EVALUATION OF CRIMINAL JUSTICE ADMINISTRATION IN PUNJAB (1990-2000)

SUMMARY OF THE THESIS

Submitted to
THE PUNJABI UNIVERSITY, PATIALA
For the requirement of
DOCTOR OF PHILOSOPHY
In
PUBLIC ADMINISTRATION
2012

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The prosperity of a nation depends upon the existence of law and order which is the primary function of the state. The quality of civil society depends upon the performance of the state in discharging its basic function. The need for evolving Criminal Justice Administration was felt in a plural and democratic society having ethnic minorities and diversities. The fast changing socio-economic and political environment has created tremendous systematic stresses and strains, challenging the very stability of the system.

The method of dealing with crime is commonly known as the criminal justice system. Once a certain action occurs, it is the function of the criminal justice system to determine whether that action has violated the rights and liberties of individuals or not and, if it has, then to take the steps necessary to rectify imbalance created by the criminal act. The criminal justice system, thus, is designed to address only one dimension of the crime problem: justice: In performing this function, the criminal justice system necessarily adopts an exclusively post-oriented approach focusing on past criminal action. The need for criminal justice administration was felt because state has considered it appropriate to enforce the standard of human conduct so as to protect individuals and community. It seeks to fulfill its goal of protection through enforcement by reducing the risk of crime and apprehending, prosecuting, convicting and sentencing those individuals who violate rules and laws promulgated by society.

The criminal justice system one of the most important organ of the democratic government to protect peoples’ rights as well as the interest of the state. The principal objectives of the criminal justice system and its administration are to enforce rule of law, convict the offenders, committing crime and rehabilitating the violators of law in the society with the help of correction system of justice. For the attainment of these objectives, a network consisting of the police, bar,
judiciary and correctional services has been created which constitute the criminal justice system. Since the criminal law provides the basic framework for the whole criminal justice system, it is also considered as a component of the whole system.

**Nature of Criminal Justice Administration**

Criminal justice dispensation system is as old as mankind itself. It is often said that the crime and the man were born together. The criminal justice administration prevalent in the country affects mostly the poor section of the society as both the victim and accused constitute about 90% per cent of the litigants involved in the criminal litigation system.\(^1\) The criminal justice administration performs its own allocated functions in a Criminal Justice Administration, the major responsibility for initiating the process rests on the police-whose role has been spelt out as maintenance of law and order and prevention and detection of crime. The function is to interpret the law and to adjudicate the cases for administering justice. The role of correctional institution-the prison is to remove the criminals and make them ideal citizens. The three components of criminal justice administration must strive together in coordination with each others to achieve the consensus goal of effective control of anti social behavior.

For long, the three components of criminal justice administration in India have functioned in isolation, each pursuing its own organizational goals with little interaction amongst them. Added to these are the complexities and contradictions inherent in the functions of the components. From police we demand willy-nilly effective social protection, while safeguarding the rights of those who have/little respect for them. From judges, we expect that they are not only just, but appear to be so. In prisons, we seek compassion while

inflicting pains. These contradictions within each sub-system’s functioning have been mostly responsible for their isolationist attitudes. It is only in recent times that the need for greater harmony than what is obtained in the operations of the components is being felt and articulated. The decisions taken at different stages may be conflicting and contradictory, and the strategies may be divergent and even subject to critical scrutiny by other components, but they do form part of the total process of the system. Although they are expected to strive towards a common goal, but as each of the component part is structurally independent, their relationship is amorphous. They may vaguely share the broad objectives of crime control, but each of the components has its own priorities, values, standards of evaluation, methods, skills and specific environment in which it functions. In consequence, rather than work ill harmony, the criminal justice administration in practical operation generates conflicts both at the ideological and operational levels. The ideological conflicts arise from the manner in which each of the components perceives its own role and accepts the value gamut of the total system. Operational conflicts emerge from the fact that each component tries to maintain its unique position and identity in the system.

At the heart of the criminal justice administration in any country, there is a paradox—an inverse relationship between the amount of discretion which the agents of law have and the status which they enjoy. In the criminal justice administration in India, the greatest amount of discretion is possessed by the police officers. The trigger mechanism of the criminal justice process is in the hands of the police officer, and not with the lawyers, prosecutors or judges. Though the authority and discretion given to police officers around the world is remarkable, at the same time among all the agents of the criminal justice administration, they have the lowest status and
prestige within the system.

The criminal justice administration in India has shown unmistakable signs of wilting in recent times. Police has failed to achieve a reasonable degree of public acceptability and display serious cracks in its organization. Courts are dogged with thousands of cases resulting in the enormous delay and irritations in the system. And the prisons euphemistically named correctional institutions are totally out of tune with the reformatory ideology which dominates their panel policy. The criminal justice administration in India by and large reveals a disconcerting degree of hollowness, a deepening sense of frustration and a lack of direction.

**Crime and Criminal Justice Administration**

The concept of crime is changing and has changed with the socio-economic background of the society. It has always depended upon the force vigour and movement of public opinion and social sanctions in the same country from time to time. The extent of crime apparently varies among societies and communities and over time for a given society or community. "crime" entails the reaction to certain behavior as well as the behavior themselves.

Even though more than 64 years have passed since independence; we are far from being a polished society. Administration of criminal justice is a part of governance and shares the virtues and vices of the government of the day. Investigation and prosecution of crime constitutes the sole responsibility of the executive government. In plural, democratic, unequal societies, police power is prone to abuse and in collective enforcement of the law despite an independent judiciary and free press. India has been witnessing a steady decline in the standards of criminal justice administration.

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Criminal justice system has been in shambles for quite some time. The National Police Commission nearly three decades ago documented the malaise and recommended urgent reforms. However, politics and vested interest kept reforms at bay. After the Bombay blasts, the government appointed Vohara Committee which revealed astonishing facts on how the criminal-underworld controlled the government functioning, making a mockery of the whole criminal justice system. The committee revealed that the activities of criminals have spread crime to international terrorism. They had developed nexus with officials with a view to take over of the entire administration. The criminal syndicates have entrenched themselves in governance, politics and public life beyond the comprehension of ordinary people. It is alleged that the situation is so grave that nothing less than a drastic surgery can put the system back on rails. It is alleged that vested interests in government will not allow this to happen. The government will appoint committees and commissions to buy time or avoid responsibility. Meanwhile people lose faith in the system and start depending on the emerging criminal elements themselves for protection and justice. The situation today reflects this dangerous transition. This kind of alarming perception is reflected in the terms of reference of the Malimath Committee on the criminal justice system appointed by the Government of India on November 24, 2000.5

**Major Crimes**

Some of major crimes impacting on society in Punjab are violence against women, sexual abuse of children, discrimination against the Dalits, economic offences, corruption in governance, tax-evasion, liquor and drug abuse, robbery, murder, rioting etc.6 The major cause of these crimes are poverty, illiteracy burgeoning,

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population, ignorance, castism, out-dated traditions, communalism, unemployment, power hungered politicians, criminal-bureaucrat nexus, film based sex and violence, inadequate role of police and civil administration and slow pace of the judicial system.\textsuperscript{7}

The atrocities against women have shown an alarming trend even after six decades of independence. They are the victim of worst form of cruelty harassment and ill treatment by their husband and in-laws. Cruelty against women has crossed all the barriers of caste, class and religion. In domestic sphere, crime like dowry torture, dowry death, abetment to suicide, wife battering etc., are mostly perpetrated against women. Working class women, in-spite of their earning capacity, are still victimized by dowry seekers. At workplace, they are also vulnerable and fall prey to the anti-social elements.\textsuperscript{8}

Today most of the modern democratic industrial societies are haunted by the spectra of rising crime, which poses a serious threat to the life, property, peace and comfort of the people. In affluent countries of the west, crime is increasing in much faster rate than growth of population. India is an exception, though the rate of increase is slower when compared to that of many of the affluent countries of the west.\textsuperscript{9}

**Police and Criminal Justice Administration**

All civilized societies accept police as the central agency of the criminal justice system. Police is vested with powers of law enforcement, which is a condition precedent for the maintenance of law and order.\textsuperscript{10} The quality of police force determines the quality of the society and governance. The role of police in criminal justice administration in any society is significant because the policeman is


the first to arrive on the scene of crime. He applies law in a specific given situation and frames a legal scene on the basis of which the later legal battles are fought by the learned counsels. As a investigating officer, he collects facts, evidence and witnesses and all other materials which materially influence the process of truth searching in the establishment of crime. The primary responsibility of the police is to protect the citizens against violent violations of law or civil liberties like murder, rape, arson, grievous hurt, suicide, cruelty or vandalism, leading to damage of public or private property so that people could lead honourable life in society. The other agencies of criminal justice enter the scene to examine that innocent citizens may not get trapped in and adequate punishment is administered to the guilty or accused, when the police apprehended as a suspect.

**Judiciary and Criminal Justice Administration**

Justice to common man is the primary objective of the legal mechanism. The obligation of the judiciary for the implementation of the rule of law begins from the stage of detection of crime itself. The graph of crime in Punjab is going up. It is alleged that because of lengthy procedure in the court of law, it is not possible to dispose the case quickly and punish the criminals. So in the present situation, the common man has no hope of getting justice. The delay in the disposal of a case is the main roadblock in the way of distribution justice. There has been an alarming increase in the cases pending trial in the high courts and the lower courts over the last few decades. As per the figures available up to June 2003, the pendency of cases in the High

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Courts are 32.28 lakh. Out of these pendency cases, Allahabad High Court has 9.54 lakh cases, Madras High Court has 3.80 lakh cases, Bombay High Court has 3.08 lakh cases, Punjab and Haryana High Court has 2.44 lakh cases. The pendency on the lower judiciary is 2.27 crores out of which Uttar Pradesh has 49 lakh cases, Gujarat has 34 lakh cases, Maharastra has 31 lakh cases. The number of criminal cases pending in the courts are increasing, and these cases will take near about three hundred years to dispose.¹⁷

The credibility of judiciary depends upon how it is delivering of justice to the common man in a speedy, impartially and in an economy manner. But it is alleged that our criminal justice system including judiciary is heavily loaded against poor. The system grinds down the poor and the helpless mercilessly and leaves the affluent and resourceful persons of political background conveniently. It is against the basic norms of the rule of law which stands on to strong planks of equality before of law and equal protection of law affecting the prompt and cheap justice.¹⁸ In judicial system, it is observed that many a times, people lose at one stage, but they get benefited at the other one by doubling the tasks.¹⁹ This has negatively affected the credibility of judicial system. In other words, credibility has a direct linkage with accountability. An effective accountability leads to an impressive credibility. If the law fails as an instrument of punishment and deterrence, violence erupts unabated. The main reason of the loss of judicial credibility more particularly at grassroots level is due to rising rampant corruption in the temple of justice, delay in getting justice, complicated procedure, criminal-politician nexus etc., jeopardizing the independence of judiciary.²⁰

There is an urgent need to have a comprehensive look at the whole legal system with special care to delays. There is also need to develop separate institutions to deal with commercial disputes, land disputes, family cases and other regulatory offences.

**Correctional Institution and Criminal Justice Administration**

The prison administration is an essential part of the totality of criminal justice system in any country. The twin objectives of the prison department are reformation and rehabilitation of the prisoners on their release so as to bring them in the mainstream.\(^{21}\) The administration of prison in India is the sole responsibility of the states. All prisons are managed by the state government or by union territory administration. The central government is largely concerned with policy formulation and planning services. In each state, the head of the prison administration is an Inspector-General who is usually a police officer. He has a few Deputy-Inspector-Generals to look after the jails in each of the various geographical ranges into which the state is divided.\(^{22}\)

The Union Government has literally no responsibility of modernizing prison and their administration. Even Five Years Plans, prepared by the Planning Commission and approved by National Parliament offered a very low priority to the criminal justice administration in general and prison in particular. The press very seldom highlights the empirical realities and even the intelligentsia seems little concerned about modernizing the prisons.\(^{23}\) Thus the Union Government has failed to draft a coherent and forward looking national policy for prison administration.\(^{24}\)

In administering jail administration, the state of Punjab has a


jail administration service, recruited from the open market and then trained in specialized job of managing the prisons. As specialist, they stay within the services, but lack promotion opportunities and other incentives. Due to lack of promotion opportunities, the state is unable to attract the best talent in jail services. Moreover the professionalisation and specializations being fairly low, the jail administration in the states are highly demoralized and even corrupt. Jails are overcrowded with prisoners who are not properly treated by jail authorities. The prisoners get treatment from dispensaries of old design; eat unhygienic food made in ill-equipped kitchens. The committee on prisons reforms appointed by the Government of Punjab identified the glaring deficiencies such as poor living condition for prisoners, congestion in jails, inadequate communication networks and security layout inside the prisons, lack of segregation of convicts leading to psychosomatic problem among them. The correctional services in jails need to be improved.

Correction as a part of criminal justice system should contribute to public safety by exercising the safe and effective custody and control of prisoners by monitoring and managing offenders in the community and by actively encouraging and assisting offenders to become law abiding citizens.

**Interrelationship within the Criminal Justice Administration**

The criminal justice administration is obviously complex and interdependent. Although, the components of the criminal justice system are organizationally separate, but they are functionally interrelated. Neither the police the nor court or correctional agencies can perform their tasks without directly affecting the efforts of the others. Although there is a agreement among the three components on

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the issue of reduction of crime through the use of procedures consistent with protection of individual liberties, but they frequently differ on adopting specific means for achieving the goal of reduction of crime.

**SCOPE OF THE STUDY**

The present study was confined to the analyze of Criminal Justice Administration in Punjab from 1990-2000. The period of 1990-2000 was chosen because of the accessibility of the data. The research study undertaken by researcher was unexplored and no research has been taken earlier on Criminal Justice Administration in Punjab. Humble attempt has been to fill the gap in the existing literature. The study examined the role of enforcement agencies such as police, judiciary and correctional services. The reports of various commissions and committees such as a National Police Commission, Malimath Committee, Padmanabhaiah Committee established by Government from time to time has been analysed in detail. The recommendations of Second Administrative Reforms Commission were also examined. Efforts have also been made to review the working of Criminal Justice Administration of Punjab with a view to offer concrete suggestions.

**OBJECTIVES OF THE STUDY**

1. To build up conceptual framework for the study.
2. To trace the historical evolution of Criminal Justice Administration in Punjab.
3. To evaluate the working and role of the enforcement agencies dealing with Criminal Justice Administration of Punjab.
4. To examine the relationship among the enforcement agencies of Criminal Justice Administration in Punjab.
5. To examine the various loopholes in the existing framework of Criminal Justice Administration in Punjab.
6. To examine the recommendations of various Committees/Commissions constituted by Government for reforming Criminal Justice Administration.

7. To give suggestions for strengthening the Criminal Justice Administration in Punjab.

HYPOTHESES

1. The existing laws meant for prevention of crime are outdated and not in tune with the changing needs of the time.

2. The Criminal Justice Administration is comprised of different agencies like Police, Judiciary, Bar and Correctional administration. These agencies of Criminal Justice Administration are inter-related because the working of one agency affects the others.

3. Criminal Justice Administration has been ineffective in dealing with crime in Punjab.

4. There is lack of coordination and harmony between the police and prosecution.

5. Corruption, defective procedural laws, callous attitude of officials, lack of faith of public, faulty and slipshod investigation are the main factors responsible for the inefficiency of Criminal Justice Administration.

RESEARCH METHODOLOGY

For the completion of this research work, primary as well as secondary sources of information were tapped. The secondary sources were used to factual data which includes books, journals, articles and newspapers. It also includes Constitutional Assembly Debates on Criminal Justice Administration, Annual Reports of the Ministry of Home Affairs, Annual Reports of the Department of Justice, Ministry of Law and Justice, Report of the National Police Commission, various judgments of Supreme Court and High Courts, The reports of National Police Commission, Justice Malimath Committee, Padmanbhaiah
Committee and Second Administrative Reforms Commission were also examined and evaluated. The primary sources of study consists of directly obtained information collected through direct discussion and personal meetings with police officials, judicial officers and jail officials. The information gathered their view points regarding the problems and performance of Criminal Justice Administration in Punjab.

**CHAPTERISATION**

The study has been divided into eight chapters:

In the first chapter, attempt has been made to build conceptual framework of the study. An exhaustive review of literature has also been undertaken. This chapter also contains hypotheses, objectives of the study, scope of the study. The methodology used in completing the research work has been explained.

The second chapter traced the evolution of criminal justice administration from the Vedic period to the present with special focus on the growth of the institutions like police, courts and jail administration. All the three components of criminal justice administration were found to be well knit during that period.

In the third chapter, attempt has been made to examine the constitutional provisions relating to criminal justice administration in India. Endeavour has also been made to find out whether the objective envisaged by the framers of the Constitution to establish a just society in India by ensuring fair and speedy criminal justice administration has been achieved in India after 64 years of independence.

In the fourth chapter, the organizational pattern of criminal justice administration of Punjab has been examined. In this chapter, the organizational structure of all the three components viz; police, judiciary and jails administration has been analyzed.
Attempt has been made in the fifth chapter to examine the working of three major components of criminal justice administration in Punjab.

The sixth chapter examined the crimes scenario in Punjab from the period of 1990 to 2000. This chapter also evaluates the performances of Police, Judiciary and Prisons.

The seventh chapter examined the recommendations of various Committees/ Commissions like the National Police Commission, Padmanabhaih committee, Malimath Committee, which has been constituted by the Government time to time. This chapter also examined the recommendations of the Second Administrative Reforms Commission, which had been constituted by the Government for reforming the working of the police and judiciary in India.

The last chapter sums up the main findings of the study. It also incorporated suggestions for reforming criminal justice administration.

**MAIN FINDINGS**

- The Criminal Justice Administration in Punjab is both time-consuming and expensive. It helps those defendants who have money to get the justice delayed in their favour, and thereby to emerge as ultimate beneficiaries, while the victim and the poor and ignorant defenders becomes the worst sufferers. The ratio of judges to the population of Punjab is lowest.

- One of the major indicators to determine the quality of Criminal Justice Administration is the rate of conviction in criminal offences which implies percentage of cases that resulted in conviction of the accused to the number of cases in which trials were completed during a particular year. The data reveals that the rate of conviction in Punjab has decreased. The pendency rate is very high i.e. 75.5%. The disposal rate is 33.8% in IPC crimes. It needs to be emphasized that the actual incidence of
crime is not reflected in official data since a large number of crimes are either not reported to the police or if reported, not registered by the police. Nevertheless, Whatsoever is in the above figures would be contend that our Criminal Justice Administration has been suffering from certain maladies resulting in a wide performance gap on a persistent basis..

- The main reason for the decreasing rate of conviction is faulty and slipshod investigation by the police which, in turn, is largely due to inadequate staff for investigation work and inability of the concerned police official to pursue investigation on day-to-day basis with a sense of commitment and determination.

- The study revealed that the investigating officials have limited time for investigation. Their major time is taken in performing other duties connected with maintenance of public order, receiving VIP who frequently visit district headquarters, petition enquiries, preventive patrol and surveillance, court attendance, etc,

- The study revealed that Police officials lack professional capability and competence in detecting crime investigation because they are not sufficiently exposed to rigorous training and refresher courses in and outside the country. Therefore they lack knowledge, skill and aptitude meant for crime investigation and detection.

- The study revealed that there is lack of coordination between police and prosecution which leads to increasing rate of acquittal i.e. 33.8% from the period of 1990 to 2000.

- The study revealed that Jail Administration has been unable to promote adequate accommodation to the prisoners and under trials.
The study also revealed that existing Criminal Justice Administration in India, which remains by and large a colonial legacy, is not very effective to combat the deep-rooted corruption in the society. The laws pertaining to the Criminal Justice Administration are outdated and need reforms.

**SUGGESTIONS**

The study has offered following suggestions to make Criminal justice Administration more effective:

- The first and foremost measure to make Criminal Justice Administration effective is to ensure quick dispensation of justice. The protracted legal process should be replaced with simplification of legal procedures. The trail needs to be conducted on a day basis.

- The Expensive justice delivery system should be reformed in such a manner that dispensation of justice becomes cheap and affordable to the poor defenders.

- The existing accused oriented system needs to be replaced with a victim oriented one, and for this the burden of proof should lie with the accused. In order to protect the poor and ignorant accused under the new system, the existing free legal aid scheme is required to be strengthening with necessary measures. Further, the victims must get the sensitive and polite treatment as well as safe custody, under the care of the select civil society organization.

- There is also need to initiate reforms in our Criminal Justice Administration so as to ensure conviction and punishment. If this is ensured, the less members of potential offenders would be tempted to commit crimes.

- Dispensation of justice should be quicker, It must ensure that
justice has not only to be done but must appear to have been done. In our quest for justice, we must not defeat the very purpose of the administration of justice or reduces its impact.

- Necessary measures should be taken to improve the quality of our criminal justice system so that the rate of conviction in criminal offences is significantly enhanced. In this direction, there is need to implement the recommendations of the National Police Commission (1970-80), justice Malimath Committee on Reforms of Criminal Justice Administration (2002-03) and other such Commissions and Committees, appointed by the Union and Government as well as the Government of Punjab.

- It is necessary to ensure good measure of coordination between the investigating and the prosecuting agencies on a regular basis. Such coordination could be formal as well as informal. Informal mode of coordination would perhaps be more effective as compared to the formal mode.

- Last but not least, we need to evolve a new arrangement and institutionalize it on a proper footing to secure the required measure of coordination between the investigating and prosecuting agencies for the successful conduct of prosecution in the court.