

Study on Structure of Criminal Justice System

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Abstract

The structure of Criminal Justice system consists of the four main pillars namely, investigation by Police, Prosecution of case by the Prosecutors, determination of guilt by the Courts and finally the correction through prisons system. Article 246 of the Constitution of India places the police, public order, courts, prisons, reformatories, borstal and other allied institutions in the State List.

Keywords: Criminal, justice, System

Introduction

The system that deals with agencies of government that are responsible for enforcing the law in the country, maintaining peace and harmony and treating criminal conduct is known as the criminal justice system. The aim of the criminal justice system is to ensure that every person who suffers an injury or loss at the hand of others is allowed to present his case and seek justice.

According to Hobbes, man is selfish by nature and can go to any extent for pleasure. As said by Bentham, a person avoids pain and demands to seek pleasure. He is usually moved by his instincts and, in earlier times, there were no regulations and limits to control his conduct. With the increasing population and communities, his interests collided with others' and led to a situation of conflict. Thus, in order to regulate the conduct of a man, a system was needed that could monitor his actions. The development of the criminal justice system is the same as the development of man.

The first stage was when there was no control over his actions and he acted as per his needs and demands. If needed, he could hurt anyone and fulfil his wishes. Then came the second stage, where the territory expanded and the concept of 'state' emerged. At this stage, a ruler ruled the kingdom and other people acted on his behalf. This stage, however, could not handle the conflict of interests, and so the king gave strict punishments based on the theory of eye for an eye and body for a body. This stage was full of revenge and hatred. When the king still could not regulate the actions of man and there was chaos in society, a need for a proper system was felt. With the advancement of time and development in society, the monarchy was replaced by the aristocracy, which was further replaced by democracy, and the government was thought to have a system to control the rate of crime in each state; hence, the criminal justice system emerged.

Investigation by Police

The very crux of the Criminal trial is laid down by the investigation done by the police. The information of the offence is registered in the local police station under Section 161 of the Code of Criminal Procedure 1973(CrPC). Thereafter the police starts the investigation under section 156 CrPC. Section 161CrPC empowers the investigation officer to examine any person supposed to be acquainted with the facts and circumstances of the case and record the statement in writing. However, section 162 of the Code provides that it is only the accused that can make use of such a statement. So far as the prosecution is concerned, the statement can be used only to contradict the maker of the statement in accordance with Section 145 of the Evidence Act. Any confession made by the accused before the Police officer is not admissible and cannot be made use of during the trial of the case. The statement of the accused recorded by the police can be used as provided under Section 27 of the Evidence Act to the limited extent that led to the discovery of any fact. (Malimath Committee Report, 2003). The police can arrest a person for commission of cognizable offence under section 41CrPc in accordance to the procedure given under section 46 CrPC. In the course of investigation the Police officer may search any premise under sections 165 and 166 where there is an expectation to anything (documents, materials) in connection with a cognizable offence. Any such items may be seized by the police under section 102 CrPC. Police has the discretion to discharge a person arrested on executing a bond under section 169 CrPc, in case the officer feels that there is not enough incriminating materials against such persons. Finally, all such statements of the witnesses, and the evidence collected through the investigation

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alongwith the copy of the First Information Report is made into a Police report and submitted under section 173 to the Magistrate for taking cognizance there upon. Apart from this the Police also conducts the inquest where an information of death is received under section 174 CrPC.

The police is a state subject and its organization and working are governed by rules and regulations framed by the state governments. These rules and regulations are outlined in the Police Manuals of the state police forces. Each State/Union Territory has its separate police force. Despite the diversity of police forces, there is a good deal that is common amongst them. This is due to four main reasons: § The structure and working of the State Police Forces are governed by the Police Act of 1861, which is applicable in most parts of the country, or by the State Police Acts modeled mostly on the 1861 legislation. The Indian Police Service (IPS) is an All India Service, which is recruited, trained and managed by the Central Government and which provides the bulk of senior officers to the State Police Forces. § The quasi-federal character of the Indian polity, with specific provisions in the Constitution, allows a coordinating and counseling role for the Centre in police matters and even authorizes it to set up certain central police organizations (Commonwealth Human Rights Initiatives, 2001).

Superintendence over the police force in the state is exercised by the State Government (Section 3, The Police Act, 1861). The head of the police force in the state is the Director General of Police (DGP), who is responsible to the state government for the administration of the police force in the state and for advising the government on police matters. Field Establishment States are divided territorially into administrative units known as districts. An officer of the rank of Superintendent of Police heads the district police force. A group of districts form a range, which is looked after by an officer of the rank of Deputy Inspector General of Police. Some states have zones comprising two or more ranges, under the charge of an officer of the rank of an Inspector General of Police. Every district is divided into sub-divisions. A sub-division is under the charge of an officer of the rank of ASP/ Dy.S.P. Every sub-division is further divided into a number of police stations, depending on its area, population and volume of crime. Between the police station and the subdivision, there are police circles in some states - each circle headed generally by an Inspector of Police. The police station is the basic unit of police administration in a district. Under the Criminal Procedure Code, all crime has to be recorded at the police station and all preventive, investigative and law and order work is done from there. A police station is divided into a number of beats, which are assigned to constables for patrolling, surveillance, collection of intelligence etc. The officer in charge of a police station is an Inspector of Police, particularly in cities and metropolitan areas. Even in other places, the bigger police stations, in terms of area, population, crime or law and order problems, are placed under the charge of an Inspector of Police. In rural areas or smaller police stations, the officer in charge is usually a Sub-Inspector of Police.

Commissionerate System of Policing

The commissionerate system of policing was introduced by in certain metropolitan areas like Calcutta, Bombay, Madras and Hyderabad. Under this system, the responsibility for policing the city/area is vested in the Commissioner of Police. While the commissionerate system initially existed in four cities in the last century, it has been extended to many areas since Independence (Commonwealth Human Rights Initiatives, 2001).

Criminal Investigation Department (CID)

Criminal Investigation Departments or CIDs, as they are popularly known, are specialized branches of the police force. They have two main components - the Crime Branch and the Special Branch. The officer in charge of the CID generally supervises the work of both branches, though some states appoint a separate officer in charge of the Special Branch. The Crime Branch is the most important investigation agency of the state police. It investigates certain specialised crimes like counterfeiting of currency, professional cheating, activities of criminal gangs, crimes with interdistrict or inter-state ramifications etc. In fact, when certain major crimes remain unsolved or when the public demands investigation by an agency other

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than the local police, the government or the head of the police force transfers cases for investigation from the district police to the CID. The Special Branch, on the other hand, collects, collates and disseminates intelligence from the security point of view. Its main role is to keep a watch over the subversive activities of persons, parties and organisations and keep all concerned informed (Commonwealth Human Rights Initiatives, 2001).

Central Bureau of Investigation (CBI)

What is known today as the CBI was originally set up as the Special Police Establishment (SPE) in 1941 to investigate cases of bribery and corruption involving the employees of the War and Supply Department of the Government of India during the Second World War. Even after the war was over, the need to continue the agency to investigate corruption charges involving government servants was felt. The Delhi Special Police Establishment Act was passed in 1946 to give the organisation a statutory base. Its jurisdiction was extended to cover cases of corruption involving employees of all departments of the Government of India. The role of the SPE was gradually extended and by 1963, it was authorised to investigate offences under 97 Sections of the Indian Penal Code, offences under the Prevention of Corruption Act and 16 other Central Acts. In 1963, the Government of India set up the Central Bureau of Investigation (constituted by the Government of India's Resolution No. 4/ 31/61-T dated April 1, 1963). This new organisation's charter included not only the work done by the Delhi Special Police Establishment but also additional investigation work relating to breach of central fiscal laws, major frauds in central government departments, public joint stock companies, passport frauds, crimes on the high seas and in the air and organised crimes committed by professional gangs. It was also given the work of maintaining crime statistics, collecting intelligence relating to certain types of crimes, working as the National Crime Bureau (NCB) of the country for the International Police Organisation (INTERPOL) (Commonwealth Human Rights Initiatives, 2001).

The legal powers of investigation of the CBI are derived from the Delhi Special Police Establishment Act, 1946 (DPSE Act). The organisation can investigate only such offences as are notified by the central government under Section 3 of the DPSE Act. The powers, duties, privileges and liabilities of the members of the organisation are the same as those of the police officers of the union territories in relation to the notified offences. While exercising such powers, members of the CBI of and above the rank of Sub-Inspectors are deemed to be officers in charge of the police station. The Central Government is authorised to extend the powers and jurisdiction of the members of CBI to any area, including railway areas, for the investigation of offences notified under Section 3 of the District Special Police Establishment Act, subject to the consent of the government of the concerned state (Commonwealth Human Rights Initiatives, 2001).

Role of the Prosecutor

Prior to the enactment of the Criminal Procedure Code of 1973, public prosecutors were attached to the police department and they were responsible to the District Superintendent of Police. However, after the new Code of Criminal Procedure came into force in 1973, the prosecution wing has been totally detached from the police department. The prosecution wing in a state is now headed by an officer designated as the Director of Prosecutions under section 25A of CrPC. In Sessions Courts, the cases are prosecuted by Public Prosecutors. The District Magistrate prepares a panel of suitable lawyers in consultation with the Sessions Judge to be appointed as public prosecutors. The state government appoints public prosecutors out of the panel prepared by the District Magistrate and the Sessions Judge. It is important to mention that public prosecutors who prosecute cases in the Sessions Courts do not fall under the jurisdiction and control of the Director of Prosecutions (Sharma, Madan Lal). 9 The state government also appoints public prosecutors in the High Court. The appointments are made in consultation with the High Court as per section 24 of the Code. The most senior law officer in a state is the Advocate General who is a constitutional authority. He is appointed by the governor of a state under Article 165. He has the authority to address any court in the state. The Assistant Public Prosecutors, Grade-I and Grade-II, are

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