

# Criminal law reforms in india

Lokesh Yadav

Submitted: 15-11-2022

Accepted: 25-11-2022

## I. INTRODUCTION

India is the largest democracy in the world. But unfortunately in the period his heyday is dwindling due to a flawed criminal justice system. We are therefore at a critical moment in time, there is a need to rethink and reformulate the justice system to meet the challenges of today. Because of the strong impulse in the demand for justice. There are certain gaps that require the development of different techniques and strategies that can be effectively incorporated into the policy framework. To better understand the criminal justice system, it is worth exploring the subject of the criminal justice system.

### The Subject of the Criminal Justice System

The goal of the criminal justice system is to do public justice, punish criminals, and see that the trial is over quickly before the witness's memory fades. Criminal procedure is not only about doing justice to the accused, but also to the victim and society. To maintain law and order. A judge presides over a criminal trial not only to see that no innocent person is punished, but also to ensure that the guilty does not escape. Both are public duties that a judge must fulfill. 1 Therefore, the courts should always strive to maintain the public confidence of the people in administration of justice by ensuring the concept of human rights in the administration of justice.

## THE NEED FOR REFORM IN THE CRIMINAL JUSTICE SYSTEM

In today's era, change is constant, but even in this changing phase of Indian society, the 'Criminal Justice System' still needs to improve. All of this is due to lack of accountability, ineffective law enforcement and delays in processing cases, lack of trained police, an overburdened justice system and poor prison conditions. These are all serious problems in the criminal justice system. In India, the administration of the criminal justice system follows the Anglo-Saxon adversarial pattern, having three essential units namely a) Police b) Judiciary c) Jails

## COMPONENTS OF CRIMINAL JUSTICE SYSTEM: PRESENT SCENARIO

### I. THE POLICE

As the leading segment of the criminal justice system, the police have a very essential role in the administration of justice. Therefore, understanding the police is a prelude to understanding the criminal justice system. According to Article 246 of the Constitution of India, it includes police, public order, courts, prisons, correctional institutions and other allied institutions in the state list.2 Now another question arises, how to make the police accountable? What is the essential part of Indian criminal justice system? In the next part of this article, we will evaluate this problem.

#### Police responsibility

The Indian Police Act, 1861 is an outdated law that was created under the regime of Govt colonial system to suppress the people. Unfortunately, instead of the constant demand of the National Police Commission, the Government of India is unwilling to make any change in this colonial law. Further, there is no provision as such in the Police Act of 1861 police accountability unlike in the UK where the Independent Police Complaints Commission (IPCC) oversees and investigates public complaints about the police and can take over oversight or investigation of any complaints. While the Indian Police Act is lacking in this aspect. This can be clearly seen from the cases involving police atrocities often come before the court, some are like people in and of themselves do not break the law. If the protector becomes the predator, civilized society ceases to exist.

## II. JUDICIAL

The judiciary has a very fundamental role in the implementation of the rule of law. Primary and the most important duty of the courts is to protect and enforce human rights as well as to provide assistance to the victim. Such duty and obligation is indispensable for a democratic country. The present system of criminal justice in Indian courts is supposed to pay more attention to the accused and try to protect all his/her rights ie

presumption of innocence, legal right to arrest, double jeopardy etc. All these rights are undoubtedly entitled to the accused. but now in the changing situation the courts are also expected to focus on both the victim and the witness.

Case study:

➤ Joginder Kumar v. State of UP

Courts have set several guidelines:

- An arrested person who is being held in custody has the right, on request, to be told, if possible, that he has been arrested and where he is being held.
- The police officer informs the arrested person that he will be brought to the police station.
- The diary should include a record of who was informed of the arrest. This protection from power must flow from Articles 21 and 22 of the Constitution of India.

• ➤ Nahar Sing Yadav and others v. Union of India and others

In the present case, the court held that “true and fair trial is the sine qua non of Article 21 of the Constitution. Thus, from this case, it can be unequivocally proved that the court should be cautious and prudent at every step of the administration of justice.

### III. PRISON

• Violation of prisoners' rights:

The condition of prisoners in India remained deplorable. Law law enforcement personnel were responsible for widespread human rights abuses, including the arbitrary deprivation of life in alleged encounters, deaths in custody, and the indiscriminate use of firearms. According to the Government of India's National Crime Records Bureau, eight people died in custody and 42 civilians died in police firing during 2005. In addition, at least 87 people were killed in alleged clashes between January and March 2005 alone. In 2004 it was 238 and in 2003 214.<sup>13</sup> It is therefore the duty of all courts to carry out regular visits as

well as unannounced visits to prisons to ensure the human condition of prisoners.

### II. SUGGESTIONS

There are some proposals that are very essential to ensure criminal justice reform viz.

1. Regular inspection of the courts is needed.
2. Currently there are many cases pending in the courts and unfortunately no authentic data is available in this regard and moreover the Supreme Court and High Courts do not publish any annual report on administration in relation to the case under discussion.
3. Another loophole is now the sanction of the Government (Section 197) before prosecuting the public servant in Section 166 I.P.C. creates a major hurdle in the exercise of the power under section 166 of the Indian Penal Code. That's why it needs to be downloaded. Even the National Police Commission 1979-1981 in its 8th report recommends the withdrawal of section 132, 197 Cr.P.C.
4. It is a travesty that most of the laws existing today are outdated, it can be seen that the punishments prescribed under the laws are so nominal and paltry that they have no impact on the criminal situation. The Police Act of 1861 is an example of this.
5. Cases must be assigned according to the person's specialty. It also recommended by the Malimath Committee (24 November 2000) that allocating cases without considering specialization would lead to delays in deciding cases.

There is a need to limit political influence because the Police Act of 1861 places the supervision of the police directly in the hands of the political executive, i.e. the state government. Currently, the Director General of Police (Director General/Inspector General) is enjoying his post at the pleasure of the Chief Minister. may be removed from office at any time without giving reasons. Such a situation results in extensive politicization of the police.