



Constitutional Foundation Of Criminal Justice System In India: Approaches And Reformation

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Introduction

At any given time, any society suffers from some form of insult which is witnessed since the dawn of human civilization. In any form, crime is an eccentric social phenomenon, and it is necessary to punish the offender to protect society and ensure peace, fairness and Stability in the country. The criminal justice system refers to government organizations that are accused of enforcing laws, brokering misconduct, and correcting criminal leads. The criminal justice framework is a social control tool that involves society considering certain behaviors so dangerous and damaging that it carefully controls their appearance or wholesale robbers. . The mission of equity institutions is to prevent these practices by protecting and repelling offenders or redirecting their future occurrences.

As for criminal law in India, the criminal justice system of Indian civilization has evolved in all aspects such as socio-economic and political conditions over time. To realize the same historical transition of India's penal system, we must first embrace ancient India with all its customs, rituals, traditions and beliefs. From the Vedic period to the Mughal regime, colonial and postcolonial facilitated the demographic transition of criminal law.

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The Indian criminal justice framework as we know it nowadays isn't a advanced improvement. It finds its roots in relic. There are one of kind strategies of managing with wrongdoing, with every state having its claim diverse and special approach to discipline and equity. The legal system administers the organization of law through the organization of courts. The System gives a component to bargain with things for which the wronged Party must go to court. No common open can permit a circumstance to create when the overwhelming impression is that there's no alter to the claims.

Criminal Justice in Ancient India

The development of criminal and civil law systems in India can be traced back to ancient times in a land ruled by various kings of India from 3000 BC to 1001 AD. and more. This country has had a similar legal system for more than 4000 years. No other country in the world can claim such merit, and although the land is divided into hundreds of small political kingdoms, the laws of the land known as Neethi and Dharma were dictated by the Hindu legislator. Great Manu given is common or similar in nature.² Be that as it may, the Dharmasutras and Arthashastras of Kautilya display a more created and nitty gritty framework of discipline judgment that was common in their day. Nitishastra alludes to the Ruler as the source of equity and his sacrosanct obligation is to rebuff those who do off-base, and in the event that he is hesitant to fulfill this obligation, he will go to hell. In early society, it was up to the casualty (as there was no other state or specialist) to rebuff the attacker by implies of countering and retaliation; of course, it is administered by chance and individual enthusiasm. Indeed within the progressed Rig-Vedic period, it was specified that the discipline for a cheat lay on the extremely injured. Bunch life requires agreement on beliefs and the advancement of codes of conduct for individuals to take after. These rules define the appropriate behavior and actions to be taken when members violate the rules.³ This code of conduct, which governs the affairs of the people, is known as the Dharma or the law. In the process of progress, people find it more convenient to live in society than in small groups. Organizations based on the principle of kinship have, to some extent, created larger social associations. From the very beginning of

¹ History of the Constitution of the Courts and Legislative Authorities in India, by Cowell (1872), p.3.

² Political Theory of Ancient India: John W. Spellman, Clarendon Press, Oxford, p.128.

³ Haripada Chakravorti, Criminal Justice in Ancient India 190 (Sharada Publishing House, 1999).

Indian civilization, France was valued. Everyone acts according to the Dharma and there is no need for authority to enforce the law.

Criminal Justice in the Sultanate Period

The sultans executed shariat or the Islamic law of wrongdoing and discipline the most sources of which were the Quran, the Hadis and Ijma. The ministerial cases were isolated from the criminal and gracious suits. The durbar of the sultan constituted the most noteworthy gracious and criminal court of equity which took unique as well as re-appraising cases. Underneath the sultan there was the court of qazi-i-quzat or the chief equity of the domain. Muhtasib the censor of public morals acted as police cum judge in the observance of the canon law by the Muslims.⁴

Criminal Justice in Mughal India

Amid the Mughal rule in India, Muslim criminal law was the law for the organization of criminal justice. When the Company expected the obligation for regulating Bengal, Bihar and Odisha, the Muslim criminal law was very well entrenched in that territory.⁵ The law, in any case, had a number of dazzling surrenders. Numerous of its standards were not in agreement with the British idea of equity, common sense and great government. Nevertheless, it experienced so numerous changes amid this period when in 1860 the Indian Correctional code was sanctioned the law winning at the time may barely be characterized as the Muslim criminal law. It had become transformed by then into anglo-muslim law of crimes; it has been removed from its base in Muslim Jurisprudence.⁶

Codification of Laws

The primary arrange to alter the Muslim law of wrongdoing was started by Cornwallis in 1790. Master Cornwallis stripped the Nizam of any specialist over the Nizamat. He repealed pivotal Muslim laws defined by Abu Hanifa that irrationally kept up that a killed wasn't mindful for discipline in the event that the wrongdoing was committed by choking, suffocating, harming, or with a weapon which wasn't made from press. it had been too announced that the family of the perished didn't have any right to transmit the sentences of the guilty party. The government in 1791 moreover canceled the discipline of mutilation and detainment and difficult work were substituted in its put. Cornwallis craved the abrogation of the run the show beneath which a killer wasn't held helpless to execution in case he committed by suffocating harming etc. The Muslim law didn't allow a Hindu to affirm against Muslims charged this law was presently canceled.

As a few disarray existed on certain focuses inside the law of murder the law was repeated in 1797 through control for the aim of control was to undertake to absent at last with all operations of the crave of the beneficiaries. fair in case of kill it had been laid down that a prisoner convicted of willful kill was to be rebuffed with none respect to the beneficiaries of the individual slaughtered. Another advancement made at that point was to substitute detainment for blood cash, In cases where beneath the Muslim law, an person sentenced of murder was vulnerable to pay blood cash the court of the circuit was to commute the fine to detainment for such period because it is considered satisfactory for the offense. Control XIV of 1791 was a vital degree which was motivated by humanitarian and generous spirit because it allowed help to the individual as of now in jail on account of their failure to pay blood cash. Control 17 of 1797 extreme discipline was endorsed with a see to the offense.

A few changes were made to the lawful code 1799-1802 by the govt of Ruler Wellesley. steady with Direction of 1799 not was any kill to be legitimate and through and through cases of kill the wrongdoers were to be rebuffed by passing. The control 18 of 1801 laid that a private indicted of getting purposely and malevolently aiming to kill an person and inadvertently murdered another person was to be helpless to endure passing. Control 16 of 1802 had abolished the criminal and appalling and barbaric hone of relinquishing youthful and guiltless children and announced child murder culpable as willful kill helpless to a sentence of passing.

After 1833, an All India Council was made and thru ensuing changes through the long time driven to the sanctioning of the Indian legitimate code in 1860. Amid the sum from 1833-1860, changes were made inside the legal code and so the critical ones included that hooligans came to be rebuffed with detainment for all times with the difficult work, the status of servitude was pronounced to be non-recognizable in any court of the corporate, dacoits came to be rebuffed with transportation for all times, or with detainment for any shorter term with difficult work. it's planning to indeed be specified disciplines endorsed for offenses by British Directors were exceptionally extreme at first, expects to smother wrongdoing. But as society stabilized, and law and arrange circumstance progressed, and rate of wrongdoing reduced, liberalizing tendencies set in and thus the rigors of discipline were to some degree moderated.

⁴ The administration of Justice in Medieval India, by M.B. Amhad, p. 272,

⁵ Mughal Administration, by Sir Jadunath Sarkar, page 108

⁶ Abdul Rahim : The Principles of the Muhammedan Jurisprudence, page 21.

Key Components of Criminal Justice System in India

The criminal value system in India is composed of three fundamental components:

The police, the legitimate, and the therapeutic system. The police are competent for investigating and securing wrongdoers, and for actualizing the law. The legitimate is careful for making past any question that trials are conducted sensibly which value is served. The remedial system is able for reestablishing wrongdoers and expecting them from committing infringement inside long haul.

The police are the essential point of contact for those affected by wrongdoing, and are careful for collecting demonstrate and securing criminals. The police look at wrongdoing scenes, collect demonstrate, and examine suspects. They are as well careful for keeping up law and organize inside the country. The legitimate is careful for making past any question that trials are conducted sensibly which value is served. Judges oversee over criminal trials and make past any question that the censured are given their due rights. The therapeutic system is competent for reestablishing blameworthy parties and making past any question that they do not re-offend.

Constitutional Foundation of Criminal Justice System in India

The Constitutional Foundation of the Criminal Justice System in India is firmly established within the framework of the Indian Constitution, which serves as the supreme law of the land. The Constitution guarantees certain fundamental rights to every citizen, including the right to equality, right to life and personal liberty, and right against exploitation.⁷ These rights provide the foundation for protecting individuals from arbitrary actions by law enforcement agencies and ensure fair treatment within the criminal justice system. Several provisions within the Constitution delineate the fundamental principles and procedures that underpin the country's criminal justice system.⁸ Some notable constitutional provisions related to criminal justice in India include:

- **Article 14:** The Constitution of India ensures that all citizens are equal before the law and are entitled to equal security of the law. This provision guarantees that no individual is treated unjustifiably or separated against by the law.
- **Article 20:** Article 20 is indeed a significant provision that safeguards the rights of a person in administration of criminal justice system in India.
- **Article 21:** Protects life and liberty, and guarantees a fair trial to all accused persons.
- **Article 22:** Protects personal liberty, and guarantees certain rights to an accused person, including the right to silence and the right to counsel.
- **Article 39-A:** Requires the state to provide free legal aid to all persons who are unable to afford it.

These provisions have been interpreted by various courts and have played a crucial role in shaping the criminal justice system in India. The judiciary has evolved the numerous principles and doctrines for the smooth running of the democratic setup and to provide safeguards to the citizens of India in proper administration of criminal justice, such as:⁹

1. **Rule of Law:** The Constitution upholds the principle of the rule of law, ensuring that all individuals, regardless of their status or position, are subject to the law. This principle ensures that the criminal justice system operates impartially and without discrimination.
2. **Due Process:** The Constitution enshrines the principles of due process and procedural fairness. This includes the right to a fair trial, the presumption of innocence until proven guilty, the right to legal representation, and protection against self-incrimination. These provisions ensure that individuals accused of crimes are afforded adequate safeguards throughout the criminal justice process.
3. **Separation of Powers:** The Constitution establishes a system of checks and balances by separating the executive, legislative, and judicial branches of government. This separation ensures that each branch functions independently and prevents any one branch from exerting undue influence over the criminal justice system.
4. **Federal Structure:** India's government structure apportions powers and obligations between the central and state governments. Whereas the central government sanctions laws relating to certain violations and legitimate methods, the state governments are essentially dependable for law authorization and upkeep of open arrange. This division of powers guarantees viable coordination and organization of equity at both the national and nearby levels.
5. **Judicial Review:** The Constitution empowers the judiciary, particularly the Supreme Court and High Courts, with the authority to interpret the law and adjudicate disputes. Judicial review allows the courts to

⁷ K. R. Sreenidhi and Elsa Philip Chanjana, "Exploring Constitutional Complexity" 3 *CMR UNIV. J. CONTEMP. LEGAL AFF.* 151 (2021).

⁸ M. Hirsch and A. Kotwal, et.al., (eds.), *A Human Rights Based Approach to Development in India* (UBC Press, 2019).

⁹ See P.N. Bhagwati, "Human Rights in the Criminal Justice System" 27:1 *Journal of the Indian Law Institute* 1-22 (1985).

examine the constitutionality of laws, executive actions, and judicial decisions, thereby safeguarding individual rights and ensuring the accountability of the criminal justice system.

There are plethora of leading constitutional case laws on the criminal justice system in India which molds the nature of justice and incorporate the concept of principles of natural justice, constitutional morality, just, fair and reasonable trial, etc.,

In the leading case of *Bachchan Singh v. State of Punjab*¹⁰, court stated that death penalty provided under Section 302 of the Indian Penal code read with Section 354 (3) of Cr.PC, 1973 as unconstitutional and void as being violative of Article 14 and 21 of the Constitution of India. In *Sunil Batra v. Delhi Administration & Others*¹¹, held that custodial torture was a violation of fundamental rights under Article 21 of the Indian Constitution (Protection of life and personal liberty). The Court moreover ruled that under trial detainees have the proper to compassionate treatment which any infringement of this right would be considered a infringement of Article 21. In *D.K. Basu v. State of West Bengal*¹², the case deals with the rights of arrested persons and the duties of the police in custodial interrogations. The Supreme Court laid down several key directions to prevent custodial crimes and ensure fair treatment of arrested persons:

- a. Arrested persons must be produced before a magistrate within 24 hours of arrest.
- b. The magistrate must satisfy himself about the necessity of further detention.
- c. The police must record the arrest memo and produce it before the magistrate.
- d. The police must ensure that arrested persons are treated with dignity and respect.
- e. The courts must monitor custodial interrogations and take proper action against persons violating human rights.

In the case of *Gurbaksh Singh Sibba v. State of Punjab*¹³, established the principle that an accused person has the right to be tried by an independent and impartial tribunal. The court in *Kapoor v. State of Punjab*¹⁴, this case held that the arraignment must demonstrate the blame of the blamed past a sensible question, which any question or instability ought to be settled in favor of the denounced. The *State of Maharashtra v. Som Nath Thapper*¹⁵, established the principle that a confessional statement made by an accused person without legal advice may not be considered as a voluntary confession.

In *State of Punjab v. Ajaib Singh*¹⁶, the court held that an denounced individual has the correct to be educated of the charges surrounded against him, which any trial conducted without appropriate take note to the charged may be considered as invalid. In *Karthikeyan v. State of Tamil Nadu*¹⁷, established the principle that an accused person has the right to a fair trial, and that any evidence obtained by violating human rights may not be used as evidence against him. In *Vishnu Dutt Sharma v. State of Rajasthan*¹⁸, the court held that a charged individual has the proper to a fast trial, which any preposterous delay in completing the trial may be considered as a infringement of his rights.

These cases have had a significant impact on the criminal justice system in India, and have helped to establish important principles and safeguards for ensuring a fair trial for all accused persons.

The Constitutional Foundation of the Criminal Justice System in India sets up a system that emphasizes the assurance of person rights, procedural reasonableness, and responsibility, in this manner cultivating open believe and certainty within the organization of equity. The Legislative and Judicial Framework of the Criminal Justice System in India is based on a combination of statutes enacted by the legislature and interpretations provided by the judiciary.¹⁹ The Legislative attempt to maintain criminal justice system India is governed by the numerous statutes enacted by the Indian legislature, such as:

1. **Indian Penal Code (IPC):** Enacted in 1860, the IPC defines various offenses and prescribes punishments for them. It covers a wide range of criminal activities, including offenses against the person, property, and state.
2. **Code of Criminal Procedure (CrPC):** The CrPC, enacted in 1973, provides procedural guidelines for the investigation and trial of criminal cases. It delineates the powers and responsibilities of law enforcement agencies, courts, and other stakeholders involved in the criminal justice process.
3. **Indian Evidence Act:** This Act governs the admissibility of evidence in criminal proceedings. It establishes rules for the presentation and evaluation of evidence during trials, ensuring fairness and reliability in the adjudication process.
4. **Special Laws:** India has various special laws addressing specific types of crimes, such as the Narcotic Drugs and Psychotropic Substances Act, the Prevention of Corruption Act, and the Protection of Children

¹⁰ (1982) 3 SCC24.

¹¹ (1978) 4 SCC 409.

¹² (1997) (1) SCC 416).

¹³ (1980) 2 SCC 565.

¹⁴ 1960 SCR (3) 311.

¹⁵ AIR 1996 1744.

¹⁶ AIR 1995 SC 975.

¹⁷ CASE NO. W.A.No.303 of 2001.

¹⁸ (2010) 4 SCC 393.

¹⁹ See P.P. Rao, "The human face of criminal justice in India" 33:2 *Peace Research* 51-55 (2001).

from Sexual Offences Act. These laws supplement the IPC and CrPC by providing specialized provisions for particular offenses.

The Indian judiciary also provide a strong mechanism in solving criminal dispute and in maintain law and order of the country through its proactive approach in numerous judicial decisions.

The interaction between the legislative and judicial frameworks is essential for ensuring the effective functioning of the criminal justice system. The legislature enacts laws to address evolving social needs and challenges, while the judiciary interprets these laws, resolves disputes, and safeguards constitutional rights through its judgments and decisions. Together, they form a dynamic framework that seeks to uphold the rule of law and administer justice impartially.

Critical Appraisal of Criminal Justice System in India

The Criminal Justice System in India, while founded on democratic principles and the rule of law, faces significant challenges that warrant critical appraisal:²⁰

1. **Backlog of Cases and Delayed Justice:** The system is burdened with a massive backlog of cases, resulting in prolonged delays in the dispensation of justice. Cases can drag on for years, leading to frustration among litigants, victims, and accused individuals. The slow pace of justice undermines public trust and confidence in the legal system.
2. **Overburdened Courts and Underfunded Infrastructure:** Indian courts are overwhelmed with a high volume of cases and are often understaffed and under-resourced. This results in overworked judges, court staff, and lawyers, leading to inefficiencies in case management and adjudication. Additionally, inadequate infrastructure and outdated technology further impede the functioning of the justice system.
3. **Police Brutality and Corruption:** Instances of police brutality, custodial torture, and extrajudicial killings are pervasive in India. Corruption within the police force undermines the rule of law and erodes public trust in law enforcement agencies. Victims of police misconduct often face barriers in seeking redressal due to the lack of accountability and impunity enjoyed by errant officers.
4. **Inequality and Discrimination:** Marginalized communities, including Dalits, tribal groups, and religious minorities, are disproportionately targeted and discriminated against within the criminal justice system. They frequently confront systemic predispositions, preference, and out of line treatment, both by law requirement organizations and inside the legal. This sustains social shameful acts and undermines the rule of balance some time recently the law.
5. **Inadequate Legal Aid and Access to Justice:** Access to legal aid remains limited for many indigent individuals, especially those from marginalized backgrounds. The cost of legal representation, coupled with a lack of awareness about legal rights and procedures, poses barriers to accessing justice. As a result, many vulnerable individuals are unable to assert their rights and navigate the complexities of the legal system effectively.
6. **Rehabilitation and Prison Reform:** Indian prisons suffer from overcrowding, poor living conditions, and inadequate rehabilitation programs. The focus on punitive measures rather than rehabilitation hinders the successful reintegration of offenders into society. Moreover, the lack of attention to mental health and social reintegration exacerbates recidivism rates and perpetuates cycles of crime and incarceration.
7. **Need for Legal Reforms and Modernization:** While there have been efforts to reform and modernize the legal framework, including legislative amendments and judicial reforms, implementation remains a challenge. Bureaucratic hurdles, political interference, and resistance to change impede the effective implementation of reforms aimed at addressing systemic deficiencies and improving the efficiency and fairness of the criminal justice system.

Conclusion

In conclusion, whereas the Indian criminal justice framework is established on majority rule standards and the run the show of law, it faces various challenges that ruin its adequacy, reasonableness, and validity. Tending to these challenges requires comprehensive changes, counting reinforcing organization capacity, upgrading responsibility instruments, advancing get to equity, and guaranteeing the assurance of human rights for all people inside the criminal justice framework.

The judiciary continues to play the function of translator notwithstanding the existence of codified laws or a written constitution. It must be acknowledged, nonetheless, that the Apex Court has not always followed a consistent pattern when reading criminal law provisions to modify them to fit the preexisting constitutional framework. Without a doubt, while evaluating criminal law provisions in terms of their constitutional legality, our courts have taken the US Supreme Court's rulings into consideration. However, it should not be overlooked that American courts have also attempted to preserve common law concepts under the cover of constitutional

²⁰ See B.P. Singh, "The challenge of good governance in India" 38:1 *Social Change* 84-109 (2008).

protections. A unique aspect of the English legal system that permeated the American legal system and has always been their domain.