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THE IMPACT OF NEW CRIMINAL LAW ON THE JUSTICE SYSTEM IN INDIA: PROGRESS, CHALLENGES, AND FUTURE DIRECTIONS

Abstract

Juridical ideas and constitutionalism serve as the foundation for the criminal justice system. It involves the collaboration of several organizations and solutions. An ordered society and the defense of human rights depend on an efficient criminal justice system. In contrast to this idea, Indian justice system is beset by an array of challenges, including skyrocketing crime rates, antiquated legislation, delayed hearings, and ineffective authorities, to mention a few.

To revitalize the criminal justice system, reforms grounded in fairness by nature and human rights are desperately needed. It is the moral obligation of every Indian citizen to comply with and uphold the law enforcement agencies. These limited but vital steps include compatible reform of the criminal code, encouraging and establishing trust in a cautious justice system, preventing misconduct of authority by the security structure, and readily apparent social security actions.

Keywords: *constitutionalism, justice system, Indian justice system, reforms*

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THE IMPACT OF NEW CRIMINAL LAW ON THE JUSTICE SYSTEM IN INDIA

Justice consists not in being neutral between right and wrong, but finding out the right and upholding it, wherever found, against the wrong..

-Theodore Roosevelt

I. INTRODUCTION

The foundation of competent jurisprudence underpins the concept of the criminal justice system, facilitating its operation and effectiveness. Every country, regardless of its level of development, strives to have an efficient criminal justice system.¹ In order to ensure justice and fairness in the end, an efficient criminal justice system should not just concentrate on how justice is delivered but also on its goals. The criminal justice system is made up of several entities and organizations that operate together in a well-organized framework. Internally, a criminal justice system consists of all the establishments and groups associated with the three branches of government: the courts, the police, and the remedial agencies.

To be effective, every component of the criminal justice system must administer justice rather than merely haphazardly carrying out the law. (Dauber, 2011; Persak, 2019; Peak, 1989).

A criminal justice system has to be promptly reformed in each community or country where crime manifests itself or returns in various forms. India is not an exception to the aforementioned claim. The nation's confidence has been undermined by the nation's steadily growing crime rate, the feared effects of criminal activity on the victim and society, and the criminal justice system's inability to provide results. The functioning and delivery mechanisms of the criminal justice system in India are influenced by a multitude of elements that impact its efficacy. (Barnes & Kingsnorth, 1996; Szczucki, 2018).

¹ "Effective" in this context refers to an arrangement that functions and produces results, both literally and philosophically.

The chronology of the Law, designed to facilitate social change in society. Ensuring that laws work with the same dynamism as society is the constitutional and statutory obligation of the three pillars of the state. These foundations of the state must guarantee that the criminal code keeps up with constitutional rights and obligations jurisprudence. Nonetheless, Indian citizens also have a moral duty to uphold the law and refrain from abusing it. The goal of the criminal justice system is difficult for organizations and institutions to achieve due to people' rigidity and disobedience with the law.

Therefore, this Article seeks the upholding features of new justice system by elevating and mentioning the initial with the root, reason, and capabilities. Evolution in the second and intensive on the ascended new laws to make certain about Law which mark the new epoch in the third.

III. HAPHAZARD CRIMINAL JUSTICE SYSTEM

Since a very long time ago, the Indian criminal justice system has been struggling with several intricate issues. The nation's crime rate is rising quickly every year; many crime categories, such as crimes against women, children, including rape and human trafficking, crimes against the body, and crimes against property, all show consistent increases.² In India, many crimes—even the most horrific—go undetected; there are a variety of causes for this ongoing problem (DeLisi & Vaughn, 2014; Friedmann et al., 2007).

There is a well-known adage in jurisprudence that "disregard of the law is no excuse," however in many situations, people lack knowledge of the nation's laws and the justice system, making them unable to report a crime. In other instances, several crimes in India go unreported owing to familial pressure, inhibition, defamation, concern for reputation, undue influence, threats, undue publicity, lack of support system, and fear of confronting the police and going to court, among many other factors. These variables are primarily effective

² Crimes in India (1953-2012), Records from the National Crime Bureau, accessible at: <http://ncrb.gov.in/> (Visited on August 29, 2024).

in situations involving crimes against women,³ marriage, and children, such as domestic assault, child abuse, and assault.⁴

In India, the delayed criminal justice processes have created opportunities for the following undesirable legal, social, and economic repercussions:

A. Legal repercussions and the criminal justice system's incompetence:

Human rights violations are an inevitable and intrinsic result of India's criminal justice system's shortcomings. In India, lengthy investigations, trials, and the pending status of criminal cases are becoming commonplace. Some unalienable human rights, such as the right to life and personal liberty, including the right to a fair and prompt trial and the freedom of speech and expression, are violated for the accused who are awaiting trial in jails.

The Indian Supreme Court has considered several instances, such as *Hussainara Khatoon v. Secretary, State of Bihar*⁵, and *Sheela Barse v. State of Maharashtra*⁶, where the defendants were under trial and had been incarcerated for years without receiving the bare minimum of care, food, and shelter.

The theoretical foundation of the criminal laws is undermined and rendered useless by the concepts and precepts.⁷ The fundamental rights and obligations that underpin all laws and policies pertaining to criminal activity are eventually violated by the criminal laws.

B. The ineffectiveness of the criminal justice system's societal consequences:

Crimes happen in society, where they have a grave and enduring effect. Society is still in danger when the criminal justice system is unable to stop, manage, or punish crimes. Any crime committed at any moment may be a predicted reality. However, recidivists⁸ and those with a criminal propensity repeatedly return to perpetrate crimes. When the criminal justice system fails, society descends into anarchy and criminals are motivated to commit crimes.

³ Exclusive Personnel, "Most Sexual Assaults Remain Unknown: MPs" The Hindu, 27 August 2013.

⁴ "The cases of domestic violence go overlooked," by Samrat Phadnis, The Times of India, December 20, 2013.

⁵ AIR 1979 SC 1360.

⁶ AIR 1983 SC 378.

⁷ The following are the fundamentals of criminal jurisprudence: establishing the guilt of the defendant without probable cause; granting the accused the benefit of the doubt; providing a fair and prompt trial to both the defendant and the innocent party; and guaranteeing the accused's entitlement to counsel and an impartial trial.

⁸ "Redivist" refers to a hardcore criminal with a recurrent criminal tendencies.

C. There is a need for a fiscal assessment since the criminal justice system is violated:

An economic study of crime demonstrates how committing an offense triggers the litigation process for the people involved and the state that is the target of the crime. In a criminal case, the parties must pay the costs of defending themselves, appearing in court, and paying other expenses. The victim does not get anything in the way of compensation⁹ to offset the cost of pursuing the action until after the verdict. On the other side, the state must spend enormous sums of money keeping up its jail system and giving impoverished crime victims legal assistance when needed. It is anticipated that a decreased crime rate will cut down on this needless litigation expense.

IV. REVITALIZE THE DYSFUNCTIONAL CRIMINAL JUSTICE SYSTEM IN INDIA

The aforementioned variables and outcomes have a complicated and serious impact on the criminal justice system. Due to India's large and diverse population, several types of crimes are likely to occur in Indian society. Even though the largest threat to India's criminal justice system is the country's growing crime rate, there are still certain issues that must be resolved in order to improve the functioning of the system's affiliated institutions.

Numerous aspects of the criminal statutes, both fundamental and legal, require immediate revision or abolition. The lawmakers must abolish any outdated legislation that are at odds with the constitution and human rights regime. It is also necessary to amend or modify the ambiguously worded provisions that allow for the arbitrary use of authority. The criminal laws must be adaptable enough to include additional clauses to address emerging or evolving crime patterns. Similar to this, the court is supposed to counterbalance the legislature's constitutional duty by fairly comprehending, adequately explaining, and even overturning any outdated criminal code provisions.

By interpreting the criminal laws in a way that upholds the principles and ideals of the constitution, the Indian court has played a crucial role. When carrying out the criminal laws of the nation, the executive authorities are required to adhere to the constraints imposed by the constitution. When carrying out criminal proceedings, they must adhere to the principles

⁹ Section 357, Criminal Procedure Code, 1973 (Act 2 of 1974): Section 395, Bharatiya Nagarik Suraksha Sanhita, 2024 [New]

V. PROMOTING A SKEPTICAL COURT SYSTEM

India's criminal justice system has to be fixed, and to do so, the country's legal system needs an ever-vigilant, ever-delivering judiciary. The Indian judiciary, which consists of the Supreme Court of India and state-level High Courts, has effectively performed the duties of arriving at decisions and enacting laws. This has become increasingly evident since the introduction of Public Interest Litigation in India at the close of the 1970s and the start of the 1980s.¹⁰

When it comes to fulfilling its role as a lawmaker, the higher court has done a fairly good job of establishing binding rulings that, up to their adoption, have constituted the supreme law of the nation. For example, the Criminal Laws Amendment Act, 2013 was enacted after the Supreme Court of India rendered a decision in *Vishakha v State of Rajasthan*¹¹, which was the first ruling in this area. This decision served as the "law" in cases involving sexual harassment at work.

*Sher Singh v. State of Punjab*¹² and *Hussainara Khatoon v. Home Secretary, State of Bihar* establish the "right to speedy trial," which guarantees that procedural legislation that prolong the trial are unlawful ab initio.¹³ The *Mose Wilson v. Kasturiba* ruling established the "right to speedy justice," which requires the government to act quickly to stop the problem from becoming out of hand.¹⁴ "Rights of under-trial prisoners" guarantees the release of undertrial inmates detained for longer than the maximum sentence imposed upon conviction.¹⁵ Similarly, the Apex Court decided in *Mathew v. State of Bihar*¹⁶ that anybody detained in custody or without charge had to be released.

¹⁰ As Sir John Salmond states in Salmond on Jurisprudence, precedent is a significant source of law. There are two categories of precedents: both deductive and inductive "Deductive reasoning precedents" refer to cases where the judge makes a decision based on an established legal concept or tenets while "inductive precedents" require the assess to make a decision when there is a legal gap, no legal provision, conflicting provisions, a need for a prompt clause, or a vacant constitutional question that is not resolved by the courts or legislation.

¹¹ AIR 1997 SC 3011.

¹² AIR 1983 SC 465.

¹³ AIR 1979 SC 1360; AIR 1980 SC 1819.

¹⁴ AIR 2008 SC 379

¹⁵ Hussainara Khatoon vs. Home Secretary, State of Bihar AIR 1979 SC 1360.

¹⁶ AIR1984 SC 1854.

It is unrealistic to expect legislation to address every issue, particularly one that is pressing and urgent (Plyth & Craham, 2020; Feld & Voigt, 2003). Even though the court system is beset with several grave problems—the most notable being case backlogs, trial delays, and corruption—the general public must maintain confidence in the institution's ability to function. The legal system has been more succinct in handling delicate matters recently, such as the acceptance of transgender people¹⁷ and the validity of homosexuality¹⁸, which were either disregarded or forbidden in the past. In addition, the Indian court must uphold the expectations of the general public and dispense justice in every situation.

VI. THE STATE TAKES ACTION TO FORTIFY THE CRIMINAL-JUSTICE SYSTEM'S BASE

As a welfare state, India requires that all national institutions be based on the principles of fairness, both social and economic.¹⁹ The Indian Constitution requires the state to ensure that the judicial system functions to advance justice based on equal opportunity. To guarantee that no one's capacity to pursue justice is limited because of their financial situation, the state must offer free legal aid. The state is required to implement certain just pro bono²⁰ actions in the form of legislation, regulations, and court rulings to achieve these constitutional objectives.

Regarding the laws, there are many that permit victims of crimes, minors, first-time perpetrators,²¹ and diverse people to reform and rehabilitate through protective and corrective measures like open prison systems, probation residences, protection homes, and permits, respectively. It is claimed that victims of forced labor, prostitution, slavery, and kidnapping should also be covered by comparable measures. Furthermore, the government and its agencies must carry out the state's rehabilitation and reform initiatives in full, in letter and spirit (Ramadani et al., 2021; Konopelskyi et al., 2021).

¹⁷ National Legal Services Authority v Union of India; distinct, 2014

¹⁸ Naz Foundation v Government of NCT of Delhi, (2011) PL May S-32

¹⁹ Article 38, The Constitution of India, 1950.

²⁰ The court has implemented "pro bono" initiatives, such as attempts to streamline the process of delivering justice. Diminution of locus standi, epistle jurisdiction, and laches are among them.

²¹ The Juvenile Justice Act of 2000 (Act 56 of 2000), the Probation of Offender Act of 1958 (Act 20 of 1958), the Narcotic Drugs and Psychotropic Substances Act of 1985 (Act 61 of 1985), and the Domestic Violence Act of 2005 (Act 43 of 2005).

VII. CONCLUSION:

Timely reformation and execution of criminal legislation in India is necessary to treat the ailments of the criminal justice system. In order to preserve the constitutional ideals of justice, liberty, and freedom, a social order must be maintained. Furthermore, criminal law is a crucial component of the constitutional system that has to function as a living law²² in order to support the functioning of the Indian Constitution. There are several issues with the Indian criminal justice system's operation that are outside the purview of this article. The three arms of government need to be working together to address and eradicate any issues, no matter how serious they may seem.

India has all the charitable tools necessary to ensure that the Indian legal system upholds justice since it is an egalitarian nation. No one can be refused legal representation to pursue justice, regardless of their rank or position.

The state and the general populace must work together to reinforce the fundamental criminal jurisprudence principles that underpin the criminal justice system. Laws alone have never been able to bring about change without the support of society. A vibrant society has to be willing to follow the law and support the government in enforcing its provisions. For India to continue arising, effectively in the face of formidable obstacles including poverty, illiteracy, and bureaucracy.

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