



JUSTICE DELIVERY SYSTEM IN INDIA

A short article consist of system that is adopted for criminal justice that has to be delivered in India.



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ABSTRACT:

The word criminal justice applies to government departments with law enforcement for adjudication of criminals and illegal actions. It is a set of legal and social structures for execution of criminal law in a way of procedural rules. The administration of criminal justice in India follows the Anglo- Saxon-adversarial system consisting of Police, prosecution, judiciary and correctional institutions. The paper will further study the objective of criminal justice while providing an overview of criminal justice system in India explaining the three branches and major components of the system further talking the lacunas present in the system.

INTRODUCTION

In India, the administration of Criminal Justice System follows the Anglo- Saxon-adversarial pattern. It has four vital units, namely, the Police, Prosecution, Judiciary and the correctional institutions. These components are supposed to work in a harmonious and cohesive manner with close co-ordination and cooperation in order to produce desired results more effectively, fairly and quickly. Moreover, the success or failure of the administration of criminal justice depends upon the efficacy of these allied units. The rule of law cannot exist without an effective judicial system capable of enforcing rights in a timely and appropriate manner in a way that inspires public confidence in the administration of justice. In order for the law to be governed, the system by which it is administered must be adequately measured when mapped out against the three dimensions of justice – substantive justice on merit, timeliness in the disposition of cases, and proportionate use of the resources of the State. Access to justice therefore assesses the fulfillment on these parameters of the individual's entitlement to justice, in order to ensure that legal redress does not become the preserve of a few.

In India, the administration of Criminal Justice System follows the Anglo- Saxon-adversarial pattern. So when we hear this the question comes here is that what is an Anglo-Saxon Adversarial pattern?

In General way we can say that it has 4 vital units for the delivery of criminal justice system, namely:-

- 1) Police
- 2) Prosecution
- 3) Judiciary
- 4) Correctional Institution.

These 4 units are supposed to work in a harmonious and cohesive manner with close co-ordination and cooperation in order to produce desired best results more effectively, fairly and quickly. The rule of law cannot exist without an effective judicial system capable of enforcing rights in a timely and appropriate manner in a way that inspires public confidence in the administration of justice. The next question will be in our mind is that: What is Criminal Justice System?

CRIMINAL JUSTICE SYSTEM: DEFINITION-

The word criminal justice applies to government departments

tasked with law enforcement, the adjudication of criminals, and the correction of illegal actions. The

criminal justice system is a network of legal and social structures for the execution of criminal law in compliance with a given series of procedural rules and limitations. The criminal justice

system is a set of legal and social institutions for the enforcement of criminal law. The

term criminal justice system refers to the collection of federal, state and local public agencies dealing with the problem of crime. The effectiveness of executing of laws, regulation and rules depends on how effective these

government department works. Criminal Justice System always work to make the application of R

ule of law in right manner without any problem and deliver justice in justifiable manner to the one who are actually in need of it without eradicating them without getting it.

OBJECTIVES OF CRIMINAL JUSTICE SYSTEM:-

- ☐ Preventing the occurrence of crime.
- ☐ To prosecute the offenders.

- ☐ Rehabilitate the offenders.
- ☐ To reward the perpetrators as soon as possible.
- ☐ Maintaining law and order in society.
- ☐ To deter criminals from performing any illegal act in the future.

An Overview of the Indian Criminal Justice System:

There are a variety of sources of criminal law in India. The Indian Penal Code of 1860, along with other state and unique legislation such as the Protection of Civil Rights Act, 1955, the Dowry Prohibition Act, 1961 and the Scheduled Castes and Scheduled Tribes Act, 1989, defines what constitutes a criminal offense under Indian rule. The Indian Evidence Act sets out the rules under which evidence is admissible in the Indian Courts. In fact, the Code of Criminal Procedure, 1973 (Cr. P.C.) lays out the Procedural Mechanisms for the Prosecution of Criminal Actions, allowing for the creation of criminal courts, for the execution of police inquiries and convictions, and for the operation of criminal trials and inquiries. Typically speaking, this is the Cr.P.C. All the other laws are fairly comprehensive to accommodate certain cases. Nevertheless, the criminal justice system in India is focused on a complicated network of laws and common law.

The common law framework gives judges the right to view the laws applied to a specific case in such a manner as to bring about the most fair and lawful result. The common law is influenced by subsequent judicial readings of the legislation and by the legal principles of Stare Decisis (compliance with the previous case). And whether there's a particular piece of Legislation does not clearly regulate or clarify a particular topic, judges are free to focus on common law to decide the most appropriate and relevant laws. However, it should be remembered that the common law exists only uncertain cases where the government has not spoken and should thus never be forced in clear contrast to a single act of legislation. So we learned about the criminal justice system, next thing we will see the branches of this system, the criminal justice system consists of 3 branches:

The Branches of Criminal Justice System:-

- ☐ LEGISLATIVE BRANCH
- ☐ JUDICIAL BRANCH
- ☐ THE EXECUTIVE BRANCH

THE EXECUTIVE BRANCH:-

- ☐ Executive authority is granted to presidents, governors, and mayors.
- ☐ Carries out (executes) a variety of official actions.
- ☐ Holds the force of nomination and pardon.
- ☐ They will contribute to attempts to strengthen criminal justice.
- ☐ Provides guidance for the prevention of crime.

JUDICIAL BRANCH:-

- ☐ The Guilt of People associated with Crime.
- ☐ Interpretation of the law.
- ☐ Administers the criminal liability process determined.

LEGISLATIVE BRANCH:-

- ☐ Defines the unlawful behavior.
- ☐ Establishes penalties.
- ☐ Passes the rules regulating criminal prosecutions.
- ☐ Provide support to criminal enforcement departments.

The major components of the Criminal Justice System:-

The following are the components of criminal justice system:-

POLICE:-

- Investigate crimes.
- Detained miscreants.
- Maintaining public order.
- Guard the rights / freedoms of persons.

COURTS:-

- Place where "arguments" are resolved.
- The Court refers the law to the claim at issue.
- The Court shall issue the punishment.

Main Components of Court:-

- JUDGE.
- PUBLIC PROSECUTOR.
- DEFENCE LAWYER.

There are mainly three types of Court:-

- SUPREME COURT.
- HIGH COURT.
- DISTRICT COURT.

The Indian judicial structure is based on the British pattern. The regulation of criminal law is a feature of the State, which ensures that each Jurisdiction has its own services, in the form of Statecourts, for coping with criminal offenders. In each State there are lower courts at district level called Magistrates Courts, middle courts at tribunal level called Courts of Session and High Courts at State level. The Supreme Court is the highest

national court in India. Many citizens are familiar in the lower and upper levels. An individual shall go to the higher courts only whether he or she challenges a case or a lawsuit is brought against him or her. When an individual is accused of a crime, the first court in whom he or she has connection shall be the Magistrates Court. Magistrates shall be listed as either judiciary magistrates or executive magistrates. Nonetheless, if a person is accused of a criminal offense, he or she may only come into touch with the Judicial Magistrates, as the Executive Magistrates, designated by the Government of the State, are only allowed to give such directives to avoid a disturbance of public peace and deal primarily with civil law. The Executive Magistrates can be recognized as Munsifs in rural areas. Such judicial magistrates working in big cities are regarded as the Metropolitan Magistrates and have the same authority as all judicial magistrates.

The Judiciary Magistrates are split into the system of Chief Judicial Magistrates, Additional Chief Judicial Magistrates and Sub-Divisional Magistrates, both of whom are named by the High Court¹. The Chief Judicial Magistrate has the power to direct, supervise and monitor all other Judiciary Magistrates in the Region². In each district, the Government of the State in coordination with the High court has the right to regulate, regulate and oversee all other Judiciary Magistrates in the Area³.

Chief Judicial Magistrates and Chief Metropolitan Magistrates can pass sentences of imprisonment for terms not exceeding seven years⁴. First-class judicial magistrates and Metropolitan magistrates can pass sentences of imprisonment for terms not exceeding three years and/or penalties not exceeding five thousand rupees⁵. Second-class judicial magistrates can only pass sentences of imprisonment for terms not exceeding 1 year and fine not more than 3 thousand rupees. Depending on the crime of which a person is accused, he or she may alternatively be tried by the Court of Sessions. Each State of India shall be divided into at least one session shall be prosecuted by a tribunal under which the

¹ 15 & 19 of the Criminal Procedure code 1973

² Section 11 of the Section 29 (1) (4) of Criminal Procedure code 1973

³ Section 29 (2) (4) of Criminal Procedure code 1973

⁴ 15 & 19 of the Criminal Procedure code 1973

⁵ Sections 7, 9 (1) (2) of the Criminal Procedure code 1973

State may constitute a Court of Session to be presided over by a judge designated by the High Court. The High Court shall also designate other session judges and assistant session judges. The Court of Session may convict and prosecute people under certain crimes. However, any death penalty imposed by the Session Judge or the Additional Session Judge shall be upheld by the High Court and the Assistant Session Judge will not be sentenced to execution, life imprisonment or incarceration exceeding a term 16 years. The Highest Courts of the Judiciary in India are the High Courts. Many of the States of India have a High Court, which handles hear son appeal from lower courts and, on occasional times, deals specifically with litigation initial jurisdiction. The Supreme Court is the highest court of India which is the sole arbitrational judicial proceedings. Most citizens rarely have any interaction with the Supreme Court of India, while the judgments it creates influence our lives.

The rulings of the Supreme Court of India are binding on the High Courts of the State, who will adopt the interpretations of the laws of the Supreme Court. The Subordinate courts of the state must first look at and be bound by the judgments of the High Courts of their State. However, if decision on the matter in question is not taken, the subordinate courts will also follow the decision of the Supreme Court on the matter. The rulings of the High Courts are binding on the lower courts under their control, but are not binding on the Supreme Court or the courts of other States. In the main, though, all courts in India are bound by the judgments of the Supreme Court.

Criminal law consists of two components Substantive and Procedural. Substantive Statutory Law point sort the actions and state of mind of the crime ,which points out the punishment for the offense. Procedural Criminal law, on the other side, includes the roles of the judiciary, the prosecution and the police,and the protocol to be practiced when dealing with the convicted partyor defendant, when performing inquiries and in the process of a case.

The primary objective of the Procedural Criminal Law is to ensure a fair trial for the accused.A fair trial involves balancing the rights of the accused along with the rights of the victim and the public interest. In India, the form of trial provided for in the Code of Criminal Procedure 1973 (Cr. P.C.) is an adversarial or accusatory type of criminal justice. In the adversarial system, emphasis is placed on a trial where the defense and prosecution confront each other at a public or oral hearing before an impartial judge. The perpetrator is believed

to be innocent and the responsibility of arguing the guilt of the convicted rests on the prosecution. The premise of the adversarial system is that the truth will emerge from the confrontation between the prosecution and the defense, because both sides have an incentive to present their best arguments. In this interpretation of the adversarial method, the judge assumes a fairly passive and impartial position, ensuring that the parties comply by the law, determining what testimony submitted by the prosecutor and the defendant is valid and admissible, and ultimately assessing whether or not the accused is guilty. The Committee on Criminal Justice Reforms has observed that judges in India are too passive, except by the norms of the adversarial method, and that the judge, in his fear of preserving his integrity, rarely takes any action to ascertain the truth. The corner stone of criminal justice is that the person is deemed innocent unless proved guilty without reasonable doubt following a jury trial. The legislation amended the Cr.P.C in 1973. On the basis of the following values, in part:



1. The convicted party will be granted a reasonable hearing in keeping with the agreed rules of natural justice;
2. Every attempt should be taken to prevent delays in the prosecution and court which are detrimental not just to the persons concerned, but also to society;
3. The process should not be cumbersome and will, to the fullest degree practicable, guarantee equal treatment for the disadvantaged parts of the society.

CORRECTION:-

- Rehabilitation and reform of prisoners.
- Secure the society.
- Humane custody.

KEY PLAYERS IN CRIMINAL JUSTICE SYSTEM:-

- POLICE
- PUBLIC PROSECUTOR
- DEFENCE LAWYER
- JUDGE

POLICE-

Police, as a front-line segment of the criminal justice system, have a very significant role to play in delivering justice to those in need. They are the ones who arrest the guilty parties and help the courts effectively discharge their judicial functions. In order to preserve and improve people's confidence in the application of criminal justice, the police must promote the prosecution of the actual convicted criminals by the courts. It is a precept of natural law that has been codified in many countries that a individual is innocent unless otherwise proven by a professional court that is neutral and unbiased.

PUBLIC PROSECUTOR:-

Lawyers who serve the state and undertake illegal acts charges cases against the criminal.

- The work of the Prosecutor shall begin upon the police have filed the charge sheet in the court i.e. the list of allegations in the trial.
- The Prosecutor must conduct the prosecution on behalf of the Police investigation.
- It is his duty to present all the facts, the witnesses and the evidence put before the trial.
- He / she entitled to a fair jury.

In a criminal trial, the Public Prosecutor or the Deputy Public Prosecutor shall try the charged on behalf of the Defendant. Prosecutors play a crucial function in the administration of justice. The role of the Prosecutor was described by the Law Commission of India in its 14th Report as follows:

"The object of a criminal trial is to decide the guilt or innocence of the accused defendant, but the responsibility of the Public Prosecutor is not to serve either group, but the State. The trial of the accused must be done with the greatest fairness".

The public prosecutor will be professionally indifferent to the results of the trial. Its duty should be to place before the court all the evidence available, irrespective of whether it goes against the accused or whether it helps him, in order to help the court discover the accurate truth. It can therefore be shown that, in the justice system, the public prosecutor has a very important role to play: the impartiality of his actions is as essential as the impartiality of the court itself". Therefore, it is the responsibility of the prosecutor not just to obtain

prosecutions, but to behave impartially and to bring to the court the facts to allow the court to rule on the convicted individual.

DEFENCE LAWYER:-

- Represent the accused after his detention to offer advice.
- Investigate the facts of the crime, on behalf of the accused.
- Address the argument with the judge to test the impact of the prosecution case.
- Represent the accused at the bail hearing.
- Represent the accused in the trial.
- Submit an appeal.

JUDGE:-

- The judge is like an umpire of the trial.
- The judge examines all the witnesses and considers the facts provided by all sides.
- The judge shall determine if the convicted party is guilty or innocent.
- If the offender is guilty, the court shall impose the sentence.
- He can send a person to jail or enforce a penalty, or both, as required by statute.

Steps in the criminal justice process:-

- ❖ Investigation.
- ❖ Arrest.
- ❖ Prosecution.
- ❖ Filing of information by a prosecutor.
- ❖ Arraignment by a judge.
- ❖ Pretrial detention or bail.
- ❖ Plea bargaining.
- ❖ Trial/adjudication of guilt.
- ❖ Sentencing by a judge.
- ❖ Appeals.
- ❖ Punishment or rehabilitation.

Impediments in the Effecting Functioning of Criminal Justice System: An Appraisal:-

The Indian Criminal Justice System is infested with numerous problems; several of them are listed here. The Indian Criminal Justice System is reportedly suffering from a variety of illnesses, some of which may be identified as:

- ❖ Huge pendency / Arrears of Court Cases;
- ❖ Lengthy Procedure;
- ❖ Time Consuming and Expensive Legal Process;
- ❖ Abnormal Delays in Litigation;
- ❖ Non-Accountable Bar;
- ❖ Lack of Coordination between Police and Prosecution;
- ❖ Faulty and Slip shod Investigation;
- ❖ Unnecessary Detentions Causing Overcrowding of Jails;
- ❖ Enormous Workload on Courts;
- ❖ Alien Model;
- ❖ Lack of a Speedy Dispute Resolution Mechanism;
- ❖ Lack of Judges with respect to population ratio;
- ❖ Delayed Trial;
- ❖ Low Rate of conviction;
- ❖ Prolonged Incarceration of under trial prisoners;
- ❖ Judge Neutrality Principle they never takes any initiatives to discover the truth.
- ❖ Judicial Corruption; and
- ❖ Absence of checks and balances.

The criminal justice program introduced by India is partially based on the British method. When the British prescribed the procedure, they did not consider the needs of society, nor did they consider the practicality of the procedure. All we have, then, is a scheme that is derived from various sources, without having some effect on facts on the field.

Abnormal delays in Litigation:-

Essentially, the failure of the criminal justice system manifests itself in abnormal delays in litigation and enormous pendency in the courts. Although accurate statistics are not available, it is estimated that approximately 3 Cr ores cases are pending before different courts across the country. While 20 million cases are pending before District Courts, High Courts and the Supreme Court, approximately 18 million cases are reported to be pending before lower courts. There are disturbing stories of ordinary people convicted of minor offenses, who have been languishing in prisons for decades as under-incarcerated inmates. Very commonly, the time spent in jail during the prosecution reaches the statutory sentence permitted by the statute, regardless though the defendant is proven guilty.

Faulty and slipshod Investigation:-

One of the key explanations for the decreasing number of prosecutions is a weak or sloppy inquiry by the authorities, which, in effect, is primarily attributed to insufficient resources for detective work and the reluctance of the police officers involved to carry out day-to-day inquiries with a sense of responsibility and resolve.

Delayed Investigation:-

Most inmates are left to languish in custody when the police may not complete the report and bring charges on time. That is a rather troubling issue, as these criminals live in jail without the need for a court case against them. Proper and prompt compliance of Section 167 of Cr . P.C. However, this challenge can be minimized. Section 167 of the Code lays out the permissible time for the conclusion of the criminal report and for the submission of an appeal before the judge.

Delayed Trail:-

This should also noticed that several inmates are charged with a non-bailable crime, which is not really severe and is open to examination by the Magistrate. They have been in prison for a long time because of the pause in the case. Section 437(6) has been introduced in order to avoid that from occurring and making it compulsory for a defendant to be released on bail if the court has not been completed by 60 days of the first date set for collecting testimony. The Magistrate can, however, deny any publication, but only after the reasons have been reported in writing. Many inmates are kept in jail for a lengthy period of time, which in certain instances stretches past the actual term of incarceration required by the crime of which they are convicted. The system responded to this situation by enacting Section 436-A80, which sets out the right of an under-trial prisoner to apply for bail once he /

she has served one-half of the maximum sentence that he / she would have served had he / she been convicted.

Lack of Coordination between Police and Prosecution:-

The police themselves could not be responsible for the rising incidence of acquittal. The overall effectiveness in criminal inquiries rests on the ability of the prosecuting department to gather and deliver facts before the judge in a compelling and successful way. It provides for a fair measure of cooperation between the investigation agencies and the defense departments on a daily basis, from the submission of the indictment until the conclusion of the case in court. The real issue started with the introduction into force of Cr P C in 1973, when there seems to have been an increasing perception among prosecutors in states that they are a separate branch of the criminal justice system and should not come under the institutional purview of the police establishment. According to the National Police Commission, this attributed to a lack of cooperation between the senior officers of these two branches at the district level which eventually resulted in a poor rate of prosecution.

Unnecessary Detentions Causing Overcrowding of Jails:-

Unlike many other nations, the major factors of overcrowding in Indian jails are, inter alia, the excessive imprisonment of under-trials and the strong intake of short-term convicts. As a product of prolonged incarceration, under-trial inmates make up a significant portion of India's jail population. The key cause for jail overcrowding is that more than 67% of the prisoners are under-trials. The high amount of under-trials are a result of detention and remand rights under Indian rule, delay in prosecution and court and unfair enforcement of the right to bail. Lack of sleeping space and bedding may allow inmates to sleep in shifts in some of these prisons. The largest overcrowding of prisons is observed in the state of Chattisgarh (215.2 per cent) led by Uttar Pradesh (191.6 per cent).

Improvement Needed In Criminal Justice System in India:-

- Simplification of Rules and Procedures.
- Repealing of Outdated Laws.
- Criminal Law Amendment.
- Police as Investigative Agency.
- Judicial Accountability.
- Appointment, Promotion and Transfer of Judges.
- Average Judge-Population Ratio.
- Perjury and Contempt Of Court.

- Efficient Public Prosecutor.
- Transparency of Court Proceedings.
- Time Bound Filling of Vacant Post in the Judiciary.

CONCLUSION:-

For a nation with a wide number of disadvantaged citizens, redress would inevitably be inexpensive and expeditious. Litigation is time-consuming and fairly costly. For that to happen, alternatives to litigation will be offered by the justice system. Moreover, the success or failure of the administration of criminal justice depends upon the efficacy of these allied units. In order for the law to be governed, the system by which it is administered must be adequately measured when mapped out against the three dimensions of justice – substantive justice on merit, timeliness in the disposition of cases, and proportionate use of the resources of the State. Access to justice therefore assesses the fulfillment on these parameters of the individual's entitlement to justice, in order to ensure that legal redress does not become the preserve of a few.

REFERENCES:-

1. 15 & 19 of the Criminal Procedure code 1973
2. Section 11 of the Section 29 (1) (4) of Criminal Procedure code 1973
3. Section 29 (2) (4) of Criminal Procedure code 1973
4. Section 29 (3) (4) of the Criminal Procedure code 1973
5. Sections 7, 9 (1) (2) of the Criminal Procedure code 1973