

The Criminal Justice System in India

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Abstract: This research paper aims to introduce the various aspects and the challenges related to “The criminal justice system in India”. Criminal Justice can be defined as a system of institutions and governing bodies that are set up to maintain law and order in the country along with punishing the perpetrators. India is the World’s largest democracy. In India, Criminal justice system is a system of instruments used by national and local government to maintain social control. The Indian criminal justice system is a crucial element in maintaining law and order, ensuring justice, and upholding the rule of law. It is deeply rooted in the colonial past, initially established by the British administration and based primarily on the Indian Penal Code (IPC) of 1860, the Code of Criminal Procedure (CrPC) of 1973, and the Indian Evidence Act of 1872. Therefore, there is a need to analyze various aspects of the criminal justice system whether amendments in the prevailing laws are necessary in the present perspective or why the Indian justice system is not effective. So in order to better understanding of criminal justice system it is worth examine the object of the criminal justice system.

Keywords: Criminal Justice System, Law Enforcement, Judiciary, Correctional System, Crime and Role of Police.

INTRODUCTION

Justice is that which upholds, nourishes or supports the stability of the society, maintains social order and secures the general well-being and progress of mankind.” Criminal Justice System in India comprises all the machinery established by the government to ensure Law and Order in the country. It involves crime prevention, adjudication of crime and criminals, compensation and rehabilitation of victims, maintenance of the rule of law in the country, and deterrence of offenders from committing any crime in the future. The main aim of the Criminal Justice System is to prevail Justice in the country.

According to Cambridge dictionary: Criminal Justice System means —the system in a society by which people who are accused of crimes are judged in the court.

According to Oxford Dictionary: Criminal Justice System means —The system of law enforcement that is directly involved in apprehending, prosecuting, defending, sentencing, and punishing those who are suspected or convicted of criminal offences.

Criminal Justice System involves:

- Maintaining the rule of law in the country.
- Preventing crime.
- Adjudicating crime and criminals.
- Compensating and rehabilitating victims.
- Detering offenders from committing any crime in the future.

Criminal Justice System:

The criminal justice system is the network of government and private agencies intended to manage accused and convicted criminals.

Criminal Justice Process: Case Flow/Steps

- Registration of the FIR
- Investigation: Interrogation, Examination, Arrest and Detention
- Final Report
- Charge Sheet
- Trial
- Correction: Bail/Jail/Fine etc.

Structural and Functional Analysis:

Community, Law Enforcement, The Prosecution, The Courts and Corrections

Criminal Justice System divided into three parts:

- Law enforcement or Police Force.
- Adjudication (Courts)
- Corrections (jail, Prisons,)

But some jurists say that criminal justice system has five pillars:

- The community.
- The law enforcement.
- (iii)The prosecution.
- (iv)The courts.
- (v) Corrections.

Law Enforcement or Police Force:

It is the first component of Criminal Justice System. In this category the Police Force comes. This component includes all local police department, detectives’ units, and the units which help in the investigation procedure. The main duties of this enforcement machinery are to enforce laws or maintain the law and order and arrest the person who violates the law. Police follows the rules which have been given in the Cr.P.C. Police has power to arrest the accused in the cognizable offence, but it has no power to arrest the

accused in the non-cognizable offence. Section 41 of the Criminal Procedure Code, 1973 gives the authority to police Officer to arrest without warrant in some situations. Police officer has also some preventive power. We can say he can arrest the person, if he has reason to believe he is going to commit offence. After arresting the person, he produces the person before the court. It plays very important role in this System.

Law Enforcement Agencies: (State and Central)

- CID
- Directorate of Prosecution
- State Legal Service Authority (SALSA)
- State Human Rights Commission
- CBI (Central Bureau of Investigation)
- Crime and Criminal Tracking Network and Systems (CCTNS)
- NCRB (National Crime Record Bureau)
- Ministry of Law and Justice
- National Human Rights Commission (NHRC)
- Law Commission
- Legal and Justice Department (Central and State Govt Both)
- National Legal Service Authority (NALSA)

Adjudication (Courts):

This is second component of this system. It includes prosecution and defence lawyers, judges and juries. When any accused appears before it, Court considers his case. If prima facie it seems that he has no committed any crime. Court discharged the accused. In India, court procedure is divided into many parts according to offence. If a court thinks that prima facie he has committed the crime, court gives opportunity to plead the guilty. Accused plead guilty then court gives punishment and declare he is the accused. If he does not guilty then hear the arguments of both (prosecution and defense lawyer). After hearing the arguments he may convict or acquit the accused.

Corrections (jail, Prisons, probation and parole):

The last and final component of the Criminal Justice System is Corrections. It includes jails, prisons, probation and parole officers and borstal institution. After conviction of the accused, he sends to these institutions. In this accused totally lose his liberty. These institutions help in the rehabilitation of the accused in the society again.

REVIEW OF LITERATURE:

Saxena, Chhaya (2017), In her research “Misuse of investigative powers of police and human rights of victims of crimes” said that..... Police is the first agency in whose contact victim comes first after the incidence of victimization. Police plays an important role in ensuring Victims’ human right to justice. Victims face a lot of problems such as delayed police response, no immediate protection, lack of protection from intimidation and harassment from offenders, frequent denial of access to justice by non-registration of FIR. Human rights are the essential rights for the survival of any human being in a dignified way.

This research has identified many methods of misuse of

investigative powers by police. This is an Analytical as well as Critical Study. This research work is of doctrinal nature. Data has been collected with the help of information technology and library resources.

Sharma, Jolly (2016), In his research “Role of police in the administration of criminal justice system a critical study with special reference to Chandigarh” said that..... The laws relating to the administration of police are inadequate and ineffective. Research Objectives - To study the existing international and national laws pertaining to the role of Police in Criminal Justice system, Human Rights and to study various lacunae.

The nature of the study is doctrinal as well as non-doctrinal. In order to bridge the gap between what is and what ought to be the present study attempts to cover the rights and responsibilities of police in criminal justice system and give a persuasive call to all the members of the police force for performing their duties in accordance with the principles of the Constitution and other laws.

The National Police Commission

The National Police Commission (NPC) was appointed by the Government of India in 1977 with wide terms of reference covering the police organisation, its role, functions, accountability, relations with the public, political interference in its work, misuse of powers, evaluation of its performance etc. This was the first Commission appointed at the national level after Independence. The Commission produced eight reports between 1979 and 1981, suggesting wide ranging reforms in the existing police set-up. The Police Act of 1861 should be replaced by a new Police Act, which not only changes the system of superintendence and control over the police but also enlarges the role of the police to make it function as an agency which promotes the rule of law in the country and renders impartial service to the community.

The major recommendations of the NPC have remained unimplemented. There is a deep seated and strong resistance to the idea of police reforms. The existing system is unacceptable. It has resulted in subverting the rule of law and in obstructing the growth of a healthy and professional system of policing. It must change.

The Police Act 1861

The police Act, 1861 is an important statute which highlights the functions and powers of police officers. The preamble to this Act states, “it is expedient to reorganize the police and to make it a more efficient instrument for the prevention and detection of crime”.

It is the main statute and it talks about overall administration of police state wise. According to the Section 2 of the Act, the number of officers or men employed in police shall be decided by the respective state government from time to time and will be enrolled formally. The entire working of police force in the state is in the hands of Director- General of Police whereas as per Section 4 of the Act, the administration throughout the district is in the hands of District Superintendent of Police under the directions of District Magistrate.

There are 47 sections in this act.

Justice Verma Committee Report

Justice Verma Committee was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The Committee submitted its report on January 23, 2013.

On December 23, 2012 a three member Committee headed by Justice J.S. Verma, former Chief Justice of the Supreme Court, was constituted to recommend amendments to the Criminal Law so as to provide for quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. The other members on the Committee were Justice Leila Seth, former judge of the High Court and Gopal Subramaniam, former Solicitor General of India. The Committee submitted its report on January 23, 2013. It made recommendations on laws related to rape, sexual harassment, trafficking, child sexual abuse, medical examination of victims, police, electoral and educational reforms.

The Protection of Human Rights Act, 1993

Human rights are standard that allow all people to live with dignity, freedom, equality, justice and peace. Every person has these rights simply because they are human beings. They are guaranteed to everyone without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Human rights are essential to the full development of individuals and communities. There are 43 sections in this act. Human rights reflect the minimum standards necessary for people to live with dignity. Human rights give people the freedom to choose how they live, how they express themselves and what kind of government they want to support, among many other things. Human rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing and education. So they can take full advantage of all opportunities.

DISCUSSION:

It was noted by the United Nations that:

“A fair, effective and efficient criminal justice system is a system that respects the fundamental rights of victims as well as those of suspects and offenders. It focuses on the need to prevent victimization, to protect and assist victims, and to treat them with compassion and respect for their dignity. Victims should also have access to judicial and other mechanisms to seek remedy for the harm they suffered and obtain prompt redress.”

The Oxford dictionary defines:

“Police as an official organization whose job is to make people obey the law and to prevent and solve crime.”

The police is a social institution which is a responsibility of the State. The State came into existence to provide peace and security to the individual. To fulfil this purpose, the State created an administrative system, the police being an important part of it. The police is the main agency of the

government which is responsible for providing such an atmosphere.

Police is generally defined as the civil force responsible for maintaining public order. It caters to the three core needs of the society-

- Protection and Preservation;
- Integration and Unity; and
- Development and Progress.

The traditional and the most important function of the police is to protect the society by preventing crime. The police have the responsibility to realize the aims and objectives of the Constitution by enforcing the fundamental rights of the citizens of the country and by ensuring the freedom and equality of all. However, with the various economic, social and political changes and developments in the society, the requirements of the society are changing too. And with this, the priorities, duties and functions of the police have changed as well. The police is expected to observe highest standards of conduct and show an exemplary behaviour since they are a disciplinary agency. The whole police organisation is highly criticised by the public and the media due to the misconduct of a few officials. All this frustrates the police officials and causes them to misbehave and misconduct. Not only does the public accuse the police to be corrupt, brutal and untrustworthy, even the judges and lawyers in the courts do so. The police organization is still governed by the Indian Police Act, 1861, which has now become obsolete and outdated making the police organization the same. Another problem is the Political Interference. Political interference in the working of the police is growing day-by-day. Political interference starts right from the recruitment of the police officials. There is political interference in the matters of transfers, promotions, postings and appointments. The politicians pressurise the senior police officials to work according to their whims and fancies like releasing convicted criminals on parole to help them participate in elections. The senior officials in turn pressurise their subordinates to do the same. If the wishes of the politicians are not fulfilled, it is the policemen who are suspended, transferred or humiliated. Thus, to avoid such incidents, the policemen adopt any means and measures-whether right or wrong, to follow the orders of the politicians. This leads to the misconduct among the policemen and hence the criticism by the media and the public. Steps should be taken to replace or improvise and modernize the Indian Police Act which has been existing since the British Rule.

Criminal Law: Criminal Law provides the ultimate means to society for the protection of its individuals and institutions. Criminal law has to be strong enough, both in its content as well as in its implementation, without being harsh or arbitrary. These qualities are needed in all branches of law but nowhere are they so crucial as in criminal law since the stakes involved are exceptionally high in terms of social injuries or various kinds. To understand the mechanisms employed to achieve the above-mentioned objectives, it is necessary to examine the fundamental features of the administration of criminal law through police and courts.

Substantial Criminal Law- The penal law in force in India is to be found in the various statutes enacted by the central and State legislatures. The general substantive criminal law, operative throughout the country, is laid down in the Indian Penal code enacted in the year 1860. The Code, well known for its skillful drafting, was the creation of Macaulay and his colleagues. Some minor changes have been made in the Code since then but, by and large, it has retained in its original form and content. The Penal Code incorporates various theories and principles of the common law of England with some modifications here and there to suit the Indian conditions. Besides the general substantive law of crimes as laid down in the Penal Code, there are many special and local enactments confined in their application to special fields of crimes or to particular local areas. These enactments deal with, for example, prevention of corruption, food adulteration, Violation of customs and foreign exchange rules, gambling, dowry, un-touchability, prohibition, narcotics and cattle trespass. The modern state is concerned not only with traditional law and order problems but has to enforce various socio-economic policies as well. This new responsibility undertaken by the State has given rise to the enactment of many laws creating a vast number of regulatory and welfare offences.

Criminal Courts in India:

Besides the High Courts and the Courts constituted under any law, other than this Code, there shall be, in every State, the following classes of Criminal Courts, namely:-

- Courts of Session ;
- Judicial Magistrates of the first class and, in any metropolitan area, Metropolitan Magistrates;
- Judicial Magistrates of the second class ; and
- Executive Magistrates.

Depending upon Magisterial functions between two categories of Magistrates under new code is intended to bring about key of judiciary from the executive, so two categories Judicial magistrates are under direct control of high court, While executive magistrate are under control of government. Broadly speaking functions of which are essentially in the judicial in nature will be the concern of Judicial Magistrate, while functions which are public or administration in nature will be concern of the executive magistrate. All the Judicial Magistrates are subordinate to the under the control and supervision of High court where as executive magistrate are subordinates to District Magistrate and under ultimate control of State Government.

Human Rights and Criminal Justice System

Human rights occupy a predominant role in every corner of the society. Violation of human rights leads to endangering very human being. Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution.

Human rights in criminal justice system are the central pillar of administration of criminal justice. Criminal justice is the beacon of the light. Therefore human rights is the sovereignty of man, peaceful co-existence in the family, society, nation and international context need human rights. Human rights have to be followed in letter and spirit. It is the reservoir of life. Liberty equality and dignity of the

individual. It is precious beyond all prices. Human rights are the very wheels of justice in criminal administration. In criminal Justice System Police is first law enforcement agency which has to mind well human rights in context of offender, victim or witness.

In last, All over the world, the task of policing is deemed to be complex and difficult and the same applies to the Indian police. India is deemed to be a multi-ethnic and a multi-cultural nation which has a vast geographic area. Since the nation is the second most populous nation in the world. The maintenance of the law and order becomes an arduous task. Security to the people in the nation is provisioned by police personnel and are deemed to act as enforcers of laws in the nation. However in the recent years, the growing social conflicts and violence in the nation pose a serious threat to the well-being of the nation. The assurance of the dignity and equality to the weak and poor sections of the society also rests within the performance of the police in the nation. Hence the role of police is crucial for the development of the nation.

CONCLUSION:

Time to time there were various steps had been taken for reforms in Police Administration. These are:

1. Gore Committee On Police Training (1971-1973)
2. Ribeiro Committee on Police Reforms 1998
3. Padmanabhaiah Committee on Police Reforms 2000
4. Malimath Committee on Reforms of Criminal Justice System (2001-2003)
5. Madhav Menon Committee on Criminal Justice Reforms (Report Submitted 2007)
6. Police Act Drafting Committee (PADC) (2005)
7. Supreme Court Directives on Police Reforms (2006)
8. Justice Verma Committee on Criminal Justice System (2012)

Reforming the police force is an ongoing process. There will be changing requirements for the criminal justice system and for society at large and desires. It is the responsibility of the police to continuously evolve and improve. The prior steps for police reforms are unique in that they focus solely on HRD within the department and make use of any community or departmental resources that are available. Such changes don't need to wait for the outside world to change before they start. Additional enhancements to the system can be implemented when other Stakeholders step up to the plate. Given the current situation in the country, state police administrations bear a significant amount of responsibility. Evidently, the current system is not ready to deal with the demands of the situation. A democratic nation like India relies heavily on its police force to ensure that its citizens comply with the law. Consequently, the government should devote more resources to this vital department, and it is necessary to implement a number of reforms to guarantee the system runs smoothly.

Reforming the police force is not enough; the whole criminal justice system must also be reformed. The recommendations of the Menon and Malimath Committees

would be well-executed in this environment. Here are a few of the most crucial recommendations:

- i. Establishing a pool of funds to compensate victims who become violent due to the pressure from their abusers.
- ii. Separate power at the national level to deal with crimes risking the safety of the country must be determined.

In addressing these problems, India will restore the police to its original purpose-to not only uphold the rule of law, but also to serve a society where everyone feels safe and protected and where image of police will be people friendly.

The purposeful administration of criminal justice cannot be effectively implemented without proper orientation at all levels.

The criminal Justice system is, at present, a complex of different agencies working at cross purposes. The delivery of justice is delayed and, at times, leads to miscarriage of the legal process. The current status of the Criminal Justice system throws many challenges to the government.

In last, All over the world, the task of policing is deemed to be complex and difficult and the same applies to the Indian police. India is deemed to be a multi-ethnic and a multi-cultural nation which has a vast geographic area. Since the nation is the second most populous nation in the world. The maintenance of the law and order becomes an arduous task. Security to the people in the nation is provisioned by police personnel and are deemed to act as enforcers of laws in the nation. However in the recent years, the growing social conflicts and violence in the nation pose a serious threat to the well-being of the nation. The assurance of the dignity and equality to the weak and poor sections of the society also rests within the performance of the police in the nation. Hence the role of police is crucial for the development of the nation.

“Dharmo raksati raksitah”

is a popular Sanskrit phrase mentioned in Mahabharata and Manusmriti. Its translated as “those who protect the dharma are protected by the dharma.”

Abbreviations

AIR: All India Reporter
CBI: Central Bureau of Investigation
CID: Crime Investigation Department
CCTNS: Crime and Criminal Tracking Network and System
CRLJ: Criminal Law Journal
CrPC: Criminal Procedure Code, 1973
DGP: Director General of Police
DM: District Magistrate
FIR: First Information Report
HC: High Court
HRC: Human Rights Commission
ICC: International Criminal Court
IEA: Indian Evidence Act, 1872
IG: Inspector General of Police
ILR: Indian Law Reporter

INTERPOL: International Criminal Police Organisation

IPC: Indian Penal Code, 1860

NALSA: National Legal Service Authority

NCRB: National Crime Record Bureau

PIL: Public Interest Litigation

SC: Supreme Court

SCC: Supreme Court Case

SEC: Section

SP: Superintendent of Police

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