



THE CONSTITUTION OF INDIA AND CRIMINAL JUSTICE SYSTEM IN INDIA

DR.SARANG.D.DAVE LL.M PH.D

ABSTRACT

A Democratic countryThe Union of India is a Federal Polity consisting of different states. The states have their own powers and functioning under the Constitution of India. The Police and Prison are the state subjects. However, the Federal laws are followed by the Police, Judiciary, and Correctional Institutes. The *criminal justice system* is composed of three primary and discernible components: police, courts, and prisons. The components of the criminal justice system are seen as interrelated, interdependent, and striving to achieve a unified goal. This view of criminal justice often focuses on how cases flow through the system, causing ripple effects as cases move from one component to the next. The actions of police officers on the streets, for example, affect the workload of courts, and the decisions of judges in courtrooms affect the operation of jails and prisons.

KEYWORDS :

1. INTRODUCTION

In a democratic country the Constitution guarantees certain basic rights and liberties to the people while criminal justice administration protects them by enforcing laws and punishing the offenders. If the Constitution is a chariot then the four components of the criminal justice system, viz. the police, bar, judiciary and correctional services are its horses. Harmonious efforts of all these four agencies are essential for moving the Constitution towards its goal of establishing a just society in India. The Constitution of India was framed by the Constituent Assembly which comprised members elected through Provincial Legislative Assemblies and representatives of Indian Princely States and Chief Commissioner's provinces. While deliberating upon the Draft Constitution, the distinguished members of the Constituent Assembly, many of them being advocates and legal luminaries, discussed at length and expressed their views freely and frankly on subjects of vital importance. For the purpose of Part III, i.e. Fundamental Rights, the 'State' includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities as defined in article 12 of the Constitution. The authorities involved in the administration of criminal justice, such as police and judiciary, are the 'State' and therefore, bound to ensure free exercise of Fundamental Rights by the people. Article 13 prescribes that any law, ordinance, order, bye-law, rule, regulation and notification, etc. which takes away or abridges any Fundamental Right shall be void. However, the State authorities such as the police and Executive Magistrates, under article 19, may impose reasonable restrictions on the exercise of certain Fundamental Rights in the interests of decency or morality, public order, security of the State, etc.

2 DEFINATION

The criminal justice system consists of three main parts:

- (1) Law Enforcement (police officers, FBI, Department of Homeland Security, etc...);
- (2) Courts (attorneys, judges, etc...); and
- (3) Corrections (jails, prisons, probation and parole).

In the criminal justice system, these distinct agencies operate together both under the rule of law and as the principal means of maintaining the rule of law within society. For the purposes of section 8(6) of the Criminal Appeal Act 1995 and section 194A(6) of the Criminal Procedure (Scotland) Act 1995, the criminal justice system includes, in particular, the investigation of offences and the treatment of offenders.

3 THE CONSTITUTION RIGHTS FOR CRIMINAL JUSTICE SYSTEM

In Indian constitution so many rights for people and victim is under

- ARTICLE 20
- ARTICLE 21
- ARTICLE 22

In view of the importance of the subject matter, it is proposed to

explain in brief some of the important areas of the criminal justice system that have attracted the attention of the courts in recent years. These are:

- 1 STATE
- 2 POLICE
- 3 JUDICERY
- 4 JAIL

Upper pillar are create and maintaining a law and order in civilized society and that pillar violation of article 21 in indian constitution victim want to justice for his life.

4 Components of criminal justice system

• Law enforcement:

Law enforcement Law enforcement officers are responsible for such legal duties as: Receiving and documenting reports of crime within the agency's jurisdiction; Investigating the reported crimes; Gathering and holding evidence of the crime; Arresting the alleged offender; and Conducting follow-up investigations as needed.

• Prosecution:

Prosecution The offender's rights in the court proceedings include: The right to have legal representation; The right to a speedy trial; The right to be informed regarding the proceedings; and The right to be heard.

• Judiciary:

Judiciary The judge makes the final decision, or ruling, at each stage. The judge will: Decide the release status of an offender; Decide whether or not to accept a guilty plea or a negotiated plea by an offender; Oversee the trial where the indicted offender is determined to be guilty or not guilty; and Determine the final sentence of the court for a convicted offender.

• Corrections:

Corrections For the duration of the sentence, the corrections staff provides such legal duties as: Maintains the security of the facility; Provides internal supervision of inmates, which may include counseling or educational programs; Provides medical care for inmates; and Processes inmates for release from the institution, either on parole (conditional release) or when the inmate has served the maximum time he/she must serve before release (unconditional release).

• Criminal justice process:

Criminal justice process Inquisitorial process Adversary process The investigative stage run by the police The adjudicatory stage run by the judges and lawyers

• Objectives of criminal justice system:

Objectives of criminal justice system The main objectives of the criminal justice system can be categorized as follows: To prevent the occurrence of crime. To punish the transgressors and the criminals. To rehabilitate the transgressors and the criminals. To compensate the victims as far as possible. To maintain law and order in the society. To deter the offenders from committing any criminal act in the future.

- **Rights of victims:**

Rights of victims The U.N declaration recognized four major components of the rights of victims:- Access to justice and fair treatment Restitution Compensation assistance

- **Steps to Provide Assistance to Crime Victims in India:**

Steps to Provide Assistance to Crime Victims in India The natural sequence of rendering meaningful justice, social and legal should proceed as follows: Fair, considerate and sympathetic treatment by the police, hospitals, welfare organizations, prosecution and courts; Prompt restitution/compensation to the victim for the injury or loss suffered by using the existing provisions; and Security to victims and potential victims against victimization in future.

SCASES IN CRIMINAL JUSTICE SYSTEM

Case no 1

SatyaPrakashvs State on 11 October, 2013

Victims are unfortunately the forgotten people in the criminal justice delivery system. The criminal justice system tends to think more of the rights of the offender than that of relief to the victims. The anxiety shown to highlight the rights of the offender is not shown in enforcing law relating to compensation which too has a social purpose to serve.

The Court has to take into consideration the effect of the offence on the victim's family even though human life cannot be restored, nor can its loss be measured by the length of a prison sentence. No term of months or years imposed on the offender can reconcile the family of a deceased victim to their loss, nor will it cure their anguish but then monetary compensation will at least provide some solace.

Case no 2

T.V. Vatheeswaram v. State of Tamil Nadu AIR 1981 SC 643

the Supreme Court held that delay in execution of death sentence exceeding 2 years would be sufficient ground to invoke protection under Article 21 and the death sentence would be commuted to life imprisonment. The cause of the delay is immaterial, the accused himself may be the cause of the delay.

Case no 3

Joginder Kumar v. State of Uttar Pradesh AIR 1978 SC 527

the petitioner was detained by the police officers and his whereabouts were not told to his family members for a period of five days. Taking the serious note of the police high headedness and illegal detention of a free citizen, the Supreme Court laid down the guidelines governing arrest of a person during investigation:

An arrested person being held in custody is entitled, if he so requests to have a friend, relative or other person told as far as is practicable that he has been arrested and where he is being detained.

The police officer shall inform the arrested person when he is brought to the police station of this right. An entry shall be required to be made in the diary as to who was informed of the arrest.

Case no 4

Babu Singh v. State of Uttar Pradesh

The Supreme Court has diagnosed the root cause for long pre-trial incarceration to be the present-day unsatisfactory and irrational rules for bail, which insists merely on financial security from the accused and their sureties. Many of the under trials being poor and

indigent are unable to provide any financial security. Consequently they have to languish in prisons awaiting their trials.

But incarceration of persons charged with non-bailable offences during pendency of trial cannot be questioned as violative of Article 21 since the same is authorised by law. In the case of **Babu Singh v. State of Uttar Pradesh**, the Court held that right to bail was included in the personal liberty under Article 21 and its refusal would be deprivation of that liberty which could be authorised in accordance with the procedure established by law

6 Conclusin

First, there is the natural conclusion that the number of judges and courts needs to be increased. At a Chief Justices' conference in 2004, a committee was constituted to get a fix on the recommended judge/case ratio[7] and a figure of 500 to 600 was suggested for district and subordinate courts.[8] Working with the pendency figures, this translates into an additional 35,000 courts or so, depending on how one derives the number. As mentioned earlier, the total number of courts right now is 12,148. Alternatively, one can work with the judge/population ratio. In its 120th report (1987), the Law Commission stated that the number of judges per million population should increase from 10.5 to 50.66 These targets were repeated by the Supreme Court.[9] That figure of 10.5 is often quoted, but is somewhat suspect. On 31st December 2007, the sanctioned strength in district and subordinate courts was 15,917. Because of a large number of vacancies (with large numbers in UP, Andhra, Maharashtra, West Bengal and A & N Islands, Gujarat, Karnataka, MP, Bihar and Uttarakhand), the working strength was only 12,549. However, even if one works with the sanctioned strength, the judge/million population ratio is a shade lower than 7, not 10.5. If the 50 target is accepted, this works out to an additional 98,000 judges. On 22nd April 2008, the High Courts had a sanctioned strength of 876 judges and a working strength of 594. Vacancies were concentrated in Allahabad (with a very high number of 92), Bombay and Punjab & Haryana. In similar vein, one requires additional High Court judges. One might argue that the judge load can be higher than 500 to 600 and fewer courts and judges will suffice. However, a judge load of more than 3000 is unlikely to be realistic. Working with working strengths rather than sanctioned strengths, the point is that every High Court except Delhi, Karnataka, Gujarat and Sikkim has a judge load higher than 3000. Orissa has a staggering figure of 13,568 and Madhya Pradesh, Allahabad and Chhattisgarh also have numbers more than 9000. For lower courts, the number is more than 3000 in Gujarat, Calcutta and Allahabad. The upshot is that even if one does not require 98,000 judges, one probably requires around 50,000. Per new judge/court that amounts to fixed investments of Rs 2 crore and running expenses of Rs 1 crore a year. Hence, there is a colossal figure of Rs 150,000 crores, with annual recurrent expenditure of Rs 50,000 crores.

Second, this raises the issue of financial autonomy for the judiciary. The point about planning and budgetary exercises being undertaken without consulting the judiciary is a valid one, though since 1993, the expenditure on judicial administration has become a Plan subject. Since 1993, there has also been a centrally sponsored scheme (CSS) for improvement of infrastructure. The National Commission set up to review the Constitution also flagged paucity of funds, both through the Planning Commission and the Finance Commission, and recommended planning and budgetary exercises through a national and State-level Judicial Councils. However, accepting that there is a financial problem is one thing. Arguing that there should be complete financial autonomy is another. Without firm evidence that the judiciary has sought to reduce pendency, the argument for financial autonomy will have few takers. For instance, the judicial appointment and promotion process is de facto in the hands of the judiciary.

Third, there are procedural improvements required. While the Code of Civil Procedure was amended in 2001 and 2002, there is still scope

for improving orders issued under the code for issues like written statements, costs, examination of parties, framing of issues, evidence on affidavits and ex-parte injunctions. More importantly, these orders grant discretion to judges and there is scope for better use of this discretion. Since two-thirds of the backlog consists of criminal cases, amendments to the Code of Criminal Procedure and the Indian Evidence Act are long overdue. Consequently, there are problems with lack of pretrial hearings, service of summons, delays in supplying copies to the accused, exempting the accused from personal appearances, delays in framing charges, repeated adjournments, nonavailability of witnesses and compounding, not to speak of lack of public prosecutors and problems with the police. But it is necessary to mention that the average conviction rate is not six percent, as is commonly believed to be the case. It is between 80 and 82 percent for SLL laws and around 41 percent for IPC crimes.

REFERENCES

1. <http://dalbirbharti.com/CRIME%20AND%20JUSTICE%20for%20PDF.pdf>
2. <https://definitions.uslegal.com/c/criminal-justice-system/>
3. <http://www.authorstream.com/Presentation/ashim1995-1597255-criminal-justice-administration-india/>
4. <https://indiankanoon.org/>
5. <http://racolblegal.com>
6. https://www.lawctopus.com/academike/article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty/#_edn89