
CRITICAL ANALYSIS ON FUNDAMENTAL RIGHTS AT THE CORE OF CRIMINAL JUSTICE SYSTEM

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ABSTRACT

Human beings is always able to adapt to anything in their environments. The society provides every individual their purpose and substance in life. One is entitled to his or her own thoughts, but is not entitled to their own actions. It is important for a person to figure out what is right for him or her to do for the benefit of others. It does not mean that a person's individual wishes are consigned to the community's goals. The community's character is dependent on the The community's character is dependent on the individual. The individual is dependent on the character of the the individual. The character of the individual depends on how a community integrates its constitutional and legal rights, or how well those rights are embodied in the constitution or the other laws of the polity. Justice means that all people deserve to be treated with equal dignity. It means that all people must be able to live a life free of discrimination, violence, and poverty. The right to justice is essential to criminal justice, systems that claim to operate on a rule of law, and systems that operate in an authoritarian manner. In India, the criminal justice system revolves around the victims and the accused having the right to justice. This is fundamental to the Constitution and must be upheld. The paradox is that, at times, the rights of victims and the accused are opposing one another. This can be resolved through a more constructive approach from the judges. There is an urgent need to transform the functioning of the criminal justice system in India. It should focus more on the victims' rights and not the rights of the offenders.

Keywords: Burden of proof, fundamental rights, victims, rehabilitation, prosecution, probation, transgressors, compensation, Brute force.

1. INTRODUCTION

The rise of people whose fundamental rights are being breached has led to fundamental rights becoming paramount in developing the criminal justice system. It is the most fundamental aspect of any system anchored in the rule of law. Among the many fundamental rights entailed in the criminal justice system are the rights to be presumed innocent, to remain silent, and the burden of proof being on the accuser. Access to justice is paramount in any criminal justice system, whereby victims must be allowed to have their grievances redressed. The criminal justice policymakers ignore the victims' roles, which is among the many shortcomings of the system. In many instances, even the prosecution cannot go on unless the victim works together with the law enforcement agencies.

The criminal justice system's failure to provide extensive and timely justice is well documented. The system as a whole is unable to provide justice in a timely manner. It is not uncommon for several years to go by with cases still undecided. The separate sub-systems of the system, which include the police, courts, correctional facilities, and prosecution, still fall short of their expected objectives. The delay of justice means the erosion of public trust and confidence in the criminal justice system, and the longer the wait for justice, the greater the likelihood that justice will not be served, and this will be the case for the crime victim and the accused. For crime victims, the emotional, financial and psychological burdens of drawn out trials are extreme, and for undertrial prisoners, they may be spending years in jail without a final decision about their guilt or innocence. All of this constitutes a failure of the justice system that should be upholding the most important of the laws, protecting the most fundamental of rights, and maintaining the rule of law. The rights of victims and the accused in the criminal justice process are also fundamental. The accused are entitled to constitutional protections against the arbitrary use of state power, while the victims, in most instances, are left to be passive in the criminal justice process. They are frequently out of the decision making process in the most important parts of the process, which are the investigation, the prosecution, and the sentencing. The result of this victimization of the victims is to undermine their confidence in the system, and to diminish the quality of the criminal justice system.

Moreover, systems failures can be attributed to the insufficiency of institutional frameworks. Poor building frameworks, undersupply of judicial officers, insufficiently trained police personnel, and poor prosecution activities lead to inadequate investigations, and low conviction

rates, all of which are system failures. No collaboration between the judicial, police and prosecution systems results in delays, and incomplete system failures. The system also fails to implement rehabilitation. Failure to integrate offenders into society means prisons operate solely as punishment, rather than as reform. This approach neither reduces recidivism nor contributes to long-term social stability. Hence, comprehensive reforms are needed that balance the rights of the accused against the legitimate interests of victims. There is an urgent need. Better the participation of victims, and reforms in judicial process of speedy trials for victims, and a reform of institutional frameworks are needed to promote the system to be functional, responsive and just. This is to minimize the judicial systems failures, and to restore the systems faith to the administration of justice.

AN OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM.

The concept of criminal justice refers to the system of government that is responsible for maintaining social control and discouraging crime. It also involves the punishment of those who commit crimes and rehabilitation of those who have violated the laws. The judiciary is a part of the system, along with the corrections and probation departments.

The various goals of the criminal justice process are listed below.

- i. to shield society from criminality.
- ii. to punish offenders and transgressors.
- iii. To rehabilitate the transgressors and the criminals.
- iv. to offer the victims the maximum amount of compensation.
- v. to keep the social order and law.
- vi. To deter the offenders from committing any criminal act in the future.

2. EVOLUTION OF HUMAN RIGHTS AND THE INCORPORATION OF FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION:

India has a long history of its own regarding human rights. The concept was initially alien to the country's people. During the colonial era, the concept gained widespread recognition. The

freedom struggle in the country also marked various uprisings for social and individual rights. British rule in India led to the establishment of the English education system, which brought about the recognition of certain fundamental rights. The end of World War II also marked a turning point in the global struggle for human rights. The international community responded to this cause by working toward the recognition of universal rights.¹ On 10th December 1948, India joined the international community as one of the nations to sign on to the UN's Declaration on Human Rights. It became one of the first countries to recognize and respect the rights that the global organization has recognized. As a result, some of the recognized human rights were incorporated into the Indian Constitution as fundamental rights. The Constitution of India is a tribute to the country's people for their continuous support for the promotion and protection of human rights. It provides a variety of protection measures for different classes of people. Part III of the Constitution deals with the protection of political and civil rights, which are considered justifiable. The protection of fundamental rights, such as the right to life, liberty, and dignity, is the responsibility of the judiciary. It is the duty of the country's Honorable Supreme Court, high courts and subordinate courts to ensure that the rights of individuals are protected.

The Creation of NCHR in India On 3rd March 1978, the police used brute force to disperse a protest by backward classes in Patna. On March 31, 1978, they opened fire on a crowd in the Raghunathpur Bazaar in Bhojpur District, and four people died. On July 13, 1991, ten Sikh pilgrims were killed in a fake encounter with the U.P. police. Due to the increasing number of violent incidents in different states, such as Jammu & Kashmir, Punjab, and Andhra Pradesh, in 1993, the president of India issued an ordinance in 1993 to establish a national human rights commission. This commission would be able to protect the rights of people. After the president gave his approval to the bill, it became an act. The Act defines human rights as the rights that are related to life, liberty, and equality. It also states that these are enforceable by courts in the country.²

¹ S. Guin v. Grindlays Bank Ltd., 1986 SCC(Cri) 64: (1986) 1 SCC 654: 1986 Cri LJ 255; Madheshwardhari Singh v. State of Bihar, 1986 Cri LJ 1771 (Pat), Mihir Kumar Ghosh v. State of West Bengal, 1990 Cri LJ 26 (Cal)

Black's Law Dictionary", 6th edition, p.1229

² <http://www.legalservicesindia.com/article/article/preventive-detention-and-constitution-of-india-effect-on-human-rights-1891-1.html>

(1980) 1 SCC 98: 1980 SCC (Cri) 40, 47: 1979 Cri LJ 1045.
AIR 1995 SC 366

Fundamental rights of the accused as per the Indian Constitution

I. Protection Against Ex post Facto Laws

Ex post facto laws impose a punishment on a person for an act that was not an offense at the time the act was committed. As retaliation, it was proposed that if a person did not commit an offense at the time the legislation was enacted, they cannot be punished for it. There are offenses for which greater punishments are prescribed than those that would be imposed by the current legislation.

II. Protection Against Self-Incrimination

Under the provisions of the Indian constitution, a person cannot be forced to testify against himself. This shows, that the prosecution is left without the means to threaten. Prosecution must establish the offense, and the defendant is not obliged to speak against his own, free, choice.

III. "Right to silence"

The right to silence is a legal doctrine that prevents judges from convicting someone simply because that person declines to respond to inquiries from opposing counsel. This suggests that the accused cannot be subjected to medical experiments and/or scientific procedures without their consent.

IV. "The right of the arrested individual to know the reasons for the arrest

According to Article 22 of the Indian Constitution, an individual who is arrested for any crime must be informed of the reasons for their arrest as soon as possible. In addition, section 50 of the Criminal Procedure Code also states the same. He must be informed of the reasons for the arrest in a language which he understands. Failure to comply with this requirement will be considered a violation of the Constitution.

V. "The right to be defended by a counsel"

The right to consult and engage a counsel of his choice, which is why one of the most vital rights in the Constitution of India, is that an individual is arrested, is guaranteed by the

Constitution. It is significant, particularly for the average person, since he/she usually lacks the expertise to defend himself in a court of law (Article 22(1) of the Indian Constitution)

VI. “The arrested person must be brought to the magistrate”

Article 22 states that an arrested person must be brought to the magistrate within 24 hours of the arrest. This is also a rule under the Criminal Procedure Code. Police officers that arrest someone without a warrant must take them to court within the right jurisdiction and are required to obtain bail. \n\nVII. “Right to Speedy Trial” \n\n“It is a well-known fact that justice delayed is justice denied. The fundamental right of the accused is that the trial of the case should take place without undue delay.” \n\nIn the case of Hussainara Khatoon v. Bihar, “The Supreme Court has said that the right to a speedy trial is an integral part of Article 21, which is the right of an accused person.” The court also stated that the state has a constitutional obligation to ensure that the trial is conducted in a fair and just way.

VIII. Legal Aid Services

Every defendant has the right to an attorney. However, it is the duty of the court to furnish a defendant with the services of a legal counsel at no cost to the defendant. In *Maneka Gandhi v. Union of India*, the Supreme Court affirmed that legal aid is a right, and is integral to the procedure that is fair and just to the defendant, as enshrined in Article 21.³

3. FUNDAMENTAL RIGHTS IN THE CONTEXT OF CRIMINAL JUSTICE SYSTEM:

The evolution of criminal law has helped shape the protection of human rights. Most theories on criminal jurisprudence are based on the human rights theories. There should be a proper coordination among the three pillars of criminal justice system - the police, the courts and the prisons. Criminal jurisprudence adopts a prosecution focused approach and places the burden of proof on the prosecution. This is why the legislature laid down the principle that no one should be punished, even if they are guilty. Police detainees, under trial detainees, and even convicted prisoners, do not lose their fundamental human rights, regardless of their situation. The Criminal Procedure Code, 1973, gives law enforcement significant power, including the

³ Constitution of India. (1950). Code of Criminal Procedure, No. 2 of 1974, India.,Hussainara Khatoon v. State of Bihar, (1979) 3 SCC 532 (India). ,*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).,Nandini Satpathy v. P. L. Dani, (1978) 2 SCC 424 (India).

authority to make arrests, conduct searches, and seize property without a warrant. Rather than upholding people's rights, police are more frequently disregarding their responsibility and abusing their authority. The commission has received many reports of police misconduct, including unreported cases, wrongful arrests, and deaths in police custody. Police abuse power in all these instances. Because of the police's far-reaching powers, it is necessary and of utmost importance to put in place grassroots mechanisms to safeguard the rights of individuals. This is done through the creation of lower level courts. These courts are tasked with oversight of police actions, and the protection of the rights of the individuals facing them, to the responsible authorities. The law courts must supervise how police observe the legal requirements when arresting people. In addition to supervising how police follow the prescribed manuals, the law courts must also ensure that their procedures comply with the directions of the Higher Courts pertaining to the enforcement of law and order vis-a-vis the protection of the human individual. Where an arrest is made, and no warrant is available, police may only be permitted to use handcuffs if, in their discretion, it is so warranted under the Supreme Court Guidelines. A magistrate may also, in her discretion, order the use of handcuffs. Personal liberty is enshrined in the Constitution of India, and provision must be made for the same. In the event an investigation is undertaken of an allegedly committed offence and it is to be conducted for a period in excess of twenty-four hours, a magistrate may authorize the detention of the person.

Mr. Anthony further stated that the accused should be deprived of his personal liberty only in accordance with the law, and it is the duty of the Magistrate to uphold the personal liberty of the accused. Additionally, the law gives the accused person many protections, as many of the law's provisions show that the arrested person is still a person and should have his rights respected. Such provisions include the right to be informed of the reason for his arrest and of the right to apply for bail (Section 50), the right to have a friend or relative informed of his arrest and where he is detained (Section 50A), the right to be examined by a physician if he so requests (Section 54), the right to be brought before a Magistrate in a timely manner (Section 56), and the right to be brought before a Magistrate within twenty-four hours of his arrest (Section 57). The 1973 Criminal Procedure Code, states that once a person has been acquitted or convicted of a crime, that person cannot be tried again for the same crime. This also means that if the person is charged with a related crime, it would expose them to unjust harassment. This provision was also enacted into the Constitution at Article 20 (2), which also says that in no case, shall a person be convicted or punished for the same crime more than once. Moreover, in Article 20(3), an accused is allowed to testify against herself which points to the principle

of the accused not being able to testify against themselves. The provisions of S. 162 of the Criminal Procedure Code which states that police statements, during the course of their investigations, cannot be used against the accused, is consistent with the rights of the accused. Regrettably, the courts seem to have ignored individuals' rights to make voluntary public confessions. In the exercise of police powers, magistrates ought to ensure that the law enforcement officials have complied with all constitutional provisions and the relevant provisions of the Code of Criminal Procedure.

Plea Bargaining - The Criminal Law Amendment Act of 2005 was the first time that legislation was enacted that recognized the use of bargaining within the courts of India. This also has the potential to be seen as a means of streamlining the trial process and accelerating the rate at which cases are cleared. In the process of bargaining, the accused and the prosecutor come to a mutual agreement concerning what concessions the prosecutor will offer in return for a plea of guilt. The essence of bargaining is to fulfill the needs of the community in the area of punishment while also affording the accused the opportunity to experience remorse and to be rehabilitated. Because of the delicate nature of the process, it is important that the rights of both the accused and the community are preserved. The Supreme Court must understand that the rights of an individual are not confined to the individual's own prerogative, nor are they ignored by a Court when determining a matter. It is an obligation of an individual to appear before a Court is an obligation that compels that individual to pursue a remedy for a violation of a right. This is why litigants tend to ask for the Court's protection when they think their rights have been infringed.

CONCLUSION

The justice system's shortcomings affect the protection of its people and preemption of crime. Uncertainty and delay in justice system processes are a boon for crime and an abuse of citizen's rights by discretionary police powers. Addressing a national seminar, Mr. Malimath said more than 80% of reported crime went unprosecuted because of system failure. He advised the government to act system failure remedial. The importance of the criminal justice system for social stability cannot be over stated. It is a social demand for the system to keep pace with the problem of the time. The variety of social system elements involved in the administration of justice and the protection of due process for the defendant, place the need for comprehensive social dialogue at the foundation of the system. The people must be the reason for the rigidly

constructed social order of the criminal justice system and the reforms to the police system, including modern forensic investigations. The courts should also deal with the different construction-related problems that are obstructing the functioning of the justice system.