

CBSE Notes Class 8 Social Science Civics Chapter 6

Understanding Criminal Justice System

Understanding Our Criminal Justice System

According to Article 22 of the Constitution, every person has a Fundamental Right to be defended by a lawyer. Article 39A of the Constitution places a duty upon the State to provide a lawyer to any citizen who is unable to engage one due to poverty or other disability.

4 key players in the criminal justice system are **the police**, the **Public Prosecutor**, the **defence lawyer** and the **judge**.

Role of the Police in Investigating a Crime

An important function of the police is to investigate any complaint about the commission of a crime. The investigation includes recording statements of witnesses and collecting different kinds of evidence. On the basis of the investigation, the police are required to form an opinion. If the police think that the evidence points to the guilt of the accused person, then they file a charge sheet in the court. It is not the job of the police to decide whether a person is guilty or innocent, the judge has to decide this.

Meanwhile, the rule of law means that everyone including the police is subject to the law of the land. Police investigations have to be conducted in accordance with the law and with full respect for human rights. The Supreme Court has laid down guidelines that the police must follow at the time of arrest, detention and interrogation. The police are not allowed to torture or beat or shoot anyone during the investigation. They cannot inflict any form of punishment on a person even for petty offences.

Article 22 of the Constitution

Article 22 of the Constitution and criminal law guarantee the following Fundamental Rights to every arrested person:

- The Right to be informed at the time of arrest of the offence for which the person is being arrested.
- The Right to be presented before a magistrate within 24 hours of arrest.
- The Right not to be ill-treated or tortured during arrest or in custody.
- Confessions made in police custody cannot be used as evidence against the accused.
- A boy under 15 years of age and women cannot be called to the police station only for questioning.

D.K. Basu Guidelines

The Supreme Court of India sets specific requirements and procedures that the police and other agencies have to follow for the arrest, detention and interrogation of any person. These are known as the D.K. Basu Guidelines and these include:

- The police officials who carry out the arrest or interrogation should wear clear, accurate and visible identification and name tags with their designations
- A memo of arrest should be prepared at the time of arrest and should include the time and date of arrest. It should also be attested by at least one witness who could include a family member of the person arrested. The arrest memo should be countersigned by the person arrested.
- The person arrested, detained or being interrogated has a right to inform a relative, friend or a well wisher.
- When a friend or relative lives outside the district, the time, place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest.

First Information Report

First Information Report (FIR): Once the FIR is registered, the police can begin their investigations into a crime. As per the law, it is compulsory for an officer in charge of a police station to register an FIR whenever a person gives information about a cognizable offence. This information can be given to the police either orally or in writing. The FIR usually mentions the date, time and place of the offence, details the basic facts of the offence, including a description of the events. If known, the identity of the accused persons and witnesses is also mentioned. The FIR also states the name and address of the complainant. Police can register an FIR in a prescribed form, signed by the complainant. The complainant also has a legal right to get a free copy of the FIR from the police.

Role of Public Prosecutor

A criminal offence, regarded as a public wrong is committed not only against the affected victims but against society as a whole. It is the public prosecutor who represents the interests of the state. Their role begins after the police have conducted the investigation and filed the charge sheet in the court. They have no role to play in the investigation. The Prosecutor must conduct the prosecution on behalf of the State. As an officer of the court, it is their duty to act impartially, thus enabling the court to decide the case.

Role of the Judge

Like an umpire in a game, the Judge conducts the trial impartially in an open court. He/ She hears all the witnesses and all evidence presented by the prosecution and the defence. On the basis of the evidence presented and in accordance with the law, the judge decides whether the accused person is guilty or innocent. If the accused is convicted, then the judge pronounces the sentence and sends them to jail or imposes a fine or both, depending on what the law prescribes.

What is a Fair Trial?

For a trial to be fair, several different procedures have to be observed. Article 21 of the Constitution that guarantees the Right to Life states that a person's life or liberty can be taken away only by following a reasonable and just legal procedure. A fair trial ensures that Article 21 of the Constitution is upheld.

Features of Fair Trial: held in an open court, in public view-in the presence of the accused-accused was defended by a lawyer-defence lawyer is given an opportunity to cross-examine all the prosecution witnesses and to present witnesses in accused's defence-judge has to assume that the accused is innocent- prosecution has to prove beyond reasonable doubt that the accused is guilty- judge decides the matter only on the basis of the evidence- judge remains impartial and on proved innocent, the accused is allowed to go free.

Every citizen, irrespective of their class, caste, gender, religion and ideology, before the law would not make much sense if every citizen were not guaranteed a fair trial by the Constitution.