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A FAIR CRIMINAL JUSTICE SYSTEM: A MYTH OR A FACT?

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ABSTRACT

Criminal justice system plays an important part in the lives of people. But when the question arises whether it is fair or not, people lose faith in the justice system. Time plays a crucial role in serving justice to its citizens. In many instances, people have been considerate in believing if criminal justice is just and fair. But how does the criminal justice system works is an important issue? This article considers the issues in the current criminal justice system and the interconnectedness of the delay injustice. But the question of whether justice delayed is justice denied appears to depend on whether the delay is inappropriate or avoidable needs to be answered. Everyone wants the criminal justice system to be fair. But they lack clarity about what fairness means. The article considers the ideal goals of the criminal justice system and how it works. The article is limited to the criminal justice system in India, which is discussed in the second section of the article. The article ends with a conclusion and the author's opinion.

Keywords - *Fair, Criminal System, Justice, Delayed Justice.*

1. INTRODUCTION

We as common citizens of the country believe that the criminal justice system is fair and we get justice before the court of law. But we never ponder to what extent is this true. Is this a myth or a fact? The criminal justice system is made to punish the criminals and to give justice to the victims. According to Oxford Learner's Dictionary, the *fair* is defined as treating everyone equally and according to the rule of law¹. Also, it means acceptable and appropriate in a particular situation. As inferred from the definition, one should be punished for the wrong one has done; getting what one deserves.

The Criminal Justice System consists of the institutions or agencies established by the government which includes police as well as courts, to control crimes in the country. The term is used to describe three interdependent components i.e. courts, police and correctional facilities with the federal government and agencies of criminal justice. Some would add a

¹ Fair, fair_1 adjective- Definition, pictures, pronunciation and usage notes | Oxford Advanced Learner's Dictionary at OxfordLearnersDictionary.com,
https://www.oxfordlearnersdictionaries.com/definition/english/fair_1?q=fair

fourth component of criminal justice i.e. law-making, for all legitimate criminal justice system activity emanates from the law². This is important to understand because if the criminal justice process is unfair, then some of it would branch from the criminal law³.

When the justice system does not adhere to the time limit, people lose faith in the justice system as it makes it difficult for the accused and one's family members to live in society out of shame.

2. CRIMINAL JUSTICE SYSTEM IN INDIA

in India, criminal law consists of both substantive as well as procedural law. The two main statutes that deal with the administration of criminal cases are Criminal Procedure Code, 1973 i.e. CrPC and Indian Penal Code, 1860 i.e. IPC respectively. The object of criminal law is to protect society against criminals.

The procedure for administration of criminal cases in India is divided into three stages as investigation, inquiry and trial. For the same purpose, the procedure to be followed is provided in CrPC, for every offence under IPC. "Investigation" is a primary stage that is conducted by police and generally starts after filing the FIR i.e. First Investigation Report in the police station. Under section 157, the procedure is provided for conducting an investigation for any criminal matter, i.e. "if an officer-in-charge of a police station has a reason to suspect the commission of an offence, he shall forthwith send a report of the same to the magistrate allowed to take cognizance of such offence upon a police report and shall proceed in person.." ⁴. The next stage is the "inquiry" stated under section 177-189, which consists of a magistrate, being satisfied with the facts. The last state is the "trial" which is the judicial adjudication of a person's guilt or innocence. Under the code, trials are divided as a warrant, summons and summary trials. The trial can be broadly broken into the following procedures i.e. framing of the charges/ giving notice where the judge is required to weigh the evidence to find out whether the case against the accused has been made out, Recording of prosecution evidence where the prosecution is asked to examine its witnesses before the court of law, Statement of accused where the court has powers to examine the accused at any stage of inquiry, Defence evidence, Final arguments where prosecution shall sum up the prosecution case and Judgement is the last

² SAMAHA JOEL, CRIMINAL LAW (12TH ed. 2016).

³ ROBINSON MATHEW, THE CONSTRUCTION AND REINFORCEMENT OF MYTHS OF RACE AND CRIME 133-156 (2001).

⁴ The Code of Criminal Procedure, 1973, NO. 2, Acts of Parliament, 1973 (India).

stage when the judge pronounces his judgement in the trial. This procedural step looks simple but it suffers from many lacunas which becomes a hurdle to a speedy dispensation of cases and eventually, delay in serving the purpose of justice. That's why it is said, "justice delayed is justice denied".

3. IDEAL GOALS OF CRIMINAL JUSTICE SYSTEM

Crimes are committed against persons, properties, or the states themselves. Despite the knowledge of criminal laws and punishments for committing crimes, people commit crimes. The ideal goal of the criminal justice system is to deliver justice and reduce crimes in the country. Conflicts of the objectives stem from the functions of society. The goal is fairness and equality for all, and let the innocent walk free. If the procedure of the trial is fair, then the outcome is fair. If there are flaws in the procedure, there is a risk of wrongly convicting people. Examining the flaws in the system, there are chances that we can reduce the errors in our justice system.

We often see that the families of victims often seek some form of retribution for the wrong done to them, where the criminal justice system plays an important role to punish those who have committed a crime. Judgements made can act as a precedent in future cases whereas punishments/penalties-imposed serve as fear in the mind of the general public to not commit a crime or the same mistake. According to the general public, a person convicted of any crime or offence should not be allowed to live in society. But in incapacitation, criminal law effectively protects the public from any offence that amounts to a crime. whereas in rehabilitation, offenders are

transformed into becoming a valuable member of the common population once he serves his time in prison. Here, they are been taught the skills which will then condense them useful in society. In some crimes, offenders are asked to restore repair the damages inflicted on them.

The criminal justice system is expensive and cumulatively disastrous. The hierarchy of court puts legal justice beyond the reach of the poor in India. Hence costly legal service is an indirect denial of justice to poor people. This is the reason why the legal system has lost its credibility for the weaker sections of the community. Although there have been some recent developments to seek redress and accord justice to poorer sections are worth stating.

4. JUSTICE DELAYED IS JUSTICE DENIED

The three tiers of government are the judiciary, legislature and executive. The role of courts in society is to protect the rights and liberty of individuals so that they can live peacefully and with dignity. Unfortunately, the ineffective government has created a hurdle in accessing justice which has resulted in granting socio-economic rights to certain sections of the society. Criminal law proceeds on the presumption of innocence until proven guilty. Also, delays in the administration of justice not only affect the rights of the accused but also of the victim(s). Hence, lengthy trials may lead to the pampering of evidence, loss of eyewitness testimony, which ultimately reduces the chances of conviction. Delay in the investigation process and prosecution of criminal cases corrodes faith in the rule of law and the criminal justice system, which has serious implications for the legitimacy of the Judiciary⁵.

Justice is one's foundational goal to live in a society with peace and dignity. Thus, it is the duty of the judiciary to perform its duty for anyone in society to live with peace and harmony. Securing justice to all its citizens is one of the key decrees of the Indian Constitution, which is explicitly made in Article 39-A.

Also, with a case pending in a court, it affects the liberty and interaction of the person in the society, even if the accused is not behind the bars. Hence, speedy trials are an integral part of a person's fundamental right to life⁶. We can precisely diagnose the pending and backlog problem at the district as well as the national level. The required reform is the establishment of a trained and dedicated cadre to provide support to the judiciary through assessment, etc.

5. CONCLUSION

When we say that the fair criminal justice system is a myth, we also have to find the rationale behind the same. Most of the time unfairness in criminal practices grow out of criminal law, which is sometimes unfair in defining criminal acts. The criminal justice activity doesn't pursue corporate offenders but rather pursue street criminals in unfair ways. The criminal justice policy is unplanned. The notion that the criminal justice system is fair appears to be a myth that

⁵ Law Commission of India, *Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities*, Report No. 239, (March 2012), retrieved from

<http://lawcommissionofindia.nic.in/reports/report239.pdf> (last visited June 12, 2020).

⁶ INDIA CONST. art. 21.

has arisen out of formal as well as informal sources. The need of the hour is the fundamental change in the judicial system.

Some changes can bring back the trust of citizens in the area of criminal justice. Increasing the number of more qualified judges may serve justice in criminal offences more forward. Physical as well as technological infrastructure in lower courts ought to be improved. The tab of a number of appeals is needed and the finality of decisions ought to be the primary imposition when cases come from the tribunal. Also, separate and independent investigation authority for the sole purpose of a criminal investigation would speed up the process. Lastly, encouraging the Alternative Dispute Resolutions System i.e. only cases that require the court's assistance will have to go through the judicial process, the rest of the cases which can be settled through the alternative systems would speed up the process of serving justice and fairly.