



Criminal Reforms –Investigation, Prosecution and Sentencing

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Criminal justice is the central element of any national system of Human Rights protection. It is the instrument of social change. The criminal justice system is the network of government and private agencies intended to manage accused and convicted criminals. The criminal justice system is comprised of multiple interrelated pillars consisting of judiciary, police investigations, forensic services, corrections. Article 246 of the constitution of the India places the police, courts, prison, reformatories, and public order. Police is being a front line of the criminal judiciary system, which played a vital role in administration of the justice. Criminal justice system aims on reformation rather focussing on punishment to the wrongdoer. They must realize, reform themselves and get back to the society again.

THE VARIOUS OBJECTIVES OF THE CRIMINAL JUSTICE SYSTEM ARE

1. To punish the wrongdoers.
2. Prevent the further occurrence of crime in society.
3. Regulate the behaviour and conduct of people, especially criminals.
4. Provide relief to the victim.
5. Treatment of offenders and their rehabilitation.
6. To create deterrence in the minds of people at large not to indulge in any criminal activity.

PRINCIPLES OF MODERN CRIMINAL LAW

1. A guilty mind and a guilty act together constitute a crime. It is based on the maxim "*actus non facit reum nisi mens sit rea*".
2. A mistake of fact is a defence in crime but not a mistake of law. (*ignorantia facit excusat, ignorantia juris non excusat*)
3. The law does not permit ex post facto laws, which means that no one can be punished for an offence that is no longer recognized as the offence.
4. Everyone shall be presumed innocent until proven guilty beyond a reasonable doubt.
5. Let Hundred guilty be acquitted but one innocent should not be convicted.

PILLARS OF CRIMINAL JUSTICE SYSTEM POLICE

A state has the duty to ensure the safety of its citizens and maintain peace and harmony in society. This duty is fulfilled by the police force in the country internally, and the armed forces protect the state from external threats. The police are one of the important functionaries of the criminal justice system and have the duty to maintain law and order in society. It protects the citizens from violence, oppression, and disorder.

REFORMS DONE YET

1. Hon'ble supreme court in 2018, by protecting the police officials from political interference.
2. Hon'ble Sc directed all the police station and investigating agencies to install CCTV to check if there is any human rights abuse taking across.
3. In chakkarakkal police station certain measures were undertaken like playing classical music, establishment of library reading rooms for the prisoners.
4. Many committees were formed like padmanabhaiah committee in 2000 malimath committee in 2003 etc.

Recommendation by malimath committee

- i. Creation of permanent statute, permanent committee for suggesting, sentencing guidelines.
- ii. House arrest instead of prison sentence for pregnant ladies and women who have a child less than the age of 7 years, considering the child's future and wellbeing.
- iii. Settlement without any trial in cases where the interest of the society is absent. In case he/she cannot afford to pay a fine, some form of community service could be arranged for the convict.
- iv. Life imprisonment to replace a death sentence without the scope for commutation or remission.
- v. Update Indian Penal Code (IPC) for adding or removing crimes as per the changing times.



5. The essence of all committees culminated in Prakash Singh case vs. union of India case in 2006.

Facts of prakash singh's case

- i. Prakash Singh served as DGP of UP Police and Assam Police, besides other postings.
- ii. He filed a PIL in the Supreme Court post retirement, in 1996, seeking police reforms.
- iii. In a landmark judgment, the Supreme Court in September 2006 had directed all states and UTs to bring in police reforms.
- iv. The ruling issued a series of guidelines that were to be undertaken by the governments.
- v. These were in line with ensuring that the police could do their work without worrying about any political interference.

Verdict by the Apex court

- i. The main directive in the verdict was fixing the tenure and selection of the DGP (Director General of Police).
- ii. This is to avoid situations where officers about to retire in a few months are given the post.
- iii. In order to ensure no political interference, a minimum tenure was sought for the Inspector General of Police.
- iv. This is to ensure that they are not transferred mid-term by politicians.
- v. The SC further directed postings of officers being done by Police Establishment Boards (PEB).
- vi. The idea is to insulate powers of postings and transfers from political leaders.
- vii. The PEBs comprise police officers and senior bureaucrats.
- viii. Further, there was a recommendation of setting up State Police Complaints Authority (SPCA).
- ix. This should work as a platform where common people aggrieved by police action could approach.
- x. Apart from this, the SC directed separation of investigation and law and order functions to better improve policing.
- xi. It also suggested setting up of State Security Commissions (SSC) that would have members from civil society and forming a National Security Commission.

JUCIDIARY

The judiciary is the system of that adjudicates legal disputes/disagreements and interprets, defends, finally does justice. The judiciary right from its ancient times plays a very vital role. In ancient times the lives were governed by Manusmriti, Brahaspati, Smriti etc. In medieval

times sultan /king was the supreme authority who was administrating justice .modern judiciary system involves IPC, CrPc and evidence Act etc. to ensure justice. But still the laws like IPC, CrPc need to be reformed.

REFORMS DONE YET

The digitalization in Indian judiciary in this pandemic was a great reform of criminal justice system.

1. SUPACE (Supreme Court portal for assistance in court's efficiency)
2. SUVAAS translates judgements and other legal documents from English into nine vernacular dialects and vice versa
3. CTNS –criminal tracking network systems
4. Online FIR'S

Recently the Hon'ble SC in the year 2020 while premature release laid directing the UP Government to consider a fresh the premature release pleas of more than hundred life convicts languishing in jail for over 16 years. Further the SC said "The idea of punishment has to be reformative," the bench said, adding, "We do not want to punish persons. They must be reformed and sent back to society. Any policy must consider this aspect of reformation in it," said a bench of justices S Abdul Nazeer and Krishna Murari while dealing with a petition filed by 113 life convicts from Uttar Pradesh for premature release.

The petition by convicts filed earlier this year relied on a premature release policy issued on August 1, 2018, by the state under the UP Prisoners' Release on Probation Act. Every year, on Republic Day, the state granted remission to prisoners under Article 161, the governor's power of clemency.

In January 2020, the petitioners became entitled to premature release as they had completed a minimum of 16 years of imprisonment under the 2018 policy. But they did not figure in the list of prisoners released in 2020 and 2021. On July 28, 2021, an amendment to the 2018 policy was made, restricting the benefit to prisoners aged 60 years and above. The same was to apply retrospectively.

PRISON

Prison is an institution for the confinement of persons who have been remanded (held) in custody by a judicial authority or who have been deprived of their liberty following conviction for a crime.

In the recent past the supreme court of India has been vigilant against encroachments up on the rights of the prisoners. Article 21 held that its protection will be available for the safeguarding the



fundamental rights of the prisoners and also for the effective prison reforms.

REFORMS DONE YET

1. All India prison services-professional career service with appropriate job requirements, sound training etc
2. Adherence of model prison manual 2016 by all states –bringing uniformity in laws, rules and regulations
3. Prison infrastructure-sanitisation, technological up gradation.

CONCLUSION

Criminal Justice system is an integral part of the democratic set up and therefore comprehensive steps should be taken to make the system more effective like recruitment of more efficient police personnel ,judicial officers ,Improving the investigation methodologies, litigation management, plea bargaining etc.