



**ORIGINAL RESEARCH PAPER**

**Law**

**A STUDY ON THE CHALLENGES OF ADMINISTRATION OF CRIMINAL JUSTICE SYSTEM IN MODERN INDIA.**

**KEY WORDS:** administration of criminal justice, Prosecution, Law enforcement, transparency, Human rights

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**ABSTRACT**

The principal purpose of criminal justice administration is to preserve and defend the rule of law i.e, social control of law, maintenance of order, speedy trial, penalization of offenders, rehabilitation of offenders through the judicial system, and solace to victims of crimes. The current criminal justice system is affected by various loopholes and faults. The legal approach is time-consuming and generally geared towards the mind of the accused i.e., a system that is involved with the rights and interests of the offender instead of those of the victims. The current criminal justice system has been unsuccessful in delivering speedy and prompt justice to people and guaranteeing the certainty of penalization to perpetrators of crime. The necessity is therefore to offer a reformed look at the various aspects of the criminal justice system in the field of justice for people and regarding the increasing challenges of criminal justice reform.

**INTRODUCTION:**

The system that deals with agencies of government that are responsible for enforcing the law in the country, maintaining peace and harmony and treating criminal conduct is known as the criminal justice system. The aim of the criminal justice system is to ensure that every person who suffers an injury or loss at the hand of others is allowed to present his case and seek justice.

**Objectives of a criminal justice system**

The various objectives of the criminal justice system are: To punish the wrongdoer, Prevent the further occurrence of crime in society, Regulate the behaviour and conduct of people, especially criminals, Provide relief to the victim, Treatment of offenders and their rehabilitation, To create deterrence in the minds of people at large not to indulge in any criminal activity.

**Various components of the Indian criminal justice system**

The criminal justice system is a structure that involves hierarchical organizations consisting of different elements working together or independently for a common purpose. These organizations create laws that tell us what conduct is prohibited, it also enforces penalties for engaging in unlawful behaviour. Such laws require the courts to rule on guilt or innocence, and the rehabilitation sub-systems to sanction the prisoners or attempt to rehabilitate them. These are:

**Legislative actions:**

The process of our criminal justice system, therefore, starts with the legislative actions. The legislature, however, does not constitute an organizational part of the system except to stress that the basis of the whole system relies on the laws they make, and their abuses must be regulated or reduced.

**Law enforcement:**

Police or law enforcement sub-systems are the next part of the criminal justice system. The police are given these duties to preserve peace, law, and order, to deter crime and to arrest the violator of the law. The majority of the criminal justice systems cannot fulfil their duties without a sub-system for law enforcement. Thousands of legislation may be passed by legislators but the law can be violated with impunity when the police refuse to act. As a primary law enforcement body, police should not only focus on the efforts of executing different rules but also on the free execution of them.

**Adjudication:** It is a judicial process further divided into two i.e:

**Prosecution-**

The prosecutor decides how the judicial sub-system should prosecute a suspected violator. When the prosecutor deems the case to be serious, formal charges shall be laid down. Nevertheless, he does not have the ability to intervene.

**Court-**

The role of the courts is more critical and essential than that of the police in the system of criminal justice. The primary mission of the Court is to provide justice which should be "fair, equal, quick, and unbiased. The judges must conduct their duties with great care and diligence to ensure that the public's confidence in the judicial process is not undermined. The chairman must be mindful that his decision in the case would give the accused and the victim a positive image of justice or unfairness, contrary to the accused's acquittal or conviction, whether lawfully or wrongfully. The first prerequisite of justice is an independent, impartial, and competent judiciary. It must be understood that a wrongful acquittal is both a breach of justice and an irrational view. 'Rule of law' in a democratic society is the working instrument of justice.

**Correctional agency:**

Correctional institutions are the last critical part of the criminal justice system. The correctional subsystem tries to rehabilitate the offender to keep him or her from violating the law again. It is hoped that by sanctioning the perpetrator, many people would also be prevented from violating the law. In the correctional system, there are two main options: probation and imprisonment, each with certain limits on one's rights. Including corrections, facilities and other rehabilitative programs such as courts, juvenile court, and correctional homes, rehabilitation facilities should be regarded not simply as correctional agencies or correctional agents, but as a measure of their success in the criminal justice system.

**Challenges in the existing criminal justice system**

A person is surprised if he/she learns that they did not get the relief or cure that they might have expected, and gradually loses confidence in the framework of government. The process is thus disconnected from the people it was built for and nurtured over time. There may be other facts and circumstances in the form of factors that lead to the system's challenges and they are:

1. Lack of transparency.
2. Pendency of cases.
3. Cumbersome procedures.

4. Lack of coordination and system approach.
5. Corruption.
6. Lack of awareness amongst individuals.

A judiciary that recognizes the rule of law as a basic framework, must abandon the culture of secrecy that surrounds its process. The pendency of litigation is another key issue within the Indian legal system. A common expression says that “equity deferred is denied equity” and according to a 2017 survey, there are currently, nearly 60,000 cases pending within the Supreme Court. Across separate jurisdictions, there are between 25 and 30 million cases. The role of judges in the 24 High Courts of the nation has nearly 400 vacancies. In the Supreme Court, there are several pending appeals, and the legal system has been invalidated by the other lower courts. To no small amount, burdensome procedural regulation frequently leads to the delay in the resolution of proceedings. The lack of control over the case file and legal proceedings leads to the late disposition of cases in no small measure. The question is furthered by the granting of undue delays simply by asking for or by “strike call.”

The various aspects of the criminal justice system, that is police, prosecutors, judiciary, and correctional agencies, are typically lacking in comprehension and teamwork. Corruption being an old evil has been prevalent since the immoral times. Due to delays in justice, inaccessibility, misuse of power, bribery, and the difficult impeachment process, corruption is rising in the judiciary. Lastly, due to the lack of information and awareness about the law and its procedure, misuse, delay, and confusion among individuals is often creating a problem. Speedy justice has always been the sine qua non of criminal jurisprudence. The core of criminal justice is the right to speedy trial and justice is inevitably denied. Because of the prolonged pendency of cases, an individual suffers in multiple and different ways. While he is innocent, he has suffered psychological trauma, social isolation, and possibly economic disability before he is innocent. Although he's guilty, delay shakes his faith in the criminal justice system and makes him cynical. Therefore, it is essential to eliminate the delay in disposition as far as it is possible for criminal cases.

Although in the Constitution, the right to prompt justice is not expressly stated in the broad sweep of Article 21 as a fundamental right, it is implied. Article 21 confers on each person, except under the procedure laid down in law, a fundamental right to not be deprived of their lives or rights. The process for depriving anyone of freedom may now obviously not be “reasonable, decent, or equal unless that procedure ensures a speedy trial for determination of guilt of such a person” said the Supreme Court in the case of Hussainara Khatoon v. Home Secretary of State of Bihar. The Supreme Court, in *A.Lantulay v. R.S. Nayak*, held that the fundamental right under Article 21 ensures an expedited trial to decide on the culpability of such an individual. According to Hon'ble Justice S.B. Sinha and Justice Dalveer Bhandari of Supreme Court of India: “Speedy trial is one of the facets of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India and the law must endure reasonable, just and fair procedure which has a creative connotation.”

Various measures have been taken to speed up the disposal of arrears of cases. In particular, on recommendations of the 11th Finance Commission, the Central Government decided to create 1734 fast track courts for clearing up lingering cases in districts, including plugging the vacancies of judges, assessing working days or annual vacations in the high courts, the districting and subordinate courts, and streamlining the rules and procedure and so on. According to the report, clearance of oldest session cases and cases involving trials in the dungeons shall be given priority by the fast track court.

The prolonged civil cases would also take priority over fresh cases.

The government has formed a committee on Criminal Justice Reforms of 24.11.2000, which submitted its report on 21.04.2003, by Dr. Justice V. S. Malimath. The committee's primary goal is to achieve justice, which is to punish those who are guilty and protect those who are innocent. The committee recommended that the focus of the program should be on the protection of the accused. The committee found that the immense pending and fresh inflows of cases were inadequately handled by the judges. The average ratio of judges to the Indian population in many parts of the world is 10.5 to 13 per million, compared with 50 Judges in a million. While the government of India has set up a system for the handling of “Fast Track Courts” sessions.

**Misuse of Human rights in the criminal justice system**

Human rights are those that every person has as a human being right from birth. This is natural and inalienable. Human rights are the basic rights that an individual has, irrespective of other factors, due to being a member of the human family. To enforce human rights and thus preserve and secure the civil rights of residents of the country, the criminal justice system, consisting of police, judicial, and correctional institutions has an important role to play. Nevertheless, police and prison brutality runs contrary to the values of human rights. The Indian Constitution, which has been clarified in many Supreme Court rulings, provides for human rights protection in keeping with international standards like in *Maneka Gandhi v. Union of India*, the Supreme Court held that no one should be subjected to arbitrary arrest, detention, or exile. Under Article 21 no person shall be deprived of life and personal liberty except according to the procedure prescribed by law. Since the decision of the Supreme Court, the procedure under Article 21 must be fair, just, and reasonable and cannot be arbitrary, unfair, or unreasonable.

In *Sunil Batra v. Delhi Administration*, the Supreme Court held that keeping of under trial prisoners, who are presumed to be innocent, with convicts, offends the test of reasonableness under Article 19 or fairness under Article 21. In *Sheela Barse v. Union of India*, the Supreme Court emphasized that children should not be confined to jails because it has a dehumanizing effect and is harmful to the growth and development of children. The court also ordered that where a complaint is filed or a first information report is lodged against a child below the age of 16 years for an offence punishable with imprisonment of not more than 7 years, the investigation should be completed within 3 months and if the investigation is not completed within 3 months, the case against the child should be treated as closed.

The Human Rights Commission Act of 1993 sets down the constitution of State and National Commissions on Human Rights to investigate allegations of human rights abuses and government machinery infringements to prevent such abuses and recommend legislation for the successful enforcement of constitutional and national guarantees.

**Current situation**

Our criminal justice system is outdated, obsolete, and patriarchal, considering that significant criticism is levied at national and international forums when human rights problems are addressed. Where the criticism comes from our own human rights advocates, scholars, authors, journalists, the heads of criminal justice systems keep careful silence, but strong criticism comes from international (foreign) outlets, such as Amnesty International, World Watch, etc. The truth is that silence and rejection are always painful and unrequested. The irony is that 2/3rd of the criminal justice system involving legislation and prisons still abuses human rights and perpetuates human abuse, and the tiny 1/3rd of the judiciary (in particular through an apex court) seeks to protect and

uphold human rights.

To cope with this problem the National Commission of Human Rights formed – with all our good intentions, to remediate the situation and address pressing human rights issues in the country. Unlike the Supreme Court, there is a very crowded agenda for the Commission too, which makes no sense of euphoria. The nation is facing a difficult situation, both internally and externally, because violations of human rights are now commonplace and our thoughts and emotions are marked by a lack of hope. Justice Krishna Iyer describes our human rights record as “testing illusion and promise of unreality”. Despite its guidelines for police, jail, and other agencies being upheld rather than in violation, the Supreme Court, the sentinel for human rights, could only make superficial changes. The Writ Courts are too distant and expensive to help indigent and illiterate victims of human rights violations. In the absence of compliance, the privileges now given by the courts are illusory. Justice Krishna Iyer also said that:

“Rights, however, solemnly proclaimed and entrenched in great instruments are but printed futility, unless a puissant judiciary armed with legal authority. Remedial process and jurisdiction, operational and pragmatic, transforms the jurisprudence of human rights into public law of enforceable justice.”

A wide disparity between regulatory statements and enforcement abilities exists within the human rights regime. This means that the scenario is marked by major abuses of civil and political rights as well as economic, social, and cultural rights.

**Suggestions for improving the criminal justice system**

Court delays are like a poison, killing the entire judiciary. For more than 15 years, lawsuits are pending at trials. Who, the police, the prosecutor, or the judges are responsible for it? The criminal justice process or the police should be blamed for delays in the disposition of cases and arrears in criminal courts. The following are some suggestions or part of the elements that must be able to activate the legal procedures and improve them, they are:

1. In subordinate courts and high courts, the power of judicial officers and judges is sufficiently enhanced. There should be no unfulfilled vacancies in courts. The judiciary recruits young and talented citizens with honesty.
2. Considering the inadequacy of judicial officers to dispose of arrears in criminal proceedings, retired judicial officers' services or magistrates may be abused by the creation of special tribunals that are to be headed by them.
3. India now hopes to become a fully digitized nation. In reality, we were extremely successful. But the Indian legislation is abandoned for some odd cause. That shouldn't be the case. The system of Indian law should be completely digitized from the start to the end. It helps to save a lot of time for context documentation.
4. The aim of our criminal justice system should be to provide speedy justice.
5. There must be thorough preparation for the judicial officers. Training in forensics should also be given. They shall coordinate refresher services in the light of rapid social change, the whole continuum of offences in terms of cognizable and unaware crimes has to be re-examined. Many of the unsolved crimes may be identified.
6. The obsolete and anomalous acts should be abrogated. The legislature should be careful to multiply the number of criminal laws.
7. As society evolves rapidly, new forms of violent crime such as organized crimes, insurrections, terrorism, etc. emerge as a result of industrialization and economic growth. To solve these attacks, there should be a specialist

police force. For this reason, comprehensive training and required new installations and infrastructural equipment are given to police and investigation agencies.

8. Police brutality, misbehavior by the police, prison abuse, police misconduct should be handled thoroughly and efficiently. Senior police officers must create a committee for the severe treatment of the issue and they should be disciplined and disciplinary action against unjust police personnel and made liable to reimburse the victims of their crimes.
9. Improvements are required in the prisons.
10. Plea proceedings may also be used to reduce the immense backlog of cases.
11. Finally, given that the judiciary is the branch of government, the vacations in the courts should be the same as with other government executive wings. Summer holidays or additional holidays in courts do not take effect. The working hours will be the same as every other government department's daily working hours.
12. Just as we consider the citizens must acquire speedy justice, it is also important to make the justice system less expensive for them as well. Citizens discourage their cases from being put to courts because of the high fees of lawyers. The process must be “uncompetitive, casual, versatile, compassionate, practical, and without legal complications,” says Justice V.R. Krishna Iyer.

**CONCLUSION**

The task before India is to improve human rights by improving its law enforcement system in its domestic criminal administration and, on the other hand, not be swayed at the expense of social growth and the unity of the country. The establishment of the National Human Rights Commission will make a difference if it is genuinely committed to recognizing human rights abuses in crime prevention operations, instead of being a face-saving tool for international criticism of human rights situations and being actively engaged in corrective and remediation steps. Reconciliation lies in the strengthening of the human rights community at home, which, in effect, would also replenish our reputation on the international stage. It can, therefore, be argued that we can, in the spirit of the citizen, raise the consciousness of human rights to uphold human rights and the basic freedoms of the accused. Then, if the law evacuates these accumulations, the Indian statutory system might be considered to be the strongest legal structure on the planet. Similarly, until it is lost, a reasonable person's trust in the law may be restored.

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