

## CHAPTER XI.

### LAW, ORDER AND JUSTICE.

#### SEPARATION OR COMBINATION OF EXECUTIVE AND JUDICIAL FUNCTIONS.

Administration of Civil Justice in the district is fully in the hands of judiciary headed by the District Judge of Monghyr under the control and supervision of the Patna High Court. He is assisted by a number of Additional Judges, Sub-Judges and Munsifs stationed at the district headquarters of Monghyr and the outlying subdivisional headquarters of Jamui and Begusarai. There are, however, two exceptions of Executive Officers assisting the District Judge in the administration of Civil Justice. The Subdivisional Officers of Monghyr and Jamui have since 1934 been exercising powers of Munsifs in respect of civil suits of the maximum valuation of Rs. 1,000 only in which one of the parties is a Santhal or a Bhuiya of aboriginal tribes in the district of Monghyr. The judiciary is under the complete control of the High Court except in the matter of certain transfers and promotions in which also the State Government generally follow the advice of the Court.

The district of Monghyr is one of the six districts of the State in which there is partial separation of judiciary and executive in the administration of Criminal Justice. As per recommendations of Meredith Committee, this scheme of separation was introduced in this district from the 1st January, 1951. The District Magistrate of Monghyr continues to control and supervise as before the detection of crimes and the institution and prosecution of State cases in the district. His control and supervision extends to the private cases also inasmuch as he has to exercise control and supervision over the taking of cognizance in all criminal cases and can also withdraw any criminal case from prosecution. In the scheme of separation, he is responsible for supervision and control over only those cases which are in the file of the Executive Magistrates. The Sessions Judge of Monghyr is generally responsible for the proper and expeditious trial of all criminal cases in the district, and exercises control and supervision over all Magistrates particularly through his powers of transfer and withdrawal of cases, appeals, reference and revision against the orders of Subordinate Magistrates and also of inspection of the files of all Subordinate Magistrates. The District Magistrate is assisted in the discharge of his above functions by a Subdivisional Magistrate and a number of Executive Magistrates stationed at each of the four subdivisional headquarters of the district. At the district headquarters, there is a Deputy Magistrate in charge of Legal Section for the assistance of the District Magistrate. In the matter of detection of crimes and institution of cases, he is assisted by his Subdivisional Magistrates and the Subordinate Executive Magistrates as well as by the various Government departments and local bodies

engaged in the detection of crimes and institution of cases for bringing the offenders to book. On the other hand, the Sessions Judge is assisted in the matter of trial and expeditious disposal of cases by all the Magistrates in the district and three Additional Sessions Judges and an Assistant Sessions Judge.

It was at the instance of the Patna High Court that the matter of separation of executive and judicial functions was taken up by the Government in 1944. The Court submitted to Government a scheme for the establishment of better control and supervision over the magisterial courts and for the eventual achievement of complete separation. It included *inter alia* proposals for—

- (1) gradual elimination of judicial functions of the executive officers and the increase of administrative control of the High Court over the magisterial courts;
- (2) occasional inspection of the magisterial courts by the Sessions Judges and the High Court Judges; and
- (3) submission of notes of inspections of the magisterial courts by the Commissioners and the District Magistrates to the High Court.

The Government accepted the proposals and appointed a Committee presided by the Hon'ble Justice H. R. Meredith, a Puisne Judge of the High Court, to frame a practicable scheme for the separation of judicial and executive functions. The Committee submitted their report to the Government in January, 1947. In November, 1947, Government appointed a Special Officer, namely, Shri Md. Yahya of the State Judicial Service, to work out the details of the scheme. The scheme of separation was introduced on an experimental basis from January, 1950 in the districts of Patna and Shahabad, and from January, 1951 in three other districts including Monghyr. Except for certain administrative and other difficulties inherent in a scheme of partial separation, the scheme, on the whole, has been working successfully. It has created more confidence in the minds of the litigant public of this district.

In the existing scheme of separation, Subdivisional Magistrates receive all complaints and prosecution reports and take cognizance. For the purposes of trial, all criminal cases except of a few specified categories are transferred to Judicial and Munsif-Magistrates and the specified categories of cases to Executive Magistrates. The District Magistrate and the Subdivisional Magistrates have nothing to do after the transfer stage with the cases in the file of judicial and Munsif-Magistrates. The Sessions Judge is responsible for the trial and expeditious disposal of such cases. The specified category of such cases which are transferred to Executive Magistrates for disposal are—

- (a) cases and proceedings under Chapters VIII, X, XI, XII and XXXVI of the Criminal Procedure Code;

- (b) cases arising during the drive for checking hooliganism and ticketless travelling on railways where spot trial is necessary by the Magistrates accompanying the Railway Police Party;
- (c) cases under sections 108, 112, 113, 118, 121 and 122 of the Indian Railways Act dealing with offences relating to unauthorised pulling of communication chains, ticketless travelling, footboard or roof travelling, obstruction to railway servants, trespass into railway premises, etc.;
- (d) cases under Motor Vehicles Act;
- (e) cases under section 34 of the Police Act, 1861,
- (f) cases under District Board and Municipal Bye-laws;
- (g) cases under sections 28, 29, 29 (A), 29 (B) and 30 of the Bengal Vaccination Act, 1880;
- (h) cases under sections 3 and 6 of the Prevention of Cruelty to Animals Act, 1890; and
- (i) cases under section 93 of the Bengal Irrigation Act, 1876.

The District Magistrate has ceased to exercise powers under sections 8, 9 and 10 of the Reformatory Schools Act, 1897, which are now exercised by the District and Sessions Judge. Commitment enquiries into cases triable by Courts of Sessions are to be held only by Judicial and Munsif-Magistrates and by Executive Magistrates.

The Munsif-Magistrates have all along been under the control of the High Court through the Sessions Judge. In order to pass on complete control of Judicial Magistrates also to the High Court through the Sessions Judge, the Government have issued executive instructions, besides vesting the Sessions Judge with certain powers of withdrawal and transfer of cases. The District Magistrate and the Subdivisional Magistrates have no control over the Judicial Magistrates now, and they have nothing to do with a criminal case of their file and of the file of the Munsif-Magistrates after it has once been transferred for trial. As in the case of Munsif-Magistrates, it is only the Sessions Judge now who records annual confidential remarks on the working and conduct of the Magistrates employed on judicial side and also recommends for vesting them with higher powers. Honorary Magistrates are also now under the control of the High Court through the Sessions Judge in the same way as the Stipendiary Judicial Magistrates except that the Sessions Judge has to consult the District Magistrate in the matter of the extension of their terms. Appeals from the decision of the Magistrates of the third and second classes are now heard by Assistant Sessions Judges

and from those of the Magistrates of the 1st class by the Sessions Judge and the Additional Sessions Judges. The District Magistrate does not exercise the powers of appeals, reference of revision against the orders of Judicial Magistrates and Munsif-Magistrates. Neither the District Magistrate nor the Subdivisional Magistrates exercise the powers under section 528 (2), Criminal Procedure Code with regard to cases in the file of Judicial Magistrates. They are no longer required to perform any executive function nor to make any enquiries under section 202, Criminal Procedure Code. In cases of emergency, they can, however, be called upon to perform executive functions by the District Magistrate if only the Sessions Judge can spare them.

The District Magistrate and the Subdivisional Magistrates, however, continue to exercise the powers vested in them under section 349, Criminal Procedure Code in respect of all cases in the files of the Second and Third Class Magistrates within their respective jurisdictions.

#### ORGANISATION OF CIVIL COURTS.

For the administration of Civil Justice and trial of sessions cases, the district of Monghyr was formerly under the jurisdiction of the judgeship of Bhagalpur with headquarters at Bhagalpur. With the increase in the volume of work, a separate judgeship under a District and Sessions Judge with Monghyr as its headquarters was carved out in the year 1914 by Government notification no. 1146-J., dated the 23rd December 1913, with its jurisdiction over the whole of the district. The judgeship of Monghyr thus came into existence with effect from the 1st January, 1914. When the judgeship came into existence, there were two Munsif's Courts and one Sub-Judge's Court at Monghyr. The posts of another Sub-Judge at Monghyr and Sub-Judge at Begusarai were created in 1918 and 1945 respectively on account of pressure of work. Besides the courts functioning at the headquarters, there were two Munsif's Courts at Begusarai and one at Jamui when the judgeship came into existence in 1914. Even today, the above three Sub-Judge's Courts and the five Munsif's Courts are the only permanent courts in the district to assist the District Judge in the dispensation of Civil Justice. There are, however, a number of temporary courts in the district created from time to time to meet increasing volume of work. At present, there are three Additional Judges, one Additional Sub-Judge and one Additional Munsif at the district headquarters and one Additional Sub-Judge at Begusarai functioning on temporary basis in the district. The Subdivisional Officers, Jamui and Sadar also try civil suits of maximum valuation of Rs. 1,000 only if one of the parties to the suit is a Santhal or Bhuiya, and for this purpose, they are under the control and supervision of the District Judge. It is, therefore, a peculiar feature in the administration of Civil Justice in the district that two Executive Officers are part-time employed for the purpose.

The following table will show the dates from which the various subordinate permanent courts are functioning in the district :—

Court.	Headquarters.	Date from which functioning.
1. Sub-Judge, 1st Court .. ..	Monghyr .. ..	5th October 1886.
2. Sub-Judge, 2nd Court .. ..	Ditto .. ..	21st November 1918.
3. Munsif, 1st Court .. ..	Ditto .. ..	3rd March 1859.
4. Munsif, 2nd Court .. ..	Ditto .. ..	29th March 1885.
5. Sub-Judge .. ..	Begusarai .. ..	1st March 1945.
6. Munsif, 1st Court .. ..	Ditto .. ..	18th September 1880.
7. Munsif, 2nd Court .. ..	Ditto .. ..	18th September 1884.
8. Munsif .. ..	Jamui .. ..	18th September 1880.

It will thus appear that all the permanent courts of this district except Sub-Judge, Second Court, Monghyr are senior in age to the court of their District Judge, the seniormost being the court of Munsif, First, Court at Monghyr.

The Registrar system was introduced in this judgeship in 1939 on a temporary basis, and a few years later on a permanent basis, to assist the District Judge in administrative matters. A Munsif of sufficient experience is always appointed to this post and the system has been working successfully in this judgeship. No suit or cases are, however, tried by the Registrar. The Registrar is more to look after the day-to-day administration and work as a link between the litigants and the courts. He is to help the District Judge in his administration of the departments.

The Munsifs try original suits of varying valuations up to a maximum limit of Rs. 4,000 only, whereas the Sub-Judges try original suits of higher valuations without any limit. Each of the courts has got an assigned area of jurisdiction whereas the jurisdiction of the District Judge and the Additional Judges extends over the whole district. Appeals against the decision of Munsifs are filed before the District Judge who receives and admits them and transfers them to the Sub-Judges for disposal. In miscellaneous appeals, however, arising out of the decisions of the Munsifs, the District Judge is empowered to admit or dismiss the appeals summarily. The second appeal against the decision of the Munsifs lies before the High Court. The appeals against the decision of the Sub-Judges lie before the District Judge when the valuation is up to Rs. 5,000 and before the High Court when it exceeds Rs. 5,000. As in the case of appeals against the decision of the Munsifs, the District Judge is

empowered to dismiss summarily only miscellaneous appeals up to the valuation of Rs. 5,000 against the decision of Sub-Judges. Appeals admitted by the District Judge against the decision of Sub-Judges are either heard by him or by Additional Judges to whom he may choose to transfer the same for disposal.

As the principal civil court of the district, the District Judge is empowered to withdraw *suo moto* or on the motion of any party, any civil suit or execution case from the file of any subordinate court and transfer the same to any other competent court for disposal. Occasions come frequently for the exercise of this power of supervision and control vested in him in the interest of just and quick dispensation of Civil Justice. The District Judge receives applications under the Probate Act and Indian Succession Act and disposes them himself or transfers them to the file of the Additional Judges for disposal. Under the Guardian and Wards Act, the District Judge acts as the guardian of all the minors in the district. As such, he appoints guardians of minors for whom applications are made before him. He has also the inherent power to act *suo moto* for appointment of guardians of minors. The aforesaid powers under the Guardian and Wards Act are vested only in the District Judge on account of great care and caution needed for the purpose, and even the Additional District Judge cannot exercise any of those powers. Appeals against the decision of District Judge and Additional District Judges lie before the High Court. The aforesaid power of supervision and control by the District Judge is not vested in the Additional Judges.

#### GRAM PANCHAYAT.

There is no *Panchayat* courts in this district established under section 6 or section 7 of the Village Administration Act, 1922. A large number of *Gram Cutcheries* is, however, functioning in this district under the Bihar Panchayat Raj Act, 1947. The special feature about the *Gram Cutcheries* is that they are enjoined to bring about amicable settlement in every suit between the parties first; failing which they are to proceed to give their decision on merit. An appeal has been provided against the order of a Bench of a *Gram Cutchery* to the Full Bench of a *Gram Cutchery*. The Munsif having jurisdiction over the area of the *Gram Cutchery* in respect of a civil suit has been authorised to cancel the jurisdiction of a Bench or set aside the order of such Bench with regard to any civil case. But he has no power to order retrial by a Bench of a *Gram Cutchery*. The stress on amicable settlement first has been laid in the legislation with a view to reviving harmonious and peaceful village corporate life in the rural area which at one stage of our history had reached a very high peak in this State. The tabular statement no. I attached herewith gives useful information as to the working of this new system in the administration of Civil Justice. It will appear from it that the number of such courts is increasing fast year by year, and

there have been almost negligible occasions for the matter coming up before the Munsif against the *Gram Cutcheries*. It will further appear that more than 50 per cent of the suits disposed of by the *Gram Cutcheries* were cases of disposal by amicable settlement. It is, however, yet too early to assess the effects of this system on the number of civil suits in the courts of Munsifs.

Statement II annexed herewith gives the number of institution and disposal of civil suits and appeals yearwise for 18 years. The figures for 1913 have been given because the judgeship came into existence from 1st January, 1914 as already mentioned. There was a small drop in the institution of suits in the year 1923, and, therefore, the figures for that year have also been given. The next period selected for the figures is the period from 1941 to 1956. It will be noted that there was a sudden fall in the institution of civil suits in 1942, the year of the "Quit India Movement". There was a sudden rise in 1943 and again a drop in 1944 and a further drop in 1945. There was a marked rise in 1954 and thereafter a marked fall in 1955 and a further fall in 1956. The present fall in the institution of civil suits is mainly due to complete abolition of zamindari in the district and a further fall due to this factor is not unlikely.

## STATEMENT I.

Year of report.	Number of <i>Gram Cutcheries</i> .	Total number of suits instituted.	Number of suits disposed of by amicable settlement.	Number of suits disposed of otherwise.	Total number of suits disposed of (cols. 4+5).	Number of suits entertained by Munsifs under section 73 of the Act.			Total number of suits disposed of by Munsifs under section 73 of the Act.
						Dis-missed.	Allowed or modified.		
1	2	3	4	5	6	7	8	9	
1954 ..	176	531	180	263	443	Nil	Nil	Nil	
1955 ..	589	607	239	178	417	Nil	Nil	Nil	
1956 ..	604	1,183	658	543	1,201	2	Nil	2	
Total ..	1,369	2,321	1,077	984	2,061	2	..	2	

STATEMENT II.

*Institution and Disposal of Civil Suits and Appeals.*

Year.	Civil suits.		Miscellaneous cases.		Execution cases.		Appeals.		Miscellaneous appeals.			
	Insti- tution.	Disposed of.	Insti- tution.	Disposed of.	Insti- tution.	Disposed of.	Insti- tution.	Disposed of.	Insti- tution.	Disposed of.		
1	2	3	4	5	6	7	8	9	10	11		
1913	..	..	13,066	5,489	1,959	1,415	6,689	4,527	662	312	122	91
1923	..	..	11,858	Not available.	1,849	Not available.	7,059	Not available.	668	Not available.	219	Not available.
1941	..	..	20,660	20,475	3,914	3,671	13,331	10,930	472	468	197	195
1942	..	..	3,829	6,131	3,433	3,690	11,875	12,916	369	326	148	168
1943	..	..	22,177	19,922	3,608	3,691	8,802	12,646	428	367	231	206
1944	..	..	12,212	12,428	3,165	3,189	8,535	2,896	523	508	215	209
1945	..	..	9,907	9,805	2,841	2,918	4,312	7,732	514	467	220	217
1946	..	..	8,515	9,799	2,063	2,443	5,660	4,748	732	682	183	194
1947	..	..	8,722	8,538	1,901	2,123	4,770	4,817	620	683	169	172
1948	..	..	9,479	9,187	1,643	1,544	5,389	4,893	457	572	110	151
1949	..	..	9,145	9,303	1,665	1,608	4,499	5,589	340	412	126	119
1950	..	..	8,046	9,085	1,606	1,634	4,650	4,722	472	366	131	139
1951	..	..	8,381	8,371	1,432	1,540	4,505	4,605	295	342	110	91
1952	..	..	9,491	9,830	1,361	1,293	4,434	4,265	452	256	73	67
1953	..	..	9,960	9,688	1,547	1,507	4,047	4,365	403	402	92	78
1954	..	..	11,931	11,504	1,770	1,617	4,219	3,882	342	462	97	98
1955	..	..	6,844	8,887	5,933*	1,709	3,912	3,893	262	366	132	131
1956	..	..	5,383	6,036	1,959	1,838	3,888	4,036	261	267	137	129

N.B.—\*3,013 related to L. R. claim case and those were transferred to Claim Officer.



## ORGANISATION OF CRIMINAL COURTS.

For the performance of executive functions and trial of cases by Executive Magistrates under the control and supervision of the District Magistrate, this district is divided into four subdivisions, namely, Monghyr Sadar, Jamui, Begusarai and Khagaria with their respective headquarters at Monghyr, Jamui, Begusarai and Khagaria. The Sadar subdivision also is now a separate entity like other subdivisions as the reorganisation scheme recommended by Shri B. D. Pande, I.C.S., has been given effect to in this district from the 11th November, 1957 on an experimental basis. Khagaria subdivision was carved out of the Sadar subdivision and came into existence in 1944.

The present sanctioned strength of Deputy and Sub-Deputy Collectors for the district headquarters is nine and two respectively including the officers meant for the Sadar subdivision. The sanctioned strength for Jamui subdivision and Begusarai subdivision each is one Deputy Collector or a Junior I. A. S. Officer and one Sub-Deputy Collector. As Khagaria subdivision was carved out of Sadar subdivision its sanctioned strength of one Deputy Collector and one Sub-Deputy Collector was allotted to it out of the aforesaid sanctioned strength of the district headquarters. A Deputy Collector out of the sanctioned strength with first class magisterial powers functions at present as the Subdivisional Magistrate in charge of each of the four subdivisions. Besides the Sub-Deputy Collectors of the sanctioned strength functioning as Magistrates at the subdivisional headquarters, the Subdivisional Magistrates are assisted in the discharge of executive functions and trial of cases triable by Executive Magistrates by a number of temporary posts manned by temporary or permanent Deputy Collectors and Sub-Deputy Collectors exercising magisterial powers. After the separation of the Sadar subdivisional office from the district office, the only officer doing magisterial work in the Collectorate side is the District Magistrate, who continues to exercise the powers of control and supervision under section 435, Criminal Procedure Code over the Executive Magistrates in the district. The District Magistrate as well as the Subdivisional Magistrates continue to exercise their powers under section 520 (2), Criminal Procedure Code in regard to cases triable by Executive Magistrates. They also continue to exercise powers under section 349, Criminal Procedure Code in respect of cases tried by all the Magistrates of the second or the third class. They also take cognizance of offences and pass orders for dismissal or trial.

The Sessions Judge is assisted by a number of Judicial Magistrates, Munsif-Magistrates and Honorary Magistrates at each subdivisional headquarters for the trial of cases. The Subdivisional Magistrates as well as other Executive Magistrates with first class powers are also under the supervision of the Sessions Judge in his

capacity as the appellate court, and he has to record his annual remarks on the judicial work of these Magistrates.

In the trial of Sessions cases, the Sessions Judge is assisted by an Assistant Sessions Judge and three Additional Sessions Judges stationed at the district headquarters. The appeals against the Magistrates with second and third class powers are heard by the Assistant Sessions Judge and those against the decisions of Magistrates with first class powers either by the Sessions Judge himself or by the Additional Sessions Judge to whom he may transfer the appeal. The appeals are, however, in all cases filed before the Sessions Judge. The Sessions Judge also exercises the powers under section 435, Criminal Procedure Code and section 528 (2), Criminal Procedure Code over all Magistrates in the district engaged on trial of cases and also over the Subdivisional Magistrates. One of the Additional Judges has been appointed Special Judge under section 6 of the Criminal Law Amendment Act, 1952 for the trial of bribery and corruption cases. The District Magistrate takes cognizance in such cases and transfers the same to the Special Judge's file for disposal. He does not exercise the powers of withdrawal of such cases from the file of one Special Judge and transfer of the same to the file of another Special Judge. These powers are exercised by the Sessions Judge.

The system of trial of Sessions cases with aid of assessors has been abolished with effect from the 1st January, 1956 on account of the provision of the Criminal Procedure Code Amendment Act 26 of 1955 coming into effect in this State from that date. The system of trial by jury introduced in 1922 in this district continues but in respect of very few offences now, namely, sections 379 to 382, 403, 404, 411, 426 to 432, 434, 435, 440, 448, 450 to 458, 461 and 462, Indian Penal Code. During the last few years the system of trial by jury came in for much public criticism and in December, 1949 the State Government asked for the views of the High Court on the question of the abolition of jury trial in respect of certain offences and the selection of right type of men as jurors. As a result of Government agreeing with the views forwarded by the High Court, the system of trial by jury in respect of offences under sections 363 to 369, 372, 373, 376, 392 to 394 and 401 of the Indian Penal Code was abolished in this district with effect from the 20th February, 1950. The State Government further abolished the system of trial by jury in respect of offences under sections 436, 459, 460 and 493 to 498 of the Indian Penal Code in this district with effect from 1st August, 1952, after receiving the recommendation of the committee appointed under the Chairmanship of Hon'ble Mr. Justice S. K. Das of the Patna High Court to suggest ways and means of improving the system of jury trial. There was a further cut in the year 1957 in the number of offences triable by jury in this district.

There is no *Panchayat* Court in this district constituted under the Bihar and Orissa Village Administration Act, 1922. There is, however, a large number of *Gram Cutcheries* functioning in this district under the Bihar Panchayat Raj Act, 1947 which was passed with the effect of developing the system of self-government in rural areas of the State. A special feature about the *Gram Cutcheries* is that except in non-compoundable cases, they are enjoined to bring about an amicable settlement between the parties first, failing such settlement, they are to proceed to give their decision on merits. The stress on amicable settlement has been laid with a view to reviving the peaceful and harmonious village corporate life in the rural areas of the State. It is yet too early to assess properly the effect of this system. Statement III annexed herewith gives the relevant figures which would show how fast the system is expanding in the rural areas and to what extent it has succeeded in bringing about amicable settlement between the contesting parties. During the three years period 1954 to 1956, the *Gram Cutcheries* in the district disposed of by amicable settlement 7,294 criminal cases out of the total disposal of 9,335 only. It was in very few cases that the powers of the Subdivisional Magistrates under section 73 of the Act was invoked.

The District Magistrate assisted by the local departmental heads is responsible for proper prosecution of the State cases before the Magistrates as well as before the Sessions courts. State cases before Magistrates are conducted by a Senior District Prosecutor (who is an officer of the Police Department of D. S. P.'s rank) assisted by a number of Assistant District Prosecutors both at the district headquarters and the subdivisional headquarters. Those Assistant District Prosecutors also belong to the Police Department. For conducting prosecution in sessions cases and for appeals and revisions before the courts of sessions, there is a Public Prosecutor assisted by a panel of Assistant Public Prosecutors at the district headquarters. They are selected from among the lawyers of the district. The Public Prosecutor gets a retainer's fee in addition to the fees for actual work done which he as well as the Assistant Public Prosecutors are entitled to in accordance with the scale of fee laid down in the Practice and Procedure Manual.

• Statement IV annexed herewith gives the number of important categories of cognizable offences for the period 1939 to 1945 and 1947 to 1956. The sharp rise in the number of murder, dacoity, robbery, burglary and riot cases in the year 1942, the year of our great "Quit India Movement" is notable. The trend was upward in 1943 also. Though the figures are fluctuating thereafter the rise in crimes is almost a permanent feature and whatever control was achieved in some years proved only to be fluid by immediate subsequent rise. Statement V gives the figures for 1913 and 1938 to 1956 of sessions cases and appeals and revisions heard by the courts of sessions. Figures for 1913 have been given as this Sessions Division

of Monghyr came into existence on the 1st January, 1914 as stated earlier. Statement VI gives figures of criminal appeals and revisions heard by the District Magistrate.

There is a Railway Magistrate stationed at Kiul and another at Barauni in this district for the spot trial of railway cases triable by Executive Magistrates. The incidence of ticketless travelling and particularly among the students and other offences under the Railway Act such as unauthorised pulling of alarm chains, causing obstruction to a railway servant in the discharge of his duty has gone up enormously. It is a pity that the two Railway Magistrates should be unable to cope with the problem. Armed sections are deployed to help the Railway Magistrates do their work.

Formerly, there used to function benches of Honorary Magistrates at Sheikhpura, Lakhisarai and Jamalpur in Sadar subdivision of this district for spot trial of cases, but now the Honorary Magistrates sit at the subdivisional headquarters of each subdivision. Except at Jamalpur in Sadar subdivision, there is again a public demand for a bench of Honorary Magistrate at Sheikhpura on account of high incidence of crimes in the area.

## STATEMENT III.

Year of report.	No. of Gram Cutcheries.	Total number of cases instituted.	Number of cases disposed of by amicable settlement.	Number of cases disposed of otherwise.	Total number of cases disposed of (cols. 4 + 5).	Number of cases entertained by Subdivisional Magistrates under section 73 of the Act.		
						Dis-mitted.	Allowed or modified.	Total number of cases disposed of under section 73 of the Act.
1	2	3	4	5	6	7	8	9
1954 ..	176	1,594	1,027	299	1,326	Nil	Nil	Nil
1955 ..	604	2,841	1,763	613	2,376	4	8	12
1956 ..	604	5,702	4,504	1,129	5,633	17	18	35
Total ..	1,384	10,137	7,294	2,041	9,335	21	26	47

## STATEMENT IV.

*Number of important offences and cases instituted.*

Year.	Murder.	Dacoity.	Robbery.	Burglary.	Theft.	Riot.	Swindling.
1939	22	8	17	1,878	858	65	39
1940	26	18	21	1,710	772	141	13
1941	22	23	14	2,049	780	78	15
1942	35	79	20	2,208	742	108	20
1943	48	295	45	2,279	917	151	18
1944	36	162	22	1,416	701	116	7
1945	31	123	26	1,547	955	108	10
1946	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
1947	32	170	48	2,082	873	N.A.	28
1948	38	160	51	1,687	1,012	141	14
1949	38	83	32	1,406	959	302	23
1950	38	75	40	1,459	1,184	378	10
1951	46	111	57	1,761	1,011	261	21
1952	62	128	50	1,511	1,048	295	15
1953	62	111	43	1,385	255	280	23
1954	29	110	37	1,483	140	238	30
1955	48	101	41	1,509	105	268	24
1956	30	75	38	1,385	193	185	18

SESSIONS CASES AND CRIMINAL APPEALS AND REVISION BY THE COURTS OF  
SESSIONS.

STATEMENT V.

Instituted. Disposed of. Instituted. Disposed of. Instituted. Disposed of.

Year.

Sessions cases. Criminal appeals. Criminal revision.

Year.	1	2	3	4	5	6	7
1913	40	32	121	112	N.A.	N.A.	N.A.
1938	70	62	220	224	122	120	120
1939	61	70	301	301	128	126	126
1940	64	41	347	340	121	123	123
1941	64	54	282	279	102	92	92
1942	42	66	202	216	82	92	92
1943	176	63	284	259	122	119	119
1944	189	198	319	334	133	117	117
1945	94	190	287	280	233	226	226
1946	101	98	243	255	153	164	164
1947	82	75	179	170	143	153	153
1948	155	145	295	280	112	112	112
1949	176	161	418	396	103	97	97
1950	100	135	305	318	113	110	110
1951	140	121	493	378	201	187	187
1952	142	129	421	336	173	169	169
1953	152	130	492	446	167	162	162
1954	104	161	455	660	243	231	231
1955	118	90	446	271	291	194	194
1956	91	104	474	322	325	309	309

## STATEMENT VI.

Showing the number of appeals and revisions filed before the Deputy Magistrate with appellate powers and District Magistrate, Monghyr.

Year.	Appeal filed before Deputy Magistrate with appellate powers.		Appeal filed before District Magistrate.		Revision filed before District Magistrate.	
	Insti- tution.	Disposal.	Insti- tution.	Disposal.	Insti- tution.	Disposal.
1937 ..	112	111	25	19	130	94
1938 ..	239	254	28	28	232	115
1939 ..	246	238	14	13	251	97
1940 ..	252	249	28	28	277	147
1941 ..	95	128	180	104	275	171
1942 ..	126	159	39	27	165	73
1943 ..	159	200	36	9	231	150
1944 ..	257	282	10	16	267	205
1945 ..	202	172	35	37	237	153
1946 ..	93	116	35	35	128	114
1947 ..	92	121	..	..	92	96
1948 ..	189	143	15	15	204	303
1949 ..	170	192	30	26	207	375
1950 ..	184	192	46	50	230	291
1951 ..	..	..	..	..	..	92
1952 ..	..	..	..	..	..	122
1953 ..	..	..	..	..	..	176
1954 ..	..	..	..	..	..	126
1955 ..	..	..	..	..	..	106
1956 ..	..	..	..	..	..	78

1 2 3 4 5 6 7 8 9

## ORGANISATION OF LOCAL BODIES.

Besides the *Gram Cutcheries* functioning under the provisions of the Bihar Panchayat Raj Act, 1947, for civil suits as well as criminal cases as stated earlier, Local Bodies help in the administration of justice also by detecting and instituting cases relating to the violation of their bye-laws and cases under the Prevention of Food Adulteration Act. Each Local Body has got its own staff for the detection of its bye-law cases, which are instituted after prosecution is sanctioned by its Chairman or Vice-Chairman. Not only the Municipalities and Notified Area Committee, but also District Boards and Local Boards get food materials checked in their areas by their own Sanitary Inspectors for the detection of cases of food adulteration and institute cases. These Sanitary Inspectors are authorised to take samples of food for check.

The District Board of Monghyr manages 83 cattle pounds in the district and thereby helps in the administration of law relating to the Cattle Trespass Act. The District Board also manages two veterinary hospitals and 10 dispensaries in this district, which help the Veterinary Inspectors in the administration of Prevention of Cruelty to Animals Act. These Veterinary Inspectors are Government servants, but their services have been placed at the disposal of a voluntary social organisation, namely, Society for Prevention of Cruelty to Animals with its headquarters at Patna. The Public Health Departments of the District Board, Municipal Boards and Notified Area Committees help also in the administration of the Bengal Vaccination Act by detecting offences relating to vaccinations and by initiating prosecutions.

There are at present 605 *Gram Cutcheries* in this district trying civil suits as well as criminal cases under the provisions of the Bihar Gram Panchayat Raj Act, 1947. They cover 3,177 villages and 22,33,457 of the total district population of 28,30,853 only. This institution for the speedy trial of cases is expanding very fast in this district as will appear from the previous Statements marked I and III. Allegations, however, are made in a few cases of the failure of the duty of these courts of justice to make an effort for amicable settlement, partiality in the course of trial, the influence of the party spirit in the conduct of trials and also in the decision arrived at, and non-compliance with the mandatory provisions of the Act or violation of the principles of natural justice. In this district, much mischief is sometimes caused on account of ignorance of law on the part of the *Panches* constituting the trial court and undue influence of the *Gram Sewak* who is generally a trained hand acquainted with the technicality of law as well as of the system.

There is a coverage on the *Gram Panchayats* as an institution separately.



## DISPOSAL OF CASES.

*Civil suits and appeals.*—Statements I and II also show disposal. On account of progressive decline in the number of institution of suits, disposal of civil suits and appeals at district and lower level is no longer any cause of anxiety.

*Criminal cases.*—Disposal of criminal cases continued to be a growing headache with the progressive rise in crimes. The long duration in the trial of cases in the courts of Magistrates and also in commitment enquiries is due to delay in submission of charge-sheet and more often to the difficulty in securing the attendance of witnesses, specially police witnesses, and their piecemeal examination. Numerous executive functions of the trying Magistrates continued to be the greatest hinderance in the disposal of cases. Inadequate prosecuting staff in the court of Magistrates is partially responsible for delay in disposal of cases. Occasionally keen contest by the lawyers delays disposal. A large number of wholtime Magistrates for the trial of cases or change of law of procedure and the law of evidence may be remedies for expediting trial of criminal cases. There have been some such recent changes.

## THE POLICE AND CRIME.

The district of Monghyr is commonly known as the criminal district. The incidence of crime has been generally high. Land is high-priced here and the large river front makes the *diara* problem rather acute and riots for *diara* lands are quite common. At one time, in the early days of British rule river dacoity was quite common. Some of the portions of the district were quite remote from the district headquarters owing to the bifurcation of the district by the river Ganga. The inaccessibility of some parts was another factor for crime. Portions of the district are covered by hills and forests and it is only very recently that proper roads have been constructed and power-vehicles are a common sight.

The district had figured rather prominently in the days of the communal disturbances of 1946. Passions ran high and the people lost control over themselves at Lakhanpur in Tarapur police-station and of the other villages.

The police organisation is headed by the Superintendent of Police with headquarters at Monghyr. He is under the administrative control of the District Magistrate and the Deputy Inspector-General of Police at Bhagalpur. He has a number of gazetted officers under him, viz., an Additional Superintendent of Police at Begusarai, who has jurisdiction at Khagaria subdivision as well, and an Assistant Superintendent of Police at Jamalpur, a Deputy Superintendent of Police in charge of Sadar subdivision, another Deputy Superintendent of Police at Begusarai under the Additional Superintendent of Police, another Deputy Superintendent of Police

in charge of the Jamui subdivision, Lakhisarai Circle under Jamalpur police-station. There are a number of Inspectors, Sub-Inspectors, Assistant Sub-Inspectors, *Havildars*, Sergeants and constables. There is also a sizeable temporary force for *Anchals*, Gun-Factory, a number of outposts, etc. The total number of constables include 701 for permanent police force, 348 for armed branch and 375 as temporary force. The rural police consists of 284 *Dafadars* and 2,347 *Chaukidars*.

The distribution of the police *thanas* is as follows :—

*Sadar subdivision*.—(1) Town police-station, (2) Jamalpur police-station, (3) Muffasil police-station, (4) Kharagpur police-station, (5) Tarapur police-station, (6) Surajgarha police-station, (7) Lakhisarai police-station, (8) Sheikhpura police-station, (9) Barbiga police-station, (10) Burhee police-station, (11) Sangrampur police-station, (12) Ariari police-station.

*Jamui subdivision*.—(1) Jamui, (2) Sikandra, (3) Chakai, (4) Jhajha, (5) Lachmipur, (6) Sono, (7) Khaira, (8) Halsi.

*Begusarai subdivision*.—(1) Begusarai, (2) Ballia, (3) Bachhwara, (4) Teghra, (5) Bakhri, (6) Bariarpur.

*Khagaria subdivision*.—(1) Khagaria, (2) Gogri, (3) Chautham, (4) Bakhtiarpur, (5) Parbatta, (6) Alauli, (7) Beldaur.

#### CRIMINALS.

The remarks in the old Gazetteer of a Commissioner that “South Monghyr is, I think, the post criminal area which I have seen in India; and one whole pargana is and long has been reputed to have a population of thieves” apply equally these days. The registration of Dharis and Dusadhs under the Criminal Tribes Act greatly eased the crime position. The Criminal Tribes Act has since been repealed with the result that Dharis and Dusadhs have revived their activities. After the repeal of the Criminal Tribes Act these ex-Criminal Tribes Act members are without any police surveillance. They have been found to have been participating in dacoities. Several persons were brought under surveillance on account of their redoubled activities and with the growing population it has been difficult for the police to exercise proper surveillance over these criminal classes. Dharis and Dusadhs have been described separately.

Banpars have not had any prominent place for criminality in the district. A number of them live in Monghyr and Gogri *thanas*. Sometimes they commit river dacoities in flood seasons in co-operation with Tears and Binds.

## CRIMINAL CASTES.

*Dharis.\**

"The Dharis are well known thieves and dacoits, but, shrewdly enough, they rarely commit crime in the vicinity of their own villages . . . . . their connection with the rivers is of a peculiar nature. They do not ordinarily follow any calling on the rivers, but when the country is flooded they take advantage of it to organise regular raids in little dug-outs, which are kept carefully sunk and hidden away. It is said that when on expedition outside the district they work in gangs of seven men. They usually live in a separate quarter of the village, and their houses have nearly always a pig-sty attached to them, to which they give the name *benkor*. In the courtyard of their houses there is a small *pindi* dedicated to Ram Thakur on which they sacrifice the animals they breed at the same time offering incense and prayer to the God. They have a priest (*bhagat*) who officiates for them at various domestic ceremonies and also on special occasions, when the Dharis set out on thieving expeditions.

"In appearance the Dhari is not unlike the Musahar, but he has a stronger physique. Generally speaking they are hardy set of men of good constitution capable of travelling long distance at a high rate of speed. Out of about 200 prisoners medically examined some years ago in the Monghyr Jail, the Dharis were found to be the strongest and best nourished. The ostensible means of livelihood of this essentially criminal caste are breeding animals and manual labour, but there is no doubt that in nearly every case the Dhari is a habitual thief or burglar. It is said, indeed that they look on thieving as their traditional occupation, so much so that a theft committed by one Dhari in another Dhari's preserve, without his consent, is mentioned as a bar on intermarriage. Thirty years ago enquiry showed that out of 1,003 Dharis in this district no less than 209 had been more than once in jail, while the jail register showed the names of 60 more who could not be identified owing to false names and addresses having been given. The caste now numbers in this district about 2,200 most of whom are found in the Sheikhpura and Surajgarha *thanas*."

It is curious to note that remarks about them recorded about 30 years back, still hold good to a great extent. After the introduction of the Criminal Tribes Act many of them were brought under its operation though the results were not very satisfactory; the Dharis continued going strong on the path of crime in spite of the Criminal Tribes Act.

The Dharis are a caste of lower Hindus resembling Dusadhs in certain respects and the Musahars in others. They are of heavy build, physically stout, carry heavy loads and are merciless. Strangely

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\* Quoted from the *District Gazetteer of Monghyr* (1926).

enough many of them are handsome in appearance and even in complexion. This is often attributed to the fact that they are of loose morals. They can walk or run from 20 to 30 miles in the night and so they often commit crime at a great distance, from their places of resort and return back before day-break. Formerly they were only thieves and burglars. Their usual *modus operandi* in burglary was scaling over wall and opening a portion of the house, for example, latrine, backyard, etc. They also cut *sendh* and *bagli* sometimes. The Dhari criminal, when resisted becomes violent rather than cowed down and escape. Of late the Dharis have taken to organised crime like robbery and dacoity. So far their dacoities are unarmed, they do not use fire-arms. Their dacoities are often accompanied with rape and unnecessary cruelty to the victims. They are in the habit of looting cooked foodstuffs at the place of occurrence either because they love a feed or because they have to travel a long distance and carry heavy weight.

The Dharis, on account of prolonged prosecution have learnt the letters of the law and are now usually well defended in court. It is quite usual that the Dhari criminal has behind him his patrons, usually some rich and influential persons in the neighbourhood who share his booty of crime and protect him from the police and the law courts as long as they can. There are instances in which such persons have openly defended the Dharis in bad livelihood cases specially in Sheikhpura and Barbigha police-station areas. The Dhari knows by experience the defects of Evidence Act and will never disclose information leading to recovery of stolen properties or arrest of his real associates. It is also a fact that the Dhari himself would not commit crime in his own neighbourhood because he knows full well, he will be the first victim of police suspicion. Usually the Dhari is employed as a *Gorait* and also for purposes of cultivation but he is by habit and training a criminal.

The Dharis are found in an area comprising the following police-stations of Monghyr district :—

Surajgarha, Lakhisarai, Burhee, Sheikhpura, Sikandra and Barbigha.

*Patna district.*—Bihar, Sarmena and Asthawan police-stations scattered in different villages. Usually the Dhari's home is on the outskirts of the village and his movements do not easily come to the notice of the rest of the village.

The following villages comprising the more notorious Dharis deserve particular watch :—

Surajchak, Nawabganj in Surajgarha police-station, Nadiawa and Bikam in Lakhisarai police-station, Lachmipur in

Burhee police-station, Bhadousi in Sheikhpura police-station, Kumetha, Kaini and Sahora in Sikandra police-station. Teus in Barbigaha police-station and Manpur in Asthawan police-station.\*

The Dharis of the different police-stations are inter-related with each other socially and associated criminally. Simultaneously they organise dacoity also.

#### *Dusadhs.*

To the south in the Chakai *thana* there is a body of Dusadhs known as notorious criminals. The following note regarding this class has been contributed by the Rev. J. M. Macphail :—

“The Dosadhs of Chakai have for long been notorious as daring and adventuresome robbers. By an ancient arrangement Ghatwars are appointed by the Maharaja to guard the pass from Bamdah to Batia and they are supposed to accompany travellers through the pass. I believe the object of this arrangement was to protect travellers from thieves as well as from wild animals. One reason why these thieves find Chakai so convenient a centre is because it is near the borders of three other districts, Hazaribagh, Santhal Parganas and Bhagalpur. The thieves can easily do a night's work in villages (some of the important centres like Baidyanath) in those other districts and be back to their own villages in the morning. They are chiefly found in large village, Chandermadi, near Nawada (often called Chor Nawada) and Karangarh about five miles from Chakai *thana*. There is very little secrecy about their way of life and otherwise honest and respectable people in the neighbourhood buy all sorts of articles from them, knowing quite well that they have been stolen. They are not very particular regarding the articles they steal, although perhaps they may be said to have a partiality for brass vessels, foodstuffs. Clothing and standing crops are frequently stolen and they are also cattle raiders, sheep and goats at any rate being very frequently stolen.

“They are remarkably expert. I have known of cases in our own Mission Hospital here, where they have stolen the bedding on which a man was lying and also the gold spectacle he was wearing, without his being conscious of the fact at the time. I have been told that they will steal a *lota* from the midst of a group of travellers camped round a fire at night. Their *modus operandi*

\* These villages should offer an excellent field for a sociological investigation. (P. C. R. C.)

is to approach the group, asking to be allowed to get a light from the fire, and to take opportunity of letting a noose fall over the neck of a *lota*. The *lota* is then jerked away, when nobody is watching it. They are also very daring. I have known them steal the clothes from off the body of a pilgrim woman by sheer force, leaving her practically naked, in the verandah of our hospital on a dark night. An illustration both of the daring and the expertness of the thieves was afforded some time ago when they dug through the walls of the Chakai *thana* and killed the Sub-Inspector's horse.

“Hitherto the Dosadhs have also shown remarkable cleverness in evading the law. Some time ago a Santhal in Bamdah found a Dosadh, one of the leaders of the gang, stealing a sheep from his courtyard at night. He raised a hue and cry, and gave chase and the man was caught and taken to the *thana*. In due course the trial came on at Jamui, but the thief was acquitted and the man who caught him was prosecuted for assault or on some similar charge. Another fact that has helped to secure their immunity has been that there has been too little hostility to them and their doings on the part of their neighbours, who do not object to their stealing other people's property, and who also derive some profit by buying goods from the thieves at less than cost price. It used to be custom here, as in many other places, to employ Dosadhs as village *chaukidars* and the people who remember that time tell me that when any thing was stolen, if they made sufficient noise about it, they always got it back through the *chaukidars*.”\*

It is painful to note that this criminal caste has not yet been fully reclaimed although much of the remarks do not apply now. The geographical position of this area helps them. It is easy for them to commit crime in neighbouring districts of Hazaribagh, Santhal Parganas, and Bhagalpur which lie on the borders of the *thana* and to return afterwards to their isolated homes and before day-break. The rush of pilgrims at Baidyanath Dham gives an attraction of plunder.

On account of their habit of crime for generations, they were brought under the operation of the Criminal Tribes Act. This comparatively curbed their notorious activities. Since they are scattered in a very wild area, they found it easy to escape police attendance and commit crime even during the operation of the Criminal Tribes Act, but fear of punishment on account of absence had some effect. The repeal of the Criminal Tribes Act in 1950

\* Quoted from the last *District Gazetteer of Monghyr* (1926).

removed the worst obstacle in the criminal path of the Dusadhs. After the repeal of the Criminal Tribes Act a few of the more active Dusadhs have been brought under surveillance though actual surveillance is ineffective.

The epithet "Chakai Dusadh" is now applicable to large number of people inhabiting the hilly tracts in Jhajha and Chakai police-stations in this district and almost all the border police-stations of Hazaribagh (Bengabad and Deori), Santhal Parganas (Jasidih police-station) and Bhagalpur and relations of the "Chakai Dusadhs" have learnt the trick of the trade from them. These may be termed to be the worst burglars of the country today.

They are mostly poor landless labourers and hard put to make both ends meet. This only necessitates an occupation and their instinct for crime is aroused. This reflects on their *modus operandi*. In the majority of cases, they cut *sendh* in mud walls and steal mostly foodgrains, goats, sheep, etc. Another favourable item of their prey is utensils, made of brass and copper. But the hardened Dusadh criminal who has learnt different types of burglaries by training and experience goes after richer booty also and his field of activity is now no longer as narrow as before. They are experts, daring and well versed in the tricks of their trade. Of late, they move in groups and when challenged, take to violence. They have a large number of sympathisers in the area in the richer inhabitants, who almost all received the properties stolen by them.

The Dusadhs are scattered throughout the Chakai police-station and Chandramandi Beat House areas. The villages inhabited by them are Golachakai, Nawada, Kiajori, Jhagrudih, Balagoji, Lakhua, Chandramandi, Raichor, Kaltanpur, Palanitanr, Karckaritanr, etc. After the abolition of the Criminal Tribes Act they are not under surveillance and often quarrel with police and *chaukidars* sent to watch or picket them.

The question of Chakai Dusadhs is a question of control of burglary in vast areas in three or four districts. The difficulties are the following :—

- (1) The unemployment and other economic difficulties of the Dusadhs.
- (2) The unsocial habits of the Dusadhs who have been indulging in crime for generations.
- (3) The repeal of the Criminal Tribes Act and the consequent removal of legal bar on their movements.

A social education programme is necessary to reclaim them. The following measures may be indicated to tackle the problem :—

- (1) Opening of schools and a mass scheme for bringing about a change of outlook in their mode of life.

- (2) Enactment of Habitual Offenders Act or legislation.
- (3) Organisation of *Gram Panchayat* and Village Development Force which can better look after the movements of the criminals than the *chaukidars*.
- (4) The strength of Chakai police-station and Chandramandi Beat House area may be augmented in order to make surveillance over the Dusadhs effective.\*

### JAILS.

The Juvenile Jail at Monghyr was transferred to Bhagalpur sometime in 1949. The jail at Monghyr is now simply a district jail. There are subsidiary jails at Begusarai, Jamui and Khagaria. The registered capacity of Monghyr Jail is 453 including 8 for females. There are minor industries for *durees*, *newar*, weaving, tailoring and prison clothings. The subsidiary jail at Jamui has accommodation of 37 male and 7 female prisoners and that at Begusarai for 24 males and 4 females. Jamui and Begusarai Sub-Jails are affiliated to Monghyr District Jail. Khagaria Sub-Jail is affiliated to Bhagalpur Jail.

At the District Jail at Monghyr there are two cells having the capacity of 8 prisoners.

There is a hospital in the Monghyr District Jail and it accommodates 34 prisoners. With a view to step up social reforms among the prisoners, mass literacy campaign is in vogue.

The District Jail has now a Superintendent of Jails in addition to Jailor and Assistant Jailors.

One portion of the District Jail at Monghyr has been separated for accommodating Gun Factory.

### LEGAL PROFESSION.

The legal profession consists of Advocates, Pleaders and Mukhtears. The practice Barristers from other places and particularly from Patna are often briefed. The members of the Bar Association have maintained the rich tradition of the past for their independence, integrity and co-operation with the courts. The Bar Association has its own building and a library. The Mukhtears have their own association and a library. As Mukhtears are no longer being recruited there is a gradual decline in their numbers. There is a close co-operation between the Mukhtears and the criminal courts.

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\* The above description of the Dharis and Dusadhs is based on the report of the District Magistrate and largely depends on the treatment in the last Gazetteer. There has not been any recent sociological investigation based on modern techniques. (P. C. R. C.).