

⁷ 1979 SCR (3) 169.

⁸ 1980 SCR (3) 855.



2. The inquisitorial system

The civil law nations use this system. In this system, the judge has the authority to conduct his or her own investigation and render a decision based on the results. There are attorneys for both sides present, but unlike in an adversarial system, there is no witness cross-examination. The judge's wisdom and judgement abilities determine the outcome and the accuracy of the judgement. This approach makes the trial process considerably quicker and less expensive. It is less formal, and the competency of each individual judge, not the advocate, determines if justice has been served.

Conclusion

The effective and sound operation of the criminal justice system is essential to the existence of a peaceful society. The country's laws must reflect the needs of the modern world and the complexity of criminal offences. The criminal justice system is a framework that regulates the operation of the courts, prisons, police, and other organisations that serve to provide victims with justice. It is the responsibility of the state to uphold peace and harmony in society, and this can only be done by effectively enforcing laws and having a proper functioning of criminal justice system. The British East India Company played a significant role in the development of India's criminal laws, but only after numerous changes. The government recognises the need to overhaul the justice system to deal with new crimes like organised crime, white collar crime, cyber crime, etc. that are emerging as a result of time and technological improvement. As a result, the government established numerous committees that provided various suggestions and recommendations. But the situation hasn't changed at all. Due to the backlog of cases that come from the lack of judges, courts are still under strain. The general population believes that corruption has rendered the police force incapable of carrying out their duty and that they are controlled by politicians. Custodial rapes and fatalities are happening more frequently every day. The public becomes afraid of this situation. Prisons are overcrowded, and inmates are subjected to cruel and inhumane treatment. In order to meet modern needs, it is necessary to streamline police reforms, increase forensic evidence-based investigations, and give priority to advanced scientific analysis. To make it easier to provide justice, the infrastructure issues the judiciary faces must be resolved. Despite being on paper, the committees' recommendations have not been fully carried out. In order to deliver fair justice in India, it is necessary to solve all the problems and fill all the gaps in the Indian criminal justice system.