

Justice and Punishment

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Introduction

Judges and magistrates are the most important people in the administration of justice in a country's judiciary. They execute the criminal offenders of the society by sentencing them with the rightful punishment. Administration of justice is the most essential part of the society. In this report, we cover the appointment of magistrates and judges along with the process of criminal prosecution by evaluating its effect on the judiciary. It consist an elaborate understanding of the criminal court justice, effectiveness of judicial punishment, increase of court fee and judicial sentencing.

LO1: Understand the composition and roles of the judicial system

1.1 Describe the appointment procedures for judges and magistrates

Appointment of magistrates

A magistrate in the United Kingdom can only be appointed if he falls in the age group of eighteen to seventy. To become a magistrate one should be capable of carrying out a minimum of twenty-six half-day court sittings in one year. Local Advisory Committees in each region recruit the magistrates. It takes place at different times from depending upon the area of jurisdiction.

Magistrates do not require any formal legal qualifications or trainings (Roeber *et al.*, 2017). Candidates must have six chief qualities—excellent character; Committed and reliable; socially aware; quality of sound judgement; communicative and mature. Once appointed as a magistrate, he or she must undertake the mandatory training held by the English judicial authority. An association of forty-seven local advisory committees, comprising of local non-magistrates and serving magistrates

Appointment of judges

The High Court and Supreme Court judges are given the title of justice and are known by that. The appointment of the Supreme Court judge is governed under the Schedule 8 and sections 25 to 31, of the Constitutional Reform Act of 2005. It is regulated under the amendment made by the Crime and Courts Act 2013 (Delaney *et al.*, 2016). This memo provides a concise documentation of the process. The Queen appoints the judges in the courts of the United Kingdom until different specifications are implied. According to the English law, section 25 of the Act of 2005 are regarding legislative requirements for appointment.

1.2 Evaluate the implications of the appointment process for judicial independence

The constitutional theory of UK requires their judiciary to be separate from the independent government. However, in many cases, government indulges in the working of the judiciary largely influencing it for political benefits. In order to ensure the law is enforced and executed impartially, a fresh legal appointment commission started to function in April 2006. It ended the position of Lord Chancellor as head of the judiciary and it finished his power to appoint judges

(Gee *et al.*, 2017). The judiciary must in all circumstances stay unaffected by the influence of the government.

1.3 Explain the accountability of the judiciary and magistracy with respect to justice and punishment

In simpler words, it can be said that accountability of judiciary can be interpreted as judging the judges (Dubois *et al.*, 2014). According to the role that the judiciary plays, there is potential possibility of misuse of their power in establishing justice. For this purpose, the constitution had prefixed a remedy where there are chiefly two provisions, which ensured that the Executive and the Legislature, two other branches of the government, has some power over the judiciary that prevents them from being disintegrated from its purpose of serving justice. The magistrate evaluates the evidence as the panel of judges decide whether the accused is guilty or innocent. The power of passing a sentence of imprisonment is vested on both the magistrates and on judges. They also have the power to put the offender under control order with implied circumstances where their movements are restricted by the order of the court. If it is deemed necessary, the magistrates and judges of the United Kingdom has the power to order a community punishment.

1.4 Evaluate the principle of judicial impartiality

According to the constitution of UK, judges should be impartial and independent. However, there remains a consensus about what principles of impartiality and independence is in practise (Malleon *et al.*, 2016). It can be said that this rule was administered because impartiality and independence is a very broad concept that easily covers all different views on its practical implications. The judiciary must be open-minded to both parties as it is an inherent principle of procedural justice and is an established maxim. One must bear in mind that objective impartiality in the judiciary is incapable of being enlisted in a statutory enumeration.

LO2: Understand how the judicial system is used for justice and punishment

2.1 Describe the processes required to prosecute a defendant

When someone is charged with a criminal offence, the Crown Prosecution Service determines how the defendant or the accused must be charged (Barry *et al.*, 2017). After it makes the decision, the criminal cases are brought to the court. After the commencement of the trial, the judges and magistrates make sure that all the parties to the case are given an opportunity to be heard and to present their case in front of the court. In the course of trial, the judges play an active role in controlling the conduction of the case according to the relevant law. During the proceedings, judges make notes of the evidence determining whether it is admissible.

After evidences are heard, the judge sets out for the charges made by the jury. In this stage the judges refer to notes made in the course of the trial and consider the key points of the case, highlighting the strengths and weaknesses of arguments presented by each side. The judge then gives the verdict of the case.

2.2 Explain the role of the criminal justice agencies

The agencies of the criminal justice system are as follows:

- The UK police
It is divided into three bodies: the local branch, national police force, for example the British Transport Police and Organized Crime Agency and specialized agency of health and safety execution. They are the first ones to deal with suspected offender and provide the chief statutory framework of the matter to the courts.
- Crown Prosecution Service
It prosecutes the defendants who have been charged with criminal offences by the police of UK. The Crown Prosecution System decides whether there is enough evidence to prosecuted an offender who is allegedly charged by the police.
- The UK Courts
The courts dealing with criminal cases are the Magistrate Courts and the Crown courts. All criminal matters are initially heard in the Magistrates court. The offences which are less serious in nature are heard by the former court and the offences which are more

serious are heard by the later court. The court, examines the evidences and gives an order regarding the prosecution of such matter.

➤ National Offender Management Service

It is responsible for the services of rehabilitation being provided to the prisoners of UK and is also responsible for proper running of the prison and the probation services it provides.

➤ Youth Justice Board

It is a public body created and administered by the Crime and Disorder Act of 1988. It monitors the operation and provision of youth justice in UK.

➤ NACRO- National Association for the Care and Resettlement of Offenders

It extends the strategy of focusing on elevated influence on the government, to improve the administration of the commissioners and the policy makers to increase its efficiency in governing the justice system of UK.

2.3 Evaluate the effectiveness of alternative methods of dealing with offenders

The alternative method of dealing with offenders in general imply to reformative theory of punishment. This method establishes the fact that punishments should never be degrading, as crime is a disease, which must be treated and thrown away and the offender should not be in a position of detriment. This alternative method has a positive effect on some of the offender but in many cases, it has been noticed that the offender goes back to committing crimes and offences (Moyo *et al.*, 2014). There remains a possibility of establishment of justice being taken for granted by the offenders. The merit of alternative method of punishment is that reformative program cost is comparatively less than prison expenses. Fees will be charged from the offenders for such programs, which could be put on use for better judicial remedies.

LO3: Understand the ethical dilemmas surrounding sentencing

3.1 Analyze the key issues that arise from the implementation of current sentencing legislation

Sentencing in UK refers to passing of order on an offender by the district judge or the bench of magistrates in a crown court. There are four main types of sentences- fines, community sentences, discharges or custodial sentences. Capital punishment is abolished in UK (Hood *et al.*, 2015). Implementation of current sentencing legislation is referred to the statutory law, which governs the part of criminal offences and punishment. The district judge, magistrate's court and the crown court make implementation of such sentences. The key issue that may arise is the members of human right society calling out these sentences as punitive over dignity of human life. Another issue that may arise is the claim for reformatory punishment of the offender.

3.2 Analyze the impact of sentencing legislation on criminal justice

The impact of sentencing the offenders in the recent past has largely cut down the number of criminal offences that took place erratically in the streets of UK. Offenders fear the law and restrict themselves from indulging into such immoral activities. Sentencing is a form of executing the legislative principles laid down by the state against the criminals. It is safe to say that sentences have a positive impact on the protection of the country.

3.3 Evaluate the objectives of punishment in a modern society

The key purposes of punishment in a modern society are to punish the offender so that he or she will not repeat such offense again and reduce crimes from the society (Garland *et al.*, 2018). It is also imposed for reformation and rehabilitation of the offender. The purpose of punishment is also to bring safety and peace in the country by protecting its people from the criminals.

3.4 Explain the relationship between sentencing trends and public confidence

According to the Crime Survey held for England and Wales, most people are of the opinion that the courts are too lenient on offenders, and misjudged the severity of the present sentencing practice. The CSJ quite relaxed when expressing a sentencing preference for a specific matter which if not taken under serious comprehension may cause harm to the society (Greene *et al.*,

2017). The height of public confidence in the courts conducting criminal proceedings differ greatly, depending on certain function of the court.

3.5 Explain how the costs of prosecution and sentencing impact on available resources

The court may order the defendant or the accused to pay what it deem fits the costs to the public prosecutor, which he is deemed to pay. The new charge of Criminal Court is neither connected to the severity of the sentence made on defendant or is it a means that is tested (Redlich *et al.*, 2017). If the defendant files a not-guilty plea, a trial is executed where the defendant is subsequently convicted to the rise of extra cost of court fee. In Crowns court, the fee has increased since before. This increased charge of prosecution has made it very difficult for the lower income group to seek justice (Osthoff *et al.*, 2016). The collision of the increasing Criminal Court Charge is also the reason why organisers of legal campaign must ensure they seek for legal support in their protests.

Conclusion

The judicial system of the United Kingdom must act independent of the existing government and should not delay in serving justice. The magistrates and judges must be appointed in accordance to their efficiency and no other outside influence must play a role in it. Judiciary must remain impartial and the offenders must be given the rightful legal sentences. Establishing a fair judicial system will bring vast growth in the administration of justice in the country.

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