HISTORICAL EVOLUTION OF ADMINISTRATION OF CRIMINAL JUSTICE SYSTEM IN INDIA

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ABSTRACT

This article looks into the evolution and development of Criminal Administration from the ancient period to the emergence of new criminal laws in India. Firstly, it highlights the legal literature and religious books that prevailed during the ancient and medieval eras, such as Manu Smriti, Dharma Shastra, Arthashastra, Quran, Sunnah, and Hadis. Mughals ruled India according to their laws and regulations before the British came to India. Later, when the British took hold of law and justice, they felt many irregularities in the Mughal justice system. They also found the punishment given by the Mughal administrative system to be irrelevant, inhumane, and irrational. Therefore, the British started to initiate various amendments to the laws, which led to the formation of the Indian Penal Code in 1861. Secondly, the paper identifies the major pillars of the Criminal Justice Administration, including the police, prosecution, courts, and correction in dispensing justice. Lastly, the article locates the changes and reforms of the Criminal Justice Administration's pillars under British colonial rule and tries to identify the motives behind such reforms.

Keywords: Crime, Criminal Justice Administration, Legal Literature, Police, British, Courts.

INTRODUCTION

Crime has been a vital part of society since the origin of mankind. A lawless society was a potential environment for crime. As time passed, society felt a need to restrain and control people's criminal activities by introducing rules of conduct for the administration of justice. During the ancient period, various methods and techniques were adopted in the form of Dharma. The criminal justice system developed slowly in India, too. As a result, the objectives of the administration of criminal justice changed from time to time and from one period to another.

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Legal literature and religious books, such as the Manu smriti, Dharma shastra, Arthashastra, Quran, Sunnah, and Hadis, have explored the initial sources of law and Criminal Justice Administration in India. Before the British period, Muslim laws dominated the Indian Justice system. The British found that Muslim laws were non-uniform and thus needed amendments. Therefore, the British started to initiate various amendments to the laws, which finally culminated in the formation of the Indian Penal Code in 1861. The mission of India's criminal justice system is to protect the innocent and punish the wrongdoer. The predominant components of the criminal justice system can be determined from various laws, including the Constitution and judicial rulings, even if they are seldom codified. It endeavours to provide the best feeling of security possible in this democratic society by accommodating crimes and criminals in a lawful, timely, and effective manner.

The criminal justice system is a union of various independent agencies, such as police, courts, and jails, which are interrelated to each other and deal with the prevention, investigation, prosecution, and punishment of crime and criminal activities in human society. The main objective of such a judicial administration is to maintain peace, protect the good, and punish the wrongdoers.

One or more fundamental rights of people get violated when a crime is committed. Therefore, to uphold the authority of the Indian Constitution and other laws, the primary duty of the criminal justice system is to keep the criminal activities in society under control. This can be done by taking action and administering punishment to the guilty.

NATURE OF CRIMINAL JUSTICE SYSTEM

Criminal law is a body of rules and statutes that defines conduct prohibited by the state because it threatens and harms public safety and welfare and establishes punishment for the commission of such acts. Criminal law differs from that of civil law, whose emphasis is more on dispute resolution than on punishment.

Definition of crime by different jurists

In Halsbury's Laws of England, crime is defined as *"an unlawful act or default which is an offence against public and renders the person guilty of the act or default liable to legal punishment."*[1]

EVOLUTION OF CRIMINAL JUSTICE SYSTEM

Ancient Period: The nature of the crime decides the type of punishment, like a fine or imprisonment. The 'Arthasastra' written by Kautilya has two chapters on the 'law'. One is the civil court addressed as Dharmasthiya and the other is the criminal court called Kanatakasodhana.[2]

Arthshastra deals with different kinds of crimes and their punishment, like robbery, defamation, gambling, etc. The administration of justice was considered the most sacred duty of the King, according to Kautilya, she also highlights the various qualities that a judge should inculcate. The manusmriti believed that loss had been created by God and the king was the executor only. If the king becomes the wrongdoer, he has to face Grave repercussions. The severity of punishment was based on the varna of the person. It was most Grave for the Sudhra and least for Brahmins. Therefore, this shows that the administration of Justice was not uniform during the period of smritis.

The evolution and development of the criminal justice system were observed even during the Vedic period in India.[3] It was found that the administration of Justice by the king with the help of his Advisors was done during the Vedic period. As time passed along with the village heads, police authorities were also appointed to maintain law and order according to Kautilya's Arthshastra, which made the criminal justice system well organised. It was also found that Police existed even during the ancient period to assist the king. The difference was that they were not called police but had similar functions as that of police authorities. The jail system started in the pre-Mauryan period. Jail is a place where people have to undergo a sentence after being found guilty of committing an offense. Therefore, during this period, the evolution of the police and jail system was also started**.**

[1] M. RAMA JOIS, LEGAL AND CONSTITUTIONAL HISTORY OF INDIA 22,22-23 (N.M. Tripathi Pvt Ltd, Bombay 1990)
[2] Ibid
[3] Jois Rama, Legal and Constitutional History of India, Volume I

Mughal Period: The Muslim rulers initiated several important changes in the legal system of India. They brought Islamic jurisprudence to India, which was pursued by countries like Arabia, Egypt, Persia, etc, and altered it according to the requirements of the native people.[4] It was found that they followed the concept of equality between their people. They did not recognise caste or division system of people. Quran and Sunnah or hands were considered and followed to decide the cases. Maintenance of law and order in society was the major duty of the king during this period, and various codes were formed, like faujdari and nizamat. Adalat, where the criminal cases of kazi's and muftis were heard. Kotwal and panchayat systems were also comprised during the Muslim period. Mughals had formulated chaukidar systems in villages and Kotwal systems in cities. Kotwal Swar is authorised to report criminal cases to maintain law and order within their jurisdictions. Guilty people were sentenced to imprisonment and were drained in jail based on the nature of the crime committed by the offenders.[5] Soon, different provisions of the Quran were considered by the famous Muslim Jurists. This led to the formation of different schools of Islamic law in which the major was the Hanafi School, the Maliki School, the Shafi School, and the Hanbali school.

There are three kinds of Crimes under Islamic law they are: crime against God, crime against the king, and crime against a private individual. [6]Acts like drinking wine, adultery, stealing, fornication, etc., were considered crimes against God, misrule, abuse of power, rebellions, etc and fell under the category of crime against the king. Selling wine counter fitting, etc, was considered wrong by an individual. Does the king have control over all the courts that were created by him?

The panchayat system usually monitors minor criminal offences. The Muslims practised quick praise of Justice without making any essential delay as they believed in the principle of ‘Justice delayed is Justice denied'. During the medieval period, the state and Society where rulers were based on 'share', which meant that the emperor was the servant of God and God was the highest sovereign authority of the world it was based on principles of the Quran, which had three main components i.e., 'hades', ' Ijma' and 'qiyas'. As time passed, the social problems became more complex, which made administration difficult, and the Quran became insufficient as the sole source of law, which brought 'Hadis' into the picture. Later came 'Ijma' and 'Qiyas'. Evidence

[4] S. P. Sangar, Proceedings of the Indian History Congress, 26 ADMINISTRATION OF JUSTICE IN MUGHAL INDIA, 41, 41-48 (1964).
[5] Jain M P, Outlines of Indian Legal & Constitutional History, Lexis Nexis Butterworths, Sixth Edition,2012
[6] TAPAS KUMAR BANERJEE, BACKGROUND TO INDIAN CRIMINAL LAW (R.Cambray and Co Pvt Ltd, Calcutta 1990).

was of different kinds, including oaths, written documents, or witness statements during the medieval era. The oath was taken on the Quran. One of the main things to note is that slaves, handicapped persons, or relatives of the accused were considered incompetent as witnesses. 'Hadd', 'Dia', 'Tazir', and 'Kisa' were four kinds of punishment according to Islamic law. 'Hadd' means limit and in this category, the punishments are fixed for certain specific crimes and cannot be modified. Usual forms of punishment under 'Hadd' included scourging, stoning, cutting of limbs, etc. 'Kisa' is based on the principle of revenge or 'tit for tat', like an eye for an eye, a tooth for a tooth. A substitute for 'Kisa' was 'Diya', which is blood money. This money or compensation is provided by the attacker to the victim's kins or relatives, and no further actions are taken in this regard 'Tazir' means punishments that are reformative or discretionary. Besides these four, at times, the judges or kings introduced new forms of punishment that were not found in the Islamic laws to deal with certain specific forms of crimes.

British Period: This started initially when Queen Elizabeth permitted the East India Company to carry on trade in India. The company first nested in Surat and slowly expanded in Bengal, Madras, Orissa, Bihar, and Bombay. As it started expanding, it also started acquiring Indian territories. During this period, the company established courts to solve the cases of the people living in the country, irrespective of Britishers, foreigners, and Indians. The Company continued to expand its dominance till 1857. Later, the British Crown took direct charge of India and sent the East India Company back to England. The British Crown ruled the country for about 89 years, from 1898 to 1947.

Mughals were the rulers when the British East India Company came to India. Apart from the Mughal emperor, there were Hindu Rajas and Nawabs at various Subbah or provinces. Law and order was maintained by the Muslim rulers based on Muslim personal laws and the same was done by the Raja based on Hindu rules of law. After the establishment of various courts by the British in India, they felt a need to reform the Muslim laws as the same rules applied to the non-muslims as well.

To form a sound judicial system in the country, several were recommended by Governor General Warren. Later, Governor General Cornwallis put forward crucial changes in the subsisting criminal justice system. In India, two types of courts came into force to administer justice: one was the Crown Court and the other was the Company's courts. The Crown Court generally applied English laws while deciding the cases, but the Company courts' judges applied common sense, equity, and good conscience. The First Law Commission was

composed in the year 1835 by the Crown i.e., substantive as well as procedural laws. Lord Cornwallis tried to improve the police system during this period. The police officer appointed in each police station was called Dagora. The charge officer of the police station in the town was called Kotwal. On the recommendation of a commission constituted in 1860, the Indian Police Act 1861 was made on the advice of the commission in the year 1860 for restructuring, putting a stop to crimes by making the police system efficient in detecting them. The British had no intention of spending money on improving the conditions of jails; thus, the jails in the British period did not undergo much change. After the codification, the judicial system was united by merging the Company's Sadar courts and the Crown's courts so that the Crown could exercise control over the judiciary. The Supreme Court, High Court, Federal courts, etc., came into existence.

Once the British took full control over India, they found the three-thousand-year-old criminal justice administration faulty, and hence, they tried to bring instant changes in the prevalent justice system. The outdated laws were replaced by new ones. The administration of police, courts, and jails were also restructured.

Post-Independence: Since ancient times, the main focus of the criminal justice system was on dominating the people rather than protecting them and their rights. The British came and gave us a judicial system, but they, too, wanted to rule us. The police force (registration of Rights) Act of 1966 was formed, which dealt with the discharge of Duty by the police official and the maintenance of discipline various other acts were also formed, like the Bombay Police Act of 1951, the Kerala Police Act 1960, etc. Later, Indian police were divided into two, i.e. State police and Central police. The power and functions of police authority were conferred by the Criminal Procedure Code 1973, the Indian Evidence Act 1872, and other state laws.

No unified system of legal profession was there in India before independence. Post-independence, a need to establish an All-India Bar Council was felt to manage legal professionals. The Law Commission of India recommended enactment for legal professionals, which was further named the Advocates Act 1961. In India, injury caused to the victim, whenever a crime is committed, is considered to be caused to the state, and hence the state becomes the complainant on behalf of the victim and prosecutors were appointed under section 24 or section 24A of Criminal Procedure Code 1973 so that a trial is conducted to prove accused guilty. One of the main organs is the Judiciary. There are different hierarchies of courts under the criminal procedure code. There are the following set of criminal courts established in India

a. High Court;

b. Sessions courts;

c. Chief Judicial Magistrates Court;

d. First Class Magistrates;

e. Second Class Magistrates and

f. Executive Magistrates.[7]

Jails and correctional bodies in the criminal justice system are not only to detect, investigate, and try the wrongdoers but to punish the offender and also to correct him and bring change in his behaviour in the interest of society. The establishment of prisons falls under the state list of the seventh schedule of the Indian Constitution. The State Government was responsible for the administration of the prison. The prisons are run under the Prisons Act of 1894 and the State jail manuals. The Supreme Court, in Sunil Batra's case, issued certain guidelines regarding the working and management of the jails in India. It recommended that it shall be the duty of the State to maintain standards relating to housing, work, and treatment of prisoners with dignity and to correct them and help them become better people.[8] With time, jails have reformed with respect /to coordination between various criminal justice agencies. Various advisory boards and bodies have been constituted to improve the working of this system by filling the gaps in the existing prison system.

EMERGENCE OF NEW CRIMINAL LAW

India has introduced 3 new criminal laws called the Bhartiya Nyaya Sanhita (BNS), Bhartiya Nagrik Suraksha Sanhita(BNSS), and Bhartiya Sakshya Adhiniyam(BSA) as the replacement for the Indian Penal Code(IPC), Criminal Procedure Code(CrPC), and the Indian Evidence Act respectively. The Three New Criminal Laws mark a welcome evolution in defining and tackling organised crime These laws came into effect on first July 2024. These laws were created to repeal outdated laws and make the punishment of several crimes stricter to regulate and maintain law and order in society.

[7] *Sunil Batra v Delhi Administration* (1978) 4 SCC 409
[8] *Sunil Batra v Delhi Administration* 1980 SC 1579

The Bhartiya Nyaya Sanhita has 358 sections. Various changes have been made in 175 sections, where 22 sections have been repelled and 8 new sections have been added. Significant amendments have been made in the section 68, 111, 113,150, 195, 226, 101, 304.

The Bhartiya Nagrik Suraksha Sanhita was formed by repealing 9 sections from the existing act and introducing 9 new provisions, suggesting changes in 160 sections. Significant amendments have been made in sections 176, 173, 356, 173(1), 349, etc.

In Bhartiya Sakshi Adhiniyam, 23 sections have been amended, one section is newly added, and five sections have been removed. Significant amendments are in sections 57, 24, 58, etc.

These laws ensure the protection of the rights of the vulnerable sections of society. It also has adapted itself to the changing society and the modern era, protecting the rights of the citizens and making efficient administration of Justice.

JUDICIAL PRONOUNCEMENT

Mobashar Jawed Akbar v Priya Ramani: In the year 2021, a 91-page verdict was delivered about the defamation case against journalist Priya Ramani by former Union Minister M.J. Akbar, in which the Delhi court quoted the epics Mahabharata and Ramayana to highlight the significance of protecting a woman's dignity: **"**It's shameful that such incidents are happening in India. Two great epics, Mahabharata and Ramayana, have been written here to show the protection of the dignity of a woman," said Additional Chief Metropolitan Magistrate Ravindra Kumar Pandey."

The judge referred to Aranya Kand from the Ramayana and said that the legendary bird Jatayu fought demon king Ravana to save Sita. The judge added that when Laxman was asked to describe Sita, he said he never looked beyond her feet. "Reverence to women is essential in Indian ethos," the judge remarked.

Tek Chand v. State of Punjab and Others:[9] While allowing a plea filed by a husband, the Punjab and Haryana High Court, who formalised marriage with the daughter of the complainant against the wish of her parents, has held that "a 'Swayamvar' is not a modern phenomenon and that its roots can be traced in the holy books like Ramayana, Mahabharata." The Court quashed an FIR filed against the petitioner under Sections 363 and 366-A of the IPC

[9] AIR 1965 P&H 146

for kidnapping a girl and later formalising marriage with her. A Single Bench of Justice Jagmohan Bansal said that "Swayamvar, i.e. marriage by your own choice is not a modern phenomenon. Its roots can be traced to ancient history, including holy books like Ramayana and Mahabharata. Our Constitution, in terms of Article 21, is enforcing this human right as a fundamental right. … Object of law, whether customary, religious, or made by the legislature, is to protect the life and liberty of every human being. The object of law is not to disturb the settled life of anyone without his fault."

Dattatraya Govind Mahajan v State of Maharashtra:[10] This case discussed the dharma of the constitution and the karma of adjudication. The central concept in Hinduism, Buddhism, and Jainism is Dharma. It refers to righteousness and moral values and is one of the four puruṣārthas, or goals of life in Hinduism. The other three puruṣārthas are artha (prosperity), kama (pleasure), and moksha (liberation). In Hindu philosophy, dharma is considered more important than artha or kama when there are conflicts.

Vijay Narayan Thatte & Ors vs State of Maharashtra & Ors: Jaimini laid down the Mimansa Principles of Interpretation in his sutras around 6th Century B.C. and as explained by Sabar, Kumarila Bhatta, Prabhakar, Mandan Mishra, etc, made regular use by our famed jurists like Vijnaneshwara (author of Mitakshara), Jimutvahana (author of Dayabhaga), Nanda Pandit (author of Dattaka Mimansa), etc. These principles were put to use whenever there was any disagreement between two Smritis, e.g., Manusmriti and Yajnavalkya Smriti, or ambiguity or absurdity in any Smriti. Thus, our traditional system of interpretation of legal texts was the Mimansa Principles. Even though originally they were created for interpreting religious texts concerning the Yagya (sacrifice), gradually they came to be utilised for interpreting legal texts and also for explaining texts on philosophy, grammar, etc., i.e., they became of universal application. Thus, Mimansa adhikaranas were used by Shankaracharya in his bhashya on the Vedanta sutras.

CONCLUSION

Indian criminal system saw a big leap when the British introduced their way of administration. There was a significant difference between before and after the arrival of the British government and India. Earlier, the punishments were mostly very harsh, inhumane, irrational and brutal. British found that in offences against individuals like Murder, the punishment was

[10] 1977 AIR 915

more of a retaliatory nature they felt that Muslim law field in understanding the difference between a sin and a crime and gives more importance to the former than the latter most of the time. They also felt that no punishment would be imposed upon the wrongdoer until and unless the complainant came forward. Along with this, the blood money or compensation made the fear vanish from the minds of endorsing the principle of intention was also considered by providing judgments. The British government was successful in pulling the country from the medieval mindset of criminal justice administration. Whatever might be the reason behind bringing the changes by the British, the truth cannot be denied that the modern criminal justice administration given by them helped in establishing the foundations upon which the criminal justice system in post-independence India rests.