

CRIMINAL JUSTICE SYSTEM AND PUBLIC OPINION IN INDIA

A brief study based on empirical analysis of information generated on public platforms

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Abstract: An analysis of criminal justice system based on public opinion gives a clear cut idea about the ideological flow of the society as well as efficiency of the system. This work aims to demonstrate a rarely discussed linkage between criminal justice system and public opinion, which has been conceived by observing discussions on various public platforms. This is a humble attempt to analyse the major concepts as well as institutions that can act as pillar stones in Indian Politics and Administration, and unveil the relationship between them. Such studies can be used to give proper guidelines and roadmap for the functioning of the discussed system, and points out the critical areas from where this linkage arises as well as the dimensions by which the system can be developed.

Index Terms: Criminal Justice System, Public Opinion, Society

I. INTRODUCTION

Indian Politics and Administration is an indispensable field of study within the broad discipline of Political Science. It brings to light multi-dimensional issues to the fore, creates platforms to analyse and finally contribute to major decision making processes many a times. Criminal Justice System and Public Opinion is one amongst the most pertinent issues of Indian Politics and Administration.

Criminal Justice System can be defined as sum total of all systematic and organized form of agencies and groups involved in maintaining of law and order for the entire society. Failure of Criminal Justice System not only vitiates the basic legal guarantees but also leads the entire society into conflict and chaos. In terms of Indian criminal justice system, it is noticeable that from very ancient time onwards the Indian society has bestowed a great level of importance to law and order mechanisms. Along with the framers of the Constitution, the entire society as a whole assigned a responsibility to the criminal justice system in not only preventing and punishing crime but also in maintaining the unity and integrity of the nation. Like many other countries, the concept of an efficient and impartial criminal justice system is a matter of debate and controversy in India. Hence, apart from all the other topics of discussion, public opinion plays a major role in defining the successful working of the criminal justice system of a nation. Thus, public acceptance and public participation can create vital changes not only in the society but also accelerate smooth functioning of the entire system.

II. CRIMINAL JUSTICE SYSTEM AND PUBLIC OPINION

Criminal Justice System can be considered as an amalgam of a group of agencies involved in the maintenance of law and order in a full-fledged manner. It plays a vital role in the maintenance of a state of equilibrium in the society. Further the system is also essential for the upkeep of stability and peace at varied levels and facets of public life. Criminal Justice system accords prime importance to the process of legislation, execution and furtherance of laws in society.

From times immemorial, men have vehemently raised their voices for rights and a just system. In fact it would not be an exaggeration to state that a public desire based on a wide consensus for justice is inextricably woven into the fabric of societal life from the very eons in which mankind has successfully evolved. The history, thus, of criminal justice system is as primeval as mankind itself. From the very onset, the system has been both a witness and a subject to criticisms, complaints, contrasting opinions, lack of consensus, and subjective interpretations at loggerheads with each other. The criminal justice system in India in the present shares a deep affinity with the Penal Legal System of the

British era in its form, structure and content. Curiously, despite the passage of time, the criminal justice system has not witnessed a drastic change over the years. The CrPC (Criminal Procedure Code) was holistically amended in 1973. Further, the Vohra Committee in 1993 and Malimath Committee in 2004 recommended and resulted in minor amendments to the CrPC. Criminal justice system functions through three major agencies – Law enforcement agencies such as Police, Court and agencies for supervision like prisons and probation agencies. These agencies work together under the principle of maintenance of rule of law in society.

Observed in the cyclorama of modern times, the criminal justice system has been a theatrical stage of raging discussions and widespread criticisms. This is exactly where a discussion of public opinion gains relevance in the context of the relationship between criminal justice system and the society at large. The process of commencement and continuance of the criminal justice system, which derives its legitimacy and backing from the highest echelons of law and order bodies in the country, including the Constitution, is solely based on the locus of public security. This is where one question in particular gains significance. Have the aims and objectives of the criminal justice system penetrated the public life of the common man? Reframed, have the aims and objectives of the system reached the consciousness of the everyday person? At this juncture, it is evident that the relevance of public opinion gathers strength. Thoughts, ideas, concepts and emotions, whether based on objective facts or abstruse notions, embody themselves into public opinion. Public opinion, thus, is bound to be multi dimensional. Social, economical, political and all other aspects of civilization become inherently linked to the same. Compared to other nations, a traditionally deep rooted society like that of India, which is multi-cultural, multi-lingual, multi-religious, in total a multi-faceted system, obviates the existence of different analytical levels, for gauging and understanding public opinion.

III. A BRIEF ANALYSIS OF CRIMINAL JUSTICE SYSTEM WITH SPECIAL REFERENCE TO PUBLIC OPINION

A brief study of criminal justice system and public perception of the same reveals that both the elements are inter-dependent and inter-related and in effect reflect the contemporary social system. The public perception on criminal justice system points out that the public understanding of the system is narrow and thoroughly inadequate. The pressures of everyday existence or the aloofness exercised voluntarily by the people towards the requisite workings and provisions of law has resulted in creating a pathetic situation where people are unaware of the very system which is indispensable to maintain law and order.

A careful analysis of public discussions on various platforms reveals that the people are inclined to learn about the criminal justice system when their involvement and creative **participation** is involved. It is noticed that the primary reason for ignorance in criminal justice system of a society is the popular perception that the system is a matter of engagement solely restricted to the legislature and law enforcement authorities, even though the system has been put in place for the maintenance of law and order and is a system which exists for the people. As long as people are not creatively involved with the system people will tend to remain ignorant and perpetually disinterested in understanding the ways of functioning of the system.

Along with public participation, for the system to achieve its aims and objectives, measures can be taken to spread **public awareness** on all aspects of criminal justice system. This can be achieved by imparting the tenets of the system through the school curriculum, as well as engaging citizens at both rural and urban areas. Public platforms chaired by eminent Judges, Police authorities and other officials from the concerned agencies of criminal justice system can be created for imparting knowledge on the system and to generate feedback from the public. Public platforms conducted in prisons and other supportive agencies can accelerate the process of awareness. This will help in reducing the gap between the public and authorities. Whenever a pressing issue arises in the public domain, awareness regarding all aspects of the case and the legal possibilities related to it can be articulated through the wide arena of media. This will ensure a more vibrant, dynamic and transparent form of criminal justice system. Supreme Court approval in live streaming of court proceedings would serve as an instrument for greater accountability.

Every society has its own unique pattern of **cultural outlook**. In spite of generational changes, the majority opinion always tends to be inclined towards this outlook. A system solely based on intellectual, logical and realistic parameters will not be outright acceptable for the Indian public. The moral traditions and values as indicated above need to be given due consideration while formulating the tenets of criminal justice system. Any system which is established in contradiction of the same will be prone to reduced participation of the public. In fact it would not be an exaggeration to state that such a system would result in a complete disinterest towards the criminal justice system. Based on public perception, the issues which the criminal justice system is required to deal with can be effectively divided into two categories. One, matters related to 'affective morality' which encompasses issues touching upon traditions, societal morals, religion etc. Secondly, matters within the ambit of technical issues covering the political aspects, economic aspects, technological rules and regulations etc.

The scope and possibility of **reforms** can lead to a more harmonious relationship between law authorities and the general public, by giving the latter an opportunity to understand and update their level of awareness on the system from time to time. This will naturally lead to an increase in trust of public towards the system. Opportunity for live

streaming of court proceedings is an example of recent reform by judiciary. The apex court called it the “need of the hour”, as it will result in increased access to justice¹. The tenets of any system at any particular period of time should be reflective of the existing contemporary circumstances. Laws should undergo amendments based on such prevailing social undercurrents, provided the basic principles of constitution are not violated in letter and spirit.

By attributing more importance to **human rights**, criminal justice system will stand to gain increased public acceptance. Human rights in their true essence should be given requisite prominence while formulating and amending laws. The importance placed by modern society on equal distribution of rights, irrespective of gender, religion, caste or place of birth etc. can be maintained. Giving stress to the rights of the guilty should not compromise the rights of the victim. It is the prerogative of any effective criminal justice system to identify the weaker sections of society and to protect and safeguard their rights. The very definition of “weaker section” and the methodologies and processes adopted in identification of such sections is bound to change overtime. What justice is, and to whom it should be delivered should be the basis of criminal justice system. A system which under the banner of human rights is misused by penalizing the innocent will lose credibility and public support. The distribution of justice should be in favour of the most deserving rather than being delivered on vague assumptions.

IV. CONCLUSION

Public acceptance and participation can create not only changes in the society but also accelerate smooth functioning of the criminal justice system. Observing the opinion of public will help to develop and update the system and help to alleviate the inconsistencies accumulated over a period of time. Therefore, an authentic and comprehensive study of the public opinion regarding the law and order of a society and its related factors in a particular period will reciprocate the existing performance of criminal justice system in that society.

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