

CIVICS

Chapter 6: Understanding Our Criminal Justice System



Understanding Our Criminal Justice System

The criminal justice system in any country deals with elements such as the police, a public prosecutor, a defense lawyer, and a judge. While the police investigate the cases, the judiciary plays an important role in deciding criminal cases.

Role of the Police

The chief function of the police is to investigate crime-related cases. Some initial procedures and duties of the police while dealing with criminal cases are

- The police have to record an FIR which is lodged by the victim in the police station.
- The police then begin the investigation of the crime. During investigations, the police record statements of witnesses and collect various evidences. On the basis of the collected evidences, the police form an opinion.
- The police then file a charge sheet in the court against the accused.
- The judiciary then decides the case based on the statements of the witnesses and evidences collected by the police.
- The police only investigate the case. They do not decide whether an accused person is guilty or not. They are also not allowed to torture or shoot any person during the investigations.

As the police perform the important role in investigating the cases, it was realised by the framers of our Constitution that the police may act in an autocratic manner while dealing with the accused. Hence, Article 22 of our Constitution guarantees the following fundamental rights to the arrested person:

- Every citizen has the right to be informed at the time of arrest for an offence for which the person is being arrested.
- The arrested person has the right to be presented before the magistrate within 24 hours of arrest.
- The arrested person has the right not to be ill treated or tortured while in custody.
- Any confessions made in custody cannot be used as evidence against the accused.
- The police cannot call a boy under 15 years of age and women only for questioning them.

Apart from the above rights, the Supreme Court of India has laid down certain guidelines which should be followed by the police while dealing with the arrests, detention and interrogation of the accused person. These are

- While arresting or questioning the accused, the police officers should bear a proper and visible tag stating his name and designation.

- A memo of arrest should be shown and signed by at least one witness while arresting an accused.
- A person detained by the police for interrogations has the right to inform a relative or a friend.

Role of the Public Prosecutor

A criminal offence, regarded as a public wrong is committed not only against the affected victims but against society as a whole. It is the public prosecutor who represents the interests of the state. Their role begins after the police have conducted the investigation and filed the charge sheet in the court. They have no role to play in the investigation. The Prosecutor must conduct the prosecution on behalf of the State. As an officer of the court, it is their duty to act impartially, thus enabling the court to decide the case.

- A public prosecutor represents the state in any criminal case. It is because a crime is considered a crime against the entire society.
- After the completion of the enquiry by the police, the public prosecutor begins the prosecution on behalf of the state.
- A public prosecutor has to act impartially while examining facts and witnesses. He/she then has to present his/her arguments based on the evidences before the court.
- The role of the Prosecutor begins once the police has conducted the investigation and filed the chargesheet in the court.
- The Prosecutor duty to act impartially and present the full and material facts, witnesses and evidence before the court to enable the court to decide the case

Role of the Judge

Like an umpire in a game, the Judge conducts the trial impartially in an open court. He/ She hears all the witnesses and all evidence presented by the prosecution and the defence. On the basis of the evidence presented and in accordance with the law, the judge decides whether the accused person is guilty or innocent. If the accused is convicted, then the judge pronounces the sentence and sends them to jail or imposes a fine or both, depending on what the law prescribes.

- The main role of the judge is to conduct a trial in an impartial manner.
- Before giving the verdict, the judge has to hear all witnesses and other arguments and evidences presented by the prosecution and the defense.
- It is the judge who then decides if the accused is guilty or not.
- If an accused is proved guilty, the judge gives punishment to the guilty in accordance with the law.
- The judge hears all the witnesses and any other evidence presented by the prosecution and the defence.

- The judge decides whether the accused person is guilty or innocent on the basis of the evidence presented and in accordance with the law.

What is a Fair Trial

The right to fair trial is one of the foundation stones of any democracy. Further, every person has a right to life according to which the life and liberty of a person could be taken away only by following just and legal procedures which are in accordance with the laws.

Some elements which ensure fair trial of an accused in the court are

- All civil cases and criminal cases should be held in an open court.
- The accused should be provided with a lawyer by the state if he/she is unable to engage a private lawyer.
- The lawyer or an advocate of the accused should be given opportunities to cross-examine all the prosecution witnesses and to present their own witnesses.
- The judge has to decide matters on the basis of evidence which are presented before him in the court.
- Features of Fair Trial: held in an open court, in public view-in the presence of the accused-accused was defended by a lawyer-defense lawyer is given an opportunity to cross-examine all the prosecution witnesses and to present witnesses in accused's defense-judge has to assume that the accused is innocent- prosecution has to prove beyond reasonable doubt that the accused is guilty- judge decides the matter only on the basis of the evidence- judge remains impartial and on proved innocent, the accused is allowed to go free.
- Article 21 of the Constitution that guarantees the Right to Life states that a person's life or liberty can be taken away only by following a reasonable and just legal procedure.

Important Elements of a Fair Trial Are:

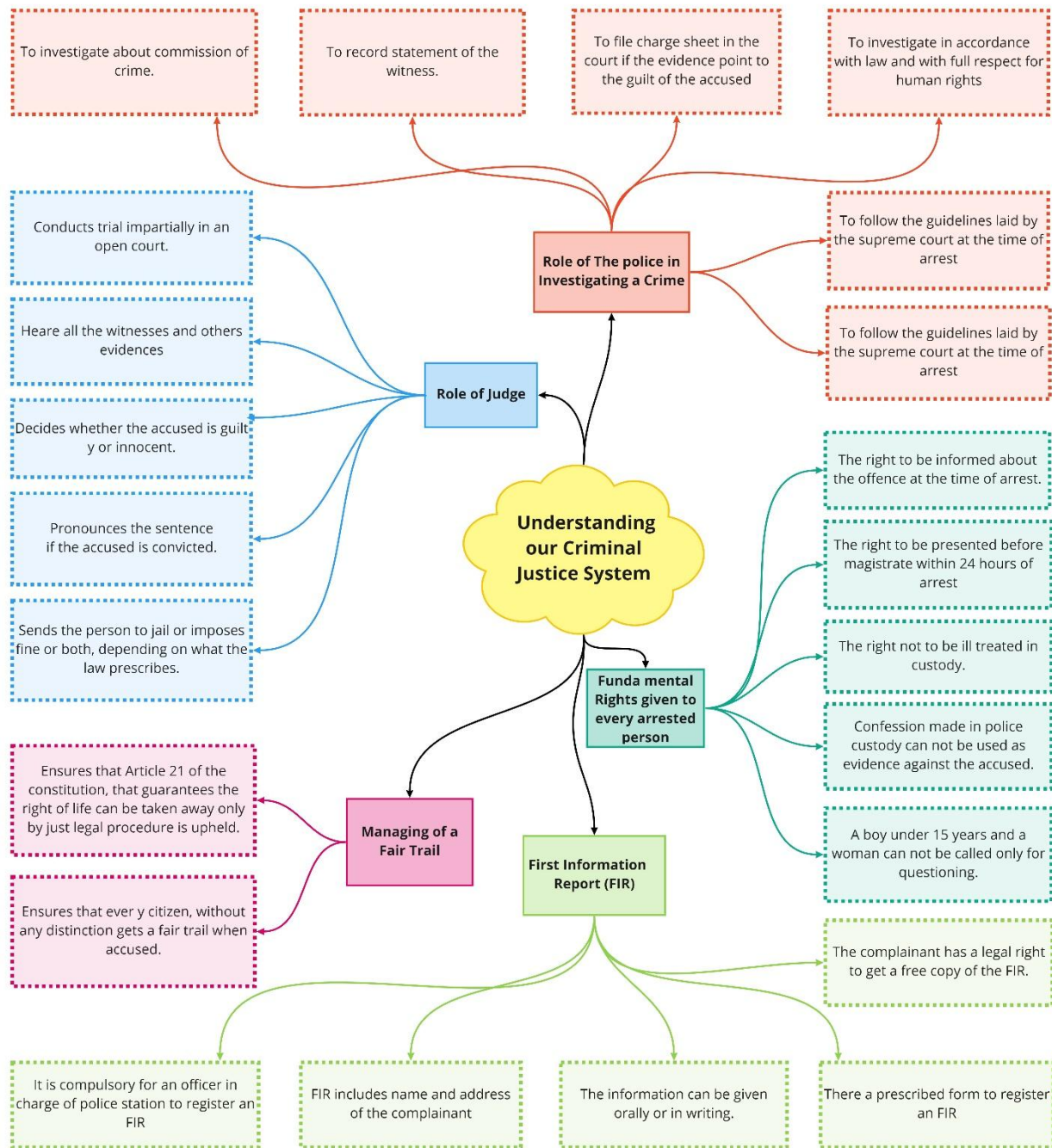
- The trial is made in the presence of the culprit.
- An attorney should defend the culprit.
- The trial should be held in a court in front of the public.
- The prosecution's responsibility is to prove the doubts of the accused being guilty.
- The defense lawyer should cross-examine all the witnesses provided by the prosecution.
- The defense lawyer should get an opportunity to present the witness in front of the accuser's defense.
- The judge needs to decide the matter based on evidence provided in the court, and he or she should not do any kind of partiality.

First Information Report

- An FIR is a first information report which has to be filed whenever a cognisable offence takes place in a locality or an area.
- It is mandatory for an officer in charge of the police station to file an FIR.
- The FIR can be given to the police either orally or in writing.
- The date, time and place of an offence and a detailed description of the basic facts of the events are recorded in the FIR.
- The name, address and signature of the complainant are also mentioned in the FIR.
- The complainant also has a right to obtain a free copy of the FIR from the police.



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Important Questions

Multiple Choice Questions-

Question 1. Under which Article of the Constitution every person has the Fundamental Right to be defended by a lawyer.

- (a) Art 35
- (b) Art 35a
- (c) Article 22
- (d) Art 27

Question 2. Who are the players in the criminal justice system?

- (a) Police
- (b) Public Prosecutor
- (c) Judge
- (d) All of the above

Question 3. Who among them represent the interests of the State?

- (a) Judge
- (b) Police
- (c) Lawyer
- (d) Public Prosecutor

Question 4. What is the of FIR?

- (a) First Information Report
- (b) First Investigation Report
- (c) First Informing Report
- (d) None of the above

Question 5. A criminal offence is regarded as

- (a) Public wrong
- (b) Public welfare
- (c) Private wrong
- (d) Public safety

Question 6. What are the players in criminal justice system?

- (a) Police
- (b) Public Prosecutor

- (c) Defence Lawyer
- (d) All the above

Question 7. Which is not the responsibility of the public prosecutor?

- (a) To represent the interest of the state.
- (b) Also represents the interest of the witness.
- (c) Has to act impartially
- (d) The prosecutor must conduct the prosecution

Question 8. Which is not applicable in Open court?

- (a) The police cannot be present during the proceedings.
- (b) What is held in the presence of the accused
- (c) People can see the whole proceedings
- (d) Hearing of the case in front of viewers

Question 9. Which of them is not true about the F.I.R.?

- (a) The police begin the investigation after the registration of F.I.R
- (b) The complainant may/may not sign the F.I.R.
- (c) There is a prescribed form to register an F.I.R.
- (d) The F.I.R. mentions the date, time, and place of the offence

Question 10. Why did Sub-inspector Rao kept Sushil in the police custody for two days?

- (a) The police forcibly kept Sushil in custody. He was not presented with a memo.
- (b) Sushil was abused.
- (c) They forcibly tried to extract a confession from him.
- (d) He was beaten.

Question 11. Who was the sub-inspector to arrest shanti?

- (a) Mr. shinde
- (b) Mr. Rao
- (c) Mr. Sushil
- (d) None of these

Question 12. What are the importance of the court of law in our legal system?

- (a) Provide Documents
- (b) Provide Justice
- (c) Provide Wealth

(d) None of these

Question 13. What is an Offence?

(a) Act defines as relief

(b) Act defines as punishment

(c) Act defines as a Crime

(d) None of these

Question 14. Which of the following is not mention in the four players in criminal justice system?

(a) Police

(b) Villagers

(c) Judge

(d) Defence lawyer

Question 15. What are civil cases?

(a) Cases of private right

(b) Cases of crime offence

(c) Cases of Parliament

(d) None of these

Very Short:

1. What has happened to Mr. Shinde's house?
2. Who is Sushil? How is he treated in the police station?
3. What does the Magistrate do for Shanti?
4. What is mentioned in Article 22 of the Constitution?
5. What duty does Article 39A of the Constitution assign to the State?
6. Name the people who play key role in the criminal justice system.
7. What is an important function of the police?
8. On what basis do the police form an opinion?
9. How is the job of the police limited?
10. Who decides whether a person is guilty or innocent?

Short Questions:

1. Why is the Prosecutor called a Public Prosecutor?
2. What is the role of the judge in the Criminal Justice System?
3. What are the procedures that have to be followed if the criminal trial has to be a Fair Trial?

4. What are the guidelines that the police have to follow during investigation?
5. What role do the police play in investigating a crime?
6. What guidelines have been issued by the Supreme Court on the role of the police in investigating a crime?
7. Write a short note on First Information Report (FIR).

Long Questions:

1. Read Shanti's case which has been described in the storyboard given and then identify the essential elements of a fair trial.
2. What Fundamental Rights have been guaranteed by Article 22 of the Constitution and criminal law to every arrested person?
3. What are known as the D.K. Basu Guidelines issued by the Supreme Court of India? Write in brief.
4. What are D.K. Basu Guidelines?
5. What is a FIR?

Answer Key:

MCQ:

1. (c) Article 22
2. (d) All of the above
3. (d) Public Prosecutor
4. (a) First Information Report
5. (a) Public wrong
6. (d) All the above
7. (b) Also represents the interest of the witness.
8. (a) The police cannot be present during the proceedings.
9. (b) The complainant may/may not sign the F.I.R.
- 10.(c) They forcibly tried to extract a confession from him.
- 11.(b) Mr. Rao
- 12.(b) Provide Justice
- 13.(c) Act defines as a Crime
- 14.(b) Villagers
- 15.(a) Cases of private right

Very Short Answer:

1. There has been a theft in Mr. Shinde's house. His wife's necklace has been stolen.
2. Sushil is Shanti's brother. He is abused and beaten by Sub-Inspector Rao in the police station
3. The Magistrate appoints Advocate Kamla Roy as Shanti's defence lawyer at the expense of the government
4. It is mentioned in Article 22 of the Constitution that every person has a Fundamental Right to be defended by a lawyer.
5. The State shall provide a lawyer to any citizen who is unable to engage one due to poverty or other disability.
6. The police, the Public Prosecutor, the defence lawyer and the judge.
7. An important function of the police is to investigate any complaint about the commission of a crime.
8. The police form an opinion on the basis of investigation.
9. It is not the job of the police to decide whether a person is guilty or innocent.
10. The judge decides whether a person is guilty or innocent.

Short Answer:

Ans: 1. The Prosecutor who represents the State is called a Public Prosecutor as a criminal offence is regarded as a public wrong, which has been committed not only against the victim, but also against the society as a whole.

Ans: 2. The judge conducts the trial impartially and in an open court. The judge hears all the witnesses and any other evidence presented by the prosecution and the defence.

The judge decides whether the accused person is guilty or innocent on the basis of the evidence presented and in accordance with the law.

If the accused is convicted, then the judge pronounces the sentence. He may send the person to jail or impose a fine or both, depending on what the law prescribes.

Ans: 3. A copy of the charge sheet and all other evidence has to be given to the accused. The trial has to be held in an open court, in public view and should be in the presence of the accused. The accused has to be given a lawyer to defend himself in case he cannot afford to employ a lawyer. The Prosecution has to prove beyond doubt the guilt of the accused and the Judge has to pass the judgement only on the basis of the evidence before the court

Ans: 4. Police investigations have to be conducted in accordance with law and with full respect for human rights. The police are not allowed to torture or beat or shoot anyone during investigation. They cannot inflict any form of punishment on a person even for petty offences.

Ans: 5. Whenever there is any complaint about the commission of a crime, the police start an investigation into it. The investigation includes recording statements of witnesses and collecting

different kinds of evidence. The police form an opinion on the basis of this investigation. If they think that the evidence points to the guilt of the accused person, then they file a chargesheet in the court. Thus, it is not the job of the police to decide whether a person is guilty or innocent. It is the judge who decides this point.

Ans: 6. Police investigations always have to be conducted in accordance with law and with full respect for human rights. In this connection the Supreme Court has issued some guidelines that the police must follow at the time of arrest, detention and interrogation.

- The police are not allowed to torture or beat or shoot anyone during investigation.
- They cannot inflict any form of punishment on a person even for petty offences.

Ans: 7. The police begin their investigations into a crime after an FIR is lodged. The law states that it is compulsory for an officer in charge of a police station to register an FIR whenever a person gives information about a cognizable offence. This information can be either oral or written. The FIR mentions the date, time and place of the offence, details the basic facts of the offence, including a description of the events. The FIR also mentions the name and address of the complainant. The police registers an FIR in a prescribed form which is signed by the complainant. He gives the complainant a free copy of the FIR in the last.

Long Answer:

Ans: 1. Shanti was given a copy of the chargesheet and all other evidence that the prosecution presented against her. Shanti was charged with the offence of theft that was defined as a crime in the law. The trial was held in an open court, in public view. Her brother, Sushil was allowed to attend the court hearings. The trial was held in the presence of the accused. Shanti was defended by a lawyer. Her lawyer, Advocate Roy was given an opportunity to cross-examine all the prosecution witnesses. Advocate Roy was given an opportunity to present witnesses in Shanti's defence. The police filed a case of theft against Shanti, but the judge assumed her to be innocent. He decided the matter on the basis of the evidence before the court. He did not jump to the conclusion that Shanti was the thief just because she was poor. Instead, he remained impartial. The evidence showed that some young men and not Shanti was the thief. Finally, the judge acquits her. In this way, Shanti got a fair trial.

Ans: 2. The following Fundamental Rights have been guaranteed by Article 22 of the Constitution and Criminal law to every arrested person.

- (a) The Right to be informed at the time of arrest of the offence for which the person is being arrested.
- (b) The Right to be presented before a magistrate within 24 hours of arrest.
- (c) The Right not to be ill-treated or tortured during arrest or in custody.
- (d) Confessions made in police custody cannot be used as evidence against the accused.
- (e) A boy under 15 years of age and women cannot be called to the police station only for questioning.

Ans: 3. The Supreme Court of India has issued specific requirements and procedures that the police and other agencies have to follow for the arrest, detention and interrogation of any person. These are known as the D.K. Basu Guidelines which include the following points.

- (a) The police officials who carry out the arrest or interrogation should wear clear, accurate and visible identification and name tags with their designations.
- (b) A memo of arrest should be prepared at the time of arrest and should include the time and date of arrest. It should also be attested by at least one witness who could include a family member of the person arrested. The arrest memo should be countersigned by the person arrested.
- (c) The person arrested, detained or being interrogated has a right to inform a relative, friend or wellwisher.
- (d) When a friend or relative lives outside the district, the time, place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest.

Ans: 4. D.K. Basu Guidelines are as follows

- The police officials who carry out the arrest or interrogation should wear clear, accurate and visible identification and name tags with their designations.
- A memo of arrest should be prepared at the time of arrest and should include the time and date of arrest. It should also be attested by at least one witness who could include a family member of the person arrested. The arrest memo should be counter-signed by the person arrested.
- The person arrested, detained or being interrogated has a right to inform a relative, friend or well wisher.
- When a friend or relative lives outside the district, the time, place of arrest and venue of custody must be notified by police within 8 to 12 hours after arrest.

Ans: 5 . FIR stands for First Information Report. The police have to file a FIR whenever a person gives information about a known offence. This information can be given to the police either orally or in writing. A FIR is necessary for the police to begin their investigations into a crime.

The FIR should mention the date, time and place of the offence, details about the offence, including a description of the events. The FIR should also state the name and address of the complainant.

There is a prescribed form in which the police register an FIR and it is signed by the complainant. The complainant also has a legal right to get a free copy of the FIR from the police.