

## **"Human Rights and Bail Administration : An In-depth Study on Legal Safeguards and Judicial Interpretations in India**

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### • **Abstract -**

The three pillars of human rights—life, liberty, and dignity of the individual—are essential to ensuring that people enjoy better lives than animals. The enacted criminal and procedural legislation must be consistent with the fundamental principles of the constitution and with human rights. Involved parties in the criminal justice system include judges, juries, law enforcement personnel, prosecutors, attorneys, and litigants. The way the cases are handled is governed by a number of penal and procedural rules. However, the core of the judicial system in the democratic nations controlled by the Constitution consists of applying the same *stricto sensu* to safeguard the rights of both the guilty and the victims. It has been established that the notion of bail develops to ensure the accused person's personal liberty, which is protected by Article 21 of the constitution. Even a foreigner must receive equal treatment when receiving bail in accordance with the equality principle.

- **KEYWORDS :** Criminal Justice System, Human Rights, Rule of Law, Democracy, Liberty, Civil Rights, National Policy.
- **INTRODUCTION :** *“Human rights are rights inherent to all human beings, regardless of their race, gender, nationality, religion or any other status. We are all entitled to Human Rights without discrimination.” UNITED NATIONS<sup>1</sup>*

This is the only way in which the faith of the people in the rule of law can be reinforced. The sensitivity about human rights is needed more particularly while dealing with the cases involving women, children, and other vulnerable and weaker sections of the society.<sup>2</sup> A fair procedure is the bedrock of the criminal justice system. Everyone is a child of God and all fellow beings are related to one another and belong to a universal family. In this context, Mahatma Gandhi remarks, *“I do not want to think in terms of the whole world.”* My patriotism includes the good of mankind in general. Therefore my service to India includes the services of humanity.<sup>3</sup> Human rights are inherent to all human beings without discrimination on the basis of caste, creed, religion or any other status. The Constitution of India guarantees every individual to live a life of dignity, equality and respect and acts as a custodian of fundamental rights of every citizen.<sup>4</sup> Human rights are indivisible and interdependent; therefore precisely there cannot be different kinds of human rights. All human rights are equal in importance and are inherent in all human beings.<sup>5</sup> The European Parliament is also active in consideration of human rights issues.<sup>6</sup>

<sup>1</sup> “Analysis Of Human Rights”, Available at; <https://strictlylegal.in/analysis-of-human-rights-in-india/> last seen on 17/10/2023. At 2.41pm.

<sup>2</sup> “Human Rights Best Practices relating to Criminal Justice in a Nutshell”, Available at: <https://nhrc.nic.in/sites/default/files/CriminalJustice.pdf> last seen on 14/10/2023. at 1.01pm.

<sup>3</sup> “Human Rights in India”, Available at: [https://www.ihra.co.in/uploads/pdf/Human\\_rights\\_law\\_in\\_India.pdf](https://www.ihra.co.in/uploads/pdf/Human_rights_law_in_India.pdf) last seen on 17/10/2023. At 3.21pm.

<sup>4</sup> “Journal of the National Human Rights Commission India” Vol-17 (2018) Available at: [https://nhrc.nic.in/sites/default/files/JOURNAL\\_V-17\\_2018.pdf](https://nhrc.nic.in/sites/default/files/JOURNAL_V-17_2018.pdf) last seen on 14/10/2023. at 1.09pm

<sup>5</sup> Dr. Agarwal H.O., International Law and Human Rights (Central Law Publication, 23rd ed.,(2021).

<sup>6</sup> Malcolm N. Shaw, International Law (9th ed., Cambridge University Press: New Delhi, (2022).

• **HUMAN RIGHTS IN THE CRIMINAL JUSTICE SYSTEM:**

The Extent to which human rights are respected and protected within the context of its criminal proceedings is an important measure of society's civilization.<sup>7</sup> The country faces grave human rights issues, including unlawful killings, torture, harsh prison conditions, arbitrary arrests, restrictions on freedoms, gender-based violence, discrimination against minorities, and forced labor, among others.<sup>8</sup> A judiciary of undisputed integrity is the bedrock of democracy and the rule of law. Even when all other protections fail, the judiciary provides a bulwark to the public against any encroachments on rights and freedoms under the law.<sup>9</sup>

Justice is always better than injustice because a just man is always wiser than an unjust man.<sup>10</sup> Justice implies the dealing with principles and procedures as laid down by the system of law.<sup>11</sup> In The Supreme Court Of India Criminal Appellate *Satender Kumar Antil . vs. Central Bureau Of Investigation & Anr.*<sup>12</sup> M. M. SUNDRESH, J. "***Liberty is one of the most essential requirements of the modern man. It is said to be the delicate fruit of a mature civilization. It is the very quintessence of civilized existence and essential requirement of a modern man***" - John E.E.D. in "Essays on Freedom and Power"<sup>13</sup>

The criminal justice system encompasses the most severe instrument at the state's disposal in times of peace. It is principally coercive in nature. The intrinsic violation by the criminal law and criminal procedure of an individual's freedom and social sphere is a universal characteristic. Utilization of a criminal justice system is at best a necessary wrong that must be maintained and applied to repress other, more severe wrongs and to protect that freedom against even greater intrusions.<sup>14</sup> Article 9(1) of the International Covenant on Civil and Political Rights reads as follows: "1. everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."<sup>15</sup> Criminal Justice System of any country is the basis of establishing peace and tranquility. It includes not only the judicial system but the investigating machinery as well. Criminal Justice is one of the critical areas of human rights where the legal system is tested on a continuous basis for preservation of peace and security in society on the one hand, and prevention of human dignity of both victims of crime and person accused of it, on the other.<sup>16</sup>

<sup>7</sup> "Journal Of the Indian Law Institute", Vol- 27 January-March, Number 1, Available at: <https://www.jstor.org/stable/43950897?type=AccessWorkflow=login> last seen on 14/10/2023.at 1.19pm.

<sup>8</sup> "2021 Country Reports on Human Rights Practices: India" (19/03/2022). Available at: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/india/> last seen on 14/10/2023.at 2.39pm.

<sup>9</sup> "United Nations Office On Drugs and Crime" Commentary On The Bangalore Principles of Judicial Conduct, Available at: [https://www.unodc.org/res/ji/import/international\\_standards/commentary\\_on\\_the\\_bangalore\\_principles\\_of\\_judicial\\_conduct/bangalore\\_principles\\_english.pdf](https://www.unodc.org/res/ji/import/international_standards/commentary_on_the_bangalore_principles_of_judicial_conduct/bangalore_principles_english.pdf) last seen on 16/10/2023. At 9.52am.

<sup>10</sup> Dr. Jain V. Preetam, "Political Science – I (Political Theory) Second Edition: 2021, Central Law Publication:Prayagraj, P.173

<sup>11</sup> Dr. Myneni's S.R., "Political Science", 3<sup>rd</sup> Edition: 2008, New Era Law Publication: Haryana.

<sup>12</sup> Miscellaneous Application No.1849 Of 2021 In Special Leave Petition (Crl.) No.5191 Of 2021 With Miscellaneous Application Diary No.29164 Of 2021 In Special Leave Petition (Crl.) No.5191 Of 2021.

<sup>13</sup> [https://main.sci.gov.in/supremecourt/2021/27955/27955\\_2021\\_5\\_1505\\_36261\\_Judgement\\_11-Jul-2022.pdf](https://main.sci.gov.in/supremecourt/2021/27955/27955_2021_5_1505_36261_Judgement_11-Jul-2022.pdf) last seen on 14/10/2023.at 2.50pm.

<sup>14</sup> " P.H.P.H.M.C. van Kempen Radboud "Criminal Law and Human Rights ", (3/09/2014) Available at: <https://www.corteidh.or.cr/tablas/29798-1.pdf> last seen on 14/10/2023.at 3.01pm..

<sup>15</sup> "Chapter 5 Human Rights And Arrest, Pre-Trial Detention And Administrative Detention", Available at: <https://www.ohchr.org/sites/default/files/Documents/Publications/training9chapter5en.pdf> last seen on 14/10/2023.at 2.46pm.

<sup>16</sup> Chaudhary Shruti, International Journal of Advance Research and Development.( 2018), (Volume 3, Issue 1) Available online at [www.ijarnd.com](http://www.ijarnd.com) , <https://www.ijarnd.com/manuscripts/v3i1/V3I1-1206.pdf> last seen on 14/10/2023.at 3.14pm.

- **APPROACHED IN CRIMINAL LAW REFORMS:**

It is trite to say that justice should not only be done but seen to have been done. Public perception of any system of governance is shaped by a number of factors, the most important of which is the degree of security of life and property provided by the system. Of course, no government can guarantee total elimination of crime as criminality is part of human nature. However, every government is expected to convey the message that crime does not pay and criminals howsoever highly placed in society will be apprehended and punished according to law and the procedures.<sup>17</sup>

- **What Does The Public Want From Criminal Justice?**

Citizens want equal justice under the law and the fundamental security of their life, liberty, and property without being subjected to bias based on status or influence. People do not desire excessive state intervention in their independence and liberty throughout the process of implementing the law. They don't care if the Central Government, the State Government, the Local Government, or any combination of them administers criminal justice. People want the system to be effective, accountable, and to tolerate corruption in no way.

- **Large-Scale Methods Of Policy Development**

The Policy Paper makes three major attempts to address the common complaints:

1 Criminal law reform, including both substantive and procedural laws

2 Institutional changes of the police, prosecution, courts, and prisons, among other areas.

3 Improvements to the Criminal Justice System's personnel and management on a qualitative level, additionally, the Policy Paper draws attention to a few particular areas of concern resulting from changes in socioeconomic situations, technical advancements, and globalization.

- **Criminal Justice and Human Rights Violations : Need Certain Reforms**

i. Laws should be created to reflect the widespread acceptance of settlement without trial (compounding and plea bargaining) in criminal trials.

ii. An emphasis on the victim as much as the accused is required of criminal justice in order to restore the proper balance between the offender, victim, and society in the criminal justice system. In addition to recognizing the victims' ability to participate in criminal court procedures, it is important to execute a quick and efficient plan for compensating victims of at least significant crimes, regardless of how such proceedings turn out.

iii. Despite any constitutional challenges, it is now essential for the Union to take a more active role in the struggle against crimes that threaten national security, such as terrorism, intergroup violence, and organized crime. The National Policy should list all such crimes that compromise the nation's integrity and unity and establish a unified national agency to handle their investigation, prosecution, and prevention with the backing and cooperation of the relevant state apparatuses.

iv. To provide judges additional options when deciding how to sentence someone, there must be a significant increase in the range and variety of punishments. In light of the current worth of money and the effects of inflation, it is necessary to revise the severity of the penalties, especially the fine.

v. Criminal proceedings must involve a planned, methodical quest for the truth. Procedures shouldn't be followed or understood in a way that obstructs the pursuit of the truth. Criminal courts at the session's judge level ought to have the same inherent authority to issue directions to further the interests of justice as the High Courts do under Section 482 of the Criminal Procedure Code.

vi. In order to prevent diverse methods in the hands of different judges, the axiom of "*proof beyond a reasonable doubt*" needs to be clarified by the legislature as it appears to have become dulled

<sup>17</sup> "Report of the Committee on Draft National Policy on Criminal Justice", Ministry of Home Affairs Government of India (JULY, 2007), Available at: [https://www.mha.gov.in/sites/default/files/2022-09/DraftPolicyPaperAug\\_4%5B1%5D.pdf](https://www.mha.gov.in/sites/default/files/2022-09/DraftPolicyPaperAug_4%5B1%5D.pdf) last seen on 16/10/2023. 10.01am.

through time. The level of proof may naturally vary as multiple sets of criminal codes are adopted for offences of varied seriousness, thus it is only fitting that each code reiterate the rules of evidence and proof that apply to the offences covered by that code.

vii. The criminal justice system demands more responsibility and professionalism from its participants. For crime investigation, this would call for a committed, well-trained workforce with sufficient infrastructure support and operational independence.

viii. The criminal justice system's weakest link is still the prosecution. To improve the caliber of prosecution and achieve the symbiotic relationship between investigation and prosecution necessary for efficient criminal justice administration, selection, training, service conditions, and monitoring of the prosecutors require urgent attention.

ix. Defence attorneys are also accountable for the system's smooth operation. In this regard, it is necessary to create a unique Code of Ethics for solicitors, which the Criminal Courts and Bar Councils will jointly enforce.

x. Modernizing criminal legal assistance is necessary in order to provide both the accused and the victim with the many services they require. Legal aid shouldn't be restricted to just giving poor defendants a counsel. Psychiatric, medical, and rehabilitation services must be arranged by the State under Legal Aid. The Legal Services Authority should also be in charge of victim compensation.

xi. Criminal courts are required to deliver swift justice. To do this, they must manage dockets and proceedings more efficiently in order to speed up the processes. Additionally, daily trial must be reinstated. For criminal courts to expedite trial processes, the government should provide stronger facilities and resources. Utilizing technology should make achieving the goals less expensive.

xii. Prisoners awaiting trial ought to be housed in separate facilities. Overcrowding in prisons should be avoided. The jail population can be kept within appropriate bounds by making extensive use of bail and probation and by avoiding temporary detention.

xiii. All members of the criminal justice system, including judges, must receive proper training and ongoing education if the system is to be made more effective, fair, and of high quality. Each branch of the criminal justice system should gradually improve its training skills and devote up to 2% of its overall budget to training along contemporary lines.

xiv. The criminal justice system is corrupted, which slows down the administration of justice.

• **CONCLUSION:**

The administration of justice is a broad term that includes the norms, institutions, and frameworks by which states seek to achieve fairness and efficiency in dispensing justice: criminal, administrative, and civil.<sup>18</sup> India needs a comprehensive crime-reduction plan. The national policy should focus on preventing crime through community involvement, education, and mobilization. The National Policy on Criminal Justice should include a "*National Mission to Reduce Crime*" as one of its fundamental tenets. In conclusion, addressing human rights challenges within India's criminal justice system necessitates urgent reforms, greater accountability, and a commitment to uphold fundamental rights and liberties for all its citizens.

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<sup>18</sup> David Weissbrodt, "The Administration of Justice and Human Rights", (2009), Available at: [https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1245&context=faculty\\_articles](https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1245&context=faculty_articles) last seen on 16/10/2023. At 10.51am.

