UNIT 13  CONCEPT OF CRIMINAL JUSTICE SYSTEM AND POLICE SYSTEM

Structure
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13.2 Objectives
13.3 Purpose of the Criminal Justice System
13.4 Evolution of the Criminal Justice System
13.5 Components of the Criminal Justice System
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13.1 INTRODUCTION

Criminal Justice System is an apparatus that is employed by the government to enforce standards of conduct required by the rule of Law from the people subject to authority. The civilized society from times immemorial have devised various methods of punishment to control and contain the increasing crime wave as the main instrument for the purpose of achieving the objectives of the Criminal Justice System. The major components of the Criminal justice System are Police, Prosecutor, Judiciary and Prisons known now as correctional Institutions under the modern Correctional Philosophy. The sub-systems like Prosecution and Defense Counsel have remained by and lay less knower agencies of the CJS. Further, Probation and Parole sub-systems and allied functionaries very important role in the Criminal Justice System. All the components of the system and other segments are inter-related with each other, what is done in one component or segment has a direct bearing upon the other components or segments. Police is the entry point in the system as they constitute the cutting-edge of the formal CJS. The raw facts about every incident of crime inter the CJS through either a report to Police (HR in case of cognizable offence) or complaint to a Magistrate. (Section190). Such reporting or complaint about crime sets into motor in vasti gather by the executive (the Police) that is empowered to collect the best evidence, interrogate witnesses, arrest, search and seize etc. exercise of arrest power necessitates conferring powers of remained and bail inappropriate case in every case a successful investigation leads either to a positive charges heat (Section 173) or a negative report for the prosecution.

13.2 OBJECTIVES

After reading this unit, you should be able to:
• explain the concept of the Criminal Justice System;
13.3 PURPOSE OF THE CRIMINAL JUSTICE SYSTEM

It may be pertinent to mention here that it is only a small portion of the crimes committed which are reported to the police and again out of the crimes reported to the police and goes to the court for trial. Lastly, a very small number of the cases which are put to trial in the court of law reach to the logical conclusion. There are inordinate delays in the disposal of the cases, consequently pressure is mounted on the criminal justice system and people lose faith in the system.

The basic purpose of the Criminal Justice System is to provide every possible protection to the person and property of the people and to bring the law breakers to the book. In other words, the underlying principle of the Criminal Justice System is to provide justice to both the criminal as well as the victim. Every society is committed to orderliness, peace and justice there exist elements in each and every society who create law and order problems.

The quality of a civil society to great extent depends upon the performance of the Criminal Justice System credibility thus, a CJS that claims to have high arrest rate and higher concretion rate may still not be ideal if it has a low credibility rate in the eyes of the general public.

Please answer the following Self Assessment Question.

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<td>1) What are the basic objectives of the Criminal Justice System?</td>
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13.4 EVOLUTION OF THE CRIMINAL JUSTICE SYSTEM

The mankind right from its inception has devised various means and measurer to maintain law and order in the society and control the criminal tendencies among its indist. The mechanism to control the criminal behaviour varies from society to society and in the same society from time to time. However, the mechanism by and large involves the process of arrest, trial and punishment.
The mechanism of arrest, trial and punishment undergoes major changes with the progress of civilization, as well as socio-economic and political conditions prevailing during different phases of history that go on to influence the evolution and growth of the system.

Pillai (200) has expressed that evolution of penal law has three main stages, the first stage being that of strict liability, the second stage revolves around moral wickedness or guilty mind. The concept of moral wickedness was supplemented by the test of foresight of the consequences.

Criminal Justice System has a long historical perspective. Crown in England during the 12th Century gradually assumed control over administration of justice and the compensation was to be paid to the Crown rather than to the victim. However, no formal techniques were devised. Criminal Justice System prior to the 18th Century was characterised by the informal techniques and the law which was not codified. It is a matter of historical truth that in the ancient era some formalised legal codes and the state administered procedures can be traced out which out-line the functioning of the Criminal Justice System. The Code of Hammurabi developed by the King Hammurabi of Babylon in 18th century B. C. was the earliest known system of laws. This code was designated to regulate a wide variety of human affairs.

Criminal Justice System in the ancient India, as maintained by Dwivedi (2004) was governed by ‘dharma’ as law of dharma propounded in Vedas was considered supreme in the ancient India. The right to punish the offender rested with the king. The ancient Hindu Law did not expressly distinguish between crime and the civil wrong, but the King with the progress and development of the society started making laws and regulations in the light of prevailing local customs and usages. The changes in the system were very slow but gradual.

After the conquest of the country by the Muslims, Muslim Law was introduced in India and the Indian Courts applied Muslim criminal law in the administration of justice. Misra (2004) has pointed out that the main source of the Muslim Criminal law was the holy Quran and Hadis. The Qazis were responsible for elucidating and expounding the laws.

The Muslim Criminal Law divided crimes as crimes against God like adultery and drunkenness and crimes against man like murder and robbery. The crimes against God were regarded as public wrongs and were punishable by the society or community. The offences against man were regarded as private and were punishable, but the victim or victim’s next kin had very vital role so far as the nature and quantum of punishment was concerned. The matter could be closed with the payment of compensation what in most of the cases was known as blood money. The punishment was mainly of four types namely Qisas (retaliation), Diyat (blood money), Hadd (defined punishment) and Tazer and Siyasa (discretionary and exemplary punishment). There were many operational difficulties till the administration of justice was taken over by the East India Company.

The East India Company in the year 1765 acquired the Nizamat of the three provinces of Bengal, Bihar and Orissa. The Company in order to administer the justice, initially maintained status quo, but modifications were introduced on
regular and gradual basis. The trial procedure and nature of punishments were subjected to a number of changes.

The first attempt to modify the nature of punishments was done by Warren Hastings and it was followed by a number of reforms in the substantive criminal law introduced by Lord Cornwallis. A number of laws were introduced on piece meal basis, but each Presidency had its own rules and regulations and they differed on many counts from each other. The disparities in the Rules and Regulations surfaced when all the Presidencies where brought under common rule and it was realised that piece meal reforms may not yield the desired results and in order to overcome the conflicting rules, the Charter of 1833 was enacted which gave birth to the All India Legislature, Office of the Law Member in the Council of the Governor General and provision was also made for the establishment of the Law Commission. The First Law Commission was appointed in 1834 with Lord Macauley as its Chairman. The Commission submitted its draft report to the Legislative Council. The Legislative Council endorsed it to the Governor General for his consent. Governor General approved the revised draft penal code and it came in to force on First January 1862.

The Penal Code defines crimes and criminal behaviour, the Criminal Procedure lays down the procedure for trial of the offences, the Law of Evidence deals with the evidence and the Constitution besides various vital issues deals with rights and duties of both the State as well as the subjects. There are various other laws which define offenses, confer rights and duties, lay down the procedures to deal with the specific offenses. Further, courts have also played their role while interpreting the legal provisions. In fact judicial activism has to great extent helped in the growth of the criminal system.

Please answer the following Self Assessment Questions.

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<tr>
<td>2) i) Discuss the historical perspective of the Criminal Justice System in India?</td>
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 ii) To what extent the present Criminal Justice System has been influenced by the English Rules and Regulations?

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13.5 COMPONENTS OF THE CRIMINAL JUSTICE SYSTEM

The task of ‘prevention and control of crime’ mainly belongs to the Criminal Justice System and in general involves the process of arrest, trial, conviction, sentencing, punishment/treatment and finally rehabilitation. The basic parameters are laid down by the legislature in the form of law. The main components of the Criminal Justice System are Police, judiciary and Correctional Institutions. The legislature is also an important component of the Criminal Justice System, as all the laws emanate from the floor of the legislature. The courts interpret the laws and police is the executing agency. The components of the criminal justice system are given in the following table.

Components of the Criminal Justice System

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<tr>
<th>Legislature</th>
<th>Prosecution</th>
<th>Acquittal</th>
<th>Probation</th>
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<tbody>
<tr>
<td>Accused</td>
<td>Police</td>
<td>Prosecutor</td>
<td>Judiciary</td>
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<td>Judge</td>
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<tr>
<td>Defence Counsel</td>
<td>Conviction</td>
<td>Sentence</td>
<td>Prison</td>
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Each component has no doubt a distinct role, but all the components are interconnected with each other. The police is the first agency to get information about the Criminal incident and pursuant to it undertakes investigation of the crime, the prosecution is the second in line as it scrutinise the charge sheet of the police, the judiciary takes cognizance of the crime and adjudicates the allegation of crime as per rules of substantive and adroventary law. The correctional agencies like prisons and probation come at the end. The functioning of the key functionaries in each component has a direct bearing upon the functioning of the other components. They are inter-dependant upon each other and influence each other’s functioning.

Please answer the following Self Assessment Question.

Self Assessment Question

3) What are the various components of the Criminal Justice System?

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Probation

Prison
13.6 THE POLICE SYSTEM

The word ‘police’ is derived from the Greek word ‘polis’ meaning the State. The police apparently were called so, because of their being the manifestation of power of the state. Mishra and Mohanty (1992) have pointed that the role and function of the police of a country are determined by the nature of the State. A Moghals that a regular police system was established and after of the uprising of 1857, the British rules, who were well versed in the administration of justice, introduced a number of changes in the police system. It was in 1861 that a police Act was enacted and regular police syste was established in the British India. The role and functioning of the police were identified and they were assigned the role of strict disciplinarian and custodian of law and order to safeguard the interest of their colonial regime. However, in the post-independence era, a series of radical changes were introduced in the entire police system to tune the police system on the modern lines. The police no-doubt has improved its role and functioning to some extent, but unfortunately the police over more than last sixty years has not been in a position to improve its image in the society, which may be primarily because of their occupational role, performance and the age old statutes.

The most unpleasant task in the Criminal Justice System belongs to the police. The Police is not only entry point in the Criminal Justice Systm, but also lies at the cutting edge of the entire system. The Police is the crucial and visible link between the people and the Government, as the Governmental authority is translated into action by the police and resistance whatsoever is also faced by no one else, other than police. No doubt, all the sub-systems of the Criminal Justice System viz. police, prosecutors and judiciary are interconnected with each other and what is done in one sub-system has a direct bearing upon the other sub-system. Police is an important component of the total system. It is sociologically admitted that when people occupy social position rather than by their own individual characteristic roles which are the bundles of socially defined attributes and expectations associated with the social positions. Police occupies a very strategic position in respect to the social contro, probably only next to the family and other personal groups in importance.

The modern police force in India was established by the Britishers. The law relating to the sphere of police work in the country remained more or less unaltered even after independence. The Indian Police Act, 1861 enacted in British India, Provided for a uniform police in the country. the functions and powers of the police are provided under the Act. Further, the Criminal Procedure Code amended from time to time provides vast powers to the police, which among others include power of investigation of the offences, arrest, search and seizure.

The police as an organisation has to carry out certain expected behaviour irrespective of their own personal feelings or even at the cost of comforts of their family members. The Police function today is more than just to maintain law and order situation. It has been often found that the job profile or functioning of the police personnel has a direct impact upon the socio-economic psychological dimensions of their family members.

The Police being the entry point in the Criminal Justice System and is expected to perform the all embracing function of investigation of crime that involves
gathering material evidence from the scene of crime interrogation of witness, recording of confessions and statements before Magistrate arrest search and seizure seeking remand and release on bail etc, in addition to maintenance of law and order, therefore, the entire burnt is mainly on the police personnel. The basis statute, namely the Indian Police Act has continued to regulate the functioning of the Police. The code of Criminal Procedure 1973 has maintained the basic framework of old provisions and provides a procedural system. The officer-in-charge of the police Staton, who continues to be the kingpin of the local administration, enjoys wide powers under the criminal procedure law which often conflicts with the democratic principles. The powers in question pertain to house search, arrest on suspicious, watch after conviction and other issues regarding maintenance of law and order.

Though Police is for the protection of the society but in reality the society fears the Police and harbours hostility against the Police. In fact the societal perception of the Police is based on day to day abuses and excesses that the Police organisation indulge. In a way this is the consequence of politicisation and lack of professionalism in the Police Force. The Malimath Committee on Criminal Justice Reform (2003) has reposed strong faith on the police that according to the MCR is best shield against growing criminalization in the society, including terrorism.

The police is the crucial and visible link between the people and the Government, as Government authority is translated into action by the police and resistance whatsoever is also faced by none else, other than Police. They are important, because they keep our complex society together. They keep the citizen, working and prospering within the framework. It is an established fact that no society can exist or function without the support of an organised police force, but the police force however, well organised and effective. It may be, can not check completely the criminals and increasing crime rate. It is a well known fact the police in almost every part of the world have failed to check completely the criminal activities and the onward march of the crime and delinquency.

The police by virtue of their position and functioning is most hated institution of any Government and every type of the Government. The police in India is not only an object of dislike but hatred as well. In England in the words of Holcomb, no one loves a police man and in U.S.A. cops are known as pigs by many. Moreover, in most of the countries, there are usually common allegations of highhandedness, inhuman methods of investigation, torture, corruption and inefficiency against the police. There is common belief among the masses that police work under the undue influence of the politicians.

No doubt, all the sub-systems of the Criminal Justice System viz, police, prosecution, courts and prisons are interconnected with each other and what is done in one sub-system has a direct bearing upon the other sub-systems. There must be a proper co-ordination between all the segments of the Criminal Justice System. It has been found there is hardly any proper and effective co-ordination between the different segments of the criminal justice system, which usually goes in favour of the offender. A proper and effective co-ordination between the different segments of the criminal justice system is essential for smooth functioning of the system.
Please answer the following Self Assessment Question.

**Self Assessment Questions**

4) i) Briefly describe the genesis of the police system in India?
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ii) Do you feel that the police has improved its image and functioning?
If so elaborate briefly in your own terminology.
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13.7 **SUMMARY**

- The concept of Criminal Justice System is related with the concept of crime and norms of the society to control the criminal activities. It is as old as the mankind in itself. The methods to control the crime have been devised by the society from time to time as per the perception of the crime.
- The agenda for the Criminal Justice System is reflected in the socio-economic and moral values of the society, which in the due course of time, takes the shape of legal norms to become the binding force for the society.
- The methods to control the crime have always depended on the perception of the crime in the society, social sanctions, vigour and force of the State.
- The Indian Criminal Justice System has traveled through Hindu period, Muslim period and finally the present shape to the system has been given in the British period.
- Justice during the Hindu period and Muslim period was swift and within the reach of common people.
- In the post-independence period law has have been amended from time to time to make the criminal justice apparatus swift and more effective.
- The Criminal Justice System including the police apparatus in a way is the reflection of the existing social set-up. The legal norms are got executed through the apparatus of the criminal system, which in any civilized society has to be fair, firm, impartial and effective.
13.8 TERMINAL QUESTIONS

1) Describe briefly the evolution of the Criminal Justice System.
2) What are the basis functions of the Criminal Justice System?
3) What are the different components of the Criminal Justice System?
4) What are the main functions of the police?

13.9 ANSWERS AND HINTS

1) Refer to Section 13.3
2) i) Refer to Section 13.4
   ii) Refer to Section 13.4
3) Refer to Section 13.5
4) i) Refer to Section 13.6
   ii) Refer to Section 13.6

13.10 REFERENCES AND SUGGESTED READINGS

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