



Criminal Justice System

Table of Content

1	Introduction	2
2	Objectives	2
3	Components of CJS.....	2
4	Problems of CJS in India and their Solution	2
5	Way Forward.....	5

1 Introduction

Criminal Justice refers to the agencies of government, charged with the function of enforcing law, adjudicating crime, and correcting criminal conduct.

The criminal justice system is essentially an instrument of social control: society considers some behaviors so dangerous and destructive that it either strictly controls their occurrence or outlaws them outright.

2 Objectives

The main objectives of the criminal justice system can be categorized as follows:

- 1) To prevent the occurrence of crime and maintain law and order in the society.
- 2) To punish the criminals and to deter the offenders from committing any criminal act in the future.
- 3) To rehabilitate the transgressors and the criminals.
- 4) To compensate the victims as far as possible.

3 Components of CJS

Broadly, the criminal justice systems have the following three components:

- 1) **Law Enforcement:** Law enforcement agency takes report for crimes. It is also responsible for investigate crimes and gather evidence. It includes police forces in India.
- 2) **Adjudication:** This pertains to judicial processes and can be further divided into:
 - A. **Prosecution:** Prosecutors are lawyers who represent the state throughout the court process - from the first appearance of the accused in court until the accused is acquitted or sentenced. Prosecutors review the evidence brought to them by law enforcement to decide whether to file charges or drop the case and present them in the court.
 - B. **Defense Lawyers:** They defend the accused against the government's case. They are either hired by the defendant or (for defendants who cannot afford an attorney) they are assigned by the court.
 - C. **Courts:** Courts are run by judges, whose role is to make sure the law is followed and oversee what happens in court.
- 3) **Corrections and Prisons:** They supervise convicted offenders when they are in jail, in prison, or in the community on probation or parole.

4 Problems of CJS in India and their Solution

The principal objective of a criminal justice system is to impart a sense of security to the people. However, India's criminal justice system has not been able to deliver on what is expected of it and is, in fact, under immense strain. There are problems in all the three components – law enforcement, adjudication and correction- which must be addressed.

1) Law Enforcement Agencies:

A. Problems:

Police in India "suffer with a variety of organisational, procedural, personnel and behavioural ailments and paradoxes". Specifically, they are as under:

a) Changing social structure:

- Rise in white collar and organised crimes, economic changes and socio-political instability resulting in public protests, demonstrations and mass violence.
- Social disparities, anomalies, lawlessness and permissiveness, leading to a higher rate of juvenile delinquency, alcoholism, and social disorder.
- Acceleration of social mobility giving birth to new patterns of criminal acts, declining standards of morality and degeneration of ethical values.
- Information technology revolution resulting in the growth of cybercrimes.

b) Lack of adequate resources:

- The numbers of policemen have not caught up with the mounting challenges. Statistically, the number of policemen per 100,000 people in India is 137.8 as against the minimum UN norm of 220. As a result, there is **an extraordinary workload on an average policeman**, which has adversely affected his efficiency, performance and morale.
- Poor quality of policemen is partly due to **lack of proper training**.
- The **investigation ability** is hampered by lack adequate forensic labs in India. This eats into the efficiency of police and leads to delays in investigation.
- **Inadequate infrastructure**. Padmanabhaiah Committee observed that many police stations do not even have proper concretized construction.

c) Ethical dimension in law enforcement:

Aggressive approach taken by police officers for solution of their problems. This has led to the violation of human rights and adoption of unethical means, like encounter killings, fake encounters etc.

B. Solutions:

What India requires is, as Padmanabhaiah Committee advocated, a “highly motivated, professionally-skilled, infrastructurally self-sufficient and sophisticatedly trained police force.” There has to be conscious and serious effort to strengthen the overall professionalism and capacity of the police. For this to achieve following must be done:

- Due attention is required for **proper training**, development of advanced forensic skills and facilities.
- **Separation** within the police of responsibility for **conducting investigations from the day-to-day responsibilities** for maintaining law and order.
- **Behavioural reforms and attitudinal change** at the individual and department levels are required to be brought about with a view to developing professionally sound, and morally strong people to man the police organization.
- **Modernization of state police** forces should be periodically undertaken. This will require updating educational levels in the security forces and developing a technological and scientific temper. This would enable the police to deal with modern and sophisticated crimes.
- **Connecting all police stations** in the country through an intranet is not a luxury, but an imperative. Currently, the database of each agency stands alone, with its owners having no access to other databases. As a result, crucial information that rests in one is not available to another.
 - In order to remedy this deficiency, the government has decided to set up NATGRID, under which 21 sets of databases would be networked to achieve quick, seamless and secure access to desired information for intelligence/enforcement agencies.

2) Adjudication:

A. Problems:

- The main problem in this component of criminal justice system is huge backlog of cases due to resource and manpower constraints. Reasons:
 - The present ratio of about 13 judges per million people is one of the lowest in the world.

- A large chunk of pending cases in lower courts pertain to petty issues, like traffic violation. This eats into the time and effort to dispose the substantial cases.
- There is a lack of adequate Public Prosecutors, therefore cases remain pending, resulting in a large number of under trials.
- Even the existing judicial posts are allowed to remain vacant. For example, at present about 25 % seats are still vacant in High Courts.
- Due to this, there were enormous delays in the adjudication, increases in litigation costs, loss or diminished reliability of evidence by the time of trial, and unevenness and inconsistency in the verdicts that ultimately are reached at trial.
- Consequently, **large numbers of under trials** languish in jails while awaiting trial. In many cases, the detention under trial even exceed beyond the maximum periods to which they could be sentenced if convicted. Justice delayed is of course justice denied.
- Such incapability of the judiciary in delivering justice on time has the danger of reduction of faith in the justice system among the people; low conviction rate has created a perception that crime is “low-risk, high-profit business”. This has brought down the deterrence value of the criminal justice system.

B. Solutions:

- Present Adversarial System is not only insensitive to the victims’ plight and rights, but also does not encourage the presiding judge to correct the aberrations in the investigation or in the matter of production of evidence before court. The judge in this system is more concerned with the proof.
 - As suggested by the **Criminal Justice Commission**, some of the good features of the Inquisitorial System can be adopted to strengthen the present Adversarial System of common law to increase the rate of conviction.
- In the adversarial system two advocates represent their parties' positions before an impartial judge, who attempt to determine the truth of the case. Justice is done when the most effective adversary is able to convince the judge or jury that his or her perspective on the case is the correct one.
- In contrast, in **the inquisitorial system**, a judge or group of judges investigates the case. In this, the court is actively involved in investigating the facts of the case.
- In addition to **electronic filing systems**, India’s courts need **more judges**, higher filing costs (to discourage frivolous litigation), improved tracking of cases, pre-litigation measures and plea bargaining.
- The system of **Alternate Dispute Resolution** should be strengthened. Further the concept of evening courts may be adopted. This would provide additional time and resources for disposing the pending cases.

3) Correction Services or Prison:

A. Problems:

- Prison management is a state subject. Therefore, there are great variations in Prison manuals among different states.
- It is widely known that Indian jails are overcrowded. The occupancy rate at all-India level works out to 112.1 percent, by December 2011. Ironically, the number of under-trials constitute 64.7 percent of total inmates.
- The prison conditions are not good enough for correction. There are two aspects involved in imprisonment: ‘imprisonment as punishment’ and ‘imprisonment for punishment’.
 - In the first aspect, solitary confinement and denial of societal contacts is regarded as punishment. In the second aspect, apart from the first aspect, the added physical, mental and other kinds of humiliation are considered as part of punishment. The latter aspect, by default, gets activated due to poor prison conditions resulting in the counter-productiveness of the whole corrective system.

- Currently, the internment becomes a kind of “Staff College” for the criminals to plan and regroup.
- Further, there is no policy to monitor and constructively engage the interns after their release. This hinders their re-integration in the society.

B. Solutions:

The main objective of ‘correction’ strategy is to induce positive change in the attitude of criminals. Towards this end following should be tried:

- Rehabilitation of inmates will be meaningful only if they are employed after release and for that purpose educational facilities should be introduced or upgraded.
- The open prison system has come as a very modern and effective alternative to the system of closed imprisonment. The establishment of open prisons on a large scale as a substitute for the closed prisons, the latter being reserved for hardcore criminals shall be one of the greatest prison reforms in the penal system.
- Central Government along with NGO’s and prison administration should take adequate steps for effective centralization of prisons and a uniform jail manual should be drafted throughout the country. The uniformity of standards can be maintained throughout all the States.
- Class prisoners can meet their own expenditure by depositing certain amount fixed by the Government for enjoying certain services like tea, newspapers etc.

5 Way Forward

The Justice Malimath Committee on ‘Reforming Criminal Justice System’ rightly observes that “The entire existence of the orderly society depends upon sound and efficient functioning of the Criminal Justice System.” Unless it is made sure that criminal justice system functions with speed, fairness, transparency and honesty, it is difficult to bring down prevailing “crisis of legitimacy”.

Improving law and order requires cooperation across all rule-of-law institutions. Police reform alone would not suffice to quell crime if police capture criminals and then corrupt judges release them and if prisons allow convicts to enlarge their criminal empires while behind bars, or if laws do not exist to keep them in jail for adequate periods of time.

Copyright © by Vision IAS

All rights are reserved. No part of this document may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without prior permission of Vision IAS