

Administration of Criminal Justice System

In the civilized society Rule of Law is required to be maintained. For the said purpose human conduct is required to be regulated by postulating what is right and what is wrong. Such postulation amounts to defining offences. On defining offences procedure is laid down for apprehension, arrest & trial of the persons alleged to have committed offence and at the end of the trial, to punish him if he is found guilty. When the Penal Code and Procedure Code are in place a whole system is required to keep an eye on conduct of individuals in the society, to book the offenders and bring him before the court of law for trial. The parallel system will be of the courts and prisons where under trial prisoners can be kept and punishment inflicted by the court can be given.

The Purpose of criminal justice system goes beyond the act of punishing the offender. The criminal justice system has to maintain law and order, work for prevention of crime, control agitations, have intelligence prospective to visualize possibility of crime in future and to prevent organized crimes. Not only this criminal justice system had to evolve the society and literate the society for prevention of crime. The criminal justice system has also to reform the offenders.

In India there are well organized institutions which organise into a criminal justice system. The policing is done by regular police force which deals with crimes defined under the Indian Penal Code and other statutes. The C.B.I. investigates the crime which has a larger impact on the moral of the society or which are of complicated in nature or are having international territorial infraction. The Enforcement Directorate deals with crimes concerned with economic offences involving large amount of money. Besides this taxing departments and the departments regularizing share market have there independent departments dealing with breach of the specific law.

The Judicial system have hierarchy of courts to deal with criminals. The Court of Magistrate and the Sessions Court try the offences. The Sessions Court tries heinous offences and rest are tried by Court of Magistrate. As classified under the Code of Criminal Procedure, Sessions Court is also appellate and Revisional Court for the orders passed by court of Magistrate, appeals against the Sessions Judge lie to the High Court. The Supreme Court is final court of appeal. The prison system have jails, sub-jails, & central jails. In sub-jails only under trial prisoners are kept. In jails under trial as well as convicts are kept to undergo punishment. At central jail also convicts and under trial prisoners are kept. In Central Jails there is provision for solitary confinement, reformatory activities and arrangement to provide rigorous imprisonment. Besides this there may be reformatory camps and open jails.

The Indian Constitution guarantees Fundamental Rights which include Right of liberty and life. The State cannot take away liberty and life of a person without following due process of law. Article 21 defines that no citizen can be arrested without definite information about his involvement in crime and on his arrest he is required to be produced before magistrate within 24 hour of his arrest. Hon'ble Supreme Court in DK Basu's case enlarged scope of the fundamental rights and mandated that the person arrested shall be informed of the cause of his arrest and his right to seek legal assistance. Not only this, his relatives be informed about his arrest. Arrested person shall not be handcuffed and shall not be paraded in public in derogatory manner. He shall be made aware of his right to be enlarged on bail, if he is arrested for bailable offence.

The criminal justice system has to act judiciously and satisfy principle of "due process of law" before punishing a convict for imprisonment or with capital punishment. Rigorous the punishment, more accurate and stringent be the process of law.

The criminal justice system follows the common law system which requires that the offence against the accused be proved beyond reasonable doubts. The State while prosecuting the offender is assisted by the public prosecutor where as the accused has to defend himself either by hiring a lawyer or by seeking legal aid.

There are various glaring problems which the criminal justice system is facing which include lack of timely registration of FIR, lack of quality investigation, missing support of the society to the investigating agency as well as to the prosecution wing, lack of quality prosecutors and finally the rate of conviction in single digit. Lot of exercises were done to improve this situation. Various commissions are appointed to reform police and reform of criminal justice system. Justice Malimath Commission was one of such Commission. The reports are implemented but the situation remains equally gross as it was.

The solutions which can be suggested to remove these deficiencies may be multiple. The basic need is to improve the police system qualitatively, socially and responsively. Now and then it is reported that the police department is corruption ridden and nothing moves unless the palms of concerning person are greased. It is necessary to eradicate the corruption if it exists at such grand level in the department. The officials are required to be trained regularly and have their periodical assessments. The investigating wing of the police is required to be separated so that the investigating police can focus on investigation and learn scientific skills of investigation. Day by day the commission of crime is becoming complicated and police has to rely on circumstantial and scientific evidence to prove the guilt. The strong investigation wing of the police may be useful to place qualitative evidence before the court and increase the rate of conviction.

Radical changes are required to be made in criminal justice system which shall start with making basic changes in the concept of appreciation of evidence and burden of proof. The present Evidence Act deals with primary burden of proof on the plaintiff or the prosecution by saying that if you want relief in your favour, burden lies on you to prove the facts and circumstance on the basis of which you are seeking relief. Some legislation try to change the scenario by creating presumptions like law regarding dowry death, crimes regarding atrocities and crimes against children's under POCSO Act. However, strong presumptions created by Legislation are diluted by precedents and all such offences continue to be decided by placing burden of proof on the shoulders of prosecution. Necessary changes are therefore required to flow from top to bottom i.e. the Supreme Court shall consider changing circumstances in society, technological development, complex human behavior and balance the scale of burden of proof, so that a system shall evolve where after the initial proof of allegations burden shall shift to the accused compelling him to prove his innocence. The legislation shall also compliment such act of higher judiciary, then only the ratio of conviction can be changed.

Normally the journey of giving new interpretation to the law and laying new principles of law starts at the bottom and succeeds when recognized at the top. So the new principle of lessening burden of proof on the prosecution may start at bottom i.e. at the trial court level. The trial courts shall have the determination to be assertive, independent and decide the matter on factual evidence without hiding behind the veil of precedents to avoid major decision to call a spade a spade

If the criminal justice administration system evolves itself with the above reformatations it will become one of the best criminal justice systems in the world.
