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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

“AN ANALYSIS OF REFORMS IN CRIMINAL ADMINISTRATION OF JUSTICE IN INDIA WITH SPECIFIC REFERENCE TO DELAY IN DISPENSATION OF CRIMINAL JUSTICE”

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Abstract

Criminal judicial system involves a delegate exercise deals with the crime which in modern civilization happen one of the most complex crime. Changes are constant in the judiciary but criminal justice system of India is needed to improve system. These are the reasons for weak law enforcement, poor accountability, slow enforcement, poor prison conditions and a lack of well-trained police officers. The main purpose of the administration of justice is to maintain and protect the law, i.e., Law enforcement in society, execution of convictions, speedy trial, punishment of offenders, rehabilitation of offenders through judicial process and support of victims of violence. The legal system is time consuming and is a method prepared according to the opinion of the accused, reflecting the rights and interests of the perpetrator rather than the victim. This paper tries to figure out prospects to be followed to enhance or to improve the speedy justice delivery system.

INTRODUCTION

The criminal justice system is a structure consisting of a hierarchical organization of different elements working together or independently for a common purpose. These organizations create laws that tell us what is prohibited in our society and provide penalties for illegal behavior. These laws require courts to convict or try to rehabilitate people of guilt or innocence.

The instrument that the government uses to fulfill this important role is undoubtedly domestic law. Law is an effective tool for social control. If the state wants a crime, it declares that it should not be done by creating punishment. If a person commits a crime after knowing his punishment, the law assumes responsibility and punishes the accused according to the law.

The current criminal justice system does not provide fast and speedy justice to offenders. India's criminal justice system has a serious workload that grows every year, according to the latest investigation and trial data released by the National Bureau of Crime (NCRB). The turnaround or "wait rate" of Indian courts and police reached a level in 2020 not seen since the 20th century. To attain long range but vital objective-orientation in criminal justice administration, the penology wing of the ministry of justice should undertake the historic task of 're-authoring' the three basic acts, i.e. CrPC, Indian Penal Code and the Indian Evidence Act.

Criminal Justice of India

Recently, a panel of experts from the National Human Rights Commission (NHRC) expressed concern about the slow pace of change in the criminal justice system. Criminal justice system refers to government agencies that enforce the law, prosecute crimes and treat criminal behavior. Criminal justice reform generally consists of three categories of reform: Judicial reform, Prison reform and Police reform.

Purpose of Criminal Justice System

The purpose of criminal justice is to ensure public justice, punish the guilty, and ensure that the Effort ends as soon as the memories of the witnesses are lost. The judicial process is not only the provision of justice for the accused, but also the provision of justice for the victim and society. Thus maintaining law and order. Judges decide not only not to punish the innocent, but also not to punish the guilty. Both are public duties that judges must perform. For this reason, courts should always try to ensure people's trust in the judiciary by using the concept of human rights in the judiciary.

LOOPHOLES IN THE EXISTING CRIMINAL JUSTICE SYSTEM

There are facts and circumstances that lead to the system's challenges and are as follows:

- Lack of transparency.
- Pendency of case.
- High numbers of under trials.
- Heavy and complex procedures.
- Lack of coordination and system approach.

- Corruption.
- Lack of awareness amongst individuals.

A common expression says that “**equity deferred is denied equity**” and according to a 2017 survey, there are currently, nearly 60,000 cases pending within the Supreme Court. Across separate jurisdictions, there are between 25 and 30 million cases. To no small amounts, burdensome procedures regulations frequently lead to the delay in the resolution of proceedings. Due to delay in justice, inaccessibility, misuse of power, bribery, and the difficult impeachment process, corruption is rising in the judiciary.

The core of criminal justice system is the right to speedy trial and justice is inevitably denied. Because of the prolonged pendency of the cases, an individual suffers in multiple and different ways. While he is innocent, he has to suffer mental trauma, social isolation. Although he is guilty, delay shakes his faith in the criminal justice system and makes him cynical. Therefore it is essential to eliminate the delay in disposition as far as it is possible for criminal cases.

Our Constitution in Administration of Criminal justice System

Article 21 of the Constitution confers on each person, except under the procedure laid down in law, a fundamental right to not be deprived of their lives or rights. The process for depriving anyone of freedom may not be obviously “reasonable, decent, or equal unless that procedure ensures a speedy trial for determination of guilt of accused person” said the Supreme Court in the case of **Hussainara Khatoon vs. Home Secretary of State of Bihar**¹.

In **A.R. Antulay vs. R.S. Nayak**², Supreme Court held that the fundamental right under Article 21 ensures an expedited or speedy trial to decide on the culpability of such an individual.

HUMAN RIGHT ABUSES

Human rights are those that every person has as a human being right from birth. This is natural and inalienable. Human rights are the basic rights that that an individual had, irrespective of other

¹ AIR 1979 SC 1369.

² AIR 1959 SC 1276.

factors. To enforce Human rights and thus preserve and secure the civil rights of residents of the country, the criminal justice system, consisting of police, judicial, and correctional institutions has an important role to play.

In **Maneka Gandhi vs. Union of India**³, the Supreme Court held that no one should be subjected to arbitrary arrest, detention, or exile.

RATIONALE BEHIND REFORMS IN **ADMINISTRATION OF CRIMINAL JUSTICE**

The Home Ministry (HMA) at Central Level propose certain amendments for the criminal statutes of the Nation (i.e. IPC or CrPC), which are criminal justice procedures available now.

- **The Criminal Statutes (i.e. IPC or CrPC) was introduced by the British**

The IPC and the CrPC was based on the principle and spirit of “master and servants”, because at the time of British, the police force was raised to protect the British authority. So British were considered as Masters and the citizens were considered as servants. So, they introduce the principles of criminal administration to protect the interest of Britishers.

After independence, the duty of the Police is to protect its citizens or people, now the principle and the spirits has changed.

- **Uneven Punishment**

In existing codes of IPC or CrPC, there is uneven punishment. For various crimes which are of similar nature there are uneven punishment of punishment is not the same for similar crimes.

Example – Snatching a chain or bag in road, this can be a life threatening case, we have seen that the thieves snatched the chain and finally murdered the person. But the punishment is not mitigating with the gravity of the crime.

- **IPC never amended in totality (After framing of the Code in 1860)**

We have seen that in 1860 the IPC was formed, and since 1860 the IPC never amended in totality, it was amended from provision to provision, but not in totality. Only certain additions and deleting was made till now.⁴

³ AIR 1978 SC 597.

- **Pendency of Case**

According to Economic Survey 2018-2019, there are about 3.5 Crore cases pending in the judicial system, especially in district and subordinate courts, which leads to actualization of the maxim **“Justice delayed is justice denied”**.

Keeping view these reasons it is quite essential to standardize the punishment and align the punishment to present need. The nature of offence and crime has changed. The key idea behind these reforms in police working is to change the spirit and principle of the police which was established pre-independence and abolishing the principle and spirit of “master and servant”, and to serve the interest of the people.

PROPOSALS FOR IMPROVING THE CRIMINAL JUSTICE SYSTEM

Court delay is like a poison, killing the entire judiciary. The criminal justice system or process or the police should be blamed for delays in the disposition of cases and arrears in criminal courts. The following are some suggestions or part of the elements that must be able to activate the legal procedures and improve them, they are as follows:

- Considering the inadequacy of judicial officers to dispose of arrears in criminal proceedings, retired judicial officer’s services or magistrates may be abused by the creation of special tribunals that are to be headed by them.
- In subordinate courts and High Courts, the power of judicial officers and judges is sufficiently enhanced. There should be no unfulfilled vacancies in courts. The judiciary recruits young and talented citizens with honesty.
- The aim of our criminal justice system should be to provide speedy justice.
- India now hopes to become a fully digitized nation. In reality, we were extremely successful. But the Indian legislation is abandoned for some odd cause. That shouldn’t be the case. The system of Indian law should be completely digitized from the start to the end. It helps to save a lot of time for context documentation and helps to provide speedy justice.
- As society evolves rapidly, new forms of violent crime such as organised crimes, insurrections, terrorism, etc. emerge as a result of industrialization and economic growth. To solve these attacks, there should be a specialist police force. For this reason,

comprehensive training and required new installations and infrastructural equipment's are given to police and investigations agencies.

- Plea proceeding may also be used to reduce the immense backlog of cases.
- Finally, given that the judiciary is the branch of government, the vacations in the courts should be the same as with other government executive wings. Summer holidays or additional holidays in courts do not take effect. The working hours will be the same as every other government department's daily working hours.
- The Quota system (100 points) given to judges for deciding cases or doing their different work. For each and every work they got some points, there is a threshold limit for the points which the judges can get and which is quite minimal. So the quota system must be abolished or the point table must be maximize to certain threshold monthly, so that the judges could do more work and the disposal of case must be in higher rate or a speedy trial is done.
- Some provisions in IPC may be deleted and left for redressal under the law of Torts.
- Increasing awareness of the laws among police personal, increasing the number of police personnel and stations in proportion to the number of complaints in an area, and including social workers and psychologists in the criminal justice system.
- The focus also needs to be on the victim's rights and smart policing. There is a need to study the rate of conviction of police officials and their non-compliance of law.

MALIMATH COMMITTEE RECOMMENDATIONS (2000)

- **Rights of the Accused:** The Committee suggested that a Schedule to the Code be brought out in all regional languages so that the accused knows his/her rights, as well as how to enforce them and whom to approach when there is a denial of those rights.
- **Police Investigation:** The Committee suggested hiving off the investigation wing from Law and Order.
- **Court and Judges:** The report pointed out the judge population ratio in India is 10.5 per million populations as against 50 judges per million populations in many parts of the world.
 - It suggested the increase in strength of judges and courts.
- **Witness protection:** it suggested separate witness protection law so that safety and security of witnesses can be ensured and they can be treated with dignity.

- **Vacations in Courts:** It recommended reducing the vacations of court on account of long pendency of cases.
- **Arrears eradication scheme:** Under this scheme, the cases which are pending for more than 2 years are to be settled by the Lok Adalats on priority. Such cases will be heard daily and no adjournment is allowed.

SOME OTHER REFORMS IN CRIMINAL JUSTICE

ADMINISTRATION TO COPE DELAY IN JUSTICE

➤ **LOK-ADALATS**

It is a forum where the cases are pending in a court of law. It has been given the statutory status under the legal services authority act. It is one of the components of the Alternate Dispute Redressal (ADR) system and delivers informal, cheap and expeditious and speedy justice to the common people.

Any case pending before the court can be referred to the Lok Adalats for settlement if:

- Parties agree to settle the dispute in the Lok Adalats or one of the parties applies for referral of the case to the Lok Adalat or court is satisfied that the matter can be solved by a Lok Adalat.
- In the case of pre-litigation dispute, the matter can be referred to the Lok Adalat on receipt of an application from any one of the parties to the dispute.
- Every award made by a Lok Adalat shall be final and binding on all the parties to the dispute. No appeal shall lie to any court against the award of the Lok Adalat.
- There is procedural flexibility and speedy trial of the disputes. There is no strict application of procedural laws while assessing the claim by Lok Adalat.

➤ **NATIONAL JUDICIAL ACADEMY**

It has been set up by the Government of the India to provide in service training to the judicial officers. Policy development and judiciary reform and research support services for the greater efficiency, access and productivity. It includes the improvement of the court administration. Teach the judges to not follow the old fashioned Quota system, which will play an important role for speedy trial and speedy justice.

➤ **ALTERNATE DISPUTES REDRESSAL**

To reduce demand on court time, the disputes need to dissolve by the alternative disputes resolution method conciliation and mediation is the tools of the alternative disputes redressal.

On 28th July, 2018 the Chief Justice of India *Hon'ble Mr. Deepak Misra* said that, *“the issues of pendency and delays in the justice delivery system need to be tackled with judges taking up the burden of judicial leadership and managerial skills”* while delivering the valedictory address at the National conference on initiative to reduce pendency and delays in judicial system.

He further said, *“The court congestion and delays do requires a modern and progressive approach where every judge takes the burden of judicial leadership and managerial skills of the court and the cases before him. He further noted that the discussions witnessed an emphasis on technological aspects and introduction of best practices in the ADR system and elaborated on the deliberations.”*

The above valedictory remarks of the Hon'ble Chief Justice of India show the importance of speedy trial and disposal against the pendency of the cases. In order to have speedy disposal of the cases we have at least two mechanisms to adopt. One is Alternative Dispute Resolution System for procedural aspects and providing legal aid for rendering of justice for the needy.⁴

CONCLUSION

Courts have a duty to act quickly if justice is to achieve good results. The innocent should be released immediately and the guilty should be punished as soon as possible. The delayed case problem is not new in India; it has been around for a long time. On the one hand, the judiciary was under pressure; on the other hand, the faith of the people was shaken. The Supreme Court made it clear that a speedy trial is an important part of criminal justice reform and that delaying a trial is itself an unfair act. The current justice system has failed to provide speedy justice to criminals. India's criminal justice system has a serious workload that grows every year, according to the latest investigation and trial data released by the National Bureau of Crime (NCRB). In 2020, the backlog, or "pending" status, of Indian courts and police reached the highest level since the 21st century. Article 21 of the Constitution regulates the impossibility of speedy justice. Because the problems remain unresolved for a long time, people become victims in many different ways.

⁴ <https://districts.ecourts.gov.in> (last visited on March 22nd, 2022).

Although innocent, he was devastated and isolated. Despite being guilty, the delay shook his faith in the criminal justice system and made him suspicious. To achieve a long-term but important goal in the administration of justice, the Department of Justice of the Attorney General's Office must agree to "reinvent" our rights (e.g., Penal Code, Indian Penal Code and Indian Evidence Act). Police should do better by recording FIRs in a timely manner and initiating investigations in a timely manner before evidence is destroyed. This process will greatly improve the Indian justice system. Therefore, they should be eliminated by appropriate actions or replaced accordingly.