

CRIMINAL JUSTICE SYSTEM IN INDIA: CURRENT CHALLENGES

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The criminal justice system is a collective enterprise authorized and supported by the legitimacy and coercive power of the state to create and administer law. It is first and foremost a formal system oriented for the control of human affairs. Every society attempts to work out practical solutions to legal and operational problems in the administration of criminal justice in accordance with its political philosophy, experience, resources and the state of society itself. Conservation is the most difficult hurdle in the process of reform, although there is growing realization that the system requires some changes. Our system of administration of justice is a transplanted one which has taken roots in this country but still has colonial vestiges and by a process of change, it has become a new system to cater to the needs of the people of this country.

I hope, as far as possible, the seminar organized by Indian Law Institute would discuss main theme of transnational perspectives of the criminal justice system and excellent ideas may emerge from such discussions.

The most important requirement of food administration is its promptitude. A speedy trial is a constitutional right of every accused. If he is guilty, he is to be punished and any delay in punishing the guilty would be ineffective in controlling the crime, which is the basic goal of the criminal justice system. The efficacy of any justice system can be judged by the speed by which the cases are disposed of. Prompt decisions taken by the Court would have greater impact on the individual involved in the crime and on the social fabric in general. Generally, delay is put at the doorstep of the courts overlooking the crucial role played by other components in the system, particularly the police and the prosecutors.

Delay in the investigation of crimes or the haphazard way in which the cases are investigated, greatly contribute to the delay in dispensing prompt justice. In many courts, the public prosecutors are not appointed in a timely manner and their services are on occasion not readily available to many courts. In some states, there are not sufficient numbers of analytical and forensic laboratories and quite often, the investigating agencies wait for the chemical analyst's report for long periods whereby the filing of the final reports is inordinately delayed. The speed of the trial in criminal cases is often determined by none other than the offender himself. In the garb of a fair trial, he would try all possible means to delay it under a misconception that the longer he is able to prolong the trial, the better his chances of escaping from the clutches of law would be. Many of these factors are not within the control of the courts.

A prominent feature of the court system is the lack of adaptive institutional activity. It is only through planning and development based on research that any organization can adapt itself to its changing needs. It is said that the courts are more conservative and not adequately innovative. The existing system with its thrust on social justice and equity is constantly faced with dilemmas based on value perception and attitudinal change. In vast majority of subordinate courts, the scope for upholding these values is reduced considerably due to routine work. The concept of crime control, maintenance of law and order, social harmony, adherence to procedure established by law, protection of human rights are important goals of the criminal justice in this country, but unfortunately our courts are flooded with cases under Section 138 of Negotiable Instruments Act, 1881 traffic offences, excise offences and so many other petty matters of routine nature. Unless we take serious steps to have better court management and bring about some reforms in judicial administration, the

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basic values which we intend to protect through our criminal justice system are not going to be preserved but would perish.

Regardless of the academic controversy as to whether there is a good criminal justice system or not, we are concerned with the evaluation of the performance and impact of the existing arrangements for the administration of criminal justice, and exploring possible avenues of improvement if the overall performance is found to be inadequate or unsatisfactory. Our system should cater to all possible challenges especially in view of the new pattern of crimes happening throughout the country. Terrorism, cyber crimes, white collar crimes, should all be curbed and there should be an organized endeavour to control anti-social behaviour to attain social harmony through law and its enforcement. Indian Law Institute has now become a deemed university and we have an excellent research wing which can contribute to the development of the law and justice system of our country. This institute was started with that vision and ideas in mind by the great sons of this country. Let us hope that we will fulfill their dreams.