

# A Study of the Functioning of India's Criminal Justice System

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## Abstract

Criminal justice is a set of rules and organisations used by national and local governments to safeguard control of society, prohibit and control crime and punish lawbreakers. Criminal justice agencies, such as prosecutors and the police, the judiciary, defense counsel, and local jails and prisons are in charge of overseeing the procedures for arresting, prosecuting, adjudicating, and punishing individuals found guilty. The necessity for criminal justice administration evolved as a result of the state's determination to enforce the high standards of human behaviour necessary to safeguard individuals and communities. It aims to satisfy its protective purpose through enforcement, by lowering crime risk and apprehending, prosecuting, convicting, and punishing individuals who violate societal rules and laws. The deliberate administration of the criminal justice system cannot be successful without adequate preparation at all levels and the coordinated operation of all three agencies involved in this process, i.e., the police, the criminal courts, and the justice system, which includes the prison service, probation service, and correctional agencies. Only when this critical coordination is established at all stages and at all levels, will it be feasible to fulfil the true objective of crime prevention by reforming and rehabilitating criminals.

**Keywords:** Criminal Justice, Society, Police, Prosecuting, Prevention, National and Local Governments.

## INTRODUCTION

The concept of crime is changing, and it has grown in step with the community's financial and social standing. It has constantly been reliant on the power and flexibility of public sentiment and social sanctions within the same country. The severity of crime seems different throughout civilizations and populations, and "crime" appears to contain both the response to and the behaviour itself over time for a specific society or group.

Criminal justice is a set of rules and organisations implemented by national and local governments to safeguard social order, prohibit and manage crime, and punish lawbreakers. Law enforcement (police and prosecutors), courts, defence counsel, and local jails and prisons are the primary agencies in charge of overseeing the procedures for arresting, prosecuting, adjudicating, and punishing individuals found guilty. The expression "criminal justice administration" refers to the procedure of dealing with a criminality. When a criminal conduct happens, it is the role of the criminal justice system to establish if the activity has infringed individuals' rights and freedoms and, if so, to take the appropriate actions to remedy the imbalance produced by the criminal act. As consequently, the criminal justice system is designed to solve a single facet of the criminal act problem. In carrying out this function, the criminal justice system is compelled to take an exclusively post-oriented approach, focusing on past criminal acts. The necessity for

criminal justice administration evolved as a result of the state's determination to enforce the high standards of human behaviour necessary to safeguard individuals and communities. It intends to achieve its protective purpose through enforcement by minimising crime risk and apprehending, investigating, prosecuting, and punishing those who disobey society's rules and regulations.

## **FUNCTION OF CRIMINAL JUDICIAL SYSTEM**

### **Provide defence to the offender during arrest:**

The method ensures that a person apprehended is not put to greater restriction than is required to prevent his fleeing. Section 50 of CrPC requires that the individual arrested be notified of the basis for their arrest and their right to bail. Any police officer or other person who arrests someone without a warrant must promptly inform him of the nature of the offence for which he has been detained, as well as any additional reasons for his detention. Assume a police officer arrest someone without a warrant for anything other than a non-bailable offence. In such a situation, he/she must inform the individual who was arrested that he/she is eligible for bail and can request for security on behalf of him/her. The Code makes sure an arrested individual's right to be investigated by a medical professional at his or her request if an individual who has been arrested, whether on a charge or not, claims that an examination of his/her physical condition will provide evidence that will challenge his/her participation in any crime when brought before a Magistrate or at any time during his detention in custody.

### **Fair trial and principles of natural justice:**

The law of nature dictates that no one should be convicted without first being heard. As a result, the essential need of the concept is that the person facing prosecution be informed of the circumstances under which he is breaking the law. To do this, the court must as follow the certain conditions such as under section 207 of CrPC, the person accused is entitled to a copy of the criminal complaint as well as any documentation. It provides that in any instance where the inquiry is based on a police report, the Magistrate should immediately deliver to the defendants, without of charge, a copy of each of the documents as the police report, the first information report recorded under section 154 of CrPC, the statements recorded under sub-section (3) of section 161 of CrPC of all the people the prosecution intends to call as witnesses, excluding there from any part regarding which a request for such exclusion has been made by the police officer under subsection (6) of section 173 of CrPC, the confessions and statements, if any, recorded under section 164 of CrPC, and any other document or pertinent extract thereof forwarded to the Magistrate under sub-section (5) of section 173 of CrPC are all so large-scale that rather than providing the accused with a copy of them, he will order that the accused will only be permitted to view them in person or through a pleader in court.

### **Notice to the person being charged of the trial:**

At the start of the proceedings, natural justice norms are still upheld. The allegation is delivered to the defendant as a charge or notice of accusation. The charge is drafted in warrant proceedings or matters that can only be tried by the Court of Session. In summons instances, however, a clear notice of indictment is served. In summary trials, the victim is informed of the nature of the offence and has the opportunity to justify it. Section 211 of CrPC is dealing with chargeable material.

1. "Every charge under this Code shall state the offence with which the accused is charged."
- (2) "If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only."

2. "If the law which creates the offence does not give it any specific name so much of the definition of the offence must be stated as to give the accused notice of the matter with which he is charged."
3. "The law and section of the law against which the offence is said to have been committed shall be mentioned in the charge."

#### **The accused's right to avoid double jeopardy:**

The Constitution states, "No person shall be prosecuted and punished for the same offence more than once." This idea is likewise codified in Section 300 of the Code of Criminal Procedure, 1973, in a broader sense, including circumstances in which the accused is convicted or even dismissed. Section 300 stated that a person who has been convicted or acquitted of a crime may not be prosecuted again for the same offence.

- "Anyone who has previously been tried for an offence by a court of competent jurisdiction and found guilty or not guilty of that offence shall not be liable to be tried again for that same offence, nor on the same facts for any other offence for which a different charge than the one made against him might have been made under subsection (1) of section 221 of CrPC, or for which he might have been found guilty under sub-section (2) thereof."
- "Anyone found not guilty or found guilty of any crime may, with the permission of the State Government, be tried again for any other crime for which he might have been charged separately during the previous trial under sub-section (1) of section 220 of CrPC."
- "A person found guilty of an offence involving an act that resulted in consequences that, when combined with the offence, constituted a different offence from the one for which he was found guilty, may subsequently be tried for the aforementioned offence, provided that the consequences had not occurred or were not known to the Court at the time of his conviction."
- "If the court by which he was first tried was not competent to try the offence with which he is subsequently charged, a person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction, be charged with, and tried for, any other offence constituted by the same acts which he may have committed."
- "Anyone released under section 258 of CrPC may not be tried for the same offence again without the permission of the court that granted their release or of any other court that the first-mentioned court is subordinate to."

#### **Procedure for cases when the accused is insane:**

- "A magistrate conducting an inquiry shall inquire into the fact of such unsoundness of mind, and shall cause such person to be examined by the civil surgeon of the district or such other medical officer as the State Government may direct. Thereafter, the magistrate shall examine such surgeon or other officer as a witness and shall reduce the examination to writing." This is what happens when a magistrate conducting an inquiry has reason to believe that the person against whom the inquiry is being held is not of sound mind and is therefore unable to present his defence.
- The Magistrate may proceed with the individual in line with section 330 of CrPC while awaiting the results of the examination and investigation.
- "If such Magistrate considers that the individual mentioned in sub-section (1) is mentally ill and thus unable to present his defence, he will record a finding to that effect and will halt further proceedings in the case."

**Preserving the High Court's inherent authority under Section 482 of CrPC 1973:**

Nothing in this Code may be interpreted to limit or interfere with the High Court's inherent authority to issue any orders that may be necessary to carry out any orders made under this Code, prevent abuse of any court procedure, or safeguard the interests of justice in any other situation.

- "When the case was turned over to the CID due to inadequate police investigation, the charges under section 302 read with section 120B of IPC against the accused were quashed by the High Court in the exercise of its powers under section 482 of CrPC on the finding that the evidence was insufficient. This was unwarranted because the Court was not required to carefully consider all relevant material and evidence at the time the charges were framed."
- "A High Court exercising jurisdiction under section 482 would not inquire as to whether the allegations in the complaint are likely to be supported by evidence or not."
- In order to avoid any abuse of the court's process, the High Court may utilise its inherent powers under Section 482 to quash the proceedings. However, this type of intervention would only be warranted in cases where the complaint was frivolous, vexatious, or oppressive, or when no crime had been committed.
- In cases where there was a difference between the statements made by the witnesses during the investigation and the implications of the respondent mentioned in the First Information Report (FIR), the Supreme Court has repeatedly ruled against the High Court's practice of prejudging cases without giving the prosecution a reasonable chance to substantiate their allegations. Therefore, the High Court has no basis to intervene in the prosecution's case at this early stage.

**Maintenance Order for Parents, Wives, and Children:**

Criminal law has enacted the civil rights of maintenance in order to expeditiously address maintenance needs, with the social objective of averting poverty and homelessness among vulnerable women and children. To lend teeth to the phrase, penal repercussions are added to the respondent's default. The maintenance orders for spouses, kids, and parents are outlined in Section 125 of CrPC. "If any individual with adequate resources disregards or declines to provide for his spouse, who is incapable of supporting herself, or his minor child, who is not married and cannot support themselves, or his child (who is not a married daughter) who has reached adulthood. When a person is unable to support themselves or their spouse due to physical or mental impairments, a Magistrate of the first class may, upon proof of neglect or refusal, order that person to pay a monthly allowance for the maintenance of the spouse, the child, the father, or the mother at a monthly rate that the magistrate deems appropriate, and to pay the same to any other person the magistrate may from time to time direct. If the magistrate is convinced that the spouse of a minor female kid, if married, does not have adequate resources, then to grant such an allowance until the child reaches majority.

**STEPS TO OFFER ASSISTANCE TO CRIME VICTIMS IN INDIA**

Victims can receive the following aid and services during a criminal investigation:

- The first step in helping a crime victim is to improve their access to existing services; and to recover from the impact of crime, it is necessary to obtain information from victims, encourage victims to apply for assistance, and sensitise the services to the victim's requirements.
- The police might strengthen their assistance for crime victims by requiring the responding officer to supply the victim with a card including vital phone numbers of community organisations. The card should also have:

- A. Case number (crime number);
- B. Investigating officer's name;
- C. Phone number to contact for case updates.

- A victims assistance unit should be established inside the police department, ideally at the sub-divisional level, to coordinate concerns involving crime victims.

If the above-mentioned methods are executed by Indian law enforcement authorities, victims' positions in the criminal justice system would significantly improve.

### **PRESENT PLANNED IMPROVEMENTS IN THE CRIMINAL JUSTICE SYSTEM**

- **Lack of Consultation and Transparency:** The measures were written by the Criminal Law Reforms Committee in 2020. The committee did not include members from the court, bar, civil society, or marginalised populations. The committee did not make its findings or draft laws available for broader review and feedback.
- The legislation has been criticised for utilising imprecise and broad terminology that may violate the human rights of the accused, victims, witnesses, and others. The BNS includes a new offence of "acts endangering the sovereignty, unity, and integrity of India" under Section 150, which is comparable to the defunct charge of sedition under Section 124A of IPC. This might be used to limit dissent and free expression.
- Similarly, the BSB enables confessions made before a police officer to be used as evidence under Section 27A, thus increasing the possibility of custody abuse and coercion.
- The BNSS also grants the police broad rights to arrest, search, seize, and imprison without court scrutiny or protections.
- The legislation has been criticised for being inconsistent and incompatible with each other and current laws. The BSB law does not define or explain the increased standard of proof for conviction, which shifts from "beyond reasonable doubt" to "clear and convincing evidence"
- The BNSS adds a new category of "social welfare offences" that can result in penalties or community service, but does not clarify which offences come under this category.

### **CONCLUSION**

The criminal justice system is currently a complex of several entities fighting against each other. Justice is delayed, which occasionally results in a miscarriage of the legal process. The current state of the criminal justice system poses several problems to the administration. However, the Indian criminal justice system is severely underfunded and understaffed, and it continues to move slowly. As in every democratic civilised society, this system is meant to give the greatest sense of security to the public at large by dealing with crimes and offenders efficiently, promptly, and lawfully. More precisely, the goal is to minimise criminality in society by guaranteeing maximum detection of reported offences, prompt conviction of accused individuals, the imposition of suitable sanctions on the convicted in accordance with the goals of justice, and the prevention of recidivism. Some recent improvements in the judicial delivery system to seek reparation and justice for the poor need to be mentioned. These advancements are critical to the justice delivery system and cannot be disregarded. They have revolutionised our legal jurisprudence and will go a long way in providing relief to the huge masses and the ordinary man. The nation's superior courts' initiatives to innovate the criminal justice system have also led to paradigm shifts in the treatment of defendants awaiting trial, victim rehabilitation, and prison reform.

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