

CRIMINAL JUSTICE AND POLICE REFORMS IN INDIA FOR THE SEQUENCE OF CRIMINOLOGY AND CRIMINAL JUSTICE

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Abstract : India is the largest democracy in the world but regrettably, the criminal justice system's shortcomings have caused it to lose some of its luster over time. As a result, the judicial system needs to be reconsidered and reformulated in order to handle the issues of the present. We are in a critical period of time due to the intense drive for justice. There are some gaps in the policy framework that call for the creation of various tactics and strategies that can be successfully incorporated. Therefore, it is important to look at the system's targets in order to comprehend the criminal justice system better. According to the Constitution, states are in charge of police matters. The 29 states all have their own police forces as a result. In order to help the states maintain law and order, the centre is also permitted to keep its own police forces. As a result, it keeps seven core police units and a few additional police organisations for specialised jobs including gathering intelligence, conducting investigations, conducting research, preserving records, and providing training. Police forces' main responsibilities are to uphold and enforce the law, look into crimes, and protect national security. To effectively carry out their duties in a big and populous nation like India, police forces must be well-resourced in terms of personnel, equipment, and forensic, communication, and transport support. Additionally, they must be given the operational freedom to carry out their duties in a professional manner as well as favourable working conditions (such as set working hours and prospects for advancement) while nevertheless being held accountable for subpar work or the abuse of their authority. This study gives a general review of the Indian police system and identifies the major problems that interfere with it.

Keywords: Criminal Justice, Reform, Criminology, Police Reform, Judiciary, Bail, Commission Reports

1.0 Introduction

The goal of the criminal justice system is to provide public justice, to punish the offender, and to ensure that the trial is over quickly so that the witness's memory is not lost. Doing justice during a criminal trial includes not only the accused but also the victim and the community. to keep law and order in place. Not only does a judge oversee a criminal trial to ensure that no innocent person is punished, but also to ensure that the guilty party does not get away with it. Both are obligations the judge has to the public.

Therefore, courts should always work to uphold the public's confidence in the administration of justice by ensuring the notion of human rights in that administration.

2.0 The System of Criminal Justice Needs Reform

Change is a constant in today's world, but India's "criminal justice system" is still in need of improvement. These are the causes of a lack of accountability, inefficient law enforcement, delays in case resolution, untrained police, a backlog of cases in the courts, and subpar prison conditions.

These are all serious issues with the criminal justice system. The administration of the criminal justice system in India follows the Anglo-Saxon adversarial paradigm. It consists of three key institutions: the police, judiciary, and prison.

3.0 The Criminal Justice System's Elements: The Current Scenario

3.1 Issues With the Indian Police System

Two significant issues with the Indian police system are frequently raised: violence in jails and improper political involvement in police administration. Every police officer must be aware that it is illegal for them to do even the slightest physical harm to anyone unless they are acting in self-defense, as stated in the case of Sunil Batra v. Delhi Administration, 1980, which was decided by a number of high court and Supreme Court judgements.

In that sense, the law puts him on an equal footing with other citizens, and he is only permitted to use physical force in the exercise of his right to self-defense to the extent that is reasonably necessary to repel any assault on him. Additionally, the National Human Rights Commission has stepped in on multiple occasions to stop this violence in the prison system. There are still claims of mistreatment in police custody and fatalities despite all of these precautions.

3.2 Police Power and Corruption Abuse

With only a few notable exceptions, India is infamous for the lower levels of the police extorting money at every opportunity. At the same time, the police's duties are regularly and openly disregarded, and performance is only possible at the expense of the organization's reputation, leading to rampant corruption and human rights abuses. They have carved out a dazzling shape with a multitude of sinecures that allow them to climb in rapid stages because of politicians. They are totally dependent on the federal government.

The Berlin-based NGO Transparency International classified India as the 95th most corrupt nation out of 183 nations in its 2011 corruption perception index. Police corruption primarily consists of two major components: abuse of authority and personal gain. One of the main causes of this is the police force's extreme politization and loss of professionalism. Politicians that prioritise personal wealth over the common good have an impact on them. The main areas where they interfere are in appointments, transfers, rewards, and punishments.

Bribery is referred to be “the exchange of money or something of value between the police and the perpetrator.” Violence, phoney encounters, sexual harassment, custody crimes, and the unauthorised use of weapons are among the other police offences. Lower-level police officers’ overt actions of corruption have a significant impact on the public perception of the police. daily, numerous police policemen. In most localities, the street vendors and the police come to an understanding over the “Mamool amount” (bribe) that must be paid to the police.

Police rumours claim that the cash demanded from these people reaches higher levels. The developing relationships between police officers at all levels and operators in big cities like Mumbai, Delhi, Kolkata, Lucknow, Ghaziabad, and Hyderabad is another worrying trend. These mafia syndicates bribe the cops, and it goes unreported. Delays are one of the most frequent causes of corruption. According to the Santhanam Committee report (1964), administrative delays are one of the main causes of corruption, and delays are frequently created to obtain illegal gratification. According to reports, “speed money” has increasingly become a common form of corruption, particularly in situations when licences and permits are being granted.

Police have a crucial role in the administration of justice since they are the front line of the criminal justice system. Comprehending the criminal justice system is therefore necessary before understanding the police. The police, public order, courts, jails, reformatories, and other related institutions are included in the State List under Article 246 of the Indian Constitution. The next pressing issue is how to hold law enforcement responsible. Which is an essential component of the criminal justice system in India? We shall assess this issue in the section that follows.

3.3 Police Accountability

The Indian Police Act of 1861 is an old law that was created during the colonial era to repress the populace. Unfortunately, the Indian government refuses to make any changes to this colonial rule despite repeated requests from The National Police Commission. Furthermore, unlike in the UK, where the Independent Police Complaints Commission (IPCC) oversees and looks into public complaints against the police and has the authority to take over the supervision or investigation of any complaints case³, there is no such provision of the accountability of the police in the Police Act of 1861. In contrast, this component is lacking in the Indian Police Act. It is abundantly clear from the cases concerning the atrocities of the police that frequently appear before the court that some are as humans and do not actually infringe the law. The collapse of civilised civilization will occur if the protector turns into the predator. According to the Bible, if salt loses its flavour, what should be done next?

Kishore Singh and others: Central Bureau of Investigation

What should happen to police officers who “Bobbitt” a person in a police station and believe they can get away with it, asked Hon. Justice Markandey Katju in the aforementioned case? The case's decision on that issue. According to the court, because it is their role to safeguard the salted, police officers who commit crimes should face greater penalty than other perpetrators. Or “who will watch the praetorian guards,” as the ancient Romans used to ask.

Since the police are charged with keeping the public safe and upholding the law, it becomes challenging to ensure the preservation of human rights if they turn into criminals.

Mehboob Batcha and others v. State, represented by Markandey Katju and Gyan Sudha Mishra, superintendent of police.

The Supreme Court ruled in the current instance that a police officer being murdered while under arrest is an extremely unusual occurrence. They should be executed, and we want to tell every nation that this will not be tolerated. Additionally, the court affirmed that custodial abuse in police custody violates the rulings in **D. K. Basu v. State of West Bengal and A.S. Mohammed Rafi v. State of Tamilnadu**.

The victim of the police custody death received 1.5 lakhs in compensation from the court in the current case. Apart from the situations mentioned above, the illegal and arbitrary arrest by police is the one that is the subject of the most intense dispute. Therefore, it is crucial to record, research, and evaluate some case laws in this area.

3.4 Legal Perspective on Arbitrary Imprisonment and Arrest

The ability of the police to make arrests is frequently and flagrantly abused. The following cases can be used to analyse this.

Many cases have seen the Apex Court issuing specific guidelines about the arrest, such as *D.K. Basu v. State of West Bengal* in the present case, where the court expedited the arrest process. In this decision, the court reaffirmed that Articles 21 and 22 (1) of the constitution provide protection from arbitrary arrest and that these provisions must be scrupulously upheld. In *Joginder Kumar v. State of the U.P.*, the Supreme Court imposed definite limitations on the ability of police to initiate arbitrary arrests.

The rulings in the aforementioned cases are truly ground-breaking. Therefore, it is imperative to examine the President's authority as set forth in Article 372(2)⁹ of the Indian Constitution which provide the President the authority to change the legislation to comply with the Constitution?

4.0 Judiciary

The courts' most crucial responsibility is to uphold and defend human rights while also giving victims' rights redress. Such a duty and obligation are essential in a democracy. The current criminal justice system in Indian courts aims to defend all of the accused's rights, including the presumption of innocence, the legal right against arrest, and double jeopardy, among others, by paying closer attention to the accused. Undoubtedly, the accused are entitled to all of these protections, but given the current state of affairs, it is also expected that the courts will give witness and victim attention.

The court's responsibility in a criminal case is to ensure that the inquiry is conducted in a compassionate manner.

What should the court do to change the criminal justice system is the essential question here. The judiciary is essential to the execution of the rule of law, as we just mentioned. Additionally, it is apparent that many sections in the law itself have the potential to significantly alter the criminal justice system if properly implemented.

The article's next section deals with a study of these clauses.

5.0 Restrictions on the Arrest's Authority

The Criminal Procedure Code, 1908, specifically Sections 41, 42, and 151 of the code, grants the police fairly broad powers of arrest. There are numerous incidents that demonstrate how police officers abuse their authority. As a result, the idea behind the arrest process must stem from Articles 21 and 22 of the Indian Constitution. Therefore, it is the magistrate's responsibility to confirm that all conditions for the arrest have been met. There is a new Section 436-A of the Criminal Procedure Code that deals with the "Maximum period for which a prisoner under trial may be kept." The objective of the purpose of this Section is to protect the arrested person's human rights. The judiciary is now in charge of ensuring that this right is fully realised. In addition, the court should be aware of Section 310 of the Criminal Procedure Code, which reads as follows: "Any Judge or Magistrate may, at any stage of any inquiry, trial, or other proceeding, after due notice to the parties, visit and inspect any place in which an offence is alleged to have been committed, Inspection."

Therefore, it is abundantly clear from the aforementioned Section that a magistrate has the authority necessary to properly realise human rights at any level of an investigation.

6.0 Limitations on the Cases' Ability to be Postponed

The idea of granting an adjournment in certain circumstances is now the norm rather than the exception. This is one of the main causes of case disposition delays. Even though Order XVII, Rule 1 of the Civil Procedure Code, 1908, expressly forbids adjournment more than three times, in actuality there is little significant worry about it. To ensure the swift resolution of cases, the Courts should keep in mind this clause.

6.1 The Judge Needs to be Sensitive: The Administration of Justice Requires Judges to be More Proactive in Their Approach.

They are free to exercise their judgement as they see fit as long as it serves the interests of justice. Because of their antiquated mindset, some judges rule themselves out of helping to advance the criminal justice system. Old-fashioned judges believed that justice could only be served in accordance with a precise interpretation of the law and focused on the letter of the law. Because of this, judges should peer out the window to observe how their decisions affect regular men and women. Justice therefore does not only reside in the mind of the judge. It's there in his heart as well. Justice is the outcome of the fusion of the heart and the mind. Therefore, criminal justice reform today is a serious problem, and judges' active participation in its implementation is crucial for its successful implementation.

6.2 With Regard to the Bail Application and Remand Order, Due Care and Causation

Beginning with the grating and declining the bail, there are no strict guidelines. Every case should be judged in light of its unique facts. However, it should be decided for prudent use of the judges' discretion. Section 436 of the Cr.P.C. contains the law governing crimes that are subject to bail. Comparably, Section 437 addresses offences that are not subject to bail. The courts now have a responsibility to use due caution and care while granting or rejecting bail.

6.3 The Authority to Remand

According to Section 167 of the Criminal Procedure Code, a magistrate has the authority to order someone held in custody for a maximum of fifteen days at a time, either in police or judicial custody (in case of police custody, only for initial fifteen days). Since judicial approval of detention amounts to a restriction on personal freedom, proper care should be taken when approving the detention of an accused in police or judicial custody after the accused is produced. Therefore, before issuing the order, the magistrate has a duty to review the case diary and all relevant facts.

6.4 Case Analysis

Joginder Kumar v. State of the UP, Case

The courts have established the following rules:

- A person who has been arrested and is being kept in custody has the right, upon request, to have one friend, relative, or other person who is familiar to him or likely to be interested in his welfare informed, to the extent that it is practical, of his arrest and the location of his detention. When the arrested person is brought to the police station, the officer must inform him. The entry regarding who was informed of the arrest should be required to be written in the diary. It must be assumed that Articles 21 and 22 of the Indian Constitution provide this protection from authority.
- Union of India and others v. Nahar Sing Yadav and others. A true and fair trial is a requirement of Article 21 of the Constitution, the court said in the present case. As a result, it is abundantly obvious from this case that the administration of justice by the court should be done with care and caution at all times.

7.0 Prison

7.1 Prisoners' Rights have been Violated: In India, the captives' living conditions were appalling. Law enforcement officials are to blame for widespread violations of human rights, such as the arbitrary taking of life during reported confrontations, fatalities while in detention, and the indiscriminate use of guns. According to the national crime records bureau of the Indian government, 42 civilians were killed by police gunfire and eight people died while being held in jail in 2005. In addition, 87 people at least died in reported interactions between January and March 2005 alone, compared to 238 in 2004 and 214 in 2003. Therefore, it is the responsibility of all Courts to visit the prison on a regular basis as well as unexpectedly to check on the inmates' well-being.

8.0 Suggestions and Conclusion

There are various recommendations that are crucial to ensuring the criminal justice reform, including as

1. Courts need to be periodically inspected.
2. There are several cases ongoing in the courts at the moment, but sadly, there is no reliable information available in this respect. In addition, neither the Supreme Court nor the High Courts publish an annual administrative report regarding the status of the cases.
3. The government must now obtain permission (per Section 197) before prosecuting a public official under Section 166 of the I.P.C. This poses a significant obstacle to the exercise of the authority granted by that section. Consequently, it must be withdrawn.

4. Even the National Police Commission 1979–1981 recommends the repeal of Sections 132 and 197 of the Criminal Procedure Code in its eighth report.
5. The fact that the majority of laws in force today are out-of-date and that the punishments they mandate are so mild and insignificant as to have no bearing on the crime problem is a scandal. An example of it is the Police Act of 1861.
6. The cases must be assigned based on the person's area of expertise. The Malimath Committee (24 November 2000) also advised against assigning cases without taking specialisation into account because it would cause delays in case resolution.
7. Because the Police Act of 1861 places direct control over police supervision in the hands of the political executive, or state government, there is a need to lessen political influence. Currently, the Chief Minister is free to terminate the Head of Police's (Director General or Inspector General) employment at any moment. He or she has the right to be fired from the position at any moment and without giving a cause. The police have been widely politicised as a result of this situation.

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- v. AIR SCC 371 Supreme court cases weekly , 2011 Vol 6
- vi. AIR (2011) 7 SCC 46.
- vii. AIR (2011) 1 SCC 688.
- viii. AIR (1998) 6 SCC 380.
- ix. AIR (1994) 4 SCC 260
- x. 9 Article 372(2) For the purpose of bringing the provisions of any law in force in the territory of India into accord with the provisions of this Constitution, the President may by order make such adaptations and modifications of such law, whether by way of repeal or amendment, as may be necessary or expedient, and provide that the law shall, as from such date as may be specified in the order, have effect subject to the adaptations and modifications so made, and any such adaptation or modification shall not be questioned in any court of law.
- xi. AIR 1994 SC 1349.
- xii. AIR (2011) 1 SCC 307. Para 21.