

**A STUDY ON THE CONCEPT OF CRIMINAL JUSTICE SYSTEM AND POLICE
SYSTEM**

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ABSTRACT-Criminal justice system, as an area of academic study and research, continues to be more or less a sub description of justice system. Consequently, barring a few developed countries, the study and research on criminal justice have yet to receive wider academic attention and acceptance in spite of spiraling crime and criminal violence all over the world. Theoretical knowledge building for criminal justice administration involves a difficult and delicate exercise since it deals with crime which happens to be one of the most complex problems of modern civilization. Police has also an significant role in investigation and maximum amount of freedom is given to them to see that for want of power they do not fail in preventing crimes. Moreover, the police still now investigate the crime through traditional methods of investigation without adopting scientific method. The contribution of the Report of the Mallimath Committee cannot be undermined in criminal justice system. In this study we will study concept of criminal justice system & the role of police in India.

KEYWORDS-Criminal Justice System, Role of Police, Mallimath Committee, Reform

INTRODUCTION

Criminal justice administration, as an area of academic study and research, continues to be more or less a sub description of justice administration. Consequently, barring a few developed countries, the study and research on criminal justice have yet to receive wider academic attention and acceptance in spite of spiraling crime and criminal violence all over the world. Political Rights mark the revolving the international instruments that constitute a code of Human Rights

& set an international standard for the protection & promotion of human rights in the CJS. In India, the genesis of human rights can be found in Vedic Scriptures of Hinduism. The Vedas, the metrical religious works on the ancient Hindus, constitute the basis on which the Hindu law is built.

In the CJS person self-respect has interpreted as a significant reform so far as the under trial prisoners are concerned. The rule of law has recognized in a numeral of instances on poor under trial prisoners rights that they must be treated like human being and their treatment even in the police custody or jail custody must conform to the basic standards of humanity and fairness, i.e. the assurance of custodial dignity. By realizing the problems of sufferings and sorrows, India has made the most serious efforts to enact the protection of Human Rights Act.1993, at national and state levels to protect and enforce the valuable human rights.

There is a deep concern at the growing incident of custodial crimes occurring in different part of the country. Complaints of misuse of power & torture of suspects in custody by the police & another law enforcement bureau that have the power to detain a person for interrogation in bond by investigation of an offense. Lately, these reports have acquired troubling proportions of the occurrence of torture, abuse, extortion, sexual harassment & death in detention. Compared to certain offences & custodial offenses, they are especially egregious & rotating, representing the abuse of the custodial faith of the police officer toward the defenseless resident. Custodial crime infringes the law, human dignity & human rights. Police brutality & abuse of authority is also prevalent in many other countries around the world. Use of extra legal methods by the police has also been noticed even in advanced democratic countries. Police atrocities are a common feature of Indian scenario. The violations take place under the guard of uniform & authority, among the four walls of the police station, the lock-up & prison, in which the victims are completely vulnerable. It we can remember the words of Mahatma Gandhi, who wrote, "it's always been a wonder to me how people can feel honored by the embarrassment of their fellow-feelings. several of the common features of human rights violations are the brutality of the arrested person, the detention of offenders who would be in regular police custody & police stations, and the refusal of jail trials. In India, the Supreme Court had also defined the adoption of additional legal methods & consequent violation of human rights by the police in several cases as possible. Torture causes a traumatic experience to the victims and creates a deep wound in his psyche. It

cannot easily be healed. Custodial torture is a naked violation of person dignity, destroying individual identity. As such today, the word torture is becoming synonymous with dark side of civilisation. Reports on illegal detention, torture, custodial rape and encounter deaths occasioned by police and paramilitary forces shake up the nation's conscience and expose the country's human rights trace to widespread criticism.

There is a need to policing the police and to balancing the societal interest and individual rights vis-a-vis the law of confession and the right against torture, lists causes for public displeasure with the police & offers a blueprint. An action plan is proposed by the Mallimath Committee, for developing a human rights friendly police by plan the legislative framework assuming same rights to individuals in the criminal process & also preventive the utilize of force by the police whereas exercising their investigatory power in the CJ delivery system. Police has also an imperative role in investigation and maximum amount of freedom is given to them to see that for want of power they do not fail in preventing crimes. Moreover, the police still now investigate the crime through traditional methods of investigation without adopting scientific method. A brief account of the principles and techniques of forensic science such as D.N.A. test, blood test, Serum test and their uses and limitation and constitutional validity as well as superiority over other normal serological method of identification is an important matter of consideration. Unequal status of women around the world being offensive to human dignity and violative of human rights has emerged today as a fundamental crisis in human development. The fight against unequal law and for equal status by women resulted in series of International Conventions. The right of women & child in custody and juvenile delinquent occupy an important field in dispensation of justice. Special care is required to be taken to protect the dignity not only of the women accused and juvenile delinquents, but also the victims of rape & other sexual offences. A huge compact of judicial acumen is required in cases involving women and children.

Criminal Justice System

This is the structured to protect law & order and deter crime. There are various forms & methods of dealing through criminal justice:

- **State Criminal Justice:** This body is responsible for a particular state & crime committed in that state.
- **Federal Criminal Justice:** This entity is liable for the federal sections of India & the affairs of one or more states.

These are indeed the two ways in which the judiciary can process a criminal trial. Consequently, the influence of the state is liable for criminal cases within the region. Five components have a major role to play in the justice system. Such five components are, consequently,

- Law Enforcement – Law Enforcement officials report the crime in their area. We also set up inquiries to preserve criminal evidence. It is an essential part of the criminal system.
- Defense Attorney-Defence Attorneys are defense lawyers who comprise the defendant in court against the state. The Attorney employs these attorneys for the case of the appeal. Since both sides' attorneys are involved, they are an integral part of the criminal system.
- Prosecution-The prosecution is the lawyer who protects the state or the federal government & not the victim. They are reviewing the proof presented by the law enforcement authority. They start deciding whether to press charges or to dismiss the case.
- Courts-The judges are the ones who take decisions in the courts. They are the supreme body of justice. They determine whether to discharge the prisoner before the court and also accept or reject plea agreements, monitor the prosecution and punishment of the convicted offender.
- Corrections-Correction officers are responsible for ensuring facilities which hold offenders are safe & secure. They manage the day-to-day care of the inmates. They also monitor the transfer of inmates & sometimes warn victims about improvements in the offender's status.
- The CJS process is the entrance of the scenario into the phase characterized by prosecution & pretrial, accompanied by the Trial process, also recognized as adjudication, followed by the Post-Trial procedure. This is the manner to be followed for the justice system. The objectives of criminal justice are
 - To maintain Law & Order in the society.
 - To punish the criminals.

- Prevent the offender from committing a crime in future.
- Prevent Occurrence of crime.

These are perhaps the objectives of the Criminal Justice System. The criminal system is biased towards the poor due to the obvious law of the poor instead of the law of the poor.

What is the Criminal Justice System (CJS)?

- The CJS encompasses the institutions / agencies & mechanisms developed by the government to regulate crime in the world. This contains parts such as the police & the courts.
- The purpose of the CJS is to guard the rights & personal liberty of individuals & society toward invasion by others.
- There are a number of sources of criminal law in India – the Indian Criminal Code of 1860, the Protection of Civil Rights Act, 1955, the Dowry Prohibition Act, 1961 & Scheduled Castes & Scheduled Tribes Act, 1989.
- The CJS may impose sanctions on those who violate the laws in force.
- Criminal law & criminal justice was found in the parallel section of the Seventh Schedule of the Constitution.

Background of the Criminal Justice System in India

- The CJS in India is an age-old system mainly based on the CJS founded by the British rule in India.
- The system has not yet undergone any significant reforms even after 70 years of independence. The final example may be Section 124A of IPC, that describes sedition & allows for its punishment.
- The Code of Criminal Law (Cr. P.C.) was revised in 1973.

- The recommend of the Vohra Committee is also the first way of reforming the CJS system in India. The study of the Vohra Committee (1993) focused on criminal law & ties between offenders, politicians & bureaucrats in India.
- In 2000, the government elected a panel headed by Chief Justice V.S. Malimath, retired judge of Kerala & Karnataka, is proposing a reform of the century-old CJS.
- The Malimath committee was established in 2003 with 158 recommendations, but they have never been executed.
- The Committee considered that the existing system "weighed in favor of the accused as well as did not focus appropriately on justice for victims of crime."

Need for reform in the Criminal Justice System in India?

- The system becomes inefficient: the state has formed the CJS to protect the rights of the innocent & punish the guilty, however the system , lies on centuries-old outdated laws, had also led to harassment by government agencies and has put pressure on the judiciary.
- Inefficiency in the delivery of justice: the system would take years to bring justice & has disappeared to deter criminals. There is a lot of cooperation between the courts, the prosecutors and the police. A large number of guilty parties remain unpunished in a lot of cases. Mostly on conversely, numerous innocent people stay in custody too. According to the NCRB report, 67.2 per cent of our overall prison population consists of under-trial inmates.
- The complex nature of crime: crime has gone down rapidly & nature of crime is becoming more & more complex technological advancements.
- Investigation inability: it has led to a delay in or haphazard investigation of crimes that have contributed significantly to a delayed delivery of prompt justice.
- Inequality in justice: the rich & powerful are hardly arrested, except in cases of serious crimes. The growing link between crime & politics too has added another dimension to the crime scenario. • Reduced trust of the common man: judicial procedures were becoming complicated & costly. There is an increase in cases of random violence.

Recommendation of Mallimath Committee

In March 2003, the Justice Mallimoth Committee (Justice Mallimoth Commission) presented a detailed study with a proposal to reform the Indian CJS. The Justice Mallimath Committee, formed by order of the Government of India, Ministry of Home Affairs, dated 24 November 2000, was to investigate the basic concepts of criminal law, in particular with such a view to the reduction of long delays in criminal proceedings & trust in the Indian CJS. This included the possibility of reviewing the first principle governing the CJS in India, such as the Constitution of India of 26 November 1949, the Indian Criminal Code, the Code of Criminal Procedure & Indian Prudence Act. The Committee proceeded to examine a number of the National System of Criminal Procedure and, in particular, to compare (adversal) & inquisitorial systems. It regarded, in specific, the CJS in continental Europe. Also it discussed with a number of stakeholders, seeking the opinion of members of civil society via an in-depth questionnaire but with all stakeholders involvement in the CJS, like courts, police sector, state governments, forensic scientists & legal scholars.

The role of the police in the pre-and post-British period: the state structure of the justice system signifying criminal law & its required to implement machinery-mainly the police in our country is a legacy of the British & clearly has colonial roots. The CJS of Muslim rulers frequent before the British system would be in a chaotic state, & British tried, since the very beginning of their arrival in Surat, to develop their own system. They felt the use of a systematic legal system to initiate the reform process thru the Law Commission, resulting in codified laws and the hierarchy of courts. The draft Penal Code, drawn up through First Law Commission in 1837, was implemented in 1860. The Code of Criminal Procedure came into force in 1861 & Evidence Act in 1872, with the revision & re-enactment of the Code of Criminal Procedure same year. The process of modification & consolidation has taken place. First, the Code of Criminal Procedure 1882 & finally the Code of Criminal Procedure 1898, which remained in force for three quarters of a century, such as two & a half decades, after the country's independence from the British Rule. Clearly, the Code contained colonial rules for the prevention, investigation, indictment and conviction of crimes, bails and guarantees, the structure of criminal courts & appeal hearings, and so on. The policing system is organized by the Police Act, 1861.

Reforms in police: The machinery of the CJS is implemented whenever an offense is registered & when it is reported. A timely and high-quality prosecution is also the cornerstone of an successful criminal justice system. Officers are hired to conduct several duties, & critical role of expeditious prosecution is sometimes confined to the top of the chart. The need of the day is a different arm of the inquiry with a strong requirement that it is limited to the rule of law. Criminality has experienced structural shift. The apparatus with or for investigation must therefore be configured with the laws & procedures necessary to make it operational in the present context. Unless the emerging problems of crime are to be successfully solved, not the mindset of the detective requires improvement, but they want to be educated in digital technologies, understanding of the evolving world, new methods in social innovation, feasibility & application of modern forensics, respectively. The investigation department is understated, under-equipped &, thus, the severe shortcomings in critical services and equipment often demand priority consideration.

- A. A. There is a need for law & government to support the police & the police to insure that they boost their reputation in the following sequence:
- B. B. The investigation section will be segregated from the law & order side.
 - The National Security Commission & State Security Commission at State level should be established or recommended by the National Police Commission. The following measures will be taken to enhance the performance of the investigation.
 - The position of the Additional Superintendent of Police can be produced specifically for the reason of the control of a crime.
 - An independent police chief in each jurisdiction would be responsible for gathering and disseminating illegal information, documenting & reviewing the date of the incident & prosecuting significant crimes.
- C. Each state must have an IGP officer in the State Crime Branch solely to oversee. The operation of the police department. The Crime Branch must have specialized teams for crime agencies & other major crimes.
- D. Severe and sensational crimes with interstate and transnational implications should be investigated by a team of officers and not by a single I.O.

- E. Session incidents will be handled by the maximum number of police officers assigned to the police department.
- F. Fair and transparent mechanisms must therefore be put in place where they do not exist & strengthened where they arise, at district police level & at state level to remedy public grievances.
- G. The existing system of the Police Commissioners' Office, that is found to be more effective in the field of control & management of crime, is being introduced in urban cities and towns.
- H. Criminal incidents would be reported immediately by the SHO'S.
- I. A strict penalty should be enforced for false registration of cases & false complaints. Section 182(1) of the I.P.C. shall be amended accordingly.
- J. Specialized units or squads must be set up at state & district level to investigate a specific category of crime.
- K. Emphasizing the compulsory registration of criminals and the reduction of the gap between unrecognized & identified offences, the workload of the investigative agencies will greatly increase.

Role of police in Ancient India: The idea of the position of law and the administration of justice has also been known to exist in India since the development of the Vedas as the epitome of the dharma. Rig Veda gives a clear reference to criminals and robbers. Manu has also established this definition of violence. Manu Smriti was, in fact, the first exhibition of the Indian legal system & proclaim the basic law governing communal relations. Balmiki's Ramayana offers a glimpse of police officer on patrol duty, security & spies. In Arthashastra Kautilya⁶⁵, that is assumed to have been published about 300 BC, there is indeed a comprehensive & fascinating description of the use of spies in the criminal administration. Kautilya told the king that his spies would be managed by trustworthy and competent ministers. It is possible that neither modern CID in any country has ever been so highly organized as the espionage process defined by Kautilya. Between the days of Mauryas & their immediate successors and the Mohamedan invasions, we have barely seen the police in India.

Role of Police during Seizure: Including the power to investigation, the police have the ability to capture and gain custody of the things they find during the quest. The police may also take

property that they believe has been stolen or objects which give rise to suspicion that an offense may be committed. The police could also search a person or arrest him or her & take possession among all articles apart from clothing & give him or her receipt of the articles obtained from him or her. The magistrate with jurisdiction in the case must also be notified of the seizure. The police may enter by force in the event that the occupant refuses to enter a search by a warrant. However, unlawful searches may be avoided and the perpetrator of these searches may obtain statutory or civil remedies. Courts can be put before them to invalidate the warrant & retrieve the items confiscated.

Role of Police during Questioning/investigation: Interrogation is the word utilized to interview a criminal who is in police custody, whereas the phrase "pre-interrogation" applies to the interviewing of a convicted or alleged witness who has not been charged. The police may ask any person who emerges to be familiar with the facts & situation of the case to be questioned. Questioning must generally take place within hours worked. However, women of any age & men under the age of 15 years could not be called to the police station & must be questioned in their own homes. A confession produced to a police officer could not be accepted as evidence to the court. An individual is not legally required to sign a statement to the police. It is to keep the police from pressuring or torturing a suspect to sign a document or confession during an interview. India's statute bars a police officer from using more than minimal force to cope with a single case. The law also issued instructions to law enforcement personnel to allow human rights violations when enforcing the law. Land laws allow the police to use force, but they should be the least possible & necessary. Article 3 of the United Nations Declaration on Human Rights lays down the principle that 'police officers may use force only when it is unavoidable except to the extent that it is absolutely necessary. A police officer may utilize all the signifies essential to consequence the arrest of anyone who is forcibly opposed to the attempt to arrest him or to attempt to avoid his arrest.

CONCLUSION

According to this study, it has come to the conclusion that there is a critical require to bring about changes in the CJS, so that it is identified that its primary duty is not to punish, excluding to socialize & reform the wrongdoing and, above all, this must be obviously implicit that

socialization is not the similar as punishment, which includes prevention, education, care & rehabilitation. In the CJS person self-respect has interpreted as a significant reform so far as the under trial prisoners are concerned. Police brutality & abuse of authority is also prevalent in many other countries around the world. Use of extra legal methods by the police has also been noticed even in advanced democratic countries. Police atrocities are a common feature of Indian scenario. The study of the Mallimath Committee presented us with an inclusive analysis of the potential possibilities of the CJS by changing the position of the various functionaries in the CJS & introducing an inquisitorial court of lieu of an adversarial framework to safeguard the civil rights of the convicted, but its adoption is still at risk due to the lack of infrastructure of the CJS. The influence of the Mallimath Committee study could not be ignored in the criminal justice system.

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