

CRIMINAL JUSTICE SYSTEM TOWARDS REFORMATION

Author: Suhani Madan, II year of B.A.,LL.B. from University of Petroleum and Energy Studies

Co-author: Kanishk Tyagi, II year of B.A.,LL.B. from University of Petroleum and Energy Studies

Abstract

The main purpose of the administration of criminal justice is to uphold and defend the rule of law, namely, social control of the law, restoration of discipline, speedy trials, punishment of criminals, rehabilitation of criminals through the judicial system, and crime. To comfort the victims of The current criminal justice system has many flaws and shortcomings. Legal methods take time and generally focus on the mind of the accused, i.e. a system that deals with the rights and interests of the offender rather than the victim. The current criminal justice system has failed to bring swift and immediate justice to the people, or to ensure that the perpetrators of crimes will be punished. It is therefore necessary to offer a reformed view on various aspects of the criminal justice system in the area of justice for the people and on the evolving challenges associated with criminal law reform.

Introduction

The conclusive aim of the criminal justice system and criminal law is to preserve rights and personal liberty of individuals and the society opposed to infringement by others. Criminal law strives to protect the weak against the strong, the rule of law against lawlessness and peace against violence. For protecting the rights of citizens, the state sets various rules of conduct, penalties for violations, the machines that impose these penalties and the laws that protect them. It is often selfishness, greed and poor tolerance that lead to the erosion of various rights of an individual.

Over a period of time, there has been increasing demand for amending the criminal justice system. In concern to this Many amendments have been contrived. As a result the whole code of criminal procedure (CRPC.) was amended in 1973 or an entire new criminal procedure code was adopted with the same. Yet, the insufficient system has been creating a heavy challenge to

legitimacy of the system as well as influencing the social system unfavorably. Once said by Mr. R Venkataraman, who was the former president of India said that “The bane of the Criminal justice system was delayed investigation, absence of witness, delay, cumbersome procedure , lengthy judgements, paucity of criminal courts and large number of vacancies of judges. He also mentioned that all these need to go through a process involving a complete maintenance of the environment around.

The crime rate of 71 ¹out of the total 72 identifiable crimes committed in India showed an alarming increase from 2003-2004 (from 514.4 in 2003 to 555.3 in 2004) and decreased from 455.8 in 2005 and then slightly decreased again to 455.7 in 2006. However, it increased to 504.5 in 2007, 515.0 in 2008, 570.8 in 2009, and then dropped to 569.3 in 2010 and to 516.7 in 2011. and then dropped to 497.9 in 2012. The sharp drop in the crime rate offrom 555.3 in 2004 to 455.8 in 2005 may be due to the exclusion of some unrecognized crimes from the data of, which were inadvertently included as a crime leader in the Calcutta Police data of 2005. crime for "other SLL crimes" preceding to year 2005 as well as crime rate in concern of ipc crimes increased by 9.6% during 2013, from 196.7 in the year 2012 to 215.5.

<u>YEAR</u>	<u>NO OF CRIMES REPORTED</u>	<u>RATE OF CRIME</u>
2009	66,75,217	570.8
2010	67,50,748	569.3
2011	62,52,729	516.7
2012	60,41,559	497.9

¹ The National Crime Records Bureau (NCRB) is headquartered in New Delhi and is part of the Indian Ministry of Home Affairs (MHA). Crime rates are calculated by dividing the number of reported crimes by the total population. The result is then multiplied by 100,000.

2013	66,40,378	540.4
------	-----------	-------

Law and Crime: an approach from the past

There is a strong link between law and crime. Law governs every aspect of our lives, but there are still some loopholes where crime can thrive. The main purpose of the previous law was to put an end to criminal activity that occurred in everyday life. The purpose of these rules was to instill fear in people's minds so that they would think carefully before attempting illegal activity and watch over those actions carefully.

Criminal punishment has always been a private matter. The Lex Talionis principle was used to determine punishment. This is a term that means that the victim or the victim's family seeks retaliation against the offender in order to retaliate for personal misconduct, that is, eye for an eye. Personal revenge was not only a right, but an obligation in many cases. In all forms of society, every tribe, family, and clan had to avenge the suffering they and their families suffered. "Punishment rules all mankind. Punishment alone saves them. Punishment awakens while her guards are asleep. Think of wise punishment as the perfection of justice."

~ Manu's saying.

Garuda Prana is a series of instructions given by Lord Vishnu to Garuda (King of Birds), the bearer of Hinduism. This version of Garuda Prana, which survived to this day, was written between 800 and 1000 AD. It covers subjects such as law, astronomy, medicine, linguistics, and jewelry. A medium-sized Sanskrit prana including 19000 Shloka. WeishnaVaprana is another name for it. Various crimes are defined and penalties are stipulated in this prana. The punishment was very severe, barbaric and unsuitable for civilized society.

- Yamakin crows roasted them in a hot oil tank as a punishment.
- Attacked by mace
- Reverse roasting in Agnikunda with limbs tied from behind.

When performing the text, the ancient Indians made a clear distinction between upper and lower caste members. According to Chanakya's arthashastra, high-caste criminals were less severely punished, and lower-caste criminals were more severely punished. In his opinion, even if the Brahmin commits a crime, he must not be tortured like other people. They are also exempt from the death penalty.

For example, a kshatriya who commits adultery with a woman receives the final punishment, but Vaishya, who commits the same crime, loses all possessions and Shudra is burned at the stake. Both Hindu and Islamic criminal law promoted severe punishment based on the concepts of revenge (eye for an eye), deterrence, and incapacity, and the theory of recovery and rehabilitation received less attention. .. In the Hindu community, punishment was also discriminatory, with lower classes receiving more severe punishment. Most of the ancient law was the result of numerous religious interpretations, including the Manusmriti and Altashastra for Hindus and the teachings of Shariah and Mohammad for Muslims. Severe punishment was widespread in ancient times, as religious crime was regarded as an evil reification for its observance.

Medieval Perspective on Law and Crime

The administration of civil and criminal justice was carried out by ancient Hindu monarchs in accordance with the law of Dharmashastra. Gifts, sales, splits, bail, non-payment of debt, contract breaches, quarrels between partners, assaults, injuries, breach, property damage and assault are covered under less than 18 headings of ancient Hindu law, modern civil and criminal law. When Warren Hastings was Governor-General of India, Banaras Pandit drafted a Hindu code at his request. This is called the Gentoo Code and was printed in London by the East India Company in 1776. This is called the Gentoo Code and was printed by the East India Company in London in 1776. Under Roman law, the punishment for theft was divided into open theft and hidden theft, each with different penalties. The former was fined and the latter was the most horrific. Amputated hands or feet at the judge's discretion. Robbers and robbers were also punished by the death penalty. The legal killing of a person as a punishment for a crime committed, such as the death penalty, is known as the death penalty.

In other words, it means that the government has approved the practice of executing someone as a punishment for a crime. The death penalty was widespread in ancient India. It was the toughest form of punishment, and the methods used to provide it changed from time to time. One such method was to stone the woman to death. Stoning is a form of the death penalty, in which a group of people throw stones at the victim until they die. The criminal is forced to stand in a shallow ditch dug in the earth, surrounded on all sides by others throwing stones at him until he dies. Some Islamic countries, such as Afghanistan and Saudi Arabia, continue to use this punishment method. Pilory, The "plunger" criminal was forced to stand in a public place, his head and hands tied with an iron frame, and he couldn't move. Then he was whipped, branded, or stoned, or his ears were fixed to his pillow. Dangerous criminals could be tied to a wall before being shot or stoned. It is arguably a very horrifying and brutal method of punishment and was often used in the 19th century. The criminal was imprisoned in a wall. It was the most vicious, barbaric and painful way to execute the death penalty.

Law and Crime in the Modern World

India's Criminal Code and Code of Criminal Procedure have undergone numerous revisions over the years to ensure that they remain relevant to the present era and society. Various views on criminal law have been put forward by lawyers and philosophers. According to Professor KD. Gaur, there are four theories that have appeared in criminal law. Civil law, social, moral, and collective conflict theory. According to the famous philosopher Henry Maine, "the criminal law of ancient civilization was not a criminal law, but a wrong law."

Initially, there was no distinction between the laws. There was no civil or criminal law. All the laws that were broken were punished in the same way. Whether you stole jewelry or your neighbor's pet, you had to be compensated by either compensation or other common type of punishment. Monetary value was associated with human life. Not all communities follow the principle of eye for an eye. Others have added supervisory value to all human life that had to be repaid. Before making a judgment, the judge must consider the criminal's background, environment, circumstances, and training. Sometimes it's a criminal situation, not a real purpose.

The Supreme Court in *Musa Khan and Ors vs. State of Maharashtra*² said that the law is part of a social law that aims at preventing juvenile delinquents from becoming criminals by providing education and being treated in a reformatory manner. This theory prohibits all forms of corporal punishment. These programs aim to turn law violators into citizens by allowing orthodontic prisoners to lead normal lives. Often known as correctional facilities, these prisons treat criminals humanely and release them when they believe they are ready to interact with others in the community. Probation or probation is often used as a means of rehabilitating criminals. She sees the exclusion of criminals from society as an attempt to reform and protect them from social exclusion. In case of *Narotam Singh v. State of Punjab*³, the Supreme Court ruled that "the purpose of the criminal law is to promote rehabilitation and ensure social justice without disrupting the conscience of the community."

The essence of the reform law lies in the legal provisions. Section 82 of the Indian Criminal Code of 1860, exempts children under the age of 7 from criminal liability. However, if the child is between the ages of 7 and 12, immunity is extended if sufficient levels of understanding are not yet obtained to assess the nature and outcome of the behavior. Section 6 of Probation of Offenders Act 1958, was convicted of a criminal offense in which a person under the age of 21 was sentenced to imprisonment, but if he was not sentenced to imprisonment, the court released him for good deeds. Section 27 of the Prison Act of 1894 provides for the isolation of adult offenders, juvenile offenders, and female prisoners. Their goal is to protect young people from pollution and exploitation by other criminals.

The Reformatory Schools Act of 1897 empowered the state government to establish orthodontic schools. Section 399 of Cr.PC ,1898 Established Reformed Schools in areas where the Reformed School Act did not apply. These schools are usually for "juvenile delinquency".

Causes of crime

Political influence on representatives of all relevant bodies (such as the police, prosecutors, courts, and officials) seems to make them vulnerable. Money and power are behind many unresolved cases which are too protracted thus, denying justice. Law enforcement agencies often commit crimes by hiding crimes of important or famous VIPs and facilitating their escape from

² AIR 1976 SC 2566

³ AIR 1978 SC 1542

the hands of the law, as well as the countless cases of VIPs who have been subjected to class 1 treatment in prisons and prisons, which even extend to their breakout from prisons. As a result, it repeatedly increases the confidence of criminals.

Any party involved in a criminal justice issue can be a police officer, a lawyer, a court, or various investigative agencies. They are violating their obligations and challenging the judicial system. In addition, there is hardly any effort on the part of the government and administration to provide the basic facilities for the parts of the criminal justice system mentioned above, yet they are compelled to work in consistency along with the same age-old traditional infrastructure. In addition, they also lack proper training to handle and investigate crime and also have tremendous work and investigation pressure. On average, an investigator has to process 122 cases a year.⁴ According to the Justice Malimath report, the two main problems hitting the criminal justice systems are the high volume of pending criminal cases and the excessive delays in resolving criminal cases on the one hand, and the extremely low rate of convictions in cases that include severe crimes on the other. In terms of the number of unresolved court cases, there is a large backlog of the approximately 31.28 million cases pending in various courts, including the Supreme Court. The biggest flaw noted in the commission's report was its conflict with the public interest, as it was intended to give police officers many powers that could infringe the public interest in all similar ways. "Absolute power is prone to absolute corruption."

Judge Malimath's committee also recommended the standard of proof, i.e. "proof beyond a reasonable doubt" which is applied to criminal cases till today, without realizing that it will lead to conviction of innocent people, even if the trial is unable to establish his guilt.

Things are grim in the reviews, and no one cares about the reality of the matter. Neither the plaintiff nor the accused understands the scenario and sometimes even the lawyers do not understand the pending proceeding. There have also been recent developments in the legal field called "public litigation". In this case, the court may bring an action at the request of the public or in good faith. judge. Additionally, more and more people are going to court in everything and anything despite the exorbitant litigation costs, ambiguous cases and adjournments that attorneys

⁴Padma Ramchandran, "Criminal Justice Renewal," The Hindus 28, January 2003.

demand under apology, which is often wrong in many cases for delaying the procedure. One of the other achievements in the field of litigation is the development of the concept of litigation in the public interest. A new wave of litigation of public interest that began in the United States in the 1960s has hit Indian courts in recent years. It has become a convenient tool for people to petition in various high Courts and the Supreme Court of India and often such petitions are less of public interest and more driven by personal rivalry or personal gain, and sometimes by the media.

The report "Indian Prison Statistics 2013" published in October 2014 by National Crime Records Bureau under the Ministry of Foreign Affairs of the Government of India revealed the shocking fact that thousand people are on trial. They are imprisoned in different prisons, mostly in states like Uttar Pradesh, Delhi and Punjab, the worst is Bihar in prisons, where more than 30% of all prisoners stand trial and serve more than five years. The bail is a term commonly used to refer to the release from the court, as "Custodian Legis". The right to receive a guarantee, ie. The right to be released from prison in a criminal case after having provided adequate security is recognized as an essential aspect of human rights in any civilized society. This concept is based on the basic principle that it is unfair to deprive persons of their liberty and freedom, if their presence is necessary for investigation, trial and investigations in court.

The Supreme Court of India for the first time noticed the plight of the pending trials in the historic case *Hussainara Khatoon v. State of Bihar*⁵ in 1979 where it was recognized that thousands of the detainees on trial were held in various Bihar prisons for a period of longer than the maximum sentence they could receive, if convicted. The court in this case held that the detention of the accused was clearly unlawful and violated. The basic right to life guaranteed under Art. 21 Constitution of India. Court also held that Speedy's trial was constitutionally mandated and that the state could not prevent constitutional mandate simply by citing managerial or financial incompetence.

⁵ 1979 AIR 1369

In addition, Sanjay Suri, an Indian journalist at the Supreme Court of India, filed a public interest dispute to collect information on seven minors detained in Tihar Prison, Delhi. After a comprehensive investigation, the number of prisoners of the Supreme Court reached and learned that the prisoners live in miserable conditions and that prisons are overcrowded. Accordingly, several instructions were issued to the management of the jail under provisions of the Indian Prisons Act of 1884 to take corrective action so that detainees can use the facilities provided by law and cannot be harassed or tortured. There are also many cases where the number of convictions is very small compared to the cases presented. The level of conviction for crimes determined according to the Indian Penal Code in 2010 was 38.33%, which is much lower than to the same that was 50 years ago in 1960 where the level of conviction for the same was somewhere around 64.81%. It seems clear that the mechanism of interaction between the prosecution and the police/investigating authority has been significantly weakened.

Another problem with the police in India's criminal justice system is that the majority of crimes go unreported. Sexual assault due to lack of motivation, domestic violence etc. The reason for not reporting such crimes is the dignity and respect of the victim and his family. In most cases, heinous crimes such as kidnapping, manslaughter, forced labor, slavery, robbery and dakoidada are not reported to the police due to fear of the criminals of the victim and their families. Police officers at the local police station are also often reluctant to file F.I.R. to keep crime low in their territories, as in almost all states of India this is the basis of assessment of police officers by their superiors, although this low crime system is a completely artificial crime but its practice is certainly a public secret for senior police officers. The guilty are treated, at the expense of the State, in prison; from the taxes paid by the victim to the treasury and on the other hand, it's completely careless and contributes to the permanence of the criminal in prison. The weakness of our criminal justice system is that victims of crime do not get the attention they deserve. Courts licensed by Article. 357 of Code Of Criminal Procedure, of 1973 and Sec. 5 of the Offenders' Probation Act 1958 to compensate victims of crime, but it seems that the courts rarely resort to such methods.

Current scenario

Because our criminal justice system is outdated, and patriarchal in nature, it is subject to significant criticism in national and international forums when dealing with human rights issues. Where the criticism comes from our human rights defenders, researchers, writers, journalists, the leaders of the criminal justice systems are meticulous, but strong criticism comes from international (foreign) media, such as Amnesty International, World Watch, etc. The truth is that silence and rejection are always painful and unwanted. Ironically, 2/3 of the criminal system, consisting of legislation and prisons, continues to violate human rights and perpetuate human exploitation, and a small part of the judiciary (especially by the Supreme Court) seeks to protect and uphold human rights. To deal with this problem We have set up the National Human Rights Commission - with all our good intentions. This nation is facing a difficult situation, both internally and externally, as human rights violations are now commonplace and our thoughts and feelings are marked by despair.

Justice Krishna Iyer describes our human rights record as "proving illusion and the promise of unreality." Despite the fact that the guidelines for police, prisons and other bodies were upheld and not violated, the Supreme Court, the human rights watchdog, could only make superficial changes. Courts are too far-fetched and expensive to help poor and illiterate victims of human rights abuses. Without respect, the privileges that the courts now grant are illusory. Judge Krishna Iyer also said "However, the solemnly proclaimed and cherished right to a great tool is nothing but nonsensical typography, unless the competent judge is armed with statutory powers. There is a significant mismatch in the human rights system between regulatory statements and enforcement. This means that the scenario is characterized by serious violations of civil and political rights as well as economic, social, and cultural rights.

Suggested reforms

- The highest standards of professionalism are required to be maintained by the Criminal Investigation System and logistical and technological support must be provided. Serious

crimes should be classified as specialized investigations and only specially selected, trained and experienced investigators should investigate such cases.

- Other reforms What is needed is the strengthening of forensic science institutions with advanced technologies such as DNA fingerprinting technology. The decriminalization process should include a system of plea bargaining, which was recommended by the Indian Legal Council in a report.
- The biggest asset of the police is the confidence of people in investigating crimes and maintaining law and order. In the current scenario, this confidence is at its lowest point, with police increasingly losing public confidence. If the police themselves are seen as violating the law and an abuse of power, they are resented by the public, which further complicates the duties of the police officers, and which negatively affects the investigative system, as a result of which has the same effect on the criminal justice system.
- In order to restore public confidence in the police administration, there should be a periodic review of all arrests made in the districts by district police officers, noting the number of cases where arrests have actually led to the filing of charges and also of these cases, where the arrests made ultimately proved useless. This check will act as a guard on unnecessary grab tendencies.

Conclusion

Therefore, instead of all the above as well as other facts and circumstances, it is clear that the The criminal Justice System must be studied on the basis of its basic reality, and it is time to come up with the best possible reforms in the context of its basic reality, which can benefit the community in general and of course must be adequately protected so as not to escape in accordance with the wishes of those who travel in red beacon vehicles or have a Swiss bank account. Further simplification of judicial procedures and coherence between the judiciary the

prosecutors and police, simplifying the system, making it faster, cheaper, and easier to use, and restoring the trust of ordinary people should be a priority when considering the criminal justice system reform in India.