



CRIMINAL JUSTICE – A HUMAN RIGHTS PERSPECTIVE OF THE CRIMINAL JUSTICE PROCESS IN INDIA (1st ed., 2004). By K.I. Vibhute (Ed.). Eastern Book Company, Lucknow. Pp XVIII + 401. Price Rs. 495/-.

IT IS the duty of the functionaries of the criminal justice system to protect the human rights of those who come in contact with them. They ought to ensure that those who undermine the societal harmony by committing offences of any kind do not go unpunished. It is also their duty to ensure that the rights of such people are not violated in the process of investigation and trial. This calls for a fine balancing of individual human rights and the societal interests while combating crime.

It is common knowledge that in our country the state functionaries from the very stage of investigation are guilty of various forms of human rights violation and the abuse of human rights. Indian criminal justice system has gravely fallen in disrepute because of the perennial tardiness and non-scientific investigation of crimes by the investigators, inordinate delay in the disposal of criminal cases by the adjudicators and poor rate of convictions. Police, which is a pivotal functionary in the criminal justice system, has failed to win the confidence of the common man. There is an urgent need to bring changes in the police setup both from within and from outside with an effective institutional grievance mechanism. This applies to prosecution machinery as well. In some recent cases¹ the Supreme Court dealt with the important role that public prosecutors have to perform in a criminal trial and castigated them for their failure to perform their duties under law. It is their duty to ensure that the guilty is brought to book and fair trial is ensured to all. The present prison system in India has collapsed due to their being over crowded by pre-trial and post conviction prisoners with overall appalling conditions within the prisons. All these problems have been vying for remedial actions at the hands of the policy makers and legislators but unfortunately these remain unattended substantially. It is because of this apathy on the part of the lawmakers that human rights have come to be protected through public interest litigation. Through judicial intervention, the human rights of the bonded labour, tortured under-trial women prisoners, humiliated inmates of protective women's home, blinded prisoners and exploited children have to some extent come to be recognised and developed as part of the human rights jurisprudence in India.

1. *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158 and *Abdul Karim v. State of Karnataka*, (2000) 8 SCC 710.



Each one who comes in contact with the criminal justice machinery has an inherent right to be dealt with fairly. How to ensure that investigations are conducted by efficient personnel in a scientific manner; how to put on trial without delay those charged with criminal offences with enough evidence against them; how the trials are conducted effectively and efficiently and concluded expeditiously before honest and efficient presiding officers; how the victims of the crime are heard; how to ensure that the guilty are adequately punished and the victims adequately compensated by the accused, are some of the issues seriously debated and deliberated upon by the distinguished authors whose works have been put together in the book under review. They have given a variety of answers and considered opinions on these burning issues, which need to be evaluated in all earnestness. The issues relating to the law of confession, right against torture and prison reforms and the future of capital punishment are also discussed in this work. Various measures to provide solutions to these critical issues by various expert bodies including the Malimath Committee in their reports are also subject matter of critical evaluation in some of the chapters. The recommendations of Malimath Committee to alter the fundamental principles of the criminal justice system, make inroads into many of the existing rights of the accused and drastically increase the powers of the judges and the police have generated a great deal of debate on the correctness of its approach. In all earnestness the committee's report itself needs to be discussed and debated thoroughly.

The editor, a distinguished teacher and researcher in the field of criminal law, has done an efficient compilation of writings of various authors and put them under appropriate chapter headings. He has contributed an introduction and four detailed research papers dealing with different contemporary issues, which require serious consideration when the subject of revamping of the criminal justice system in India is finally undertaken, not in piece meal but on wholesome basis. The whole endeavour on his part in compiling the present work has been to bring to the fore the importance and need to delve deep into the human rights perspective of accused, prisoners and victims of crime who necessarily have to come in contact with the vital state functionaries — the police, prosecution, courts and peno-custodial-correctional institutions that are responsible for ensuring criminal justice. The editor has in his introduction briefly referred to the writings of the individual authors whose works have been incorporated in the book which contains 26 contributions spread over 7 chapters.

Malimath J in his forward to the work has reminded the Indian state of its obligation under the Constitution of India, the Universal Declaration of Human Rights and the Covenant on Civil and Political Rights to ensure that pride of place is given to human rights and that these are not allowed to be undermined by the criminal justice administrators of the



In the preface to the work, the editor has stressed on the need for having human rights as the focal point of any discourse while examining the working of the criminal justice administration and envisaging the needed reforms therein. He has succeeded in projecting different facets of the problems of the criminal justice system having human right perspective while selecting the works of various authors for inclusion in the present work. The fact that the book contains writings of authors and scholars from both the east and the west has given a comprehensive character to this work.

The authors who have contributed to this book have stressed on the need to have fair, efficient and humane criminal justice administration to ensure that all the constituent state functionaries of the criminal justice system, namely, investigators, prosecutors, adjudicators and those responsible for the custody of the accused and convicts work efficiently, competently and in a collaborative spirit for ensuring justice to all. The central theme underlying the writings of various authors is to help in bringing about desirable changes in the criminal justice system so that proper balance is maintained between protecting human rights of all who come in contact with the functionaries of the criminal justice system and the right of societal protection. The authors have given their valuable suggestions which need to be considered by those responsible for taking final decision on the changes to be made in the legal framework while revamping the criminal justice system in India. If deliberated upon and

considered in proper perspective, there is no doubt that these recommendations will put the criminal justice system back on rails, ensure continued faith of the people in the criminal justice system and wean them away from resorting to extra legal methods for bringing the culprits to book.

This book is a must for all those interested in knowing the perils and the promises of the criminal justice system in India. It contains thought provoking discourses on various facets of the criminal justice system and gives enough inputs and food for thought necessary for revamping the system. The various authors have effectively voiced their concerns and have expressed their hope that the lawmakers will soon realize the sensitivity of the issues and the disastrous consequences that any further delay in recasting the laws on desired lines are likely to entail. The persisting dangers arising out of the acts of terrorism, which have gained more and more dangerous dimensions globally, have put criminal justice systems of the world under great stress. The inadequacy in the preparation on the part of the Indian state and the police force to meet such challenges is everybody's concern and, therefore, a thorough debate on the very governance and need for an alternative policy and action-oriented approach is the need of the day.

*Bushan Tilak Kaul**