



THE CHRONICLE OF THE INDIAN CRIMINAL JUSTICE SYSTEM

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Abstract

This research paper explores the rich and dynamic history of India's criminal justice structure uncovering its transmuting across generations. It digs into four different eras categorized as: ancient, pre-colonial, colonial and post-independence or as we know as modern era. The ancient period experienced the foundational play of dharma a sophisticated concept involving moral law, social order and cosmic balance. Ancient legal texts like Manusmriti and Arthashastra, accompanying regional customs, laid the foundational stone for maintaining social harmony. Punishments were administered not only to prevent crimes but also to maintain social and cosmic order. The pre-colonial era experienced a changing interplay in diverse legal traditions. Alongside the prevalence of dharma in many regions Sharia law was introduced by the Islamic dynasties. Customs and usages also played a significant role in the pre-colonial era. A codified legal system was introduced in the colonial era. The Indian Penal Code 1860 was introduced in this era by the British. The Indian Penal Code covered not only English common law but also covered various aspects of western framework in an Indian society with distinct customs. Evolution in the Indian legal system can be witnessed in the post independence or modern era. While retaining the British laws as its foundation, new laws were enacted and the old laws were changed to overcome the modern challenges. This research paper investigates how the legal system dealt with cybercrime, terrorism, trafficking and social justice concerns. This research paper analyses and enlightens the readers about the strengths and weaknesses of each era legal framework in India. It also gives an insight regarding the new penal laws intro-

duced by the government. The research studies the ever changing legal system of our country. The paper is a plosive encyclopedia of India's criminal justice system both in antiquity, pre-British colonial period, British colonial period and post India's independence. It also highlights some important aspects like dharma, Sharia law, colonization and issues of the contemporary world. Still, one can observe that the manuscript offers a fairly strong ground for further development by integrating the results of case studies, comparisons, and an outline of potential further developments.

Keywords: Indian criminal justice system, Ancient era, Medieval era, Colonial era, Post-independence era.

Introduction

The history of India's criminal justice system is as amusing as its rich and dynamic culture and tradition. Starting from Dharma which is the ethos of the ancient Indian legal system has constantly adapted many changes to meet the needs of the society. The concept of righteous duty was followed in the ancient era and is also followed in the modern era. This paper looks into the fascinating tale of the history of the criminal justice system in India and how it has paved the way to strike a balance between custom, culture, tradition, reform and the pursuit of a just society. The birth of the criminal justice system includes two essential keywords which are social order and dharma. The researchers will analyze the prevailing practices and philosophies that helped in the pursuit of justice in the ancient era. As we dwell a bit deep into the history of Indian legal system we will also explore the medieval period marked by various invaders and dynasties. This period experi-

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enced many kinds of changes in the Indian legal system. The arrival of British colonialism laid down the framework for a modern legal system in India. The Indian Penal Code, 1860 contributed a lot in modernizing the legal framework.³

The Indian criminal justice system was reformed after independence this research paper will deal with the ongoing challenges like ensuring fair trials for all, ensuring fair justice for all, pendency of cases and incorporating human rights principles into the Indian legal system. Various landmark cases, precedents and judicial pronouncements helped us in shaping the pursuit of justice in modern India. Landmark Supreme Court judgments like *Machhi Lal v. State of Punjab (1983)*⁴ and *Sheela Barse v. State (AIR 2011 SC 2788)*⁵ are some crucial judgments which have played a significant role in understanding criminal law, setting legal precedents and influencing the application of justice. The right to live with dignity in prison conditions was introduced in *Machhi Lal v. State of Punjab (1983)* whereas the concept of sexual assault under section 377 of the Indian Penal Code before its decriminalization was interpreted in the case of *Sheela Barse v. State (AIR 2011 SC 2788)*. We will also dwell into cases like *State of Maharashtra v. Pradeep Hanmantrao Deshpande & Ors (2011)*⁶ where the efforts to combat organized crimes was highlighted and the horrific Nirbhaya Case (2012)⁷ which brought new changes in the laws with respect to sexual assault. In addition to this *Lalitha Kumari v. State of U.P. (2014)*⁸ addressed the issues of honor killing. We will be studying the above mentioned case that showcase the violence against women.

With the help of these landmark cases this research tries to comprehend the ever changing growth of the Indian Criminal Justice system. It also explores the legacy of the Indian criminal justice system and its aim in providing justice to the people of the society. The Indian criminal justice system, inspired by the principles of Dharma existing so long back in the Indian history, has come a long way in its journey, serving the society effi-

ciently all through the process of evolution. Over the course of millennia since its emergence in early law the system has tried to combine the ancient principles and the modern legislation.

This paper seeks to unravel Indian criminal justice processes in relation to different historical periods, these are pre-colonial, colonial and post-independent eras. Thus, by discussing the major legal changes, the judicial cases and the social transformations, we will be able to grasp the past and the present of the system and its unwavering desire to continue fighting for justice.

The Groundwork: Dharma the Ethos of Ancient India

The concept of dharma is deeply rooted in ancient India's criminal justice system. Dharma comprises of various ideals such as moral law, cosmic balance, righteous duty, social order and various aspects of life were governed by it. To comprehend the development of criminal justice in India we must first dig into the groundwork laid by dharma and how it shaped the pursuit of justice in ancient India.

Dharma: The Guiding Philosophy

Dharma consists of not only codified laws but it also encompasses various ever changing and dynamic set of rules, guidelines, and principles that regulated social equilibrium and righteous behavior in the ancient era. It includes various concepts such as-

Rita: A cosmic order which accorded a striking balance in the universe. In this era crimes were considered as a hindrance to this order. This required restoration through punishments and rituals which were followed by the people of that era.

Satya: The keystone of dharma is truthfulness. As per this concept it is believed that the achievement is only possible when truth was established through ordeals, witness testimonies, or divine intervention.

3. M. Jain, *The Indian Penal Code: A Study of Its Sources and Influences*, 12 J. HINDU L. 15, 20-25 (2015).

4. *Machhi Lal Singh v. State of Punjab* [1983]2 SCC 470.

5. *Sheela Barse v. State (AIR 2011 SC 2788)*.

6. *State of Maharashtra v. Pradeep Hanmantrao Deshpande and Ors (2011)*.

7. *Mukesh and Anr v. State of NCT of Delhi and Ors (2017)6 SCC 1*.

8. *Lalitha Kumari v. State of U.P AIR 2014 SC CRIMINAL ORIGINAL JURISDICTION 1 WRIT PETITION (CRIMINAL) NO.68*.

Amisha Singh, G. Akshay

Aparigraha: This concept has two main key points non-attachment and non-possessiveness. Jealousy among people and greed were seen as two important causes of crime and a harmonious society was one where ethical conduct was favored over material possessions.

The Varnas

The concept Varna was known as one of the main systems in ancient Indian society. During that era people used to follow hierarchical order that segregated people into four broad social classes – Brahmins (priestly class), Kshatriyas (warrior class), Vaishyas (merchant class), and Shudras (laboring class). Each varna had its own significant role, obligations or duties better known as dharma that contributed in development of social order. Crimes that used to disturb this order, like a shudra misbehaving or assaulting a Brahmin, were considered as serious offences. Sanctions or punishments were not only aimed to discourage upcoming future transgressions but also to improve the disordered social parity.

Nevertheless, it is important to understand that this system wasn't fully rigid in anyway the individuals could upgrade their social standing following the concept performance of good deeds and dharma. However, the Varna structure undoubtedly impacted the Indian criminal justice system, where punishments were often decided on the social class of the accused.⁹

The Objective of Moral Law in Maintaining Societal Harmony

Moral laws also have a specific place in the concept of dharma stating rights and wrong behavior. Acts which are considered a threat towards the society and which are considered as morally wrong such as violence, adultery, theft, murder, rape, kidnapping were considered as violations of dharma and disruptive of the societal harmony. The objective was to impose punishments with an aim to deter future crimes and restore of social harmony. The concept of prayaschitta also known as penance played a crucial role in this journey. In order to seek the forgiveness of the community the offenders went through rituals, pilgrimages or fasting to in order to clean themselves in accordance with the offence

committed by them. This stressed on maintaining a balance between morality and punishments.¹⁰

Justice System in Ancient India

The king or a council of elders was regarded as the supreme authority of justice during this era. Kings were seen as the caretakers of dharma who were responsible for securing social order and ensuring justice for their subjects. Learned advisors well versed in legal principles used to give advice to the kings or the council of elders. Councils of elders made were made up of respected members of the society also played a crucial role in resolving disputes specifically in remote areas.

Whenever possible more emphasis was given on restitution, seeking conciliation and mediation. Societies played role in resolving of minor disputes and advertising social harmony. Punishments like fines and exile and physical penalties or capital punishments were adopted for serious offences. The imposition of punishments depended upon the seriousness of the crime and also according to the discretion of the king or the council.¹¹

Ancient Legal Texts as a Source of Law

Various ancient legal texts like Arthashastra, Dharmashastra and Manusmriti provided essential insights into the practices principles of criminal justice in ancient India. Some of the well-known legal texts include:

Arthashastra: Kautilya was the author of Arthashastra. This text discussed the role of kings in securing or maintaining law and order. It highlights a way investigating crimes, and its punishments. It stressed the importance rehabilitation of various offences. The work of Kautilya necessitates the responsibility of the king in ensuring justice to his subjects.

Manusmriti: This ancient legal text is questionable for giving more emphasis on the caste system. However, it laid down punishments for various offences. It stated various forms of punishments like restitution, exile and ordeals. Nevertheless, understanding of these ancient legal texts varied across various regions while in some regions emphasis was given to social reconciliation along with punishments.

9. K. S. Singh, *The Caste System and the Criminal Justice System in India*, J. INDIAN L. & SOC'Y (2017).

10. M. Jain, *The Role of Prayaschitta in Ancient Indian Justice*, 25 INDIAN J. CRIMINAL. 12 (2018).

11. R. K. Sharma, *Caste and the Indian Criminal Justice System*, INDIAN J. CRIMINOLOGY (2013).

Dharmashastras: These legal texts were a set of legal principles and maxims. They provided knowledge regarding various types of evidence, judicial procedures and punishments for various offences.

Limitations of this Era

It is however important to note that this ancient Indian criminal justice system although revolutionary in its time came with its own draw back. Among them, the caste system had a great controversy since its implementation for punishments was based on this criterion. The offenders' caste position was used in deciding the degree of penalties to be given depending on the caste system. In cases of violation of dharma there were dreadful consequences for those belong to higher castes while the one belong to lower castes were punishable lightly. Additional limitation stemmed from the fact that ordeals and rituals were not solemnised uniformly. In some cases, those practices were given less significance than with evidence-based strategies. This could lead to unfair results as depended on ordeals and rituals which were not usually very reliable. Still, the notion of dharma was a starting point for the development of the criminal justice system of ancient India, which was intended to protect society's stability and restore justice as well as encourage people to follow the right path. This appreciation of the nature of the system provides the first set of constructs for its investigation of its growth and change.¹²

Here are some of the most impactful limitations of the ancient Indian criminal justice system:

- Caste-based punishments: In the implementation of punishment, one would see that they were relatively harsher especially to the natives and depended much on the caste system of the criminal.
- Inconsistent application of ordeals and rituals: Some of them were not always considered on the same par as evidence-based methods of practice.
- Lack of standardized procedures: There sometimes was no written protocol and procedures in the system that created confusion and even grounds for bias.
- Limited access to justice: As a result of social inequality and caste system in India, many a

times, people especially from lower castes and poor suffered a lot without any justice.

However, these limitations show that there is more research to be done and more analysis to be made to know more of the Indian criminal justice system of the Old Kingdom and the effect it had on society. To evaluate that, let us to look at the advantages and disadvantages of this system so as to come up with better context for the formation of criminal justice systems.

The Influence of Medieval Era in Indian Criminal Justice System

The interplay of various legal traditions was witnessed from sixth to the thirteenth century. This period is considered as the medieval era. This period in India noted the joining of diverse factors that played noteworthy role in the progression of the Indian criminal justice system. In this period we will analyze varieties of factors that helped in shaping the legal landscape.

The Advent of Invasions

The advent of Islamic pillagers, who defeated the rulers of the northwestern India, brought new legal philosophies and management system. Muslim law (Sharia) was followed in parts of the country ruled by Islamic dynasties like Delhi sultanate Sharia laws played a significant role. Retribution and deterrence were the two main principles of punishments which were given more preference by the teachings of Prophet Muhammad and the Quran. Nevertheless Islamic rulers often used to follow a principle in which they used to combine the Sharia laws and indigenous legal practices. The advent of Islamic invaders in India was noted as a turning point in history of this subcontinent. In the thirteenth century, Delhi Sultanate was established which introduced Sharia laws as the main source of legal authority. An unblemished difference between crimes against individuals (quisas) and crimes against god (hudud) was provided by the teaching of Prophet Muhammad and Quran this was implemented in the Sharia. In Sharia hudud crimes like theft, adultery and consumption of alcohol has a particular type of punishment. The severity of these punishments were often high, these punishments had the objective of maintaining public order and instilling a sense of deterrence in the society.

12. K.S. Singh, *Dharma and Moral Laws in Ancient India*, 12 J. INDIAN LAW & SOC'Y 45, 51-52 (2015).

Amisha Singh, G. Akshay

When crimes were committed against individuals compensation and forgiveness were considered as the main remedy for the offence.¹³

But the implementation of Sharia law in India was not an easy task. The Islamic rulers often used to merge Islamic laws and indigenous legal practices for the betterment of the locals. This merging of laws was based on many different aspects which are as follows:

Societal realities: The adoption of Sharia punishments specifically for hudud crimes would be a disturbance in a socially flexible society. Factors such as social status of the offender and the seriousness of the crime were considered by the rulers while deciding the punishments.

Preexisting legal system: Regional kingdoms continued to use their own legal system which was often based on customary laws and dharma. The rulers couldn't do away with established systems if they wanted legitimacy and cooperation from their subjects.

Influence of jurists: Scholars who had abundance of knowledge in both local customs and Islamic law played an important role in adapting Sharia. Learned scholars used to issue legal pronouncements called as fatwas that gave directions on how to apply Islamic principles within the particular Indian context.

Examples of Legal Systems in the Medieval Times

The Chola Empire: The utilization of a legal system based on Dharma was followed by this empire. The implementation of the legal system varied across communities. The texts written during the Chola period provide suggestions about administration of justice through local officers.

The Delhi Sultanate: According to the legal system of this empire justice was administered through mixing elements from Islamic laws and local customs. The punishments for the crimes depended on its nature. Diwan-i-Qaza (department of justice) was established to ensure fair administration of justice was established by this empire.

The Rajput kingdom: In the Rajput kingdoms justice was administered through the Kshatriya code of conduct

and martial traditions. Offenses such as running away from the battle field, espionage and treason were seen as serious offenses and the death penalty was awarded to the offenders. To uphold family honor, honor killings used to take place.

Limitations of this Era

The medieval era also faced a variety of limitations in the promotion of a unified criminal justice system. The legal practices were different based on different rulers in different regions. This period also experienced a lot of innovations in the legal system. A wide array of courts and tribunals were established by the rulers for the administration of justice. There was an increase in trade disputes which led to the development of commercial laws during this period. The legal and political scenario of Medieval India could be iconized as immensely rich owing to great legal diversities and paradigmatic inception of a number of courts and tribunals. Although this period witnessed some innovative changes in the laws and development in the legal system, it also imposed some problems and constraints in the establishment of a uniform criminal justice system.

Here are some key limitations of the medieval criminal justice system in India:

- Lack of a Unified Legal Framework:

Regional Variations: Legal practices also differed from one region to another as well as under different rulers governing a particular territory. This was because lack of a unified legal system to govern justice resulted in the creation of numerous discrepancies and disparity.

Customary Laws: Customary laws were common, and most of them were not written and also the laws in these regions were different from each other. This made it straining when endeavoring to balance equity and objectivity in what was being administered in the legal procedures.

- Limited Access to Justice:

Social and Economic Inequalities: Justice delivery was skewed in the direction of the rich and this meant that people who are poor, weak and vulnerable had little chance of obtaining justice.

13. R. PETERS, CRIME AND PUNISHMENT IN ISLAMIC LAW: THEORY AND PRACTICE FROM THE SIXTEENTH TO THE TWENTY-FIRST CENTURY 145 (Cambridge Univ. Press 2005).

Lack of Legal Representation: Few individuals could afford the legal services hence they struggled to fight for their rights while dealing with the legal issues because the legal system was complicated.

- Limited Role of the State:

Decentralized Power: The state's involvement in the dispensation of justice was quite small due to the fact that most of the authority was held by the local chieftains and zamindars.

Lack of Resources: It was not uncommon for the state to be ill-equipped with the instrumentality, manpower and organisational capacity to police and protect the population against these criminals.

- Lack of Professionalization:

Amateur Judges: Most of the judges were not formally trained in law and therefore they lacked the required experience to conduct legal processes. Corruption: The medieval justice system also had the issue of corruption which defiled the system of law.

The Introduction of The Indian Penal Code in The Colonial Era

The development of India's criminal justice system accelerated during the 18th century after the advent of the British. The decentralized legal system of the pre-colonial era was transforming into a more centralized structure during this era. In this era, many new laws were enacted like the Indian Penal Code (IPC) which was one of the important laws of the country and continues to be the keystone of India's criminal justice system. Based on the Indian penal code the Bharatiya Sanhita Act 2023 was enacted.

Challenges Faced During the Pre-colonial Era

It was witnessed that during ancient and medieval era the rulers use to follow laws which were not unified in nature. After the arrival of British the criminal laws became codified. As it was seen that in early time's dharma based laws, customary laws and Muslim laws (Sharia) were widely applied in regions, this mixture of legal system became a hurdle to the British East India

Company as this practice of legal system shows lack of steadiness. Few of the challenges which were faced are stated below:

Difficulties faced during administration: The variety of legal systems during the pre-colonial era was becoming a hurdle for the British East India Company to make unified laws to govern and maintain order across the country.

Injustice and lack of consistency: There was a lack of consistency in the implementation of equity as India was not following a unified criminal code. Punishments were often decided on the basis of whereabouts and the type of laws which were followed in that particular region. It was also witnessed that punishments for like crimes differed significantly across the regions. This lack of consistency often shakes the confidence of the public and it also creates a sense of disbelief in the justice system in them.

Corruption among the officials: As there was lack of consistency in India's justice system during the pre-colonial period many local officials molded the laws for their own benefits. Local officials were often involved in corruptions and misused their powers for their own advantage because of which public lost their faith in the legal system.

The Goal of Codification

The British East India Company started a mission to transform the un-codified criminal laws and to make it into a codified one through the help of its well-developed legal system which was highly based on common laws.¹⁴ This mission was initiated to design an unchanging legal system that would consist of:

Clarity and rationality: There would be no room for ambiguous laws as the code promotes unblemished and transparency in legal proceedings.

Universal application: The new codified legal system would apply to everyone. This was done to curb the lack of consistency and to rebuild the faith of the public in the legal system.

Modernity and efficiency: The old and inconsistent practices were replaced by the ideals of Enlightenment and modern legal thoughts in the new code.

14. M. Jain, *The Indian Penal Code: A Cornerstone of India's Criminal Justice System*, 12 J. HINDU L. 15, 20-25 (2015).

Amisha Singh, G. Akshay

The Introduction of the Indian Penal Code

The Indian Penal Code (IPC) was enacted in 1862. It was drafted by Thomas Babington Macaulay who took inspiration from English Common law but also incorporated elements from the Napoleonic Code and Louisiana Civil Code. IPC defines various types of crimes, it also highlights punishments for those crimes and it also covers a broad range of offenses.

The nature and feature of the Indian Penal Code

The rule of guilty mind: The IPC provide us with the meaning and significance of mens rea (guilty mind). In determining a criminal case guilty mind plays a significant role in solving the case so a mere guilty act cannot be seen as much helpful until and unless it is coincides with a guilty mind.

Classification of offenses: The IPC categorizes offenses into various classes based on their severity, with punishments ranging from fines and imprisonment to capital punishment.

Secular legal framework: The religious legal systems that were followed during the pre-colonial era started diminishing after the adoption of a secular framework under IPC.¹⁵

Limitations

The IPC played a unique part in upgrading the India's criminal justice system. It brought a system of clarity to the legal system. IPC is a collection of written laws which introduced procedures noted to form a great importance in comparison to the pre-colonial practices. But after gaining a lot of appreciations for its role, IPC also faced a lot of criticism for certain reasons which are as follows

- Ignorance of the context of the offences: Critics argue that the code most of the times imposes strict and harsh punishments without investigating the context of the offences.

- Based on Western laws: The arguments made by some critics were that the IPC has a different ancient background which was highly similar to the Western laws which created a disconnection between the written laws and the Indian society.
- Limitation in scope: IPC's scope is limited as it does not cover other aspects of laws. Its scope is only limited to substantive criminal law and the aspects like procedural law and collection of evidence needs to be covered by other laws.

The rebellion of Rani Laximibai against the British East India Company. By applying the Indian Penal code the British forfeited the land of Rani Laximibai, this case shows how resistance movements were viewed as criminal acts by the British.

Case laws which highlight how the provisions of the Indian penal code were misused during the colonial era.

Queen-Empress v. Khudiram Bose (1888)¹⁶: In this case a British magistrate was attacked and killed in a bomb blast. The bomb was planted by some revolutionaries. The case highlighted the misuse of IPC provisions in dealing with crimes which had a political motive behind it during the colonial era.

Queen-Empress v. Nana Dhundu Pant (1899)¹⁷, *Emperor v. Narayan Ganesh Savarkar* (1910)¹⁸, *Meerut Conspiracy Case* (1921-24).

All these cases involved attacks against the British officials and they show how the provisions of the IPC were used to suppress political crimes during the colonial era by the British. They also highlight how resistance movements were brought down by the British.

The Period After Independence: Challenges Faced During the Digital Age

The refinement of the Indian criminal justice system goes on board after India got independence in 1947. After independence a new sets of government officials were appointed who adopted a series of laws framed by British East India Company. But the main problem

15. *Id.*

16. *Khudiram Bose v. Emperor* 13th July, 1908 3IND. CAS.625

17. *Queen-Empress v. Nana* (1889) I.L.R. 14 Bom. 260

18. *Queen-Empress v. Nana* (1889) I.L.R. 14 Bom. 260

was that these laws were attached with many limitations. The upmost aim was to analyze these limitations and to develop a framework which curbed these limitations and a structure that upgraded the use of principles of human rights, fairness and equality. Nevertheless, a lot of progression was seen during the Post-independence era but like in every phase this phase too faced challenges which is still causing disturbance in Indian criminal justice system like the arrival of cybercrimes in the modern digital phase.

Reforms and challenges faced

Fair trials: Providing fair trials for all the citizens of India irrespective of their social status was the main aim of the govt. of India. As we have witnessed and still see that the burden of proof lie's upon the person who initiates the case i.e. the plaintiff. But many a times the plaintiff who is economically backward cannot afford a legal representative for his case. So to solve this kind of limitation a system was introduced named as NALSA for providing free legal aid for those who are incapable to afford a lawyer.

Pendency of cases: There were a lot of challenges in the post- independence era but the most serious challenge was the number of cases which were still pending in the court of law. The pendency of cases created a barrier between victims and justice. The belief of victims upon justice system started diminishing because of this. To overcome this challenge govt. established fast- track courts. Revision of CrPC was also done to solve this limitation and to serve justice to the victims as soon as possible.

Human rights concerns: The custodial violence and tormenting the accused person were the main concerns which were disturbing the growth of Indian criminal justice system. In many landmark cases SC has given more emphasizes in Art 21 of the Indian Constitution which talked about right to life and dignity. The conduct of police and reform in prison conditions became strict.

The growing concern of cybercrimes: As India was evolving with time it was adopting many new varieties

of technologies. So as it was developing with the help of technology at the same time cases which were related to cybercrimes also increased. Crimes which were happening in the digital platform like financial fraud, data theft, online harassment, online stalking, hacking and many more which were becoming a threat to the Indian legal system. To curb these kinds of cybercrimes the govt. enacted the Information Technology Act 2000 which was revised many times to look into these kinds of crimes.¹⁹

Advancement in Technology and Legislative reforms

Legislative reforms: The criminal justice system was facing many hurdles so to overcome those hurdles the govt. of India introduced a variety of legislative reforms. Some of them are as follows:

- The Protection of Children from Sexual Offences Act (POCSO ACT) of 2012 is a legal framework which was introduced to provide a safeguard to the minor children from exploitation and sexual harassment.
- The Criminal Law (Amendment) Act 2013 was established to make the existing laws strong against sexual assaults; it also expands the meaning of rape and establishes strict punishments for offenders who commit crimes.
- The Unlawful Activities (Prevention) Act (UAPA) has been revised to strengthen the government's ability to overcome the crimes which hamper the integrity of state like organized crimes and terrorism.

Technological advancement: The advent of robotics telecommunications has played a major part in enhancement of Indian criminal justice system and assisting in investigation matter. For examples:

- Virtual hearings: In the COVID-19 pandemic, virtual hearing played a significant role in solving the cases.
- E- Courts: Filing of cases online was established which help the courts to solve the cases faster.

19. M. Sharma, *Digital Forensics in Cybercrime Investigations: An Indian Perspective*, 43 J. IND. LAW & SOC'Y 12, 18-22 (2019).

- Digital forensics: In gathering and examining electronic evidence digital forensics plays a important role in cybercrimes investigations.

Limitations

In spite of the development of technologies and establishment of variety of reforms still the Indian criminal justice system faces a lot of limitations. To overcome the new challenges the Indian governments had to amend the laws and to establish new methods for investigation. It also had a responsibility to check whether the reforms are being utilized properly or not. But after doing all this there still remains a gap between the legal framework and the actual implementation of the laws.²⁰ In spite of the above developments, there are some major hurdles to delivering an effective fight against cyber terrorism and cybercrime in Indian Criminal Justice system. These limitations include:

- Technological Gap:

Limited Expertise: Most of the law enforcement organizations as well as judicial systems across the globe are ill-equipped and inform to deal with most advanced cybercrimes.

Outdated Infrastructure: Currently, it may take police forces a lot of time to track down the hackers due to the outdated infrastructure used.

- Legal Framework:

Lack of Specificity: The Information Technology Act enacted in 2000 forms the primary legal practice but the Act might not be very specific in handling newfangled emerging cybercrimes.

Jurisdictional Challenges: Defining jurisdiction in cyberspace can therefore be an issue of some controversy particularly with cases of cross border offences.

- International Cooperation:

Lack of Coordination: Most importantly, cooperation at the international level may suffer due to dissimilarities in laws, investigation methodologies, and culture.

Data Sharing Issues: The main difficulties of sharing data include the fact of compromise of state sovereignty, concerns of personal data protection and a number of legal restrictions.

- Investigative Challenges:

Digital Evidence: Digitization and utilization of the evidence tends to require a several process which is both tiresome and time consuming.

Anonymity and Pseudonymity: The criminals in cyberspace are usually smart in such a way that they even disguise their selves to avoid getting arrested.

- Resource Constraints:

Limited Funding: Law enforcement may have certain budgetary issues which might make them unable to afford the right technology, training and personnel.

Lack of Specialized Units: Also, most of the police departments may not possess an exclusive cybercrime section hence a lot of congestion and somehow little.

- Public Awareness:

Lack of Understanding: A lot of people and companies may not clearly understand what is involved in becoming a target of cyber criminals and they don't immediately notify the authorities.

Digital Literacy: A factor that contributes to this is that people within these communities are not well conversant with matters concerning the use of the internet, and consequently they are easily at the mercy of cyber-criminals.

To overcome the new sets of e-crimes, India need to follow certain steps which are stated below.

- Enhance capacity building: There needed a set of measures and specialized training to examine e- crimes by the law enforcement agencies. The person should be expert in tackling cyber challenges, digital forensics and cyber intelligence gathering.
- Strengthening international cooperation: India should strengthen its international cooperation with countries across the globe which might help India in development, in sharing information and apprehending criminals operating across borders.
- Public awareness: It is crucial to make the people aware about the cyber related crimes and how to safeguard themselves from these online crimes. The awareness method will help in diminishing

20. *Id.*

the cases related to cyber and it will also help the law enforcement in investigation.

After attaining independence India witnessed various changes in its legal system. This change was possible due to some of the important judgments which are considered as landmark Supreme Court judgments which assisted in forming new reforms, understanding the laws in a broad sense, addressing ongoing difficulties and in shaping India's criminal justice system. Some of the landmark judgments are stated below:

*Hussainara Khatoon v. State of Bihar*²¹: In this case, Adv. Pushpa Kapila Hingorani, who is also known as the mother of PIL, filed a writ of Habeas Corpus before the court of law regarding the torture and ill treatment of prisoners of Patna and Muzaffarpur jails. This case also highlighted the poor conditions of the prisoners in jails in India with overpopulation, poor cleanliness and deficient in health protection system. The Supreme Court provided a set of direction for prison reforms, encompassing establishing of oversight committees, access to legal aid and to upgrade the living conditions of the prisoners. The verdict worked as a tool for prison reforms in India.

*State of Maharashtra v. Pradeep Hanmantrao Deshpande & Ors*²²: This case covers the problem of organized crime, assisting the implementation of the Maharashtra Control of Organized Crime Act. The verdict of Supreme Court generated the law enforcement agencies to control criminal activities and to overcome the organized crimes.

*Nirbhaya Case*²³: This case comes under the category of cases which are named as rarest of the rare case. In this case a young woman was gang raped and later murdered. This gruesome incident triggered public anger which led to the formation of Criminal Law (Amendment) Act, 2013. This act defines the term rape in a broad sense, establish severe sanctions for offenders. This act also makes the procedures for inquiry and trial in a more precise manner and it also harden the laws against sexual assault. This case was considered as a

warning to the offenders and a wakeup call for the law officials to make new amendments to the laws for the betterment of the society.

*Lalitha Kumari v. State of U.P.*²⁴: This case deals with the issue of "honor killing" where the members of a family themselves killed their daughter to protect their reputation in the society. To overcome this kind of violence against women the law enforcement enacted several strict laws to protect and give justice to women who are facing these kinds of violence from their own family members. This case also brings in light the issues regarding the rights of women and to tackle issues relating to tortures which women face based on that hamper the basic fundamental rights of women.

*K. Puttaswamy (W) v Union of India*²⁵: This case highlights that right to privacy comes under the purview of Art. 21 of the Indian Constitution. This fundamental right has given some crucial suggestions for the framing the criminal justice system. This right to privacy covers certain matters like data collection, balancing security concerns with individual privacy right and digital surveillance.

The above-mentioned landmark cases are just few precedents, like these there are many more landmark precedents which helped in shaping the Indian criminal justice system and tackle the limitations in the post-independence period. The afore mentioned cases focus on the continuing attempts to provide fairness to the victims, elevate human rights and to make necessary alteration in the Indian criminal justice system. The judicial system of India continues to be instrumental in analyzing new challenges, as well as explaining laws to follow the principles of equity, justice and good conscience for the welfare of the public.

The Advent of New Penal Laws

Ministry of Home Affairs in 2020 ordered to form a committee which was headed by Dr. Ranbir Singh (former VC of NLU Delhi) the sole purpose of this committee was to review the existing criminal laws that

21. Hussainara Khatoon v. State of Bihar 1979 AIR 1369, 1979 SCR (3) 532.

22. State of Maharashtra v. Pradeep Hanmantrao Deshpande and Ors (2011).

23. State of NCT of Delhi v. Pawan Kumar, (2012) 6 SCC 1 (India).

24. Lalitha Kumari v. State of U.P AIR 2014 SC CRIMINAL ORIGINAL JURISDICTION 1 WRIT PETITION (CRIMINAL) NO.68.

25. K. Puttaswamy (W) v. Union of India Writ Petition (Civil) No.494 of 2012; (2017)10 SCC 1; AIR 2017 SC 4161

Amisha Singh, G. Akshay

are Indian Evidence Act 1872, Indian Penal Code 1860, Criminal Procedure Code 1898. The pivot of the committee of the committee was to strengthen the safety and security of the society and the nation. The main aim of the committee was to improve constitutional beliefs like dignity, intrinsic value of all the people and justice. The three bills were proposed on 11th August 2023 by the centre by the recommendations of the standing committee the three bills were once again introduced in Lok Sabha on 12th December 2023 and finally the bills were accepted by both Rajya Sabha and Lok Sabha. The bills got the acceptance of the President on 25th December 2023 will be coming into effect from 1st July 2024. The new acts which are going to replace the old criminal acts are as follows: 1. Bharatiya Nyay Sanhita, 2. Bharatiya Sakshya Adhiniyam 3. Bharatiya Nagarik Suraksha Sanhita.

The Purpose of the New Penal Laws

‘The purpose of the old laws was to safeguard the government, but the purpose of the new laws is to safeguard the rights of the public and to eliminate obstacles in the people’s access to those rights’. This was stated by the Union Home Minister Mr. Amit Shah. These acts were passed with the intent to repeal the century old colonial laws which were oppressive and were designed to give advantage to the colonial rulers. The new acts will help the criminal justice system in solving crimes related to contemporary issues like e-crimes, financial frauds, organized crimes, cyber terrorism etc.

Conclusion

The Indian criminal justice system stands at a crucial stage. Every single era has helped the system to achieve a legal framework which it is now after evolving from smooth running procedures to overcoming gruesome offenses such as organized crimes, honor killing and sexual assault, still the modern digital era sets some new challenges. The emerging problem of cybercrime requires a dynamic legal system which evolves as per the needs of the society.

In the upcoming future we need to uphold both the trust of the society in the legal system as well as the human rights of accused persons and that of those convicted. Technological development such as e-courts and digital forensics has contributed a lot in shaping our criminal justice system.

Indian criminal justice system, which is the result of legal and social development continuing for hundreds of years, has had a long and rather tortuous history. From the complex legal structure of the ancient empires and for the original structure of the medieval period, the system has been developing further as a response to the conditions of the society. Today, as we progress through a web-oriented environment the system represents an unprecedented challenge and a variety of opportunities. The e-courts and digital forensic procedures have brought change and improvements in procedures and efficiency; however, with radical changes such as the availability of cybercrime, new challenges have raised that require new approaches to law. When changes and modifications of this system are in the process of being made, these should not deviate away from the principles of justice, equality, and human rights that the system has upheld even in the past. The potential for an evolution of the Indian criminal justice system will therefore depend on the system’s capacity to assimilate the traditional with new ideas, ideas that will allow the justice process in India to maintain its goodness and fairness into the 21st century and beyond. It can be witnessed that the Indian criminal justice system is dynamic, evolving as per the requirements of the society. With the use of technology available in the modern age India is in its way to develop a criminal justice system which not only upholds justice but also protects its citizens from all types of crimes.

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The Chronicle of the Indian Criminal Justice System

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