



Evolution of criminal justice of vedic era in India

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Abstract

Since crime is a social phenomenon, the society has a responsibility to combat it. Therefore, for proper understanding of its gravity, we have to take a closer look at the family where the criminal is born and brought up, the school where he gets his education and the community where he interacts.¹ However, CJS has direct role and responsibility to tackle the problem. To play its role effectively and with full responsibility, it must react to the changes taking place owing to political and economic circumstances and adjust radically in its policies and programmes. Since it is one of the requirements of CJS to utilize the body of knowledge available in a particular period which is affected by the political and economic development, all these changes have inevitable repercussions on the contemporary society.

Free and fair justice to all, has always been considered a must in all the civilized countries. It is on this assumption that the CJS is functioning in our country. In our Constitution, keeping in view the democratic ideals, Article 124 lays down that there will be a free, fair and public trial of criminal cases.

Keywords: crimic social phenomenon, free ara fair justice, administrative of justice, to protection of dharma, the mughal justice to protect the value of islam, objective behind the role and consumes

Introduction

Objectives of the Study

The basic objective of the Study are

- To study the Role of electively ara with the full responsibility.
- To find out the free ara fair fair justice to all for the civilized country.
- To find out the view of the concept of welfare state ara CJ.S. has significant role to play.
- To study the Administration of Justice was necessary for the preservation ara protect the Dharma.
- To Identify the British rules look at the Judicial system as an instrument to uphold the colonial rule in India.
- To point out the modern time, the law has procedure in build in the system.
- To Suggested the feudalist bias could be observed by Dharma.
- To point out the Judicial Institutions has existed in the country since immemorial in every age.

In India, in ancient times, the administration of justice was necessary for the preservation and the protection of Dharma^[4]. The justice was administered with the help of purohita and there has been elitist bias throughout the country in the administration of justice. Similar has been the case in medieval period when the invaders in the country, specially the Mughals, regulated justice to preserve and protect the values of Islam. They treated differently people of different religious beliefs^[5]. Likewise, the British rulers looked at the judicial system as an instrument to uphold the colonial rule in India. The CJS India witnessed numerous shifts in implementation of the laws. The feudalist bias could be observed in the Dharma, in the Islamic law and the colonial law. The guiding principle in the criminal law has been rotating around the type of ruler, the objectives behind the

rule, and the customs that the rulers followed^[8].

In modern times, the law has procedures in-built in the system. The justice has become costly and beyond the reach of poor^[6]. Complicated for an ordinary person to understand and is much time consuming^[7]. Moneyed men and those wielding power can get the justice. Intentionally or unintentionally the law is so made that it has developed bias towards the poors, who in fact cannot go to the courts and get justice. The elitist bias has entered all walks of life and influenced the CJS.

From the foregoing discussion, one gets an idea that the present system has not been functioning in a coherent manner. The policy thrust is in favour of the offender, but to safeguard the interest of the innocent many checks have been provided, which, in fact, give opportunity to the offenders to evade law. It is thus necessary that courts should maintain calendar, use management techniques and work assignment to the judicial offers should be reviewed.

The judicial institutions have existed in the country since time immemorial. In every age, there have been different types of crime and different types of punishment for offences. This pinpoints that the objectives of the CJS have been changing from time to time and from one period of history to another. It may be of interest to the students of the CJS to look closely into the changes which have taken place owing to political and economic changes during different phases of the history.

It is important to mention here that during the Vedic period we did not have any document as such which gives us an idea about the functioning of the CJS during that period. However, this is not the case for the subsequent periods. The development of CJS in the country has been divided into four phases in our bid to bring out: (1) basic assumptions in the functioning of the CJS; (2) political and economic condition at a particular period; (3) the criminal law in force; and (4) the functioning of CJS. It may,

however, be mentioned here that description of one aspect will remain incomplete without another.

A glance at the CJS in ancient times in India takes us back to the past, the time of Manu and Brihaspati, who gave us Dharmashastra, Narada gave us Smrities and Kautilya Arthashastra^[9]. These Shastras and Smrities show functioning of good judicial systems in ancient India. Different types of courts functioning in ancient India have been elaborately described by Brihaspati, Yajurveda, and Narada. Trial was done, judgment, known as Niranaya, was pronounced and the successful was entitled for Jayapatra or a document of success^[10].

Nevertheless the judicial administration in the ancient India was meant to preserve and protect Dharma. However, no evidence is available on a code of justice being followed in the early Vedic Society. King, it is inferred, was the fountain head of the administration of justice and the highest tribunal of appeal. To protect Dharma, king was responsible to punish the offender and bring him to proper path^[11].

The presence of full-fledged judicial system in ancient India is an evidence of the growing problem of crime in those days. Kautilya, in his Arthashastra, has made reference to the state of anarchy and lawlessness which prevailed in the society before the origin of the State. Law being one of the political institutions, there is no justification to consider the State as a separate entity. Besides, the judicial system without a strong State cannot function. Hence, Law and State are inseparable. Kautilya further states: "People suffering from anarchy, as illustrated by the proverbial tendency of a large fish swallowing a small one, elected Manu, the Vaivasvat, to be their King and allotted one-sixth of grains grown and one-tenth of merchandise as royal duties. Fed by this payment, the Kings took upon themselves the responsibility of maintaining the safety and security of the subject, and of being answerable for violation of the principle of levying just punishment and taxes. Hence, the thinking behind providing to the King one-sixth of the grains gleaned by them was that it is a tax payable to him who protects us."^[12] It is thus clear that to end the insecure and lawless state of affairs, the institution of State and Law came into being. The Law was considered supreme in ancient times. It has not only served as support to the State but also worked as a restraint on the State. Minute rules were laid down for the guidance of the King. It was his duty to uphold law and administer justice according to the local usages and the written codes.

Yet another feature of ancient India which needs attention is the economic order. In this context, it would be mentioned that no text of economic history has remained free from interpolations and other forms of corruption and the dates of the texts are not known with any degree of certitude. Hence it is rather difficult to give exact position of economic development in ancient India.

However, a demarcation is possible to outline the significant features of economic growth in ancient period. In the early Vedic period. Thrust was on a happy living (1500-1000 BC) which emphasized more on religious rituals than on material achievement. The Upanishadic period (600 BC) paved little way to economic growth by throwing doubts on the efficacy of the rituals. The emergence of Buddhism and Jainism (600-300 BC) favoured economic growth and liberalized social structure. The period 300 BC-AD 100 has been more favourable to the economic development of the country. Between 100 AD-500 AD religious attitude towards

economic growth and happy living has been favourable. However, there was another setback in the economic development of the country (500 AD-800 AD) owing to religious tendency towards attaining heavenly powers which continued till 1200 AD^[13].

According to Thapar, in the period preceding the Mauryan period (325 BC-150 BC) there was change from pastoral to village economic which brought permanency in the settlements and thereby emerged an administrative system.¹⁴ The agrarian economy was assisted by political conditions. It also encouraged trade activities. The significant feature was the division of country into isolated and self-sufficient villages where overwhelming majority of the people lived a life totally regulated by customs and traditions. The villages could be divided into three categories: (i) as per occupation of the inhabitants; (ii) the officials of the village, and (iii) the characteristics of the villages. The villages were self-sufficient, money was rarely used, the labour was usually immovable and the conservatism of villages was maintained. The influence of customs on rents, wages and prices could be easily observed. The property of old towns in the country were mainly the places of pilgrimage, or sacred places of some kind, seats of court or capital of kingdoms. Because of the tardy communication, there was difficulty in political and economic development in the country^[15].

From the foregoing, it is seen that there has been evidence that the policy shift in the CJS in India has been influenced by the customs and tradition. In pre-Vedic period, the thrust of the CJS was to uphold the sovereignty of the State and the sanctity of Law. Later, when the emphasis was placed on heavenly abode, the CJS policy-shift was to preserve Dharma. Besides, the economic development has greater influence on CJS in developing the policy for criminal law administration relating to property offences. Severe punishments were given to those involved in thefts, robbery or dacoity. It may, however, be said that punishments were too harsh, biased against people belonging to lower castes and with unclean profession. The discrimination in awarding punishment according to varna dharma, i.e., severe punishment to the people belonging to the lowest varna and lesser or no punishment to people belonging to highest varna, shows the feudal bias in the law. In other words, the law-givers, Brahmanas. Perhaps had shown bias against people of the other Varne. The people belonging to higher castes were protected by the religious and law.

Conclusion

Development of any System is a given a reatable free is bound to be influenced by the political situation and economic condition. The attitude of the rulers and the objective of the rule further the development of any system.

The administration of justice in ancient time was necessary to preserve and protect Dharma and King was responsible for it. Indeed during this period there was conspicuous absence of any literature indicating the economic order. However, the references do show that during Vedic period, the thrust was on happy living. This led to the shift in policy in CJS in developing criminal law relating to property offences. A peculiar feature of CJS during this period was that discrimination was observed in awarding punishment according to Varna-dharma.

References

1. See Khanna. for a detailed account of the growth of local self-government in Indian States, 1994.

2. Status of Panchayati Raj in the States and Union Territories of India, p.cit, 79.
3. See F. Frankel, "Caste, Land and Dominance in Bihar", op. cit.
4. See Status of Panchayati Raj in the Status and Union Territories of India, op.cit.'
5. Decentralisation and Rural Local Government." Legislative states of Panchayati Raj in India. P. 21.
6. See Pradhan H. Prasad, "Agrarian Violence in Bihar", Economic and Political Weekly, 1987.
7. See State of Panchayats Report 2008-09, An Independent Assessment, Institute of Rural Management, Volume II, State Report, Sponsored by Ministry of Panchayati Raj, Government of India, New Delhi.
8. See F. Frankel, "Middle Classes and Castes in Indian Politics: Prospects for Political Accommodation", op.cit.
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11. See Ramashray Roy, "Politics of Fragmentation: The Case of the Congress Party in Bihar", in Iqbal Narain, (ed.), State Politics in India, (Meerut: Meenakshi Prakashan), 1968.
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18. The Bihar Panchayat Raj Act, 2006, 9.