

CRIMINAL JUSTICE SYSTEM: DELAY PROBLEMS**Puja Sharma**

Research scholar (Law department)
Soban Singh Jeena University, Almora,
Uttarakhand (SSJ Law Campus)

Dr. D. K. Bhatt

Professor, Ex-Dean Law at Kumaun University
Soban Singh Jeena University, Almora,
Uttarakhand

ABSTRACT

The executive arm of the Indian government has the main responsibility of delivering justice, according to the Indian Constitution. When this executive does not follow suit. As a remedial remedy, the Court steps in to bring justice. As if it were an old legal system. The Indian Constitution also establishes a transpersonal zed power framework that ensures equal justice for all citizens. Article 14 binds the state to offer justice to all, and Article 256 binds the state to deliver justice to all. In accordance with Article 60 of the Constitution. The President is the keeper and guardian of the Constitution and the law, and it is his responsibility to oversee the whole administrative apparatus to ensure that every law that applies is followed. The State is required to take suo-motto action for the delivery of justice under Article 14, 256, 257(1), and 356(1), as well as Article 365. The adversarial judicial system must be avoided because it fails to meet the requirement of Article 14 of the Indian Constitution and presents several barriers to the efficient administration of justice. A lawyer may be asked to function as an adviser or counsellor to clients who are dealing with issues such as divorce, parent-child relationships, creating wills, drafting contracts, and other legal issues. In this function, the lawyer must strive to fulfil the client's goals while also offering realistic counsel to help them achieve their goal

Keywords: *Criminal , Justice , System , Delay , Problems*

INTRODUCTION**Victims Under The Existing Criminal Justice System**

The Criminal Justice System seems to have evolved through time to defend the power, privilege, and ideals of society's elite. Even in contemporary times, the way crimes are classified and the justice system is conducted shows that the aforementioned impression has some validity. However, throughout time, the principal role of criminal justice has been projected to be safeguarding all people from injury to their person or property, based on the notion that this is a State's fundamental obligation under the rule of law. The state does this by robbing people of their ability to choose their own laws and then utilising that authority to sate their vengeance via suitable punishments.

When a citizen commits a crime and thereby challenges the State's norms and authority, the State (and society) is claimed to be the victim. The system's emphasis switched from the true victim who sustained the harm (as a consequence of the State's failure) to the offender and how he is dealt with by the State as a result of this transition of torts to crimes. Criminal justice evolved to include all aspects of crime,

including the criminal, the manner in which he is dealt with, the procedure of establishing his guilt, and the final penalty he receives. The victim's monetary and non-monetary damages were meant to be compensated under civil law. Victims were sidelined, and the State pretended to be the victim in order to prosecute and punish the perpetrators.

What happens to a victim's right to seek redress for his or her injuries? Well, if the State succeeds in having the criminal sentenced to death, jail, or a fine, he will be pleased. How will he be able to get justice if the State is unable to? Is it possible for him to sue the state for damages? In theory, such should be the natural outcome in such a case; yet, the state that sets the legislation is exempt from such obligation. Except for a nominal provision under the Criminal Procedure Code, the victim's right to compensation was neglected, and his right to participate as the primary shareholder in criminal proceedings was taken away from him. He has no right to present evidence, can't contest it via cross-examination of witnesses, and can't make arguments to sway the jury's verdict.

OBJECTIVES OF THE STUDY

1. To study on Criminal Justice System: Delay Problems
2. To study on Corruption And Professional Ethics

Victim Rights Internationally And In Criminal Justice System Elsewhere

Both as a complainant/informant and as a witness for the police/prosecution, victims of crime play an essential role in the criminal justice system. Despite the fact that the system is primarily reliant on the victim, criminal justice has been preoccupied with the perpetrator and his interests, virtually ignoring or subordinating the victim's interests. Victims had a higher standing in civil law regimes when it came to the administration of criminal justice. The common law world acknowledged the negative repercussions of this inequitable condition in the final quarter of the twentieth century, and established legislation providing victims with rights of participation and compensation. "Victims" refers to the person or people who have been harmed financially, socially, psychologically, or physically as a consequence of an act, and includes, in the instance of murder, a member of the victim's immediate family. Victims' rights have been acknowledged in the constitutions of certain nations, prompting modifications in criminal justice aims and processes. [Payne V Tennessee, III S. Ct. 2597 (1991)] In the United States, the Supreme Court determined that use of Victim Impact Statements at sentencing hearings was constitutionally admissible. This allowed victims to express the physical, emotional, and psychological consequences of the crime. Victim Impact Statements eventually became a feature of plea bargains and parole hearings in the United States.

Victims' involvement in plea bargain discussions has been proven in some studies to restrain their vindictive inclinations, reduce their perception of the system as being excessively lenient on offenders, and instil a sense of justice in the whole process. Increased victim satisfaction will, in turn, improve the Criminal Justice System's efficiency by assuring his continued support.

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power was approved by the United Nations General Assembly in 1985. The following rights of victims of crime were acknowledged in the Declaration: -

- i. Access to justice and fair treatment – This right involves access to the processes of justice and swift redress, as well as the right to be informed of a victim's rights, adequate support throughout the legal

procedure, and privacy and safety protection.

ii. Restitution – includes the restoration of property or reimbursement for the injury or loss incurred; if public officials or other agents have broken the law, the victims should be compensated by the state.

Compensation - when the offender or other sources of compensation are insufficient, the state should give financial compensation, at the very least in cases of violent crimes resulting in physical harm, for which national funds should be created.

Aid — Through governmental, volunteer, and community-based measures, victims should get the appropriate material, physical, psychological, and social assistance. Personnel in the fields of law enforcement, justice, health, and social services should be trained in this area

The criminal justice system in India is now being harmed by case delays. The public has lost faith in the law, and criminal law has lost its deterrent impact on potential criminals, leading in an increase in criminality in society, culminating in crime waves, and eventually, the ordinary population fears being a victim of crime. The issue of case disposal delays is not a new one, and it has existed for quite some time. It has, however, grown to alarming dimensions. On the one hand, it has placed the legal system under pressure, while on the other side, it has shattered public faith. "Long delays in the disposal of cases have resulted in massive arrears and a significant backlog of pending file in different courts throughout the nation," the Law Commission of India said in its Seventy-Seventh Report. A cursory examination of the many sorts of cases waiting in various courts, as well as the length of time those cases have been pending, demonstrates the magnitude of the issue." 5 The criminal justice system's main goal has always been to get cases to trial as quickly as possible. Long and excessive delays may negate the goals of justice, which is a desired aim. 'Delay destroys justice' and 'justice delayed is justice buried' are two popular proverbs. As a result, the goal of expedited justice should not come at the expense of legal justice. As a result, a proper balance must be struck between speed and justice issues. 6

It is in the best interests of society for criminal cases to be tried quickly. The process used by the police to solve crimes has been severely flawed. The rate of convictions, acquittals, and remarks issued against police by the courts from time to time are the only evidence of the fact. Those accused of crimes, often known as accused, are typically despised in society. An unacceptably huge number of men, women, and others accused of crimes are imprisoned for years while awaiting trial in a court of law. Due to flawed protocol, they will linger in jail for years. As a result, if we look at the rate of acquittals, it seems that many innocent people suffer. This goes against the core premise of Anglo-Saxon criminal law, which argues that "ten bad people should not walk free, but one innocent person should not suffer." The prosecution is also responsible for a quick trial of cases. The prosecution does not have to deal with the disappearance of witnesses, evidence, or other evidence. Delays might arise at any level of the case, causing prosecution issues. A speedy trial of the offence is also in the accused's favour since if he is innocent, he will not have to suffer for as long. The administration of justice is strengthened when crimes are prosecuted quickly. There are a variety of reasons for delays, including the absence of witnesses, lawyers, adjournments, packed lists, failure to question witnesses despite their presence, the lack of a day-to-day hearing system, and delays in the delivering of judgements. The notion of prompt justice is a sine qua non of criminal law. It protects a person against the negative effects of confinement. A variety of committees have been established in the past to attain the goal of swift justice. 7 Various committees have been formed to address the delays in case disposition, yet there are still significant backlogs of outstanding cases in both the High Court and the Supreme Court.

The Changing Nature of Judicial Discretion

Sentencing guidelines, as well as statutory minimum sentences, three-strikes statutes, and other kinds of structured sentencing, are progressively limiting judicial discretion. Since the 1970s, sentencing reforms have attempted to restrict judicial discretion and have mostly succeeded, at least on paper. In many places, judges determine that statutes establish the considerations that must be considered when giving sentence, the relative significance of those factors, and a presumptive sentence (or range) for a defendant based on the nature of the conduct and past criminal participation. The increased focus on judicial sentencing should be seen as part of a larger shift in sentencing views. In the 1970s, a long-standing system of "indeterminate sentencing" gave way to a new one based on the notion of "just deserts." Two fundamental characteristics of indeterminate punishment were merged. First, save for legislatively prescribed maximums and (less typically) minimums, judicial authority in sentencing was broad and usually uncontrolled. Second, court choices on sentence length were combined with a governor-appointed system of state parole boards, whose release decisions dictated the actual amount of time criminals spent in jail.

Criminal Justice System: Delay Problems

The method in which police investigations are performed is important to the Criminal Justice System's functioning. Not only will a major miscarriage of justice occur if evidence is tainted by mistake or malpractice, but effective prosecution of the guilty is contingent on a comprehensive and meticulous quest for the truth and the acquisition of admissible and probative evidence.

Faulty Investigation Method

The system used by police to conduct the inquiry has now become outdated. Due to outdated investigative techniques, authorities are unable to gather evidence efficiently and swiftly, resulting in a delayed investigation and, ultimately, a delayed case disposition. Due to technology advancements, criminals are now conducting crimes in a more planned and scientifically developed way. If investigating authorities are highly educated in conducting scientific investigations, such illegal activities may be examined and the guilty individual found. In today's technologically advanced world, the Supreme Court has noted the need of scientific inquiry. "Advances in various fields of science, the development of various scientific instruments, the acceptance of scientific theories based on numerous experiments, and the discovery of various chemicals have made it essential that science-oriented crime detection be made a massive programme of police work for our technological age, nothing more primitive can be conceived of than denying scientific discoveries as aids to come suppression, and nothing cruder can be conceived of than denying the discoveries of science as aids to come suppression and nothing cruder can be conceived of than denying the 9

Delay in Crime Scene visitation

With the exception of white-collar crimes, the crime scene visitation is one of the most important aspects of an investigation. Recognizing this need, most state police manuals mandate that an officer be sent to the crime scene as soon as possible for inspection, evidence preservation, and the drafting of a site plan, among other things. A team of forensic scientists, finger print experts, crime photographers, legal consultants, and others should analyse crime scenes, not just a single investigating officer. At the National Seminar on "Forensic Science": Use and Application in Investigation and Prosecution," held on July 27, 2002¹⁰ in Hyderabad under the auspices of this Committee and attended by Judges, senior

police officers, senior forensic scientists, and Medical Jurists, forensic scientists lamented that their services were not being used for crime scene visitation, resulting in valuable forensic evidence being lost.

Effect of commissions, Illegality and Irregularities In Investigation

The reasons listed below make the whole police investigation method null and invalid. As a consequence, criminal cases take longer to resolve. The court's verdict is not invalidated by irregularities in the investigation's conduct. The magistrates' judgments are expected to be based on the facts provided to them. 11 In *H.N. Rishbud v. State of Delhi*¹², the Supreme Court said, "A defect or irregularity in investigation, however serious, has no direct bearing on the competence or procedure relevant to cognizance or trial." If a police report is contaminated by a breach of a mandatory investigative requirement, the results of the ensuing trial will very certainly not be reversed unless the illegality in the investigation was proved to have resulted in a miscarriage of justice." In another case, the Supreme Court of India decided that any flaws in the investigation would not render the trial or conviction unconstitutional. In the absence of evidence, he has been accused of prejudice. 13 No proceedings against the accused may be thrown out only because the investigation was carried out improperly. The court should investigate whether the unlawful investigation affected the accused. 14 Any irregularity, even if committed illegally during the investigation, does not jeopardise the validity of a trial by an otherwise competent court unless it results in a miscarriage of justice.

Corruption And Professional Ethics

Medical evidence takes priority over all other evidence in a court of law. Even if all witnesses become hostile, when the medical evidence is solid, courts have convicted the guilty in several situations. Attempts to seek justice have been hampered on occasion by the unscrupulous activities of a few black sheep in the medical profession who hide the truth or present forged evidence. Honest doctors, on the other hand, may not be able to practise freely because they are under pressure. As a result, the medical evidence provided in court is often inaccurate, incomplete, or inconclusive. In the investigation of various crimes, several forensic science laboratories are using innovative procedures such as narco-analysis, brain mapping, and polygraphy.

Is justice delayed, justice denied?

What is the link between the number of people awaiting trial and delays in the criminal justice system, one could wonder? According to reports, 60% of police arrests in India are "unnecessary or unwarranted." In this situation, inevitable delays in the court process result in accused people' continuous incarceration until trial. This is problematic because a person accused of a crime who is incarcerated for a long period of time is unable to get efficient help from their attorney, which may have an impact on the defence presented at trial. From a practical standpoint, it is often difficult and time consuming for lawyers to travel to far-flung prisons to meet their clients, particularly in the context of legal aid. Some evidence suggests that lawyers only meet their clients when they are produced in court, leaving them with very little time to effectively confer with their clients for their case. Furthermore, prolonged pre-trial custody creates emotional stress and has a socioeconomic effect on the accused's family. Even if the accused is later exonerated, an under trial prisoner may be the only earning member of the family, and the time he or she has spent in jail may have a lasting influence on their families.

Aside from that, the pending status of a criminal case is like a sword hanging over a person's head, affecting their liberty, freedom of movement, and social engagement. Burger, "What's Wrong with the Courts: The Chief Justice Speaks Out," US News & World Report (vol.69, No.8, August 24970) 68,71. Even if the defendant is not incarcerated For these reasons, the Supreme Court has declared that rapid trial, or a "reasonably expedient trial," is an inherent and vital aspect of the basic right to life and liberty guaranteed in Article 21.

It's crucial to note that delays in the administration of justice damage not only the accused's rights, but also the victims' rights. Long trials may cause evidence, particularly eyewitness testimony, to be forgotten or lost, lowering the likelihood of a conviction. Due to the fact that victims have a very limited participation in the prosecution of a criminal case and consequently have little influence over its development, delays in the completion of the trial might discourage victims from filing or continuing the case aggressively. Delays in the investigation and prosecution of criminal cases destroy trust in the rule of law and the criminal justice system, according to the Law Commission of India's 239th Report, which has major repercussions for the judiciary's credibility.

CONCLUSION

A lawyer might be compared to a publicist paid to speak on behalf of a client in order to resolve a dispute. Because the lawyer is not emotionally interested in the issue and has been taught to seek for methods to resolve a dispute using the legal information he or she has received, a lawyer may frequently communicate more effectively than the client. The client is the lawyer's primary obligation and difficulty. A lawyer may be required to assume the position of an opponent on occasion. The opposing counsel is the lawyer's adversary in the courtroom. While the lawyer must respect the opposing counsel, he or she must likewise aggressively advocate their clients' interests. A lawyer may be asked to function as an adviser or counsellor to clients who are dealing with issues such as divorce, parent-child relationships, creating wills, drafting contracts, and other legal issues. In this function, the lawyer must strive to fulfil the client's goals while also offering realistic counsel to help them achieve their goal. Often, the lawyer acts as a negotiator, working with both the client and the other party to find the best solution to a dispute. This is a challenging duty because the lawyer must be able to discover concessions and know when to convey them to the client in order to get the best possible settlement. Negotiation is a skill that demands the lawyer's patience and expertise.

REFERENCES

- [1] Ahmad Siddique. *Criminology; Problems & Perspective*, Eastern Book Company, Lucknow, 2011.
- [2] Batuk Lal, *The Code of Criminal Procedure, 1973 (As amended by Act 5 of 2009)*, Central Law Agency, Allahabad, 2010.
- [3] Buckley, W. "Sociology and Modern System Theory", Englewood Cliffs, NJ, Prentice Hall, 1967, pp.249, 250.
- [4] Gaur, K.D. *Criminal Law and Criminology*, Deep & Deep Publications Pvt. Ltd., NewDelhi, 2001.
- [5] Ghosh, S.K. *The Betrayal of the Police-1911*, Ashish Publishing House, New Delhi. Jayasree

- Lakkaraju, Women Prisoners in Custody, Kaveri Books, New Delhi, 2008. Kathuria, R.P. Law of Crimes and Criminology, Vinod Publications Pvt. Ltd., Delhi, 2 Volumes, 2001.
- [6] Lakshminath, A. and Krishna Kumari, J. Criminal Trial & Justice, ALT Publications, Hyderabad, 2003.
- [7] Madhava Menon, N.R. "Criminal Justice India Series", Andhra Pradesh, Vol. V, 2001. Madhava Menon, N.R. "Criminal Justice India Series", Haryana, Vol.10, 2002.
- [8] Madhava Menon, N.R. "Criminal Justice India Series", Karnataka, Vol. II, 2001. Madhava Menon, N.R. "Criminal Justice India Series", Kerala, Vol. VI, 2001.
- [9] Civil & Military Law Journal, Vol.45, Deep & Deep Publications Pvt. Ltd., New Delhi, April 2008.
- [10] Gopal K.N. Chowdhary, Editor. "Editorial", *The Indian Police Journal*, Jan-Mar 2011, Vol. LVIII, No.1.
- [11] Jagadeesh, N. "The Status of Forensic Medicine in India", *Indian Journal of Medical Ethics*, Vol. V, No.4, Oct-Dec, 2008, pp.154-155.
- [12] S.Md. Fzuilla, Protection of Interest of Witness in the Court Hall – Role of Public Prosecutor, *Andhra Law Times Journal*, 2010, p.27.