

ASSESSMENT OF INDIA'S CRIMINAL LAW AND JUSTICE SYSTEM: A CRITICAL STUDY

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Abstract: Rule of law, democracy, progress, and respect for human rights are all factors that affect how well governments can handle criminal justice issues. The objectives of criminal justice are to prevent and control crime, uphold peace and public order, protect the rights of victims and those who are in conflict with the law, convict and punish offenders, and generally safeguard life and property from crime and criminality. According to the Indian constitution, it is seen as the state's primary obligation. In the article, many layers of the Indian criminal justice system are highlighted, as well as problems with the system as a whole. The study also discusses the numerous causes of crime and the various groups that are affected by it. The article also discusses proposals and recommendations that can be used to fill in the gaps in the criminal justice system.

Keywords: Criminal law, Criminal Justice, Evaluation, Critical Study, Institutions

1.0 Introduction:

The cornerstone for establishing peace and tranquilly is the criminal justice system of any nation. It includes both the judicial system and the investigative tools. "Criminal justice is one of the most crucial areas of human rights, where the legal system is continually tested to preserve social peace and security on the one hand, and to defend the human dignity of both crime victims and offenders on the other."

The criminal justice system, which consists of the police, the court system, and the prison system, is crucial to the implementation of human rights. According to the 1973 Criminal Procedure Code, the pre-trial process includes both an arrest and an investigation.

A criminal justice system is a group of governmental and non-governmental institutions charged with enforcing the law within predetermined parameters. "Criminal justice is a system of government laws and institutions designed to uphold social control, deter and reduce crime, and punish offenders through criminal penalties and restorative programmes." Criminal suspects are shielded from harassment by investigators and prosecutors.

2.0 The Criminal Justice System's Institutions

The many governmental and non-governmental organisations that make up a nation's criminal justice system are in charge of upholding criminal law. Maintaining law and order in society, preventing crime, enforcing deterrents on offenders to lessen crime, and punishing those who commit crimes are the main objectives of the criminal justice system.

The criminal justice system must also participate in offender rehabilitation in order to fulfil its obligations in the modern sense. According to research on how the criminal justice system functions, each nation's system is supported by the following organisations:

1. A law enforcement agency that conducts investigations (Police and Others)
2. Prosecuting Agency: Attorney for the Defense, Prosecutor, and
3. Judicial System: Jurisdictional and Penal Powers
4. Institutions used as the execution site for punishment: jails and prisons
5. Restructuring Organization for Prisons (Parole, Probation)

Through these Agencies, the State generally addresses crime, criminals, criminal procedural laws, and restrictions imposed by the Sovereign. Criminal prosecution and punishment are recognised as being within the purview of all civilised states. The three primary official criminal justice institutions are the police, courts, and prisons.

Numerous regions of the nation often report allegations of police brutality and abuse. It is well known that an ordinary criminal is met harshly and treated with indifference, indignity, and indignity in police stations.

The criminal justice system is based on the presumption of innocence and the need that the criminal accusation be proven beyond a reasonable doubt in the common law tradition. To truly transform it into a system that promotes justice, the level of forensic knowledge must be raised.

3.0 Deficiencies in the System

The Indian criminal justice system shows that, with only slight adjustments, we are mindlessly adopting the oppressive ideas developed by the British between 1833 and 1862. Significant gaps in both substantive and procedural law were created as a result. In India, the following statutes serve as the cornerstones of the criminal justice system:

1. The 1860-passed Indian Penal Code.
2. The Code of Criminal Procedure from 1973
3. The Indian Evidence Act of 1872 and other Special Local Laws

The Indian government is suffering from outdated and ineffective organisations and agencies, a lack of skilled, trained, and policed human and practical resources, a lack of expertise in inquiries, a lack of “a confession-oriented approach to interrogation and laidback abuse of human civil liberties, a lack of state willingness to take action against abusers of human rights, corruption embedded in the Government machinery at all levels, and a major problem.

Another problem is the prosecution. Selection of the Prosecutor ought to be based on merit, but this is not always the case. Reappoint politically impartial and competent prosecutors. The prosecution has a duty of fair disclosure, which mandates that it present to the court all pertinent information, including information that is advantageous to the accused.

Justice Arthus v. Erbilt once said, “If they (the common citizens) lose respect for the work of the courts, their respect for law and order will vanish with it to the great detriment of society. If they (the common citizens) have respect for the work of the courts, their respect for the law will survive the shortcomings of every other branch of Government.” Prisons and police are both equally responsible for human rights violations. Real life experiences can only be had by visiting prisons. There are numerous instances of unfairness in prisons, and despite two dozen recommendations for reforming prisons, as those in the Mulla Committee report, little has changed in the criminal justice system.

There haven't been any significant modifications to the structure of the Police Administration despite several socioeconomic, political, and other events in the post-Independence era that altered the role of the police, notably in terms of crime prevention. As a result of judicial activism, India's laws governing the police and prisons have undergone considerable revisions.

The criminal justice system in almost every nation has one or more flaws that occasionally call for adjustment. Human behaviour is relative, and the law largely addresses relative behaviour. Prejudice, bias, and self-interest are constant. These institutions' actions, whether they be those of the police, the prosecution, the defence attorney, the judge (and jury), or the jail and penal staff, may be biased and discriminating. The problems must be resolved, and the root causes must be found. The research in this area makes this opportunity necessary.

The criminal justice system as it stands today is a confusing web of independent organisations working together. Justice is delayed, and the court system is occasionally handled improperly. The administration is faced with a number of problems due to the status of the criminal justice system today. However, the criminal justice system in India continues to proceed at a glacial pace and is gravely understaffed and underfunded. This system, like those in every democratic civilised society, aims to provide the greatest sense of security to the general public by dealing with criminals and offenders in an effective, timely, and legal manner.

“Decrease the level of criminality in society by ensuring maximum detection of reported offences, fast conviction of the accused, implementation of suitable sanctions on the convicted to achieve the aims of justice, and preventing recidivism,” reads the mission statement. It is important to note certain recent modifications made to the court delivery system to seek reparations and bring justice to the underprivileged. It is impossible to exaggerate the importance of these developments for the administration of justice. They have changed our judicial system and will do much to relieve the plight of the common person and the masses. The country's superior courts' initiatives to modernise the criminal justice system have also led to paradigm shifts in prison reform, the care of those who are still being tried, and victim rehabilitation.

4.0 Constitutional Perspective

Every Constitution incorporates these ideas that make up the “Spirit of the Constitution,” and the Indian Constitution is no exception. When our pen runs out, we must write this with great delight. According to the ruling in the Kesavananda Bharti case, every syllable of our Constitution's Preamble is sacred and is considered to be a part of the document itself. All state organs, including the legislative, judicial, and executive branches, must abide by the

constitution, which is the supreme law. The judiciary has also been crucial in enforcing justice and correcting injustices, as well as in preventing and stopping the abuse of power.

Some essential components of constitutional law include:

1. It is the law that is best for everyone.
2. It is a legal regulation, and the government is not allowed to impose laws arbitrarily.
3. The Constitution's tenets will be considered to have been violated.
4. It refers to popular government. According to the definition of law, it is "to strike a balance between the conflicting interests of an individual and the social interests of society."

In the following two chapters, the relationship between constitutional principles and criminal jurisprudential stances will be covered. Others are linked to fundamental duties, while others are related to state policy directive principles. The Supreme Court's definition of acceptable constitutional standards and principles also has something to do with it. Humans' presence on Mother Earth is intrinsically related to fundamental rights.

Article 21 of the Constitution guarantees the right to a prompt trial. "No one's life or personal liberty may be taken away unless done so in line with legal procedures, states Article 21 of the Constitution.

According to the court in **Mohd. Hussain**, a three-judge panel, Article 21 ensures prompt justice and a fair trial for an accused person. The court further declared that every criminal prosecution must adhere to the procedure provided in the code. The accused must be given a reasonable opportunity to present his defence while adhering to the rules of evidence. Likewise, the notion of liberty is intertwined with the notion of a speedy trial. Every person's spirit is freedom, and personal freedom has its own grandeur.

"There can never be any debate that without liberty, human dignity is likely to be comatose," the Court ruled in **Dharmendran Kirthal**. The use of a ventilator cannot jeopardise a person's liberty "The accused in Indian criminal law is in a better position than they are in other countries. The criminal justice system in India places a significantly higher value on human rights and the dignity of human life.

Our legal system's greatest strength is that under Indian law, an accused person is presumed innocent unless and unless they are found guilty. In addition to justice and an exhaustive investigation, the accused has a right to a fair trial. Additionally, the prosecution anticipates participating in the trial in a fair and impartial manner. The investigation must go swiftly in addition to being prudent, fair, and transparent. It must be safeguarded by the law. These principles serve as the cornerstones of our criminal code and are entirely consistent with the constitutional requirements outlined in Articles 20 and 21 of the Indian Constitution.

Section 309 of the Code of Criminal Procedure may also be taken into account in this situation. A three-judge panel in the case of **Haji Hussain** concluded that a fair trial must treat the accused and the prosecution equally.

The judges further held that this dual viewpoint must be taken into account when determining the fairness requirements for a criminal trial in the same instance. In a criminal trial, witnesses must be able to testify without being coerced or threatened by either the prosecution or the defence.

It is forbidden to conduct a criminal trial in such a way that the prosecution results in the conviction of an innocent party or that the party who actually committed the crime is exonerated. The Hon'ble Supreme Court declared in **Krishnan and Others** that "the goal of a criminal trial is to provide justice, and not merely to punish the criminal but also to see that the trial is ended swiftly before the memory of the witness goes away."

However, the contemporary trend is to postpone the trial while threatening the witness or attempting to influence the witness through inducement or promise. Additionally, the court ruled in the same judgement that these errors must be stopped and that maintaining public justice will only be possible if the trial is concluded soon.

In a scathing statement in **Swaran Singh**, the court noted that it has more or less been customary in criminal cases to continuously adjourn until the witness becomes weary and gives up. Additionally, the judges claimed that unjust lawyers manipulate the trial to obtain continuances for a variety of factors until a witness is won over or wears out.

The courts even went so far as to state that intimidation of a witness does not only include abduction, injury, death, or bribery. In this decision, it was also noted that adjournments without a solid justification lead to injustice.

When remarking on the threat made to the case's informant in **Ambika Prasad**, the defence attorney begged for a postponement so they could question the witness in depth. The court noted that the Sessions Judge "should have

fulfilled the mandate of Section 309 CrPC to complete the trial by scrutinizing the witnesses day by day and not providing the accused a chance to frighten or win over the witnesses so that they do not support the prosecution.”

According to **P. Ramachandra Rao's** assessment According to the larger bench, the state has a fundamental duty to provide speedy justice, notably in criminal matters. The court further ruled that it is past due for the United States government and other states to acknowledge their commitments under the constitution and take concrete actions to improve the administration of justice.

Speedy trial and fair trial are at risk when Section 309 of the law is disregarded. As a result, it goes against constitutional values as well as the law. The accused's fate is on the one hand, while the victim's or his family's hopes, as well as the public clamor for justice, are on the other.

5.0 Determining Crime

Crime is a feature of society. Studies in criminology and penology connect crime to the fundamental nature of the human psyche. But in today's society, it is crucial to punish those who carry out heinous crimes since they violate others' rights and, as a result, fail to fulfil their own obligations. The preservation of each person's rights, which is the cornerstone of modern democracy, depends on crime prevention.

Investigating the causes and effects of the force being avoided is crucial. Even while the results of crime might range from minimal harm to the denial of a legal right to life, the causes can be intricate and multifaceted. In this article, a multifaceted view of crime is investigated, first in connection to domestic abuse as a crime and later in general.

Crime prevention refers to “any effort made by a person or an organisation, whether governmental or private, to prevent crime from occurring or from spurring additional activity. Using the public health paradigm, some theorists have made the distinction between primary crime prevention (universal), secondary crime prevention (at-risk), and tertiary crime prevention (known offenders). 143

Crime reduction: “Crime reduction aims to lessen both the incidence of criminal activity and its consequences. Crime reduction must be viewed as an action that provides net benefits, reduces crime fear, and takes other programmes' effect into account that may have influenced a particular crime reduction activity within the constraints of a resource's input range (e.g., financial input). It attempts to interfere directly in the circumstances and causes of crime. Crime reduction develops the assumption that taking action to solve an issue would lessen crime or the severity of criminal occurrences.

Crime Control: “Crime control presume that criminal behaviour has already taken place and that some control over these unlawful actions is required to keep them under control.” In contrast to a situation where crime can be averted, it emphasises the necessity to sustain an issue where crime is kept to a manageable level.

“Prevention is the first thing justice needs”

“Crime prevention refers to techniques and policies that act to address the myriad causes of crime in order to reduce the possibility of crimes occurring as well as their potentially harmful effects on people and society, such as fear of crime.”

It takes a multi-sectoral, multi-disciplinary, and coordinated effort to prevent crime.

The preface to the Guidelines for the Prevention of Crime states that there is “clear evidence that well-planned crime prevention measures not only reduce crime and victimisation, but also increase community safety and contribute to countries' sustainable development. The quality of life for all people is improved by effective and wise crime prevention. By reducing the costs of the formal criminal justice system as well as other societal costs associated with crime, it will ultimately save money.

Such strategies and action plans are supported by the core principles of crime prevention. Government leadership at all levels is necessary to establish and maintain an institutional framework for effective crime prevention.

6.0 Crime Prevention and India Laws

To understand why people commit crimes, criminology research seeks to answer this question. It is believed that crime will increase as humankind and civilization develop. Given that crime has existed since the dawn of humankind, punishment may be the oldest type of judicial system.

The oldest man's methods of punishing criminals were an eye for an eye and a life for a life, but civilization has advanced significantly since then, and a system has been established to bring offenders to justice in civilised society. Actually, attempts to limit supposedly “evil behaviour” date back to the Babylonian Code of Hammurabi, which was written 3700 years ago.

The Indian Penal Code of 1860, the Criminal Procedure Code of 1974, and the Indian Evidence Act of 1872 are the primary laws that direct the executive and judicial branches of government in India to apprehend, hold, prosecute, and punish criminals. These laws are supplemented by others like the Juvenile Justice (Care and Protection of Children) Act of 2015, the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redress) Act of 2013, the Protection of Women from Domestic Violence Act of 2005, and so on.

After it was discovered that a physical act, or *actus reus*, was conducted with a guilty mind, or *mens rea*, these laws were developed to target each distinct criminal conduct and to strengthen the actions taken against it in order to limit the prevalence of these crimes.

A brief look at this arrangement prompts the observer to reflect on the fact that India has passed an astounding number of such laws. There is no doubt that India has no issues with a shortage of laws and regulations. However, there are many shortcomings in these laws, including their poor quality, narrow scope, internal ambiguity, and incompatibility with the customs and attitudes of all social classes. For instance, minority women abuse domestic violence laws to harass their in-laws, while true victims are unable to access the law and its applications due to social and economic barriers.

The law against sexual harassment at work only applies to men harassing women, disregarded the possibility that a transgender person would be harassed at work, or that a woman might harass a guy, or that a man might harass another man.

More importantly, rather than serving as a bridge between these laws and the courts, the ineffective and frequently corrupt operations of a severely underfunded and abused executive branch as well as bureaucratic indifference. It is crucial to go back to criminology and look at the reasons why crimes occur in order to choose the best method of prevention.

Aristotle, a prominent philosopher, wrote in his writings that poverty is the root of rebellion and crime. The parallels established between the 2019 Hyderabad Vet Rape Case and the 2012 Delhi Gang-Rape Case show that both crimes' allegedly identical offenders were from low-income families and had lived in poverty their entire lives.

The perpetrators of such heinous crimes don't seem to care about the consequences on the judicial front. This demonstrates another reason for crime—our court system's failure to hold perpetrators accountable. Lack of education is mostly to blame for rising crime and drug and alcohol abuse rates. As a first step in crime prevention, a thorough assessment of the legislative, executive, and judicial processes is required because these elements exist regardless of whether there is law.

7.0 Measures That The Government Can Take

1. The government has historically worked to reduce crime and is currently taking action to address anything from small-scale theft to significant frauds, kidnappings, and homicides. The Indian social structure as a whole is being protected to the best of our government's ability, and it is putting in place various tools and legislation to combat crime and its repercussions. The government can employ the following techniques to reduce crime:
2. Thanks to developments in criminology, we now have ways to gather empirical data to concentrate on hotspots or habitual offenders in order to avoid or decrease violence.
3. The executives' main focus should be on preventing the circumstances that contribute to criminality and, ultimately, the commission of crimes. Punitive measures should be employed as a last resort and only after exhausting other options in a deliberate, integrated, and coordinated approach.
4. Cyberspace has developed into a hotbed of violence in today's society. Online crimes range from recruiting for extreme groups, coercion, and fraud to assassination videos. Recognizing that crime has moved to the internet and that it is past time to take decisive action against it is crucial.
5. Governments should work to create a system based on a balance between prevention and repression as well as measures for rehabilitation that would significantly alter people's attitudes and, as a result, lessen criminality.
6. Most importantly, laws ought to be drafted in a way that allows crimes to be stopped early, eliminating the illegality that causes crime.
7. In India, crime trends and rates have changed significantly during the past 40 years. Small crimes like burglaries have declined, while crime against people has always been on the rise.

8. It's also important to note that crime rates have increased throughout the 1990s, which suggests some level of depravity. According to a global assessment, India's general crime problem is less severe than that of the United States or Latin American nations, but the crime rate is nevertheless rising. Crime in India is influenced by societal, political, and economic factors. If these factors can be controlled and stabilised, which will reduce the overall crime rate, we should anticipate an improvement in the crime situation.

8.0 Law and Justice Reforms

According to an examination of the data on judicial reform in many nations, those aiming to boost economic performance should not only concentrate on judicial efficiency but also on independence. It also demonstrates that judicial performance is largely unaffected by the amount of resources invested in the system and its accessibility. The main causes of judicial stagnation are insufficient incentives and overly complex processes. The best solutions for the issue appear to be incentive-oriented reforms that aim to promote accountability, competition, and choice. But incentives by themselves cannot address persistent judicial misconduct. Justice system stagnation requires procedures to be made more flexible and simplified.

India's judicial system appears to be in disarray. Criminal and civil matters are piling up and taking much longer than they ought to. Millions of cases are still pending on top of that, and the low percentage of judges in the population is the cherry on top. These serious issues put our system of providing criminal justice at serious risk, hence it is urgent that specific measures that can make a little contribution be made. If one is consistent enough, every step—no matter how small—becomes a significant one.

1. "Measures should be put in place to encourage transparency in decisions in order to prevent prejudice.
2. The number of judges in courts needs to increase. The backlog of cases may be reduced with the rise in efficiency if the shortage of judges and inadequate courtroom facilities were adequately handled.
3. To prevent pointless lawsuits and save the courts' time, there should be a set mandatory pre-litigation procedure in place.
4. To increase confidence in the court's efficacy, an independent executive body might be established with the sole purpose of ensuring the enforcement of judgements issued by the court.

9.0 Conclusion

In India, a social defence "planning strategy" has prevented crime prevention planning from being integrated with more comprehensive national and state plans. This limitation, which is based on conjectured theories about the causes of crime, compartmentalizes crime within the confines of social problems.

Similarly to this, placing too much trust in law enforcement and surveillance ignores how other factors affect crime rates and the possibility that police intervention may not have much of an impact on crime or the likelihood of being imprisoned. Lack of criminology and policy integration, as well as a lack of cooperation between federal and state policy, make planning even more difficult.

Finally, partisanship and bureaucracy thwart sound planning. As a result, the criminal justice system needs to be more adaptable, flexible, and integrated into planning and policy. It also needs to transition from a narrow law enforcement focus to one that takes into account more extensive crime prevention issues. The Module first establishes that there are theoretical and practical elements to crime prevention before elaborating on the essential concepts of various crime prevention typologies using examples from around the globe. Additionally, it examines how law enforcement and the criminal justice system might help reduce crime. It provides innovative examples of these efforts from throughout the globe, such as problem-oriented policing. The protection of human life, improved long-term well-being, increased social cohesiveness, and the preservation of property and resources are just a few of the advantages that crime prevention offers, but it is important to remember that it has drawbacks as well.

Last but not least, the variety of typologies and examples presented in this chapter demonstrate that crime prevention is neither universal nor unique. Different regional and local settings have important legal, cultural, and political variables that affect how crime prevention is conceptualized and put into practice.

The best crime prevention strategies pay attention to the needs and rights of people in particular situations as well as the needs and rights of the most vulnerable community members.

Finally, I'd like to state that the results showed my hypothesis to be accurate. I was right to assume that there are serious human rights breaches occurring inside the framework of the human rights system, but we have offered answers for those issues, which we hope will soon be implemented in our nation.

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