



A SOCIO LEGAL STUDY ON CRIMINAL ADMINISTRATION OF JUSTICE IN INDIA WITH SPECIAL REFERENCE TO STATE OF GUJARAT

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ABSTRACT

The criminal justice system is incredibly expensive, complicated, and becoming increasingly crucial. When the impoverished are unable to approach the temple of justice, it is an indirect denial of justice to the weaker members of society. So, in these days, the courts have taken the lead and extended a helping hand to victims in order to get justice. At the moment, the judicial delivery system is evolving in order to provide relief to the general public. The researcher has researched this issue to determine what is necessary in today's society to get justice, and what the demands of this study are, and is attempting to convey from his or her own point of view. A socio-legal study is an examination of the link between society and the law. Criminal administration of justice is defined as "one's own activity and the structure of police and courts for the justice system in the discovery, investigation, anxiety, consultation, and trial of individuals accused of crime." The administration of justice is dependent on the personnel activities of the police, the public, and the court, for the victim to receive justice. The government has enacted several significant laws, such as the Indian Penal Code, cyber law, the Contract Act, and procedural law, such as the Code of Criminal Procedure and the Law of Evidence. However, the execution of these laws is contingent on these conditions. The three branches of government are the police, the public, and the judiciary. Everyone has been living according to their constitutional rights; no one can infringe on the rights of others since our constitution is based on democracy. And the basic core of our constitution is nature, distinctive features, preamble, fundamental rights, guiding principles, obligations, and so on.

Keywords: Criminal Administration, Judiciary, Police, Constitution, Justice

INTRODUCTION

The criminal law has been safeguarding society from criminals and law-breakers by threatening future lawbreakers with sanctions as well as attempting to make up the genuine offenders experience the prescribed consequences for their crimes. Thus, criminal law encompasses both substantive criminal law and procedural criminal law in its broadest sense. Substantive criminal law defines offenses and proposes penalties for them, whereas procedural law enforces the substantive law.¹

As a result, in our nation, the two major heads are criminal process code, i.e. Cr P C, which deals with administration of criminal cases, and Indian penal code, i.e. I.P.C, which is procedural and substantive correspondingly. On the other hand, as time passes, the community rules change, and the people who are a member of this community accept this change by compromise or any other means in order to control and make them a part of the same civilisation. In an uncivilized culture, there was no criminal law.²

The compliance of these principles remains with the parties themselves, for a long time, but step by step this function came to be performing by the State. From the time of Manu, the germs of criminal jurisprudence came into existence in India. Manu has identified crimes such as violence, theft, robbery, and false evidence, as well as defamation, criminal breach of trust, cheating, adultery, and rape. The monarch safeguarded his subject matter and the subject matter in exchange for yet to be paid him commitment and money. The king rules justice directly,



¹ Lakshminath, A. "CRIMINAL JUSTICE IN INDIA: PRIMITIVISM TO POST-MODERNISM." *Journal of the Indian Law Institute*, vol. 48, no. 1, Indian Law Institute, 2006, pp. 26–56, <http://www.jstor.org/stable/43952016>.

² Dompale Prakash Laxmanrao. "Criminal Administration of Justice in India a Socio Legal Study." *Inflibnet.ac.in*, 9 Mar. 2010, [shodhganga.inflibnet.ac.in/handle/10603/229073](http://hdl.handle.net/10603/229073), <http://hdl.handle.net/10603/229073>. Accessed 30 Jan. 2022.

but if he is too busy, the task is delegated to a Judge. If a criminal is fined, the payment is paid into the king's reserves rather than to the aggrieved person as compensation.³

One needs to have a receptive in today's world, broad and open mind in order to solve various problems by our justice system. In view of the fact that it is clear that in our criminal justice system a change is essential and there is a need to stick on to option to alternative methods of dispute resolution even in criminal cases in place of making a major change, we initially need to see the general character of a trial and by our courts which the procedure or system is followed for the criminal administration of justice.⁴

PROCEDURE

In our country the procedure of administration of criminal justice is divided into three stages namely investigation, inquiry and trial. Under the Indian Penal Code or under any other law The Criminal procedure code 1973 provides for the procedure to be followed in investigation, inquiry and trial, for every offence. There are certain basic terms one should be aware of these being before discussing the procedure of administration;⁵

- Cognizable offences.
- Non cognizable offences.
- Inquiry.
- Investigation.

Therefore, to resolve for a dispute the said case has to go through the three stages i.e. inquiry, investigation and trial and after this process will complete the judgement of by the judge who settle on the case and its conclusion. Even though the process becomes visible to easy and simple by paper but in practicality is weighty and time overriding fair and speedy justice who is defeating the main essence of a criminal system, and so warrants a change now.⁶

CRIMINAL TRIALS IN INDIA

India has a well-established statutory, administrative and judicial framework for criminal trials. Indian Penal laws are primarily governed by 3 Acts:

- The Code of Criminal Procedure, 1973 (Cr.P.C.).
- The Indian Penal Code, 1960 (IPC).
- The Indian Evidence Act, 1872 (IEA).

The common features of the trials in all three of the aforementioned procedures may be broken into the following stages⁷:

1. **Charge framing or notice:** This is the first step of the trial; when a case is brought before the court, the court exposes strong suspicions about the accused that have not been satisfactorily clarified, and the court frames the charge and proceeds with the trial.
2. **Recording of prosecution evidence:** Following the formulation of the charges, testimonies of witnesses are taken and analyzed. This is referred to as examination in chief and cross-examination.
3. **Accused statement:** the accused is given a reasonable chance to disclose incriminating facts and circumstances in the case.
4. **DEFENSE EVIDENCE:** IF THE ACCUSED SO DESIRES, HE MAY PRESENT DEFENSE EVIDENCE, WHICH WILL BE CROSS-EXAMINED BY THE PROSECUTION. IT IS UNNECESSARY SINCE THE PROSECUTION HAS THE BURDEN OF PROOF.
5. **FINAL ARGUMENTS:** THIS IS THE TRIAL'S FINAL STAGE. THE PROSECUTOR WILL SUMMARIZE THE PROSECUTION CASE, AND THE ACCUSED WILL HAVE THE OPPORTUNITY TO RESPOND.
6. **JUDGMENT:** FOLLOWING THE CONCLUSION OF THE PROSECUTOR'S AND DEFENSE'S ARGUMENTS, THE JUDGE RENDERS HIS DECISION IN THE TRIAL.

³ S. R. Sankaran. "Criminal Justice System: A Framework for Reforms." *Economic and Political Weekly*, vol. 34, no. 22, Economic and Political Weekly, 1999, pp. 1316–20, <http://www.jstor.org/stable/4408009>.

⁴ Rao, P. Parameshwar. "THE HUMAN FACE OF CRIMINAL JUSTICE IN INDIA." *Peace Research*, vol. 33, no. 2, Canadian Mennonite University, 2001, pp. 51–55, <http://www.jstor.org/stable/23608070>.



⁵ Rao, K. Sreedhar. "CRIMINAL JUSTICE SYSTEM — REQUIRED REFORMS." *Journal of the Indian Law Institute*, vol. 43, no. 2, Indian Law Institute, 2001, pp. 155–73, <http://www.jstor.org/stable/43951765>.

⁶ Administration of Justice, LEGALSERVICEINDIA.COM (2016), <https://www.legalserviceindia.com/legal/article-856-administration-of-justice.html> (last visited Jan 30, 2022).

⁷ Diganth Raj Sehgal. "Historical Development of the Criminal Justice System - IPleaders." *IPleaders*, Apr. 2021, blog.ipleaders.in/historical-development-criminal-justice-system/. Accessed 30 Jan. 2022.

CRIMINAL ADMINISTRATIVE OF JUSTICE SETUP IN STATE OF GUJARAT⁸

Functionalities

The Pilot Project of Legal Aid and Advice commenced in the State of Gujarat in the year 1972 on an experimental basis. At that time, some areas were selected for giving benefits of the Project and that too for certain selected categories of persons only. Thereafter, this Scheme was extended to the entire State in the year 1982. The Government of Gujarat constituted the Gujarat State Legal Aid and Advice Board. Thereafter, in view of the Legal Services Authorities Act, 1997, the Gujarat State Legal Services Authority has been constituted in the year 1998.

LEGAL AID: A person desiring assistance of advocates or any advice can approach the concerned Taluka Legal Services Committee or District Legal Services Authority or the State Legal Services Authority. Such person is being provided with such legal assistance.

For giving legal aid to the litigants in the High Court there is High Court Legal Services Committee. The Permanent Legal Services Clinic is also functioning at Bungalow No.12, Duffnala, Shahibaug, Ahmedabad for providing 24 hours Legal Aid and Advice to the needy people. Women's Cell, Jawans' Cell, Pensioners' Cell, General Cell, Jail Cell, Earthquake Cell, Mentally & Physically ill Persons' Cell etc. are functioning in the said Clinic. The Permanent Legal Services Clinic is being manned by Senior Civil Judge Cadre Officer, who is posted there as Project Officer. Paid Consultants and Honorary Consultants are also providing their services. Retired High Court Judges as well as retired Judicial Officers are also providing their services on Pro-bono basis to the needy people.

Permanent Legal Service Clinic

An applicant approaches directly to this Clinic and either seeks Advice or seeks intervention in his disputes or problem relating to his or her rights, family disputes, Matrimonial matters etc. Necessary application is taken from the applicant, the other side is contacted and the grievance of both the sides are listened to or examined so that an amicable solution or an acceptable formula may be worked out. If such negotiation fails, at the end or otherwise, and if the party is entitled to Legal Aid, requires an advocate for the purpose of starting a litigation, necessary arrangements are made.

In view of the directions passed by the Hon'ble Supreme Court of India in *Budhadev Karmaskar v/s. State of West Bengal* (Criminal Appeal No.135 of 2010) to the State Legal Services Authorities, a Toll-free helpline number **18002337966** is functioning at the Permanent Legal Services Clinic, Shahibaug, for the NGOs, State Machineries, Sex Workers, victim of Sex trade who are in distress and who are compelled to continue with sex trade, so that they can avail the benefit of the toll-free number for availing legal assistance, to get them rescued or any other assistance, which may be offered to them by way of Free Legal Aid.

CONCLUSION

If the sole goal is to determine a case in favor of one of the parties, it is not a huge concern, but there is a suitable system constructed step by step to attain the shared goal of punishment for the perpetrator and relief for the victim, as well as to assure a fair trial. Both systems have their own procedures, as well as pros and downsides. Both adversarial and inquisitorial processes are attacked, and the credibility of the decisions is called into question, yet the system remains in place.

The accused and the state are the parties in a criminal case under the adversarial system, but in the inquisitorial system, the victim is also a party; I feel this aspect of the adversarial system is helpful. The basic principles of an adversary system, such as the presumption of innocence and proof of guilt beyond a reasonable doubt, are good because when a person is accused of committing any offense, he is only an accused, not an offender or criminal, and he should have rights that an inquisitorial system denies. Despite variations in criticism and functioning, both systems serve the same purpose.

According to modern concern and modern problem there should be made special classification of offences compounding of offences and their relevant punishment. Because of new offence which is not mention in Indian penal code, in these days tendency of person is changing, with changing of society with digital India, crimes also have been changing. At the time of establishment of IPC in ancient periods in India that is containing the offences is barred and nobody can act such offences in these days. But now-a-days some new offences such as cybercrime are essential to add in Indian Penal Code. And containing all type of offences in IPC is not related to specific region. So frequently, some kind of the crimes are not covered themselves in the IPC.



⁸ Administrative Setup | Ahmedabad District, Government of Gujarat | India, AHMEDABAD.NIC.IN (2021), <https://ahmedabad.nic.in/administrative-setup/> (last visited Jan 30, 2022).

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