

## Criminal Justice System in India

The aim of the Criminal Justice System is to punish the guilty and protect the innocent. Although the broad contours of the Criminal justice system are seldom codified, these can be inferred from different statutes, including the Constitution and judicial pronouncements. In a democratic civilized society, the Criminal Justice System is expected to provide the maximum sense of security to the people at large by dealing with crimes and criminals effectively, quickly and legally.

More specifically, the aim is to reduce the level of criminality in society by ensuring maximum detection of reported crimes, conviction of the accused persons without delay, awarding appropriate punishments to the convicted to meet the ends of justice and to prevent recidivism.

### Indian Criminal Justice System - Constitutional Provision

Criminal law, including all matters included in the Indian Penal Code, Criminal procedure, including all matters included in the Code of Criminal Procedure feature under the concurrent list of the 7th Schedule as entries-1, and 2 respectively.

Certain exceptions are also provided under these two provisions(Entry-1, and 2) of the 7th Schedule.

For example, offences against laws with respect to the matters specified in List-I or List-II of the 7th Schedule of the constitution, excluding the use of naval, military or air forces or any other armed forces come under this category.

### Evolution of Criminal Justice System of India - From Ancient to Present

- The jurisprudence of Ancient India, which was shaped by the concept of 'Dharma', prescribing various rules of right conduct.
- The codes or rules of conduct can be traced to various manuals that explained the Vedic scriptures, such as 'Puranas' and 'Smritis'
- The King had no independent authority but derived his powers from 'Dharma' which he was expected to uphold.
- The distinction between a civil wrong and a criminal offence was clear.
- While civil wrongs related mainly to disputes arising over wealth, the concept of pātaka or sin was the standard against which crime was to be defined.

- The Mauryas had a system of rigorous penal system which prescribed mutilation as well as the death penalty for even trivial offences.
- Dharmasastra of Manu, recognized assault and other bodily injuries and property offences such as theft and robbery.
- During the Gupta's era, the judiciary consisted of the guild, the folk assembly or the council and the king himself.
- Judicial decisions conformed to legal texts, social usage and the edict of the king, who was prohibited from violating the decisions.

## **Indian Criminal Justice During Medieval Times**

- India was subjected to a series of invasions, beginning in the 8th Century A.D. and ending in the 15th century, stabilizing by the time of Mughal Rule.
- Followed a criminal law that classified all offences on the basis of the penalty which each merited, including retaliation (blood for blood), specific penalties for theft and robbery and discretionary penalties.

## **Criminal Justice System in its Present Form**

- The Criminal Justice System in India follows the legal procedures established by the British during the pre-independence era.
- An Indian Penal Code (IPC) defining crime and prescribing appropriate punishments was adopted in 1860, prepared by the first Law Commission of India.
- It was developed in line with the English criminal law.
- Code of Criminal Procedure was enacted in 1861 and established the rules to be followed in all stages. This was amended in 1973.
- The NN Vohra Committee, set up in 1993, observed increasing criminalization of politics, talked of the unholy nexus.
- It was an effort to push the reforms in the criminal justice system.
- In 2000, the Government of India formed a panel headed by the former Chief Justice of Kerala and Karnataka, Justice V.S. Malimath, to suggest an overhaul of the century-old criminal justice system.
- In 2003, the Justice Malimath Committee submitted a report with 158 recommendations.

- The Committee opined that the existing system “**weighed in favour of the accused and did not adequately focus on justice to the victims of crime.**”

## What was the need for reforms?

- The system of delivery has to some extent become less effective to serve its desired purpose, based on the laws framed centuries back.
- Increasing pressure of the judiciary with huge pendency, obstructing delivery of justice, due to delay.
- The time taken to deliver justice and the delay so caused has to some extent not served the purpose of checking the criminal offence or repetition of offences.
- Due to lack of coordination, a huge chunk of under trials languish in jails, which is why their crime is to be established and tried in the court of law.
- With the emergence of technology and the increasingly complex nature of offences, the existing laws have failed to address the offence and ensure justice to the affected party.
- For example, cyber crimes call for updated provision sleeping in mind the emerging technologies and their possible issue to commit offences.
- Need to increase the confidence of the common public on the system of justice, sometimes hampered due to the undue delay.
- The nature of offence demands segregation of domains and specialization in investigation.

## Conclusion

The entire existence of an orderly society depends upon the sound and efficient functioning of the Criminal Justice System. The law of the land has to be in tune with the demands of the changing times and nature of complexities in offences. There should be a broader dialogue among all the stakeholders for effective provisions so that the interest of justice is served and served right, where no innocent suffers prejudice, exclusion leading to miscarriage of justice.

Similarly, the rules and procedures established by law need to reach the common man, and the role of civil society in this endeavour is paramount. Further, there is a need to streamline the police reforms, beef up the forensic evidence-based investigation, and prioritize advanced scientific analysis which must be strengthened and upgraded, catering to the demands of the present times. The infrastructural challenges confronting the judiciary must be addressed to facilitate the process of ensuring justice.

