

Evolution of Criminal Justice System in India.

¹Dr Ritendra Rathore, ²Karthik YB.

¹Researcher, ²Student
National Forensic Science University
Gandhinagar Gujarat India

Abstract- Criminal justice system is the network of government and private organisations to manage criminals, accused personnel and undertrial prisoners. Criminal justice system is the system which controls and oversees the entire process of justice delivery and correct criminals and habitual offenders. CJS is about maintenance of peace and harmony in the society along with the objective to lead society towards a crime free and/or controlled crime environment.

In this paper, we will study about the evolution of criminal justice system from ancient times to the modern era. We will study the systems which have elaborated in Ramayana, Mahabharata and ancient kingdoms of the Pallavas, Cholas, Sathvahanas and Pandiyans. Medieval time kingdoms of the Mughal empire and Delhi Sultanate's Criminal justice system will be understood as well as the contemporary developments in the criminal justice system (CJS).

Introduction.

Criminal justice system is the delivery of justice to those aggrieved and punishing the perpetrators with the end goal of bringing in a reform amongst them. CJS which has a unique goal of rehabilitation of offenders and providing moral support for the victims. The primary institution of the CJS are the police, prosecution, defence lawyers, courts and prison system.

Criminal justice system is the tool of social control and behavioural changes of the criminal and Criminal set of minds. The basic aim of the criminal justice system is to protect the rights of personal liberty of people and society against it by anyone.

Definitions Of Criminal Justice System.

The criminal justice systems consists of three institutions, namely-

- A) Law Enforcement Agencies – Police.
- B) Judiciary- Court, prosecution and defence.
- C) Correctional facilities- Prisons, juvenile homes, special psychiatric facilities and rehabilitation centres.

CJS is defined as the maintaining of rule of law within society.

Chronological Evolution Of The Criminal Justice System In India.

Ancient India.

Cholas.

In the cholas society, there were several categories and caste divisions. The farmers occupied highest position in the society, the vellar community was very powerful and for minimising criminal activities they arranged certain system and hierarchy to prevent criminal activities in the cholas kingdom.

Cholas had a special court in which the king had all the power to punish criminals. At the local government level, every village was a self-governing unit and number of villages constituted a larger entity known as a Kurram, Nadu or kottam depending on the areas. Several Kurrams constituted a valanadu which had a constant change in the structure. Justice was an important matter in the chola empire, minor disputes were settled at Village level and the punishment for minor crimes were in **THE FORM OF FINES OR OFFENDER HAD TO DONATE TO SOME WEALTY OR MONEY TO CHARITABLE TRUST.**

Crimes like man- slaughter or murder was punished with fine and another chance was given to change the criminal, for which the offender's entire wealth had to donated to the charitable organisations. The convicted had to serve that in the organisation till the end of their natural life as a part of punishment.

For crimes against the state such as treason, the punishment would be decided by King himself. The typical punishment was either execution or confiscation of the property.

Pallava.

In the pallava kingdom, there were government officials who were appointed to preside over the judicial system and king was the supreme arbiter of the justice. On the day of judgement, the king would decide the punishment for the offenders. Treason, the crime against the state was considered as a major crime and the punishment for such a crime was execution or confiscation of the property of the offenders.

Pandiyans.

Early Pandiyans was the Dynasty that ruled ancient Tamil country (pre-Christian era – 200 CE). Head of the Government was the king, a hereditary monarch, who ruled with unaided discretion. Justice was administered at free of charge by the special officers appointed as judges and magistrate, however the king was the supreme and final arbiter in all civil and criminal cases.

The qualities of the judges in the pandayan period were-

- 1) Learned
- 2) Straight Forward
- 3) Experienced & Aged

Kinds of cases before the courts.

- 1) The common sources of civil litigation were mortgage, lease, trust property, loans, breach of contract.
- 2) Types of the common criminal cases were Theft, Adultery, Forgery and treason.

The king handled the court in order to access justice to the people and in the villages the elders were meted out for justice delivery. The committee of the justice was Nyayayttars. They met under the ceremonial trees to conduct trial and pronounce judgements. Trial and procedure was mostly characterized by elaborate judicial procedure, settling down of the evidence and judgement.

The punishments were severe and crimes were rare. Several punishments were given for crimes. The death penalty was awarded in the case of burglary, Adultery or spying. If a person provided false testimony, their tongue was cut off.

The prisoners were detained, not only the guilty but also captives taken in war. Prisoners were chained and were watched over by the warders. The prisoners were released on occasion or festivals and in case of sea for pearl fishing.

The king's court consisted of royal officers like the ministers, generals, commanders and accountants. His power was restricted by the Ambarunhuzhu (Five Great Assemblies) which consisted of the representatives of the people, priests, physicians, astrologers and the ministers. The council of representatives (Naasanam) safeguarded the rights and privileges of the people, the priests (Paarpar) directed all religious ceremonies, the physicians (Maruthur) attended to all matters affecting the health of the king and his subjects, the astrologers (Nimithar) fixed auspicious times for public ceremonies and predicted important events, the ministers (Amaichar) attended to collection of revenue and expenditure as well as administration of justice.

Another assembly of officials that served the king was called the Emberaayam (Eight Group of Attendants) who consisted of attendants on the king's person, like the perfumers, dressing valets etc. Some scholars opine that it consisted of more important people like people of capital city, the leaders of the elephant corps and of the cavalry.

The principal officers of state were the high priest, the chief astrologer, the ministers and the commanders of the army.

Lime Lights of CJS of Ancient Period.

- A) The Concept of Dharma was prescribed as various rules of right conduct.
- B) The code or rules of conduct was traced back from Vedic scriptures such as puranas and smritis.
- C) King had no independent authority but derived the power from Dharma.
- D) The Distinction between civil and criminal offences.
- E) The rigorous penal system which enacted by maurayans
- F) Dharma-sastra Of Manu – recognised assault and other bodily injuries and included property offences such as robbery and theft.

Medieval India.

Delhi Sultanate.

In terms of Judiciary, the chief justice was the sole authority who was called as Qazi – Ul – Quzat. The Sultan was introduced before public in the presence of chief justice and other officers. The chief justice was subordinate to the Sultan. The sultans did not interfere in the judicial wings of the sultanate, which was greatly inspired by Abbasside institution which introduced and reformed the system in Delhi. For all the muslims, there was a common judicial system. The offices, functions and power of judges were universal and judiciary was the regulating institution.

- 1) Sultan Qutbuddin Aibak (1205 – 1210).
- 2) Sultan Iltutmish (1211-1236).

During the reign of these Delhi sultans, the criminal justice system and criminal procedure system improved and was made better, in order to establish peace and harmony in the provinces.

Vijayanagar Empire – Judicial System.

- 1) Top Judge regarded as king.
- 2) Provision for harsh punishments for guilty.
- 3) Who broke the law was appropriately punished, with fines levelled against them.

The Vijayanagar Empire extended and controlled the lands of many modern lands like Karnataka, Andhra Pradesh, Tamil Nadu, Kerala, Goa and Telangana.

Krishnadeva raya- an emperor of the Vijayanagar Empire reigning between 1509 to 1529. When we talked about the internal affairs of Krishnadeva raya, he worked on the justice system and abolished obnoxious taxes on things such as the marriage fees as well as introducing a strict control over his ministers and dealt severely with any minister who committed misdeeds.

Criminal law classified all offences which were based on penalty and each merited which included retaliation (blood for blood), specific penalties for theft and robbery and discretionary penalties etc.

Garuda Purana and criminal justice system.

Garuda purana has mentioned about life beyond the death. When Supreme Bird Garuda Asked Lord Shree Hari few questions regarding the results of karma and what kinds of punishments would be entitled for the bad karma, then lord Shree Hari replied and expressed 28 types of deadly punishment or hell in order to make that person free from the karmic cycle.

1) Tamisram (Heavy Flogging).

Crime - Rob Wealth of Others.

Punishment- Bound by ropes by Yama servants and thrashing until they bleed and faint when they recover their senses, the bearing is repeated and done until the time is up.

2) Andhatamastram (Flogging)

Crime - Punishment is reserved for the husband or wife who only treat their spouses well when they are to profit or pleasure to them.

Punishment- Same as Tamisram but the excruciating pain, suffering by the victims on being tired fast, make them fall senseless.

3) Rauravam (Torment Of Snakes)

Crime- Who seize and enjoys another's property or resources.

Punishment- the serpent will torment them severely until their time is up.

4) Mahararuravam (Death by Snakes)

Crime - deny the legitimate heirs their inheritance and possess and enjoys others Property, steal another man's wife or lover as well.

Punishment- squeezed and bitten by snake and not to stop by terrible serpent coiling around them.

5) Kumbhipakam (Cooked By Oil).

Crime - who kill the animals for pleasure.

Punishment- Oil is kept boiled in huge vessels and sinners are plunged in these vessels.

6) Kalasutram (Hot as Hell)

Crime - Those who do not respect their elders especially when their elders have done their duties.

Punishment - Hell like terribly Hot. Made to run around in this unbearable heat and drop down exhausted from time to time.

7) Krimibhojanam (Food for Worms).

Crime - Who do not honour their guests and make use of men and women only for their own gain.

Punishment- worms, insects and serpents feast them alive.

8) Salmali (Embracing Hot Image)

Crime - Who Committed Adultery.

Punishment- A figure made of iron, heated red hot is placed at the genitals of the sinners.

9) Vajrakantaksali (Embracing Sharp Images).

Crime- For Unnatural Intercourse with animals.

Punishment- made to embrace iron images full of sharp diamond needles that pierce through their bodies.

10) Vaitarani (River of Filth)

Crime- Rulers who abuse their power and adulterers.

Punishment: Most terrible place for punishment. The river filled with human excreta, blood, hair, bones, nails, flesh and all kinds of dirty substances.

11) Puyodakam (Well Of Hell).

Crime- Men who have Intercourse and cheat on women with no intention of marrying them – just considered like an animal. Who wonder like irresponsible are thrown in this hell.

Punishment- The Well Filled with excreta, urine, blood and phlegm etc. Get polluted by its contents.

12) Lalabhaksham (River Of Semen).

Crime - For Lustful man or women. Who makes his wife to swallow his semen or wife who makes her husband to swallow her vaginal fluid or vagina.

Punishment- Sea of Semen, the sinner lied in it and feeding upon the semen alone (until the time not up)

These kinds of above most dangerous punishment are mentioned in garuda puran inorder of make sinner free from the sins and for the betterment of their soul. Because of this kinds of dangerous punishments people are being stopped to commit crime further and establish social peace and harmony.

Modern India.**Before Independence.**

The criminal justice system in India is follows the legal procedure established by Britishers. The Indian penal code, criminal procedure code, civil procedure code, these above-mentioned codes were prepared by first law commission of India which was developed in line with English criminal law.

After Independence

The code of criminal procedure was amended in 1973, and MN Vohra committee was set up in 1993 for observing the criminalisation in politics which one was the efforts to change the criminal justice system.

In 2003, Government of India set up the Malimath committee which submitted its reports along with 158 recommendations. The committee opined on the existing system which was in favour of accused but did not focus on the justice to the victims of crime.

Contemporary Changes In Criminal Justice System

Recently the supreme court of India has implemented to use modern technology in the court for the criminal proceedings and the artificial intelligence technology as well for court proceedings.

The government has taken numerous steps to make the criminal justice system better.

- 1) permitting videography of statement.
- 2) Definition of rape which would be extended and new offences against women have been added.
- 3) the victim's compensation.
- 4) Draft New Memorandum Of Procedure (MOP) – appointment for high courts and supreme court's judges.
- 5) Remove more than 1000 obsolete laws
- 6) Modernization of the police force.
- 7) Gram Nyayalaya and Lok Adalat's – for door steps justice.
- 8) Legal service authority act – for providing free and competent legal service to the depressed people of the society.

Author Review.

As per the economy survey report, it's about 3.5 crores court cases are pending in the judicial system which are especially in district and lower court. We can say that if the justice got delayed that means the justice got denied. The expensive and perplexed judicial proceedings should be converted into transparent and more effective and make it more easy to approach. India's 70- 75% population is residing in rural area and we can also say that real india is situated into rural area not in urban area hence in order to provide a justice to the victims and also access the punishments to the Criminals , we must have to travel to access the criminal justice system in rural areas and providing all kinds of facilities and door steps justice via Lok Adalat and Gram Nyayalaya. The online and virtual court should be promoted in order to access the justice to people otherwise people won't trust on the judicial system. To delay in the justice and also access the punishments to the criminal which does means we are breaking down the moral and trust of victims on the judicial system and also encouraging the criminals to indulge in the criminal activities.

In order to stop the Criminal activities, the law of criminalisation which would suggest that there are components are there. When we talk about the accessibility of the weapons and instruments to commit the crimes , if we banned then we can control the crime. However the motto of the crime is the root of crime but we are not able to identify the actual motto before to commit the crime hence we have to focus how to stop to access the weapons to execute the crime hence in order to satisfy this purpose the Canadian govt has banned the Guns and other weapons and made a stringent rules to access the gun licence.

In India like a country, developing countries and it's not affordable for use to spend huge money on the any particular dimension. But it has inevitable and people must have to keep a trust on judiciary system for maintaining the democracy and social harmony in the society

Conclusion.

By this criminal justice system, many innocent people are kept undertrial and in jail especially in the case section-498 of Indian penal code. Recently I met a person in Sabarmati jail Ahmedabad, who was not involved the crime, when the crime occurred, he was not physically present at the crime location. The case was that his daughter in law committed suicide and her family members put allegations on every member of the husband's family under section 498 – dowry death. It's a non bailable offence and also cognizable offences. We must obliterate this kind of stringent section from India penal code. The law is for accessing justice and punish the offenders but not for putting innocents behind the bar. One maxim is stated "If thousand criminal are left without Punishment then no issue but one innocent must not have to punish of that offences which he/she has never executed ".

References:

1. Criminal justice system in india present scenario by Sagar patidar.
2. Criminal justice system in india : need for systematic changes by Rekha Kumari Singh.
3. Criminal justice system in india : emerging dimension by Bhumika Datwani , Shruti Kakkad.
4. Ancient Indian History by Bipin Chandra.
5. Medieval Indian History By Bipin Chandra.
6. India Freedom Struggle By Bipin Chandra.