

REFORMS OF CRIMINAL JUSTICE SYSTEM

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The Constitution of India makes it the duty of the State to protect the life, liberty and property of a common man. The criminal justice system in the country must therefore assure the citizens that criminals would be punished and their life, liberty and property would be protected.

Unfortunately, however, in India the rate of acquittal in criminal cases is about 9.7% which is equivalent to rate of conviction in criminal cases in England and many other countries of the world. This statistics shows that it is only 7% of the crimes which really get into conviction. Naturally, therefore crime has become a profitable business in even more than this. trial

In the present era of globalisation when our country is trying to attract investments from foreign countries, this has a special significance. A country where the criminal justice system is not functioning satisfactorily will not be able good foreign investment. In addition to al of this, we even face the modern threats in this ear coming from terrorism and economic white collared crimes. Considering this situation, therefore, it has become absolutely necessary for our country as a whole to seriously consider the prevalent criminal justice system and also suggest reforms. The Govt. of India, Ministry of Home Affairs has appointed reforms of criminal justice system under the Chairmanship of Dr. V.S. Malimath (former Chief Justice of Karnataka and Kerala High Court, Member, National Human Resources Commission, Chairman, Central Administrative Tribunal). The Committee consists of the following members.

1. Shri. S. Varadachary, IAS (Retd.)
Former Advisor, Planning Commission

of India, Bangalore

2. Shri. Amitabh Gupta,
Former, Director General of Police,
Rajasthan, Jaipur - 302 015.
3. Prof. (Dr.) N. R. Madhav Menon,
Vice-Chancellor,
West Bengal National University
of Judicial Sciences,
Kolkata - 700 098.
4. Shri. D.V. Subba Rao,
Chairman,
Bar council of India,
Visakhapatnam

Member Secretary

Shri. Durgadas Gupata,
Jt. Secretary, Ministry of Home Affairs,
Govt. of India,
New Delhi.

Executive Director

Shri. C.M. Basavarya,
Former
District and Sessions Judge,
Registrar and Director of Training
High Court of Karnataka,
Bangalore.

The Commission is considering reforms in the following stages of criminal justice system.

1. Investigation of a crime - Under Section 161 and 162 of CPC it is clearly laid down that the statements before police are not admissible in court. The very foundation of our investigation of a crime is that we do not trust the police machinery. Under the circumstances the following reforms are being thought about.

a) The investigation should be handed over to independent well trained police machinery. In some cases even judicial officers should be

involved in the investigation. At all times, the police should have aid of competent prosecutors to help them in investigation.

b) The Clinton case in the United States is an example as to how even the mighty have to admit the guilt if they are confronted with modern, scientific and technological evidences. In the Clinton's case it is the DNA test which ultimately turned the battle against the Clinton. Today's modern science and technology particularly Forensic Science, DNA, tape recording, video tape recording etc. can certainly lead to proof and evidence which would be difficult for criminals to break apart.

2) Effective use of perjury cases against those who give false evidence in courts would discourage hostile witnesses.

3) Establishment of specialised courts for specialised type of cases, working courts in shifts, laying down a time frame for the entire trial in line with the CPC Amendments of 2002) are some other procedural reforms.

4) Transfer of some of the cases from police to other departments like Excise, RTO.

5) Examination of witnesses on Court Commission.

6) Appointment of Fast Track Courts even at the level of Magistrate.

7) Giving special machinery to courts for securing presence of witnesses.

8) Good home work by judges, control of cross examination by judges and passing short orders and judgments by judges.

9) Making the procedure simple by abolishing some of the procedures like recording of statements under section 313 of CRPC, recording of evidence by affidavits at least of formal witnesses, laying down one

procedure for all types of cases and abolishing the difference between summary, warrant and session trials, casting burden on the accused to prove his innocence in cases of certain types, e.g. economic offences, rape cases etc.

All the aforesaid reforms would require steps from the legislature in amending Indian Evidence Act, Criminal Procedure Code and Indian Penal Code. Its implementation will depend upon the executives i.e. the secretarial and the police machinery. Finally, its ultimate implementation and trials would depend upon the judiciary.

What is however most important is what Dr. Justice considers as the most important factor in all of this, which is the quest for truth. We as a country seem to have lost this quest for truth. If we do not inculcate and pursue the same all reforms may remain only on paper.

CRIMINAL JUSTICE SYSTEM

Civil Vs. Criminal Justice System:

Criminal Justice System:

1. Legislations :

Indian Penal Code and other legislations

Criminal Procedure Code

Indian Evidence Act

2. Structure:

Police - cognizable offences

Court - All offences



Judicial Magistrate First Class

Sessions Judge

High Court

Supreme Court

3. Investigation, Bail and Anticipatory Bail

4. Trial

Principles

1. Statements before police are not admissible in Court.
2. Every person is presumed to be innocent till proved to be guilty.
3. Let hundred guilty get acquitted but not one innocent be held guilty.

5. Problems

1. Only 37% rate of convictions.
2. Problems with police investigation.
3. Hostile witnesses
4. Delay

6. Reforms:

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