MOHAMMAD OWAIS FAROOQUI, FAIZAN RAHMAN, MOHD ZAMA

Examining the Possibility of Transition from the Accusatorial to Inquisitorial Model of Trial in the Present Criminal Justice System

Abstract

The criminal justice system plays an important role in any society governed by the rule of law. It basically emphasises on the safety and security of an individual and the society as a whole. Two models of criminal justice system i.e., an accusatorial and inquisitional model are followed across the globe. The inquisitional system has its origin in continental law countries such as Italy, France, Germany etc. while the accusatorial system has its roots in England and other common law countries. India, being a common law country, generally follows the accusatorial model of criminal justice system but in exceptional cases some elements of the inquisitional model have also been adopted through the process of legislation and judicial rulings. The present paper examines the applicability of both models in the exiting criminal justice system. Considering the present scenario and the challenges faced by our country, the author would also like to examine the possibility of tilting towards the inquisitional system to overcome such challenges.

KEYWORDS: accusatorial model, inquisitional model, criminal justice system, common law, legal reform, criminal procedure.

MOHAMMAD OWAIS FAROOQUI – PhD in law, University of Sharjah,
ORCID – 0000-0003-0154-802X, e-mail: mfarooqui@sharjah.ac.ae
FAIZAN RAHMAN – PhD in law, Jamia Millia Islamia,
ORCID – 0009-0006-2984-7872, e-mail: frahman@jmi.ac.in
MOHD ZAMA – Master of Laws, Jamia Millia Islamia,
ORCID – 0009-0003-6274-6932, e-mail: siddiquizama@gmail.com

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1 Introduction

Crime is not a recent phenomenon. Societies have been witnessing commission of crime since the time immemorial, for more reasons than one. Nevertheless, the notion of crime has never been defined accurately over a long period of time. Accepting the impossibility of having a precise definition of crime, Glanville Williams, has rightly pointed out that the definition of crime is one of the thorny intellectual problems of law.[1] William Blackstone has given, to a very large extent, a satisfactory definition of crime as; "an act committed or omitted in violation of public law forbidding or commanding it".[2] According to him, a crime is an act which is basically committed against public law but the definition falls to cover the social or moral aspects of crime.[3] The difficulty in defining crime arises from the dynamic nature of society and the major changes in the legislative and executive policies of the state over a period of time. Generally, a crime is defined as an act that is prohibited by law and there is a provision of sanction in respect of such act, basically it is an act against the moral sentiments of the society. Criminal law is a branch of public law concerning with the maintenance of law and order in the society. In the criminal proceedings, state is the party since crime is not only a wrong against the victim but also against the whole society.

A crime-free society is a myth,[4] every person in a society is interested in the maintenance of law and order,[5] hence the safety and security of the citizen must be the prime objective of the state. It is incumbent upon the state to maintain peace and order in every society for human being to live without fear of injury to their lives, limbs, and property.[6] Due to globalisation and changes in the socio-economic conditions of the society, the pattern of commission of crimes has changed and hence there is a need for a sound criminal justice system to dispense justice and thereby restore peace and harmony in the society.

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1 Glanville Williams, "The definition of crime" *Current Legal Problems*, No. 1 (1955): 107-130..

2 Sir William Blackstone, *Commentaries on the Laws of England*, Vol. 4, 17th ed. (1830).

3 Ibidem.

4 N.V. Paranjape, *Criminology, penology and victimology*, 16th ed. (Allahabad: Central Law Publications, 2014).

5 K.I. Vibhute, *P.S. A. Pillai's criminal law*, 12th ed. (Lexis Nexis, 2016).

6 Ibidem.

In the contemporary law, a criminal justice system consists of various facets such as law enforcement agencies, prosecution, defence counsel, judiciary and the prisons. Law enforcement agencies are basically concerned with the implementation of law and prevention of crimes, the main task of prosecution is to prove the guilt of the accused, defence counsel has to defend the accused in the court of law by providing an independent evidence or creating an element of doubt in the story of prosecution, the judiciary has to decide the case on the basis of the evidence presented before it by the prosecution and the defence counsel, and finally the accused is sent to the prison once his guilt is pronounced by the court. After serving the prescribed sentence of the punishment in the prison the person is again brought back to the main stream of the society.

"Law should not sit limply, while those who defy it go free and those who seek its protection lose hope."[7] Criminal justice system is a form of social control wherein the state takes over the entire criminal proceedings, right from the time of the arrest of the accused till the accused is acquitted or put behind the bar. Generally, there are two models of criminal justice system followed all over the world, i.e., the accusatorial and the inquisitional model. The inquisitorial model has evolved in continental law countries like Italy, France, Germany etc. while the roots of the accusatorial system lie in the common law of England. India is a common law country where the criminal justice system is based on the accusatorial model. Both the models of criminal justice system aim at providing justice through different mechanisms. As far as the accusatorial model is concerned, it is heavily tilted in favour of the accused whereas the inquisitorial model is more balanced towards both the accused and the victim. Since both the models operate in different areas, each of the models has its own advantages and disadvantages.

2 Accusatorial Model of Criminal Justice System

Accusatorial model of criminal justice system is perhaps the most accepted model all over the world. Basically, this model has its origin in the common law of England. Almost all the countries which have been the colonies of British Empire have, by and large, adopted this model, following the end

7 Jennison v. Baker (1972) 1 All ER 997.

of British colonialism. The United States of America and India are the classic examples of the countries which are following accusatorial model of criminal justice system.

Generally, an accusatorial system is very much like a dialectical process which is based upon the arguments and claims of both the prosecution and defence counsel. The parties have complete autonomy during the trial.[8] In this model, the role of the judge is very limited, in fact, it is passive in nature, the judge has to pronounce the judgment on the basis of the evidence produced by the prosecution and the defence counsel. Witnesses are called by the prosecution only, and cross examination is carried out by the defence counsel. This model sounds more like an open competition between the prosecution and the defence counsel where the role of advocates is more active. The investigation is carried out solely by the law enforcement agencies and the judges cannot interrupt the case during the time of investigation. Investigation is exclusively the domain of law enforcement agencies. The prosecution case must be proved beyond all reasonable doubt in order to convict the accused.

This model has evolved gradually through the process of precedent rather than the process of codification and legislation. The "Doctrine of beyond reasonable doubt" and the "presumption of innocence" are the two cardinal principles of the accusatorial model which were consolidated by the House of Lords through Lord John Sankey in the Woolmington Case[9] as follows:

> Throughout the web of the English Criminal Law one golden thread is always to be seen that it is the duty of the prosecution to prove the prisoner's guilt subject to [...] the defence of insanity and subject also to any statutory exception. If, at the end of and on the whole of the case, there is a reasonable doubt, created by the evidence given by either the prosecution or the prisoner [...] the prosecution has not made out the case and the prisoner is entitled to an acquittal. No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained.[10]

8 Brants Chrisje, Stewart Field, Nico Jörg, "Are adversarial and inquisitorial systems converging?", [in:] *Criminal justice in Europe: A comparative study*, ed. Christopher Harding, Phil Fennell, Nico Jörg, Bert Swart (Oxford: Clarendon Press, 1995), 41-56.

9 Woolmington v. Director of Public Prosecution, UKHL 1 (1935).

10 Ibidem.

Lord John Sankey, in this case has articulated the principle of the presumption of innocence by casting a duty upon the prosecution to prove the case, and that too beyond any reasonable doubt. His lordship has categorically mentioned that under no circumstances the accused can be deprived of his rights.[11] Professor Sir John Smith, a renowned criminal lawyer, hailing this decision, opined that the House of Lords, through Lord John Sankey, had done a more noble deed in the field of criminal law on that day.[12] Hence, in the accusatorial model, the guilt of the accused must be proved beyond all reasonable doubt and the judges are bound to decide a case strictly in accordance with this doctrine only.

We must bear in mind that Article 14 (2)[13] of the International Covenant on Civil and Political Rights, also recognises the right to be presumed innocent unless proved guilty according the procedure established by law. Article 11 (1)[14] of the Universal Declaration of Human Rights had also recognised the principle of the presumption of innocence in favour of the accused unless his guilt is proved in accordance with the law.[15] Many more international and national instruments have recognised the same principle. The prosecution has to prove the case beyond all reasonable doubt. Even if there is an element of doubt in the story of prosecution the judges have no option but to exonerate the accused, giving the benefit of doubt to the accused. The exact meaning of the words "beyond reasonable doubt" has nowhere been defined. As a general rule, the court does not pronounce on the conviction of the offender until it is certain, on the basis of the evidence presented to it, that the accused was involved in the commission of the offence.

One of the disadvantages of the accusatorial justice system is that this system is heavily loaded in favour of the accused and it does not acknowledge the plight of the victim who, primarily, suffers due to the commission of an offence. This model of criminal justice system is insensitive to the

11 Ibidem.

12 38 The North Ireland Legal Quarterly, page 224.

13 Article 14 (2) of the International Covenant on Civil and Political Rights, 1966. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

14 Article 11 (1) of the UDHR, 1948. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

15 Ibidem.

plight of the victim.[16] As the state takes full responsibility to prosecute the accused, the role of the victim is confined to the same as that of a witness. The victim is denied rights such as the right to appeal, the right to compensation, the right to participate in criminal proceedings, etc.

The accusatorial model gives the accused the right to remain silent during interrogation, and under no circumstances can he be compelled to give evidence against himself. No negative inference can be drawn against the accused for being silent. Evidence given to the law enforcement agencies are completely barred in the court of law, they are inadmissible, having no value in the eyes of the law. Only the evidence produced before the judge are relevant and admitted in the court. The Fifth Amendment[17] of the United States Constitution recognizes the right of the accused to remain silent. The Supreme Court of the United States has further crystalized the fifth Amendment[18] in the Miranda Case[19] by restricting the prosecution from using the statement given by the accused during interrogation as evidence unless the accused was informed of his right to consult an advocate.[20]

The accused has the right to choose the advocate of his own choice. In case the accused is unable to employee the advocate of his own choice, the state is bound to appoint an advocate on his behalf. Due to the pro accused nature of the accusatorial model, most of the time the offender manages to escape or avoid punishment, resulting in a very low conviction rate and a little bit of frustration for law enforcement agencies. The procedure is too rigid to given any scope to the judiciary to take any extra ordinary stem in order to administer justice. Most of the times this model is criticised for being complicated and rigid in nature.

16 Report of the Committee on Reforms of Criminal Justice System, Ministry of Home Affairs, Government of India. Vol. (1) 2003.

17 The Fifth Amendment of the Constitution of the United States, 1789: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

18 Ibidem.

19 Miranda v. Arizona, 384 U.S. 436 (1966).

20 Ibidem.

3 Inquisitorial Model of Criminal Justice System

The Inquisitional model of criminal justice is another widely accepted model of criminal justice. This model of criminal justice system has evolved in the continental countries of Europe and hence it is also known as civil law system or continental law system. Most of the European countries such as France, Germany, Italy etc. follow this model of criminal justice system. This system has evolved through the process of codification and legislation unlike the common law system which is, generally, the product of judicial precedents. Basically, this system revolves around the principle of the quest for truth or justice. Justice is administered only after the truth is discovered.

The combined efforts of the judiciary, the prosecution and the police are needed to find the truth. The role of the judiciary is very active and judges actively participate in the investigation of the case, the collection of evidence and the examination of witnesses. The prosecution can solely close the case if it thinks that no a *prima facie* case has been made out, but, if the preliminary enquiries make the prosecution realises that further investigation is required then the prosecution can give instruction to the judges to undertake further investigation. Inquisitional system is suitable in societies with a strong state structure where the citizens trust the state authorities to take up the task they are better equipped for.[21]

The quantum of evidence required in this system to convict the accused is not as high as in the accusatorial model. The accused can be convicted if there is a high probability of him in the involvement of the commission of crime. The guilt of the accused need not be proved beyond all reasonable doubt. Moreover, the accused does not have the right to remain silent during the interrogation. A negative presumption can also be drawn against the accused in case he remains silent while being interrogated in relation to the offence he is alleged to have committed.

As this model is tilted in favour of the police and prosecution, the conviction rate is higher and in most cases the criminal trial results in the conviction of the accused. Evidence given to the police or prosecution is very relevant and admissible in court. Judges have the discretion to decide whether the evidence presented to the court is relevant or not.

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21 Tom Decaigny, "Inquisitorial and adversarial expert examinations in the case law of the European Court of Human Rights" *New Journal of European Criminal Law*, No. 2 (2014): 149-166.

4 Indian Criminal Justice System

A sound criminal justice system has been in existence since ancient time in India. The present criminal justice system is a legacy of British, and the principles of common law are very much reflected in it. The major ingredients of the criminal justice system in India are Police, prosecution, judiciary and prison. The present criminal justice system in India is suffering from many anomalies such as enormous delay in deciding the criminal cases, low conviction rate, threat to witnesses, overcrowded prisons bureaucratic and political pressure upon the police and unaddressed plight of the victim. In fact, a large number of under trials have been languishing in jail for a long period of time. The police arrest the accused as soon as the offence is committed and the accused is interrogated by the police only. After the investigation, which is exclusively carried out by the police, the chargesheet is filed before the court. The criminal trial is set into motion once the charges are framed by the judge.

Generally, India follows an accusatorial model of criminal justice system, which is heavily tilted in favour of the accused, ignoring the plight of the victim. Article 21 of the Indian Constitution protects the life and liberty of every person including the accused.[22] The Indian judiciary has attributed various dimensions to the concept of life and liberty through different landmark rulings in relation to the rights of the accused such as the right to speedy trial,[23] the right to free legal aid,[24] the right to remain silent during police interrogation[25], the right against solitary confinement,[26] the right against handcuffing,[27] the right against public hearing.[28] Hence the judiciary has liberally interpreted Article 21 of the Indian Constitution in favour of the accused. Further, an accused has to be arrested in accordance with Article 22[29] of the Indian Constitution. No arrest shall

22 Article 21 of the Indian Constitution, 1950. No person shall be deprived of his life or personal liberty except according to a procedure established by law.

23 Hussainara Khatoon v. Home Secretary, State of Bihar, AIR 1979 SC 1369.

24 Madhav Hayawadanrao Hoskot v. State of Maharashtra, 1978 AIR 1978 SC 1548.

25 Nandini Satpathy v. P L Dani, AIR 1978 SC 1025.

26 Sunil Batra v. Delhi Administration, AIR 1980 SC 1579.

27 Prem Shankar Shukla v. Delhi Administration, AIR 1980 SC 1535.

28 Attorney General, Government of India v. Lachma Devi, 1989 SCC (CRI) 413.

29 Article 22 of the Constitution of India, 1950. Protection against arrest and detention in certain cases.

be made without informing the accused the ground of his arrest[30], the accused is also entitled to consult a legal practitioner of his own choice[31], the accused cannot be detained by the police for more than twenty-four hours without the authority of the magistrate.[32] A statutory duty has also been imposed upon the state under section 304[33] of the Code of Criminal Procedure, 1973 to provide free legal aid to the accused during the trial before a sessions court. Hence everything in the present criminal justice system in India revolves around the rights of the accused only.

The role of the victim of a crime in our criminal justice system is restricted to the same as that of a witness in the criminal proceeding. Victims do not have to be informed of the court proceedings or of the arrest of the accused. They do not have any right to attend the criminal trial. The victim's right to appeal against the acquittal of the accused is also not recognised. Although, section 357 A[34] of the Code of Criminal

30 Article 22 (1) of the Constitution of Indian Constitution, 1950. No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

31 Ibidem.

32 Article 22 (2) of the Indian Constitution, 1950. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate.

33 Section 304 in The Code of Criminal Procedure, 1973. Legal aid to accused at State expense in certain cases. (1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State. (2) The High Court may, with the previous approval of the State Government, make rules providing for- (a) the mode of selecting pleaders for defence under sub- section (1); (b) the facilities to be allowed to such pleaders by the Courts; (c) the fees payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1). (3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub- sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before Courts of Session.

34 Section 357 A of the Code of Criminal Procedure (Amendment) Act, 2008. Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. (2) Whenever a recommendation is made by the Court

Procedure Act, 1973 deals with the victim compensation scheme wherein the state governments in coordination with the centre are mandated to prepare a scheme for providing funds for the purpose of compensation to the victim. Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.

5 Possibility to Reform Present Criminal Justice System in India

Crime is a universal phenomenon. A sound criminal justice system starts on the track point of the law and ends at the doors of the prison. According to the latest NCRB report[35] released by the Home Ministry, Government of India, the overall picture of the present criminal justice system in India is not satisfactory. India has reported 29,193 murder cases in 2020, witnessing almost one percent increase over the total 28,195 murder cases reported

for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1). (3) If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation. (4) Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation. (5) On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months. (6) The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer in charge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit.

35 The NCRB Report, Crime in India-2020. Ministry of Home Affairs, Government of India.

in 2019. Low conviction rate has been one of the major areas of concern in India, cases related to the riots have registered the lowest conviction rate. Even in the heinous crimes such as rape conviction rate is 39 percent and in murder related cases it is 41 percent.[36] The number of arrests under section 124 A[37] of the Indian Penal Code, 1860 is on rise but the conviction remains very poor. Out of a total of 96 arrest made under sedition in 2019, only two cases have resulted in a conviction.[38]

Given the present scenario and the challenges facing our country, it is high time that India adopts certain elements of the inquisitorial model. In order to deal with the increasing number of crimes being committed, certain measures need to be taken. The standard of proof required in India in criminal cases is that the crime must be proved beyond reasonable doubt. Although the Indian Evidence Act[39] does not prescribe such a standard of proof in criminal cases rather, it is the judiciary in India that been following this standard from English precedents. The doctrine of beyond reasonable doubt, which requires the highest degree of proof, should not be applied in heinous crimes such as murder, rape, kidnapping, dacoity and the offences against the state, rather India should adopt another level of degree of proof i.e., convincing of the judge, wherein lesser degree of proof is required in order to convict the accused.

The judges must be empowered to actively participate during the investigation of the case or the collection of the evidence in order to ensure

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36 Ibidem.

37 Section 124A in The Indian Penal Code, 1860. Sedition. Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine. Explanation (1) The expression „disaffection" includes disloyalty and all feelings of enmity. Explanation (2) Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation (3) Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

38 The Economic Times, February 17, 2021. https://economictimes.indiatimes.com/news/politics-and-nation/arrests-under-sedition-charges-rise-but-conviction-falls-to-3/articleshow/81028501.cms?from=mdr. [acessed: 17.2.2021].

39 The Indian Evidence Act, 1872. (Act. No. 1 of 1872).

that a fair investigation is carried out. In fact, the trial conducted by the International Criminal Court also emphasises upon the role of the judge during the pre-trial stage. The judges supervise the investigation carried out by the prosecution in order to ensure the integrity of the proceedings. Under the supervision of the judges, the rights of the accused are guaranteed, witnesses are protected and the plight of the victim is also addressed.

The Preamble of Rome statute[40] states that "the most serious crimes of concern to the international community as a whole must not go unpunished."[41] The Apex Court in NHRC v. State of Gujrat[42] has observed that the trial must be fair to both, the accused as well the victim. The victim must be given the right to actively participate during the trial, he/she must to be heard while sentence is passed upon the convict. Victim must also be given the right to oppose the parole as well as bail. The victim must also be given the right to appeal along with the prosecution.

In India, generally, the presumption of innocence is always drawn in favour of the accused and the burden to prove the guilt is on the prosecution. It is the time to shift the burden upon the accused to prove his innocence at least in serious offences such as offences against state, the offences related to the Unlawful Activities (Prevention) Act,[43] Socio-Economic Offences where the minimum prescribed is ten years.

According to section 25[44] of the Indian evidence Act, no evidence given to the police is relevant or admissible. Although this provision has been added to save the accused from any kind of torture or harassment, but at same time, the same provision unreasonably hampers the police officer from investigating the case promptly. Evidences given before the police of higher rank (at least the superintendent of police) must be made relevant under the Indian Evidence Act,[45] in the cases where the minimum prescribed is ten years or in the offences wherein the safety and security of

40 The Rome Statute of the International Criminal Court, 2002. Done at Rome on 17 July 1998, came into force on 1 July 2002, United Nations, Treaty Series, vol. 2187, No. 38544.

41 Preamble of The Rome Statute of the International Criminal Court, 2002. Done at Rome on July 1998, came into force on 1 July 2002, United Nations, Treaty Series, vol. 2187, No. 38544.

42 NHRC v. State of Gujrat, 2003 (9) SC 329.

43 The Unlawful Activities (Prevention) Act, 1967. (Act No. 37 of 1967).

44 Section 25 of the Indian Evidence Act, 1872. Confession to police officer not to be proved. No confession made to a police-officer shall be proved as against a person accused of any offence.

45 The Indian Evidence Act, 1872. (Act. No. 1 of 1872).

the state is at stake. If the accused remains silent during the interrogation, an element of doubt should also be created against the accused, although it should not be the sole criterion for conviction.

The role of the witness is indispensable to any criminal justice system. But it is very unfortunate that the witnesses in India generally hesitate to give their account before the court due to the intimidation, and threat to their life. Their hostile attitude further points the defects in the Indian criminal justice system. Realising the need to protect the witness, The Supreme Court of India in People's Union for Civil Liberties v. Union of India has made an observation that "the need for the existence and exercise of power to grant protection to the witness and preserve his or her anonymity in the criminal trial has been universally recognised." Therefore, the government must amend the existing laws to ensure the safety and security of the witness.

6 Concluding Remark

After serving in the jail for a prescribed period of time, the criminal is again brought back into the main stream of the society. The legislature, the law enforcement agencies, the prosecution, the defence counsel, the judges and the prion administration contribute their part in a cooperative work of law to save the society from the scourge of crime. Most of the anomalies in the present criminal justice system in India, such as the low conviction rate and the enormous delay in the criminal process, stem from the accusatorial model, which, as discussed above, gives too much importance to the rights of the accused. Therefore, certain elements of the inquisitorial model of the criminal justice system, such as a more active role of the judges in the criminal process, the power and authority of the law enforcement agencies and the police, need to be adopted to make the Indian criminal justice system more effective and robust.

The plight of the victim must be addressed effectively. The victim must be allowed to actively participate in the entire criminal proceeding. The standard of proof i.e. the doctrine of beyond reasonable doubt should be abolished and another model of standard of proof that convinces the judges must be adopted, at least for heinous crimes like rape, murder, robbery, kidnapping, offences against the state etc. Conviction before the police

officer of the minimum rake of the superintendent of police should be made relevant as long as the police officer is working under the supervision of the judiciary.

While a shift towards elements of the inquisitorial model in India's criminal justice system holds promise for addressing existing challenges, several potential limitations and obstacles may emerge during the implementation of these reforms. One significant challenge is the entrenched nature of the accusatorial model within the legal framework and institutional practices. Shifting long-standing procedural norms and ingrained legal principles may encounter resistance from legal professionals, including judges, prosecutors, and defense attorneys, who are accustomed to the adversarial nature of the current system.

Moreover, the adoption of a more active role for judges in investigations and evidence collection may require substantial capacity-building efforts to equip judicial officers with the necessary skills and resources. Training programs and professional development initiatives would be essential to ensure that judges can effectively fulfill their expanded responsibilities without compromising judicial impartiality or procedural fairness.

Additionally, the proposed reforms may face opposition or skepticism from segments of the legal community, civil society, and political stakeholders who perceive the inquisitorial model as infringing upon individual rights and liberties. Concerns about potential abuses of investigative powers or encroachments on defendants' due process rights could generate resistance to reform efforts and impede their implementation.

Furthermore, the practical implementation of reforms related to victim participation, witness protection, and evidentiary standards may encounter logistical challenges and resource constraints. Establishing robust mechanisms for victim support services, witness relocation, and evidence management requires adequate funding, infrastructure, and institutional capacity, which may be lacking in many jurisdictions.

Finally, the complexity and diversity of India's legal landscape, characterized by variations in legal traditions, procedural practices, and regional contexts, could complicate the uniform implementation of reforms across different states and jurisdictions. Harmonizing legal procedures and practices while respecting regional autonomy and diversity poses a formidable challenge that policymakers and legal authorities must navigate during the reform process.

Addressing these potential limitations and obstacles will require a comprehensive and collaborative approach involving policymakers, legal

experts, civil society organizations, and other stakeholders. Strategic planning, stakeholder engagement, and ongoing monitoring and evaluation will be crucial to overcome challenges and ensure the successful implementation of reforms aimed at enhancing the fairness, efficiency, and effectiveness of India's criminal justice system.

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