

# Working Of Indian Criminal Justice System-An Introspection

Dr. Veena Kumari

Assistant Professor, University Institute of Legal Studies,  
H. P. University Shimla

**Abstract:** The system for delivering Criminal Justice in our society is composite of many complex relationships among formal public and private organizations. These parts constitute a social system of cause and effect. So Criminal Justice System can function fully well if, there will be proper co ordination between all these components. But there exist interface conflicts between these components. Crime rate is increasing and conviction rate is decreasing year by year. So there is dire need of effective implementation of laws and proper co-ordination between all the components of Criminal Justice System.

**Keywords:** Criminal Justice System, Crime Rate, Conviction Rate, Court, Police, Correctional Agency.

## I. INTRODUCTION

The Criminal system has a multiple role in the relationship among the State, society and individual. The concept of justice for a common man in any country mainly refers to the criminal justice system. The criminal justice system can revive in a particular State only if it live up to the expectations of the people to a reasonable extent. The success and failure of the system can be seen from the effectiveness of its individual component.

Law is bundle of formal social rules for the preservation of society. But the laws unless implemented are only paper rules. Therefore, in every civilized society laws are passed by the legislatures, executed by executives. But mere enforcement is not enough. People will follow the rules only if they know that, if they will not follow the law they will be punished. So to protect the life and property of people in the society, Criminal Justice System is developed.

The basic function of the Criminal Justice system in India is that of a sequential crime control process with inbuilt inalienable safeguard for the protection of both rights of the society and the constitutional rights of the accused. This goal is achieved through adversarial system. In adversarial system the accused is presumed to be innocent until proved guilty and the burden is on the prosecution to prove the guilt of the accused beyond reasonable doubt. Adversarial system relies

on the skill of different advocates representing their party's position and not on some authority.

The system for delivering criminal justice services in our society is composite of many complex relationships among formal public and private organizations. This can happen only if all the components of criminal justice system are compatible to each other. Therefore it becomes important to discuss the interrelationship between different components and working of criminal justice system so as to judge its affectivity.

## II. MEANING OF CRIMINAL JUSTICE SYSTEM

Every Government whatever in its form must uphold the law and maintain order in the society which it governs. This is the basic function which every government must to perform. This is done through what is called criminal justice system. The common definition of system suggests that 'it is an established arrangement which leads to the attainment of particular objective according to the plan'. The 'system' as the very term suggests to be consists of all the functionaries, which are concerned with the basic function of the State i.e. maintenance of law and order. As per Oxford dictionary, the term 'system' means 'set of connecting things or parts'. So the criminal justice system is that collection of functions performed by the legislatures, police, prosecutors, courts, probation and correctional personal, private security personnel

and other related agencies within and outside of the Government; for the purpose of enforcing, administrating and adjudicating the criminal law. Each entity or agency with criminal justice responsibility has its own function and when taken together, these functions form a system or coherent grouping of functions and agencies for the delivery of criminal justice services. The ultimate objective of the delivery of these services is to ensure that the criminal law performs the function of social ordering. As a whole criminal justice system means a set of various components working together for providing justice to the people and preventing the criminal behavior in the society. The system can work effectively only if every component of it works properly. If any component fails at any level, automatically it will lead to affect the other components also. As a result whole system will be affected.

### **III. COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM**

Our criminal justice system is composed of a series of inter-related parts. These parts constitute a social system of cause, effect and interaction. Apart from the provisions of substantive laws, the Criminal Justice System consists of three major components i.e. law enforcement agencies, courts and correctional institutes and the specialized auxiliary service of probation, parole and Juvenile Justice System. In many cases probation and parole etc. are grouped under correctional component, because as alternative to incarceration, these programmes seek to correct the offender.

#### **LAW ENFORCEMENT**

Law enforcement is the first component of the Criminal Justice system. It consists of police agencies. Generally police is the first contact most offenders have with the law. It is the initiator of the relationship between the offender and Criminal Justice system services. The major function of police agencies is to prevent the criminal behavior. The Criminal Procedure Code gives wide powers to the police to arrest a person, who has committed the crime, violated any Criminal law or against whom arrest warrants has been issued by the competent court. Secondly, the police agencies are engaged in criminal investigations. Thirdly, the police agencies are involved in eliminating the causes of crimes by conducting delinquency prevention programmes and citizen education programmes. Fourthly, these law enforcement agencies are involved in efforts to ensure compliance by regulatory means with laws of public safety and security. This function includes activities such as traffic regulation, and crowd control etc. The law enforcement function serves the objective of social ordering in two primary ways. Firstly, the actual enforcement of the law (by arresting offenders) triggers the 'official sequence of arrest-trial-punishment, thus maintaining social order by channelizing and correcting the behavior of individual offenders. Secondly, the mere presence of law enforcement personnel has a preventive effect; people are deterred from criminal acts by the presence of the police, or, more often, by their own belief that the police will arrest them if they commit a crime.

#### **ADJUDICATION**

Courts play a dual role in the Criminal Justice System. They are both participant in the criminal justice process and supervisors of its practice. As participants they determine the guilt or innocence of those who are accused of crime and impose sanctions if found guilty. As supervisors they act as a guardian of the requirement of the Constitution and Statutory laws. The function of the judiciary is also of responsible supervision. The judiciary has a high duty and a solemn responsibility to overview the work of the police, the prosecutor, opposing council; to preserve procedure established by law throughout the arrest - to - release procedure in the administration of justice.

The Courts are charged with monitoring procedures and with coordinating the activities of those criminal practitioners engaged in the prosecutorial and trial processes to ensure that justice is carried out in a fair and impartial manner within the constitutional framework in order to sustain innocence or prove the guilt of the accused. Even when the punishment is clearly prescribed by the statute, the Judge may (except in very usual cases) exercise his discretion to suspend the sentence, to place the defendant on probation, to give less than the maximum sentence or otherwise to apply a punishment that is geared to have an impact on the individual offender.

#### **IV. CORRECTIONAL MEASURES**

Correction becomes the measure of the criminal justice system because it is from this sub-system that convicted offenders are released to society again as free citizen. The successful adjudication or the new crimes committed by those people determines the success and failure of the criminal justice system. Those defendants whose conviction have not been overturned on appeal or through collateral attack and who have been sentenced to imprisonment or probation, enter into the last and perhaps well known stage of the criminal justice system. There are various modes of correction, like penal institutions, parole and probation agencies and related social services and mental health agencies etc. The general objective of all these agencies is to rehabilitate the offenders in order to return him to a normal and productive life. Correction becomes the measure of the criminal justice system because it is from this subsystem that convicted offenders are released to the society again as free citizens. The successful adjustment or the new crimes committed by these people determines the success or failure of the criminal justice system.

#### **V. INTERRELATIONSHIP WITHIN THE CRIMINAL JUSTICE SYSTEM**

The Criminal Justice System is complex and interdependent. It is composed of a series of interrelated parts. These parts constitute a social system of cause and effect and interaction. Neither the police nor the courts and correctional agencies can perform their task without directly affecting the efforts of others. The court must deal and can only deal, with

those whom the police arrest; the business of corrections is with those delivered to it by the courts. How successfully correctional measures, reform the convict determines whether they will once again become police business and influences the sentence, the judge pass. The police activities are subject to court scrutiny and are often determined by the Court decisions. So, reforming or reorganizing any part or procedure of the system changes other parts or procedure also. Although, the components of the criminal justice system are organizationally separate, they are functionally interrelated. Neither the Police, the courts nor correctional agencies can perform their tasks without the efforts of the other.

The courts as a middle step in the criminal justice system provide the natural focal point for interface relationship. But the courts can only decide a case and convict an offender, when he is arrested by the police and investigation is done properly. So there is a direct relation between these two components. But hostility and conflict typically characterize the interrelationship between the police and the courts, when court functions as participants in the criminal justice system. During the trial, police officers often observe and are subjected to procedural requirements that appear to them to be useless or even determinant to a determination of facts. Police may also be critical to the quality of prosecution. They may witness their efforts rendered meaningless by what they perceive to be a lack of skill or effort on the part of the prosecution Attorneys.

The Courts came in contact with the correctional agencies when it acts as either participant or supervisor. When any offender is convicted and punished by the Court, it acts as a participant because punishment is one mode of correction. As supervisor, the courts monitor the condition of these correction homes, and are protector of constitutional and statutory rights of the accused and convicts. The interrelations between courts and corrections have been almost as stormy. As in the case of police, problems with corrections arise when the courts act as either participants or supervisors. As participants, the courts cause to the correctional agencies problems at each step along with the criminal process. Repeated court delays may neutralize the specific deterrent effect that the threat of immediate punishment may provide. Likewise the technicalities of litigation like plea bargaining may complicate rehabilitation by reinforcing the offender's belief that he can manipulate system. Interface problems between courts and correction also occur as a result of courts supervisory role. As the courts have authority to monitor the conditions in the correctional homes and to protect all the rights of the prisoners and under trials.

The police and corrections are the two components of the criminal justice system that are the most separated both in the sequence of their operations and in the nature of their tasks. But they are related to each other as they are the component of the same system. The effect of correctional risk taking police is great, but so is the impact of various police practices on corrections. The arresting by police officer is often the first contact on offender has with the criminal justice system. As such, he becomes a representative or ambassador of the society that the system serves, and, hence has a substantial influence on the offender's attitude towards the society and its institutions and on his receptivity to rehabilitative measures.

The influence of the police on correctional endeavors is not limited to their initial contact with the offender at the time of arrest. Thus, the need for understanding of these interrelationships within the criminal justice system, wherein hostility and conflict frequently result, becomes increasingly important. So the conflict and hostility should be minimized, thereby improving the overall performance of the criminal justice system

## **VI. DEVELOPMENT OF INDIAN CRIMINAL JUSTICE SYSTEM**

The concept of crime is a dynamic concept and has changed within the socio-economic background of the society. It always depends upon the force vigor and movement of public opinion and social sanction in the same country from time to time. In order to study the evolution and development of Criminal Justice System in India, it can be divided into four periods.

### **ANCIENT HINDU PERIOD**

In ancient India, head of the tribe or king of the State had the power to decide any case. The King used to decide the matter under the guidance of Dharma. At that time there was no difference between law and Dharma. The most striking feature of the Penal law was that it made religion, morality as the basis to determine what was criminal and what was not. The intricate provision for dealing in various kinds of crimes is given in Smritis of Brihaspati, Narada and Katyayana. These smritis give detailed consideration to crimes against person including abuse and assaults of various kinds. The act that disturbs social equilibrium has inspired imposition of penalty on the offenders. The Smritis record the precepts for administration of justice. There was hierarchy of courts. Primarily, it was the duty of the King to administer justice by hearing litigious disputes. In doing so he was directed to take assistance of councilors, who were to act as assessors or advisors of the King. The first stage of development of criminal law took place in the law of Manu and Vishnu. In the next stage of Kautilya, capital punishment has been considerably reduced to the minimum and recommended in lighter offences comparatively mild punishments like imprisonment, corporal punishment, fine etc.

### **MUGHAL PERIOD**

During Mughal period in India, the criminal justice system was not much established. The system of inflicting punishment to a convict sometimes depended on the ground other than the actual crime committed rather than the punishment prescribed for the same in any law. In 1526 A.D., Shah Babar established a famous dynasty namely Mughal dynasty, which represents the Golden age of the Muslim rule in India. During his reign the influence of Ulema revived. During the period of his son Humayun and subsequent Kings of Mughal dynasty, there existed a judicial system which continued till its displacement by Britishers.

A drastic change occurred during the reign of the Akbar, which was commonly considered as a reversal of the policy of Islam. That trend was in sealing a bolt to the Ulema. Akbar believed himself to be a divine head. The Emperor became the sole Judge of the final appeal. After Akbar in 1605 A.D., the Emperor Jahangir ascended the throne and revised his policies. He took interest in the administration of justice. The emperor frequently sat in the royal court to hear petitions. In 1659, Aurangzeb became Emperor and he got produced a famous book, namely, *Fatawa-i-Alamgiri* containing various principles for deciding cases. Mughal Empire started losing its grip on power in 1707, mainly due to passing away of Aurangazeb Alamgir. It was natural for the system of administration of justice to fall along with the fall of Political power.

#### BRITISH PERIOD

The British Crown, after they took over from the East Indian Company in A.D. 1858, did a lot to evolve what can be termed as Criminal Justice System. Modern sense of the legal system had its origin in the establishment of the Supreme Court under the Regulation Act of 1773. Codification of the laws began with the enactment of Indian Penal Code in 1860, which defined offences and laid down punishment for each offence. The Indian Evidence Act was enacted in the year 1872, prescribing the process and determining the admissibility and non-admissibility of material in evidence and Criminal Procedure Code 1882 (Cr.P.C.) which was later on replaced by Criminal Procedure Code in 1898. The Criminal Procedure prescribes the procedure and method to be followed by the Police, the Prosecutors and the judiciary in the Criminal Justice System. The Collector had the control over the Police, Prison and Prosecution.

#### POST INDEPENDENCE PERIOD

With India attaining independence adopting a constitution of its own, the criminal justice system underwent a sea change. The Constitution makers entrusted the Government with responsibility to separate judiciary from the Executive and the process of separation started with the amendment made in 1956 in the Criminal Procedure Code, 1898. The judicial powers were taken away from the District Magistrate. He no longer remained in charge of the judiciary, which started functioning in total independence. The second major change that followed was that the police was also brought away from the judiciary. Although, the Collector still continued to be primarily responsible for maintaining law and order in the district, but the kind of authority it could exercise on Police during British period no longer continued. The next change was in the prosecution. Prosecution was also separated from the direct control of the collector. Finally, the Prison also no longer is controlled by the Collector but started functioning in a relatively independent manner.

#### VII. WORKING OF CRIMINAL JUSTICE SYSTEM

The Criminal Justice system can function fully well, if it's all three components works efficiently and cooperate with each other. The success or failure of a criminal justice system can be seen from the effectiveness of its individual component. The working and efficacy of police agency can be judged by comparison of crime rate, cases reported, investigated and disposed off by the police agency.

#### CRIME RATE

In India, the alarming rise in crime rate clearly indicates that the system is not as effective as it is required to be. In 2012 a total of 60, 41,559 cognizable crimes were reported showing a decrease of 3.4 percent over 2011. In the year 2011, total 62, 52,729 cognizable crimes were reported. The crime rate for Indian Penal Code (IPC) Crimes at national level has increased by 2.3 percent (i.e. 192.2 in 2011 to 196.7 in 2012). A study of crime statistics of 2011 and 2012 reveals that although there is a growth of crime rate of IPC crimes, but there is decrease in crime rate of SLL crimes. SLL crime rate in 2012 was 301.2 as compared to 324.5 in 2011 recording a decrease of 7.2 percent in 2012 over the year 2011. From this data this is quite evident that there is a clear rise in crime rate under IPC crimes but SLL crimes are decreasing.

Incidents of IPC crimes against property during 2012 was reported at 4,65,055 ,the share of such crimes to total IPC crimes at the national level was 19.5%. During the year 2012,IPC crimes against was reported at 5,60,699, out of which 'Hurt' accounted for maximum incidence of 59.3% (3,32,324) during 2012. Incidents of Economic crime under IPC during 2012 was reported at 1,14,455 out of which maximum cases were under 'cheating' at 82.3% (94,203) followed by the criminal breach of trust 15.6% (17,901). Incidents of IPC crimes against public order during 2012 was reported as 86,469 out of which maximum cases 86.3% were reported under riots (74,633) cases.

#### DISPOSAL OF CASES

The other factor to judge the working of a criminal justice system, is the disposal of cases of investigation by Police and disposal of cases in trial by Courts. If the cases are investigated properly and in time by investigating officers and disposed off by courts on time, then it shows the effectiveness of the system. Whereas, pendency of the criminal cases over the years is the reflection of the failure of the system in punishing the guilty and infusing the faith of a common man in the system.

##### ✓ DISPOSAL OF CASES BY POLICE

The other important function of police agency is investigation. As the rapid growth in population in India, the incidences of crimes are also increasing due to urbanization, industrialization, prize rise and unemployment. As a result the number of cases for investigation are also increasing. The quantum of workload relating to IPC cases investigated by the police during last four decades are presented in table 2.1

S.N.	Year	Total Cases for Investigation including pendency cases	Found F/NC/ MF#	Charge Sheeted	Total True Cases @	Total (4+5)	Investigated	Charge Selected
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1	1961	696155	54128	285059	532151	586279	84.2	53.6
2	1971	1138588	83663	428382	810691	894354	78.5	52.8
3	1981	1692060	127655	740881	1208339	1335994	79.0	61.3
4	1991	2075718	118626	1091549	1530861	1649487	79.5	71.3
5	2001	2238379	105019	1303397	1658258	1763277	78.8	78.6
6	2011	3146326	142804	1689881	2144193	2286997	72.7	78.8
7	2012	3243783	144539	1174150	2250497	2395036	73.8	78.8

4	1991	3964610	667340	319157	16.8	47.8
5	2001	6221034	931982	380504	15.0	40.8
6	2011	8939161	1211225	497996	15.4	41.1
7	2012	9328085	1252138	482260	13.4	38.8

\* Excluding withdrawn/compounded cases.

Source: Crime in India – 2012, Ministry of Home Affairs.

**Table 2.2: Disposal of IPC Crime Cases by Courts (Decadal Picture)**

Table 2.2 shows the quantum of IPC cases to be tried by Courts and the actual number of cases tried by Courts resulting in conviction etc. It has been observed that the percentage of cases tried to total cases for trial showed a declining trend. In 1961, trial was completed in 30.3 percent of the total cases, which showed a slight increase of 1.7 percent in 1971 by completing trial of 32.0 percent cases. After 1971, this has shown a declining trend. In 1981, only in 23.9 percent cases trial was completed, which reduced to 16.8 percent in 1991, and 15.0 percent in 2001. In the year 2011, only in 15.4 percent cases trial was completed, which further reduced to 13.4 in 2012. The increasing gap between the cases coming before courts for trial and the cases, where trial is complete is increasing rapidly. In 1961, trial of 2,42,592 cases were completed living 5,58,192 cases pending. In 1971 court could complete trial of 3,01,869 cases leaving 6,41,525 cases pending, which increased to 16,06,379 cases, in the next decade, as in 1981 only 5,05,412 cases were tried completely. In 1991, the pendency increased to 32,97,270 cases. As trial was completed only in 66,67,340 cases. In 2001, 52,89,142 cases were pending. The pendency increased to 80,75,947 cases in 2012.

Huge mounting pendency in subordinate courts of the country is shaking. According to the statistics available on the end of 2012, there were 93,28,085 cases for trial (including pending cases from the previous year) as compared to 89,39,161 cases during the previous year i.e. 2011. 84.6 percent IPC cases remained pending for the trial at the end of the year in various criminal courts of the country. Some States of the Country have shown very high pendency as compared to other states.

#### CONVICTION RATE

Efficiency of the Criminal Justice System in any State is primarily judged on the basis of the conviction rate, as it is the ultimate result of the combined effect for the system. In India, the conviction rate is far from satisfactory and is a serious matter. If the acquittal rate is more it indicates the failure of criminal justice system. Conviction rate means the ratio of cases, where the accused is convicted to the total cases tried. There has been a constant decline in conviction rate in the last 4 decades. In 1961, the conviction rate at national level was 64.8 percent, which decreased to 61.1 percent in 1971, 52.5 percent in 1981, 47.8 percent in 1991, 40.8 percent in 2001 and 41.1 percent in 2011. In 2012 the crime rate is 38.5 percent, which is lowest in the last 4 decades.

During the year 2012, the conviction rate of (Special and Local Laws) SLL crimes was much higher (88.6%) at national level than that of IPC Crimes (38.5%). The conviction rate of SLL Crimes was much higher than that of IPC crimes except in five States/Union Territories i.e. Arunanchal Pradesh (35.0% SLL crime, 40.5% IPC crime), Manipur (46.2% SLL

# F/NC/MF-False/Non Cognizable/Mistake of Fact

\* Excluding Cases where investigation was refused

@ Cases Charge sheeted + final report submitted

Source- Crime in India, 2012, Ministry of Home Affairs

**Table 2.1: Disposal of IPC Crimes by Police – Decadal Picture**

It can be observed from table 2.1 that the cases investigated has increased considerably from 53.6 percent in 1961 to 78.8 percent in 2012. It means that in those cases where investigation is conducted, and *prima facie* evidences collected indicates the commission of cognizable offence, charge sheet is filed before the Court in 78.8 percent cases. Although the percentage of the cases investigated to the total cases for investigation has declined from 84.2 percent in 1961 to 73.8 percent in 2012. It means pendency of cases for investigation is decreasing year by year.

✓ **DISPOSAL OF INDIAN PENAL CODE CASES FOR INVESTIGATION BY POLICE**

During last four decades, the gap between the cases for investigation is widening every year. In 1961 the number of pending cases for investigation under IPC crimes was 1,09,876, which increased to 2,44,234 cases in 1971, 3,56,066 cases in 1981, 4,26,231 cases in 1991, 4,66,868 cases in 2001, 32,43,783 cases in 2012. This shows the decline in the efficacy of investigation agency. In the year 2012, there were 32,43,783 IPC cases for investigation including the pending cases from the previous year. 23,95,036 of those cases were investigated by the police accounting for 73.8 percent of the total cases for investigation. The number of cases refused was 2854 (0.1%) of the total cases for investigation (including pending cases of previous year). Whereas 8,45,495 cases remained pending for investigation at the end of the year 2012.

✓ **DISPOSAL OF CASES BY COURT**

In the last four decades, India has recorded rapid growth in population. For the proper regulation of the subjects many new laws have been passed and old laws are amended. In criminal matters, the cases come before courts not only under Indian Penal Code hereinafter used as (IPC), but also under special and local laws. Numbers of cases are increasing year by year, but the number of judges has not increased to that extent. Hence huge pendency is the result.

S.No.	Year	Total No. of Cases for Trial	No. of Cases Tried	No. of Cases Convicted	%age of trial completed	Conviction
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	1961	800784	242592	157318	30.3	64.8
2	1971	943394	301869	187072	32.0	62.0
3	1981	2111791	505412	265531	23.9	52.5

crime, 70.0% IPC crime), Mizoram (86.0% SLL crime, 89.5% IPC crime), D & N Havely (8.0% SLL crime, 100% IPC crime) and Puduchary (57.7 SLL crime, 79.9% IPC crime).

From the above discussion, it can be stated that our criminal justice system is not functioning to the extent, it is required to be. Reasons for this inefficiency may be many. It may be lack of coordination between all the components, over burden on judiciary, and police agencies, corruption, lengthy procedures, technicalities involved in judicial process, or flaws in the existing laws. There is a dire need to eradicate these problems for the improvement of Criminal Justice System.

### **VIII. RECOMMENDATIONS FOR IMPROVEMENT IN WORKING OF CRIMINAL JUSTICE SYSTEM**

In order to detect the defects in the present criminal justice system and to suggest reforms, Law Commission of India has given various recommendations. Government of India, Ministry of Home Affairs constituted the Committee on reforms of criminal justice system to make comprehensive examination of all the functionaries of the Criminal Justice System, the fundamental principles and relevant laws.

### **IX. JUSTICE MALIMATH COMMITTEE**

The Committee on reforms of the Criminal Justice System headed by Justice V.S. Malimath (Retd.) has proposed important changes to various aspects of administration of justice with a particular focus on the principles of evidence and conduct of criminal trials. The Committee sought to expedite the criminal process as it considers that "the criminal justice system is virtually collapsing under its own weight or it is slow, inefficient and ineffective and the people are losing confidence in the system". The salient features of report are:

- ✓ The committee examined in particular the inquisitorial system followed in France, Germany and other continental countries. The inquisitorial system is certainly efficient in the sense that the investigation is supervised by the Judicial Magistrate, which results in a high rate of conviction. The committee felt that some of the good features of the inquisitorial system can be adopted to strengthen the adversarial system and to make it more effective. This includes the duty of the court to reach for truth, to assign pro-active role of judges, to give direction to the investigating officers and prosecution agencies in matter of investigation.
- ✓ In recommendation of, the Justice Malimath Committee proposes to amend Section 313 of Code of Criminal Procedure, 1973, by adding a new clause to give power to the court draw such appropriate inferences including adverse inference as it consider proper in circumstances.
- ✓ The committee recommended that all interrogations should be carried out in the presence of lawyer. The interrogated person should be informed of their right to legal assistance before the interrogation. They should be given the opportunity to have recourse to a lawyer through legal aid.

- ✓ It suggests a new standard of proof laying below "proof beyond reasonable doubt" and above "Preponderance of Probabilities". Therefore, it prepares a standard of courts conviction that it is true.
- ✓ Investigation wing should be separated from Law and order Wing.
- ✓ Audio/Video recording of statements of witnesses, dying declaration and confessions should be authorized by law.
- ✓ Forensic Science and modern technology must be used in investigation, right from the commencement of investigation. A cadre of sense of Crime Officers should be created for presentation of scene of crime and collection of physical evidence.
- ✓ Section 167(2) of the Code be amended to increase the maximum period of police custody to 30 days in respect of offences punishable with sentence more than 7 years.
- ✓ Section 161 of the Code should be amended to provide that the statements by any person to a police officer should be recorded in narrative or question and answer form.

The committee has made in total 158 recommendations to overhaul the criminal justice system. But some of its recommendations have been criticized on the ground that these recommendations intend to remove many fundamental rights guaranteed by the Constitution. However, the recommendations regarding improvement of Police Investigation, witnesses and perjury, protection of witnesses etc. are acceptable and may be considered by the legislature.

### **X. LAW COMMISSION OF INDIA REPORT**

Law Commission of India in its 154<sup>th</sup> report on Code of Criminal Procedure, 1973, has made some valuable recommendations which were given in report of 1996. The recommendations of the committee are relating to establishment of separate investigating agency, independent prosecuting agency and examination of witnesses and record of their statements under sections 161 and 162 of the Code of Criminal Procedure.

- ✓ The commission recommended for establishment of a separate investigating wing of the police which replenishes its knowledge and skills from developing technologies.
- ✓ It was also recommended by the Commission that investigation of serious offences punishable with sentence of 7 years or more should invariably be taken by senior officers not below the rank of Inspector of Police.

### **XI. CONCLUDING REMARKS AND SUGGESTIONS**

Criminal Justice System is the combination of various organs of a government, entrusted with the job of entrusting justice to the people. The main function of the criminal justice system is to maintain the law and order with the help of these functionaries i.e. Police, Court, Prison etc. All these functionaries though function independently are interdependent and interrelated as one unit when issue is seen in the society. To preserve the law and order in the society it is

necessary that the wrongdoer must be punished and the function of the investigator is to find out, who is the wrongdoer. In India, we follow adversarial system, where the accused unless proved guilty is considered innocent. The burden of proving guilt is on prosecution. Criminal procedure begins with investigation and investigation is generally conducted by the Police Officers. So police is the initiator in the criminal justice system. It is the police who collects the evidences and based on those evidences convictions are made. For a successful detection of crime, honest and qualitative investigation is an indispensable requirement. Whatever evidences are collected by the investigating officer and produced before the court; the case is decided on the basis of those evidences, if the court considers them relevant. So the conviction or acquittal of the accused to a great extent depends on the investigation conducted by the investigating officers. If the investigation is done by the investigation officer properly, then the most of the evidences can be proved in the court beyond reasonable doubt, hence, leading to a high conviction rate, which shows the efficiency and success of a criminal justice system.

Today, it is increasingly felt that the criminal justice system in India is probably not fulfilling the expectations of the common man to the fullest extent. Steep rise in crime, low conviction rate and unreasonable delay shows the failure of Indian criminal justice system. The reasons for the failure may be overburden on these components, corruption, political influence etc. In order to improve the criminal justice system, various commissions and committees are constituted but need here is of proper implementation of the recommendations and coordination between these components. It is also imperative that we coordinate the components of the system in a super human effort to achieve the ideals of justice that have been hailed as corner stone of our Criminal Justice System.

#### REFERENCES

- [1] Dev R., (1970) "Patterns of Criminal Justice Among Some Tribes", 12 Journal of Indian Law Institute, Delhi, p.205.
- [2] Gupta N. J., (2004) "Criminal Justice in India- Whither Commitment?", CBI Bulletin, Jan., p.14.
- [3] Rao S. Venugopal, (1985) "Perplexities in Criminal Justice", Journal of Indian Law Institute, (Vol. 27-3), p. 459.
- [4] Vernan Rich, (1975) Law and the Administration of Justice, John Wiley & Sons Inc., New York, p.11.
- [5] Pursley, R. D., (1987) "Introduction to Criminal Justice" Glencoe Pub. Co., Inc., London, 2nd Ed. p.10.
- [6] Paul Weston and Kenneth Well, (1973), "The Administration of Justice", Englewood Cliffs, N. J: Prentice Hall, 2<sup>nd</sup> Ed., p.105.
- [7] Chamelin N.C., Fox V.B., Whirenand P.M., "Introduction to Criminal Justice System", Prentice Hall Co. Inc., New Jersey, p.438.
- [8] Bent A.E., Russum R.A. (1976) "Police, Criminal Justice and the Community", Harper & Raw, New York, p.53.
- [9] A. Lakshminath,(2006) "Criminal Justice in India : Primitivism to Post Modernism", 48 Journal of Indian Law Institute , p.27.Khan Z.A.,(1999-2000) "History of Criminal Justice in India : A View of Mugal and British Period", Aligarh Law Journal, Vol. XIV & XV, p.115.
- [10] Al-Badaoni, Ranking, Vol. I, p.324.
- [11] Gupta N.J., (2004)," Criminal Justice System in India – Whither Commitment?", CBI Bulletin, Jan., p.15.
- [12] Article 50 of the Constitution of India.
- [13] Crime in India, (2012),National Crime Record Bureau, Minestary of Home Affairs,p,1
- [14] Crime in India, (2012), National Crime Record Bureau, Ministry of Home Affairs, Criminal Reforms in India: ICJ Position Paper presented by International Secretariat of International Commission of Justice, p.3.
- [15] Recommendation 20, Justice Malimath Committee Report on Reforms of Criminal Justice System, 2003.
- [16] Recommendation 22(a), Justice Malimath Committee on Reforms of Criminal Justice System, 2003.
- [17] See Recommendation 28, Justice Malimath Committee on Reforms of Criminal Justice System, 2003.
- [18] Recommendation 33, Justice Malimath Committee on Reforms of Criminal Justice System, 2003.
- [19] Vibhute K. I. (Eds) (2004), "Criminal Justice" Eastern Book Company, p.152.
- [20] Recommendation 63(a), Justice Malimath Committee on Reforms of Criminal Justice System, 2003.
- [21] One Hundred and Fifty Fourth Report of the Law Commission,(1996), Vol. 1, Para 2, p.5.
- [22] Gupta N. J., Criminal Justice System in India – Whither Commitment, CBI Bulletin, Jan., 2004, p.14.
- [23] Singh S. J. & Chanu, L.B., (2003)," A Study of Performance of Investigating Officers in Indian Criminal Justice System", The Indian Police Journal, Jan, p.29.