

CHAPTER XII.

LAW, ORDER AND JUSTICE.

INCIDENCE OF CRIME.

The district of Saharsa is in close vicinity of Nepal. Criminals from Nepal along with the criminals from the districts of Purnea, Darbhanga and Monghyr in the State of Bihar are responsible for the high incidence of crime in this district. It is easy for the criminals to slip across the borders to Nepal after committing crimes and even if detected, extradition process takes a long time. Besides there are some known gangs that operate in this district. Their names along with the area of their operation are given below:—

Names.	Area of operation.
1. Kari Kunjara Gang ..	Saharsa, Purnea and Nepal.
2. Hazari Chamar Gang ..	Saharsa, Purnea and Nepal.
3. Badri Singh Gang ..	Saharsa and Purnea.
4. Lodhai Chain Gang ..	Saharsa and Purnea.
5. Mahisa Maldahia Gang ..	Saharsa, Purnea and Nepal.
6. Madhukar Chaque Rajpur Gang.	Saharsa and Purnea.
7. Nepal Gang ..	Saharsa, Purnea and Nepal.
8. Kuldip Singh Gang ..	Saharsa, Purnea and Begusarai subdivision of Monghyr district.
9. Kasturi Gorhi Gang ..	Saharsa, Purnea and Monghyr.
10. Ajodhi Mandal's Gang ..	Saharsa and Purnea.
11. Gang of Rajeshwari Criminals.	Saharsa, Purnea and Nepal.
12. Gang of Azim Mian ..	Saharsa, Purnea and Nepal.
13. Mahthaur Criminals ..	Saharsa, Darbhanga and Nepal.

— Mahthaur criminals belong to Phulparas police-station in Darbhanga district, Kuldip Singh Gang to Gogri police-station of Monghyr district and Nepal Gang to Nepal. The other gangs have their residence within this district.

LAW, ORDER AND JUSTICE.

The statistics of important crimes from 1952 to 1962 are given below:—

Year.	Murder.	Dacoity.	Robbery.	Burglary.	Theft.	Riot.	Swindling.
1962 ..	25	90	19	621	331	216	15
1953 ..	24	65	17	625	253	198	7
1954 ..	25	66	19	665	272	149	19
1955 ..	13	73	32	640	275	193	11
1956 ..	20	48	26	654	244	158	4
1957 ..	14	85	51	889	318	143	5
1958 ..	20	58	36	827	296	107	9
1959 ..	18	32	35	641	237	96	21
1960 ..	15	36	21	597	331	96	10
1961 ..	14	46	19	589	335	178	23
1962 ..	16	40	12	587	324	141	18

B. I. case.

Year. Kidnapping. Rape. Cattle theft. Traffic accident. Under section Under section 109, Cr. P. C. 110, Cr. P. C.

1952 ..	5	3	19	2	11	13	14
1953 ..	7	3	36	10	22	3	3
1954 ..	5	4	26	24	30	7	7
1955 ..	6	3	20	66	28	13	13
1956 ..	4	2	40	69	19	16	16
1957 ..	3	3	46	21	23	26	26
1958 ..	5	1	70	41	36	13	13
1959 ..	9	1	31	36	31	28	28
1960 ..	3	1	67	14	38	19	19
1961 ..	12	5	60	21	32	30	30
1962 ..	4	2	71	19	29	30	30

The years 1952 and 1957 appear to be the peak period in almost all forms of crimes, the main reasons being the continuous high price of commodities and drought resulting in failure of crops.

Riots are mostly associated with land disputes. As this district is adjacent to Nepal, the incidence of smuggling cases is very high. Smuggling cases mostly refer to the bringing in duty-free Nepali intoxicants. The figures of such cases for the last four years are given below:—

Year.	Smuggling of Nepali Ganja.	Nepali liquor.	Ganja plantation.	Wild bhang.	Tari.	Country spirit.	Opium.	Misce-llaneous.	Total.
1	2	3	4	5	6	7	8	9	10
1959-60	62	4	1	..	..	..	..	..	67
1960-61	43	3	1	6	1	..	..	..	54
1961-62	62	14	1	9	..	..	1	2	89
1962-63	86	9	1	2	5	1	..	..	104

Patrolling on the border areas is not very effective as the rise in the figures for smuggling of Nepali *ganja* will show.

Burglary and theft are easy to commit as the houses are of rather flimsy construction and the Kosi ravages bring in destitution which often led to anti-social activities.

The table below gives the number of cognizable offences reported, number of convictions and acquittals, etc., from 1952 to 1962:—

Year.	Total number of cognizable offences reported.	Conviction.	Acquittal.	Total number of cases pending with the courts at the end of the year.
1952	1,746	252	253	616
1953	1,529	175	325	561
1954	1,567	242	194	444
1955	1,586	220	170	406
1956	1,532	225	179	396
1957	1,991	200	171	657
1958	1,742	291	337	470
1959	1,423	229	182	441
1960	1,461	182	167	512
1961	1,570	78	207	672
1962	1,508	150	260	723

The above figures indicate that the number of cases pending in the court is fairly large. The number of acquittals is also not meagre. The distance of many of the villages from the police thanas, bad communications, etc., stand on the way of proper investigations.

The anti-social elements are not confined to any particular class or caste. Criminals are to be found among the Dusadh, Gorrhi and Goala castes. Dusadh criminals of Maheshpur, Gorrhi criminals of Alamnagar and Goala criminals of Singheshwar are notorious. Some Rajputs of Kishanganj and Brahmanas of Chhatapur are also among the anti-social elements. Most of the crimes are committed in the areas of Tribeniganj and Chhatapur police-stations in Supaul subdivision and Alamnagar, Kishanganj and Murliganj police-stations in Madhepura subdivision. These areas have very poor communication which becomes worse during the rains and so the criminals find it easy to escape. There are still certain parts of the district which become almost inaccessible during the rainy season. Post-mortem examination is useful only if done soon. It will be quite a few days to take a dead body to the hospitals from distant parts of the district. Post-mortem examination of a highly decomposed body has very little results.

ORGANISATION OF POLICE FORCE.

As this district was a part of Bhagalpur district till March, 1954, the early history about the police organisation in this area is to be traced in the literature on Bhagalpur district.

The police organisation in 1872 in this area as mentioned by W. W. Hunter was as follows*:-

Subdivision.	Police Circle (Thana).	Area (in sq. miles).	Population.
Madhepura..	.. Kishanganj..	.. 369	1,39,403
	.. Madhepura..	.. 503	2,51,683
Supaul ..	.. Supaul ..	.. 574	2,79,102
	.. Bangaon ..	.. 263	1,45,088
	.. Pratapganj..	.. 438	1,41,557

He further mentions that the police staff of each police circle (thana) in the same year was as follows:-

1. Madhepura—1 Inspector, 1 Sub-Inspector, 2 Head Constables and 16 Constables.
2. Kishanganj—1 Sub-Inspector, 2 Head Constables and 12 Constables.
3. Supaul—1 Inspector, 1 Sub-Inspector, 2 Head Constables and 16 Constables.
4. Bangaon—2 Head Constables and 8 Constables.
5. Pratapganj—1 Sub-Inspector, 1 Head Constable and 10 Constables.

* *Statistical Account of Bengal by W. W. Hunter*, volume XIV, districts of Bhagalpur and the Santal Parganas, pages 46, 288-289.

As it appears from the description of Hunter, there were two frontier posts—one at Dagmara and the other at Bhimnagar. There were one Head Constable and 6 Constables stationed at each of the frontier posts on the Nepal boundary.

It is further mentioned that in 1870-71 there was a regular police of 11 officers and 39 men and a rural police or village watch of 687 in Madhepura subdivision. The total cost of administration of police and *Chowkidars* was £ 3,848, 3s.

By 1911 there had been a large expansion of the force.

The table below shows the thanas and police-stations included in each thana and the number of *Chowkidars* and *Dafadars* employed in each police-station in 1911*:-

Name of thana.	Name of police-station under each thana.	Number of <i>Chowkidars</i> .	<i>Dafadars</i> .
Madhepura..	.. Madhepura.. ..	322	17
	.. Mirganj	122	7
Bangaon ..	.. Bangaon	219	11
Kishanganj..	.. Kishanganj.. ..	205	11
Supaul ..	.. Supaul	393	20
	.. Dagmara	111	6
	.. Daparkha	100	5
Pratapganj..	.. Pratapganj.. ..	183	10
	.. Bhimnagar.. ..	84	5

The area of each thana as mentioned in the *Bhagalpur District Gazetteer*, 1911, was as follows†:-

Subdivision.	Thana.	Area (sq. miles.)
Madhepura..	.. (1) Madhepura	547
	.. (2) Bangaon	263
	.. (3) Kishanganj	366
Supaul ..	.. (1) Supaul	593
	.. (2) Pratapganj	341

The *Bhagalpur District Gazetteer* (1911),** mentions that Dagmara, Daparkha and Bhimnagar were independent out-posts; but *Bhagalpur District Gazetteer Statistics*, 1900-1901 to 1910-1911, mentions them as police-stations. The materials for *Bhagalpur District Gazetteer*, by J. Byrne, were collected up to 1909-10 while *Bhagalpur District Gazetteer Statistics*, 1900-01 to 1910-11, deals with the figures up to 1911. So it might be possible that Dagmara, Daparkha and Bhimnagar were independent outposts prior to 1910-11 and got the status of police-stations in 1910-11.

* *Bhagalpur District Gazetteer Statistics*, 1900-1901 to 1910-1911 (published in 1915), page 24.

† *Bhagalpur District Gazetteer* 1911, by J. Byrne, page 147.

** *Bhagalpur District Gazetteer* 1911, page 147.

There had been no change in the number of thanas from 1870-71 to 1911. The only change was that Bangaon thana that was under the Supaul subdivision in 1872, came under the Madhepura subdivision in 1911. The result was that the total number of thanas in the Madhepura subdivision became three in 1911 as against two in 1872 and the number of thanas in Supaul subdivision came down to two in 1911 in place of three in 1872.

Saharsa got the status of a sub-district in 1944 and that of a district in 1954. The Police Force in 1945 and 1955 were as follows:—

		1945.		1955.	
		Sanctioned strength on the 31st December.	Actual strength on the 31st December.	Sanctioned strength on the 31st December.	Actual strength on the 31st December.
Officers.					
Inspector	.. ..	4	3	16	17
Sergeant-Major	.. ..	1	1	1	1
Sub-Inspector	.. ..	34	26	19	6
Sergeant	.. ..	1	..	1	1
Total	.. ..	40	30	37	25
Men.					
Assistant Sub-Inspector	.. ..	34	22	30	30
Havildars	.. ..	10	10	12	11
Constables	.. ..	384	382	401	383
Total	.. ..	428	414	443	424

The number of *Dafadars* and *Chowkidars* were 56 and 1,121 respectively in 1945 and 104 and 1,239 respectively in 1955. Before the creation of Saharsa sub-district, Bangaon police-station under the Madhepura subdivision, had jurisdiction over the area now known as Saharsa town. When the sub-district started functioning, an out-post was set up at Saharsa within the jurisdiction of Bangaon police-station. After the creation of the district in 1954, Bangaon police-station with its jurisdiction was shifted to Saharsa and it was renamed as Saharsa police-station. In 1962, the jurisdiction of Saharsa and Dharhara police-stations was split up into three police-stations, namely, Saharsa, Bangaon and Nauhatta. In 1962, the area of Alamnagar police-station was subdivided into two police-stations, namely, Alamnagar and Chousa.

The sanctioned strength of the Police Force in 1962 was 1 Superintendent, 4 Deputy Superintendents, 55 Officers (consisting of 15 Inspectors, 1 Sergeant-Major, 34 Sub-Inspectors, 2 Assistant District Prosecutors and 1 Sergeant) and 467 men.

The police organisation is headed by the Superintendent of Police with headquarters at Saharsa.

He is under the administrative control of the Deputy Inspector-General of Police, Bhagalpur and the Inspector-General of Police, Bihar, Patna. The Superintendent of Police is assisted by one Deputy Superintendent of Police in the office at the district level and three other Deputy Superintendents of Police posted in the three Circles. There are two District Prosecutors (one at Saharsa and the other at Madhepura) and two Assistant Prosecutors. They serve as the liaison between the Magistracy and the Police administration of the district.

There are eighteen police-stations and nine outposts in the district. For the police administration the district is divided into three Circles, namely, Kishanganj, Supaul and Madhepura, each having several police-stations and outposts. The police-stations and outposts are as follows:—

- (i) Sadar subdivision—Saharsa, Bangaon, Nauhatta, Sonbarsa and Sourbazar police-stations. There is no outpost in this subdivision.
- (ii) Supaul subdivision—Supaul, Nirmali, Kishanpur, Birpur, Chhatapur, Raghapur and Tribeniganj police-stations; Kunauli and Bhaptiahi outpost under Nirmali police-station, Bhimnagar outposts under Chhatapur police-station, Karjain outpost under Raghapur police-station and Jadia outpost under Tribeniganj police-station.
- (iii) Madhepura subdivision—Madhepura, Singheshwar, Murliganj, Kishanganj, Alamnagar and Chousa police-stations; Bharrahi outpost in Madhepura police-station, Bihari-ganj outpost in Kishanganj police-station and Puraini outpost in Alamnagar police-station.

Previously a police-station was put under the charge of a Sub-Inspector of Police. But according to the Reorganisation Scheme which came into operation with effect from 15th July 1953 in the district, all police-stations except Nauhatta, Bangaon, Singheshwar, Chausa and Kishanpur police-stations have been placed in the charge of Inspectors and the Circles have been placed in the charge of Deputy Superintendents of Police. This has been done as an experimental measure for improving the tone of police administration. Thirteen police-stations are under the charge of Inspectors and five police-stations as mentioned above are under the charge of Sub-Inspectors. Each police-station has generally one Inspector of Police (Officer Incharge) and one Sub-Inspector of Police, one Assistant Sub-Inspector of Police, one Writer Constable and eight constables. But the strength varies according to the size and needs of police-stations.

Each of the outposts is under the direct control of the officer in charge of the police-station concerned and is manned by Sub-Inspectors or Assistant Sub-Inspectors according to the necessity and volume of work of the outposts. For the rural areas in 1962 the sanctioned strength of *Dafadars* and *Chowkidars* is 104 and 1,237 respectively.

There are some ancillary establishments to help the regular police force. They are—(1) *Anchal Force*, (2) Home Guards, (3) Village Volunteer Force and Village Resistance Groups.

(1) *Anchal Force*.—This Force was organised in 1956 mainly for the purpose of guarding and escorting Government revenues entrusted to the Block Development Officers. The strength of the Force is likely to increase with more of Blocks coming into operation. At present the Force consists of one Sergeant, one Sub-Inspector, one Jamadar, two Assistant Sub-Inspectors, nineteen Havildars and 132 Constables including 18 Leave and Reserve Constables. The unit for each *Anchal* consists of one Havildar and six Constables.

(2) *Home Guards*.—This Force was organised in 1948 with a view to helping the administration in various aspects specially the Police Department for patrolling the crime-affected areas and also for the prevention of crimes and maintenance of law and order. Their services may be useful in case of any emergency arising in and out of the district also. There are 236 Home Guards as against the sanctioned strength of 234 in the district. Till May, 1963, seven hundred and four persons were given the training and seven persons are under training. This Force acts as auxiliary to the regular police force.

(3) *Village Resistance Groups* were formed out of the members of the public for the purpose of patrolling and to control dacoity. The villagers were exhorted to organise themselves into a disciplined body and to enrol themselves as volunteers. The Force consists of 1,999 persons in the district. In addition to this the *Panchayats* have also organised Village Volunteer Force—the details of which have been given in the chapter "Local Self-Government". They are also to act with the regular and rural police for the purpose of law, order and crime measures.

Government Railway Police.

There is no Government Railway police-station or outpost in this district. The Government Railway Police at Katihar and Khagaria have their jurisdiction.

Anti-Corruption Squad.

A separate Anti-corruption unit has not as yet (May, 1963) been formed. However, an Anti-corruption unit is functioning at Purnea under a Deputy Superintendent of Police whose jurisdiction also covers Saharsa district.

District Crime Bureau.

The District Crime Bureau is functioning from 1st April 1955. The Bureau, under the Crime Investigation Department consists of one Inspector, two Sub-Inspectors, two Writer Constables and one Constable. Their main duty is to maintain records of the criminal gangs operating within and outside the district and to help the regular police force in investigation and crime control work.

JAILS AND LOCK-UPS.

Previously there were only two subsidiary jails, one at Madhepura and the other at Supaul. *Bhagalpur District Gazetteer* •(1911) has mentioned about sub-jails as follows:—

“At Supaul and Madhepura there are subsidiary jails in which accused persons are kept while awaiting trial if they are not released on bail, and short-term prisoners (sentenced to not more than fourteen years’ imprisonment) are kept to serve out their sentences. Oil-pressing and grain-grinding are the industries carried on in the subsidiary jails*”. W. W. Hunter mentions that Madhepura subdivision was formed on the 3rd September 1845 and Supaul subdivision in November, 1870†. It may be surmised that the subsidiary jails were established in the years when the respective subdivisions were created or soon after. With the creation of Saharsa district in 1954, Supaul and Madhepura Subsidiary Jails came within the jurisdiction of this district.

With Saharsa as a district a subsidiary jail at Saharsa started functioning with effect from 1st April, 1954. Saharsa Subsidiary Jail has been upgraded to the status of a District Jail on 1st March, 1963.

The District Jail at Saharsa is at present functioning under the Civil Surgeon who is the part-time Superintendent of the Jail. Each subsidiary jail is under the charge of a part-time Superintendent of Jail who is the Civil Assistant Surgeon of the respective subdivisional hospital. In addition to a part-time Superintendent, there are one Assistant Jailor, one Head Warder, six Warders and one part-time Dresser in Supaul Subsidiary Jail; and one Assistant Jailor, two Head Warders, eight Warders and one Dresser in Madhepura Subsidiary Jail.

At present (July, 1963), the sanctioned staff of the Saharsa District Jail consists of one part-time Superintendent (Civil Surgeon), one Jailor, two Assistant Jailors, one Medical Officer (Sub-Assistant Surgeon), one Compounder, six Head Warders and twenty-five Warders. The sanctioned capacity of accommodation in the District Jail is for 390 persons.

* *Bhagalpur District Gazetteer* by J. Byrne, page 148.

† W. W. Hunter : *Statistical Account of Bengal*, volume XIV, pages 238-239.

The sanctioned capacity of the jails in 1962 was as follows:—

	Males.	Females.	Total.
Subsidiary Jail, Saharsa ..	30	14	44
Subsidiary Jail, Madhepura ..	60	9	69
Subsidiary Jail, Supaul ..	36	5	41

The following are the figures of the prisoners in the jails on the 31st December, 1960:—

Jail.	Males.	Females.
Saharsa sub-jail ..	32	..
Madhepura sub-jail ..	67	2
Supaul sub-jail ..	87	1

Prison Discipline and Welfare.

Discipline is maintained in accordance with the Jail Regulations. In the subsidiary jails generally under-trials and sessions prisoners are kept and they are transferred to Bhagalpur Jail when they are convicted. Only very short-term convicts are lodged in the subsidiary jails. Both Madhepura and Supaul Subsidiary Jails have a library.

PROBATION DEPARTMENT.

Bihar was the first State in India to bring into force the Central Legislation on probation, namely, the Probation of Offenders Act, 1958 (Act XX of 1958), on the 15th June 1959.

The special features of the Probation of Offenders Act, 1958, are as follows:—

- (1) (a) Courts have been given the power to place any offender on probation who is found guilty of having committed any offence not punishable with death or imprisonment for life, provided, in the circumstances of the case including the nature of the offence and the character of the offender such course is considered expedient by the court.
- (b) Restrictions on the use of probation based on age, sex and previous conviction as contained in section 562, Cr. P. C., have been placed.
- (2) The Act provides a regular machinery for enquiry into the personality, character and home surroundings of the offender, which is to assist the court in determining the suitable method of dealing with him.
- (3) It has provision for a special machinery to supervise the conduct of the probationers as well as to advise and assist them while on probation.
- (4) It allows the release of an offender under certain conditions.

- (5) It makes a probation enquiry mandatory in the cases of offenders below 21 years of age, where the provisions of the Act are applicable.

The main idea is not to allow the first offenders to be vitiated by the usual atmosphere of a jail but to try and rehabilitate them if possible.

Organisational Set-up.

The District Probation Office at Saharsa has been functioning since 15th June 1959. The staff consists of one Probation Officer and one Assistant Probation Officer. They work under the control of the Principal Probation Officer who is also the Superintendent of Central Jail, Bhagalpur. His jurisdiction as the Principal Probation Officer extends over both Bhagalpur and Saharsa districts.

Functions.

The number of cases referred to the Probation Officer from the beginning up to June, 1963 came to 234 excluding 45 parole cases. Most of the reported cases relate to theft, hurt, rioting and dishonestly receiving stolen property. The number of offenders released on probation till now without supervision is 45 and with supervision is 32.

Probation system appears to have made very little headway although the system has been operating for the last four years. The initiative lies with the Magistrates.

Duties of a Probation Officer.

A Probation Officer has to perform the following duties as defined in section 14 of the Probation of Offenders Act, 1958:—

- (a) to enquire in accordance with any direction of court, into circumstances or home surroundings of any person accused of an offence, with a view to assist the court in determining the most suitable method of dealing with him and to submit reports to the court;
- (b) to supervise probationers and other persons placed under his supervision and where necessary to endeavour to find out suitable employment for them;
- (c) to advise and assist an offender in the payment of compensation or costs ordered by the court;
- (d) to advise and assist, in such cases and in such manner as may be prescribed, persons who have been released under section 4 of the Act; and
- (e) to perform such other duties as may be prescribed.

CIVIL AND CRIMINAL JUSTICE.

Historical Background.

As Saharsa formed a part of Bhagalpur district till 1954 the historical background of the system for Civil and Criminal Justice will be found in the re-written *District Gazetteer of Bhagalpur**.

There is no separate judgship for Saharsa district, but one is in the offing. The Civil and Criminal Courts of this place are still within the Bhagalpur judgship. The authority to exercise general control over the Civil Courts along with their establishments and to inspect the proceedings of the courts is vested in the District Judge, Bhagalpur.

CIVIL JUSTICE.

The Civil Courts of this district subordinate to the District Judge of Bhagalpur comprise one Subordinate Judge and one permanent Munsif's Court at Madhepura.

The Civil Courts at Madhepura have jurisdiction over the entire district of Saharsa. The exact year when the Munsifi Court started functioning could not be ascertained. It may be inferred that the court might have started functioning soon after 1845 when Madhepura subdivision was formed. It appears from the old records that the court of the Munsif was previously functioning at Kishanganj and the Lieutenant-Governor ordered the transfer of the Kishanganj Munsif's Court to Madhepura, vide letter no. 3959, from the Secretary to the Government of Bengal, dated Fort William, the 19th June 1865. The Judge of Bhagalpur, vide his letter no. 287, dated Bhagalpur, the 23rd December 1865, addressed to the Commissioner, Bhagalpur, requested for sanctioning a sum of Rs. 150 for the erection of a *kutchery* house at Madhepura for the Munsif of Kishanganj.

The Subordinate Judge's Court at Madhepura was created, vide Government notification no. J-45|43-312-JR, dated the 11th October 1944 and it started functioning with effect from 1st November 1944 with its jurisdiction over the then Madhepura and Supaul subdivisions. Its jurisdiction was extended to Saharsa subdivision when it was formed in 1954.

There has been a persistent move from the public to have at least the court of an Additional District and Sessions Judge at Saharsa. The reasons are that all criminal appeals arising from the decisions of the Magistrates with First Class powers have to be filed and determined by the Sessions Judge at Bhagalpur and the same is the case with all the civil appeals. Because of bad communications specially during the monsoon one avoids filing appeals and most of the appeals which are filed are decided *ex parte*. There was an application to the Chief Justice of the Patna High Court indicating these grievances in July, 1949.

* *Bhagalpur District Gazetteer* (1962), pages 48, 56, 425-428.

Both the Subordinate Judge of Madhepura and the District Judge of Bhagalpur supported the contention. It was pointed out that during 1937-1946, the institution of sessions cases for the judgeship of Santal Parganas district was only 190 and a Court of Sessions was established at Dumka. The number of sessions cases for the sub-district of Saharsa for the same period (1937-1946) was 281, which was much more than that of sessions cases of Santal Parganas district. The District Judge, Bhagalpur, in his letter no. 1-9-1772, dated Bhagalpur, the 3rd July 1947, suggested the establishment of a District Judge's Court, either at Saharsa or Madhepura. The District and Sessions Judge, Bhagalpur in his letter no. 3161, dated the 21st September 1949, again expressed his opinion in favour of the establishment of the Court of an Additional District and Sessions Judge. He also suggested that as an immediate temporary measure the Subordinate Judge of Madhepura might be empowered to admit all civil appeals up to the value of Rs. 2,000. He further mentioned that there was only one Subordinate Judge whose time was occupied in hearing sessions cases as an Assistant Sessions Judge and hearing criminal appeals from the decisions of the Magistrates holding second and third class powers. Hence, the posting of a Second Subordinate Judge was considered essential so that all civil appeals from the Munsif's judgement coming from Saharsa and filed before the District Judge, Bhagalpur, might be sent to him for disposal. But the post of an Additional Subordinate Judge or that of District and Sessions Judge for Saharsa district has not been, so far, created. The matter is still under correspondence. The Subordinate Judge of Madhepura has, however, been empowered to admit all civil appeals up to the value of Rs. 2,000.

A petition signed by 616 inhabitants of Supaul subdivision was filed to the District Judge, Bhagalpur, on 10th December, 1887 for the establishment of a separate court of Munsif at Supaul with its jurisdiction for the Supaul subdivision. It was followed by another application in 1907. But the matter is still pending and at present the Munsif of Madhepura has jurisdiction over the whole district including Supaul subdivision.

As a result of Kosi floods the Court of the Munsif of Madhepura was shifted to Supaul with effect from 5th June 1934, vide notification no. 813-2C-4-JR, dated the 28th May 1934. The office of the Subdivisional Officer of Madhepura was also shifted to Supaul in the same year. The offices of the Subdivisional Officer, Madhepura at Supaul and the Court of the Munsif were shifted back to Madhepura with effect from 1st July 1938, vide letter no. IIJ-I-4234-R., dated 2nd June 1938. The offices of the Subdivisional Officer, Supaul, were shifted to Saharsa in 1940 and came back to Supaul in 1944.

According to the pressure of work an Additional Munsif is occasionally posted at Madhepura to clear up the pending cases.

POWERS.

The District Judge has powers to try suits and hear appeals but generally suits except of special nature are not tried by him. Recently his appellate powers in the civil side have been raised to Rs. 10,000. He is also vested with some special powers, viz., (1) Claim Officer in respect of cases of minor railway accidents, (2) he is the single member of Motor Accidents Claim Tribunal for the purpose of adjudicating upon the claims for compensation in respect of motor accidents, (3) he has also powers to try cases under the Companies Act, 1956, and (4) he has been empowered to hear appeals against the decisions of the Claim Officers, under section 16 of the Bihar Land Reforms Act, 1950.

Besides, civil powers, the District Judge has the powers of Sessions Judge. Since the introduction of the scheme of separation of executive and judicial functions from 1st July 1957 he is also vested with the powers of a First Class Magistrate and also as an Additional District Magistrate. He is empowered to inspect all the criminal courts and offices in the district except that of the District Magistrate.

Under section 76 of the Bihar Panchayat Raj Act (Bihar Act VII of 1948) the District Judge has powers at all times to inspect the proceedings and records of *Gram Kutchery* and Benches thereof.

Under section 19 of the Hindu Marriage Act, 1955, every petition for divorce, etc., is filed in his Court.

The permanent court of the Sub-Judge at Madhepura is vested with the powers of trying Small Cause Court suits up to the value of Rs. 750. He is also empowered to try suits in the ordinary procedure up to unlimited limit and to hear all the appeals from the decisions of the Munsif, Madhepura. The Sub-Judge of Madhepura is also an Assistant Sessions Judge and as such all cases not punishable with death or imprisonment for life are generally tried by him when they are transferred to him from the file of the District Sessions Judge, Bhagalpur.

There is a Munsif at Madhepura who is vested with the powers to try suits in the ordinary procedure up to the value of Rs. 5,000 and Small Cause Court suits up to the value of Rs. 300 within the local limits of his court which extends over the whole district. The Munsif is also in charge of the Copying Department, Forms and Record Room.

After the separation of the executive and judicial functions of one and the same officer, the Judicial Magistrates (both Stipendiary and Honorary) have come under the administrative control of the District and Sessions Judge, Bhagalpur. Provision for their staff, court rooms, furniture, law books, forms and stationery is made by the District Magistrate. The District Magistrate deputes bench clerks for the courts of the Judicial Magistrates. Now there are no

Courts of Judicial Magistrates. Munsif Magistrates in adequate number have been posted in each subdivision. The District Sessions Judge now supplies the staff of these Courts.

STATISTICS OF CIVIL COURTS.

The table below shows the annual number of civil suits and cases instituted and disposed of under different heads from 1952 to 1962. The figures indicate the totals of the suits and cases filed to and disposed of by both the Munsif and the Subordinate Judge, Madhepura. The figures have been compiled from the reports of the Munsif and the Sub-judge, Madhepura, on the administration of civil justice in the concerning years.

Year.	Institution.				Disposal.			
	S. C. C.	Money	Title	Rent	S. C. C.	Money	Title	Rent
1952	141	203	233	2,542	91	255	211	2,252
1953	195	251	161	2,310	254	226	150	2,532
1954	215	291	163	2,649	202	200	125	2,331
1955	142	229	156	2,051	164	236	113	2,164
1956	152	231	205	814	119	173	114	1,231
1957	166	89	159	444	200	146	141	610
1958	290	96	179	114	295	132	197	149
1959	242	117	132	21	236	106	166	30
1960	235	94	212	12	245	105	160	12
1961	223	84	306	21	276	76	171	21
1962	248	48	287	16	279	72	207	16

Year.	Civil Suits.				Execution cases. Miscellaneous cases.			
	S. C. C.	Money	Title	Rent	Instl.	Dis.	Pend.	Instl.
1952	119	210	357	1,119	900	1,172	1,021	246
1953	152	192	557	900	896	1,030	226	308
1954	187	231	710	1,309	1,024	1,443	298	122
1955	228	233	845	890	797	1,125	243	130
1956	202	256	231	1,679	1,016	1,810	284	117
1957	92	183	47	1,346	1,469	1,698	263	75
1958	68	84	183	14	1,208	1,349	246	59
1959	64	83	189	7	944	1,723	287	102
1960	61	78	253	9	530	622	231	112
1961	144	91	397	10	507	604	271	140
1962	114	71	483	10	259	403	261	181

The table below shows the civil and miscellaneous appeals filed before and disposed of by the Sub-Judge, Madhepura, from 1953 to 1962:—

Year.	Civil appeals.			Miscellaneous appeals.		
	Total number of appeals for disposal.	Number of appeals disposed of.	Number of appeals pending at the end of the year.	Total number of appeals for disposal.	Number of appeals disposed of	Number of appeals pending at the end of the year.
1	2	3	4	5	6	7
1953	118	45	63	50	26	14
1954	97	32	65	31	19	12
1955	118	84	34	24	20	4
1956	114	80	34	17	16	1
1957	97	53	46	24	10	14
1958	113	88	25	39	25	14
1959	73	50	23	30	23	7
1960	56	35	21	19	14	5
1961	55	26	29	15	9	6
1962	59	16	43	20	11	9

The number of pending appeals particularly of civil appeals is quite large and in some years (1953, 1954, 1961 and 1962), the number of civil appeals pending at the end of the year exceed the number of civil appeals disposed of during the years. The figures for 1937—1946 given below as compared with the figures for 1952—62, suggest that there has not been any marked increase in civil litigation:—

Year.	Institution of suits.			
	Title suits.	Money suits.	Rent suits.	S.C.C. suits.
1937	188	139	5,796	48
1938	199	125	7,739	366
1939	188	199	6,936	361
1940	231	73	10,646	393
1941	205	114	8,507	381
1942	146	107	1,552	202
1943	282	284	8,225	230
1944	308	150	4,153	300
1945	242	131	3,348	166
1946	138	129	3,157	164

The number of rent suits has considerably decreased during recent years because of the abolition of *zamindari*. The figures for the other types of suits seem to be fluctuating.

The number of civil suits from 1870 to 1879, will be of some interest. The table given below shows the total number of civil suits instituted, and disposed of from 1870 to 1879: *—

Year.			Number of suits instituted.	Number of suits disposed of.	Number of suits pending.
1870	..	..	1,210	1,132	215
1871	..	..	1,252	1,288	217
1872	..	..	1,171	906	453
1873	..	..	1,625	2,041	55
1874	..	..	1,514	1,534	34
1875	..	..	1,803	1,699	136
1876	..	..	1,634	1,667	103
1877	..	..	1,712	1,703	112
1878	..	..	2,371	2,368	122
1879	..	..	2,360	2,375	113

The reasons for the absence of any marked increase in civil litigation in contrast to the other districts may be attributed to the poor economic condition of the people of the district due to the Kosi ravages and bad communications. The District Judgeship is located at Bhagalpur and the only Civil Court is at Madhepura. There are some parts of Supaul and Saharsa subdivisions which are at a great distance from both the places (Madhepura and Bhagalpur) and have bad communications for most part of the year. An instance is the area under Nirmali police-station of Supaul subdivision. The communication between Supaul and Nirmali is not direct and the people have to come to Supaul or Madhepura *via* Sakri-Samastipur (falling under Darbhanga district) and Mansi (Monghyr district) Railway Stations. This long route means heavy expenditure on travelling and loss of a good deal of time. So the people of Nirmali and other distant places of the district hesitate to institute cases either at Madhepura or at Bhagalpur.

CRIMINAL JUSTICE.

The courts of the Subdivisional Officers at Madhepura and Supaul were established in 1845 and 1870 respectively. Mr. W. W. Hunter mentions that in 1870-71, there was one Magisterial and Revenue Court for Madhepura subdivision and one Magisterial and Revenue Court for Supaul subdivision.† Although Saharsa is a

* *Reports of Civil Administration of the concerning years for Bhagalpur district.*

† W. W. Hunter: *A Statistical Account of Bengal*, Vol. XIV, pages 238-239.

district since 1954 with a District Magistrate, the District and Sessions Judge, Bhagalpur, has jurisdiction over this district for criminal and civil justice till now (1963).

Before 1st July, 1957 criminal cases were tried at the first instance by the Magistrates either of Bihar Civil Service or Sub-ordinate Civil Service commonly known as Deputy and Sub-Deputy Magistrates. They used to be vested by the Government with criminal powers as First, Second or Third Class Magistrates. They were under the control of the District Magistrate. These officers were also empowered to hold preliminary enquiry in cases triable by the Court of Sessions and commit them to Sessions Courts. Appeals from the decisions of Second and Third Class Magistrates were heard by the District Magistrate or some other Magistrates specially empowered to hear appeals and appeals from the decisions of the First Class Magistrates were heard by the District Judge or the Additional District Judges could be taken up in revision or review to the Hon'ble Patna High Court. Under the above set-up there was a fusion of the executive and judicial functions in the District Magistrate and Deputy Magistrates.

The separation of the Judiciary from the Executive was a constant demand. It was the general view that a person who has to carry on executive functions may not always be in a position to do full justice to his judicial work and may not be able to inspire confidence in the public that justice is being done. Article 50 of the Indian Constitution also gave the directive for separation of the Judiciary from the Executive. The matter was enquired into at the State level. It was on the 1st July 1957, that the separation of the judicial and executive functions was carried out in Bhagalpur Judgeship which comprises Saharsa as well. Since then the Judicial Magistrates posted in Saharsa district have been put under the District Judge, Bhagalpur, while the Magistrates functioning as only Executive Officers have been put under the District Magistrate, Saharsa.

There are broadly two categories of criminal cases; one under the provisions of the Indian Penal Code and the other under different local and special Acts such as the Police Act, Indian Railways Act, Cattle Trespass Act, Cruelty to Animals Act, Epidemic Diseases Act, Motor Vehicles Act, Payment of Wages Act, Municipal Act, Payment of Minimum Wages Act, Bihar Sales Tax Act, etc., and preventive sections of Criminal Procedure Code, such as sections 144, 145, 107 and 110. Munsif-Magistrates have been empowered to try criminal cases under the Indian Penal Code and offences under the second category still continue to be dealt with by the Magistrates on the executive side. The figures of the cases

reported to and disposed of by the Magistrates on the executive side for the last six years are given below:—

Cases under Local and Special Acts.

Year.		Number of offences reported.	Cases returned as true.	Cases brought to trial.	Cases under trial including the pending cases of the previous year.
	1	2	3	4	5
1957		2,328	1,457	1,596	2,135
1958		2,359	1,826	1,579	3,156
1959		1,387	1,014	635	1,830
1960		983	802	662	2,129
1961		1,622	1,377	1,259	7,619
1962		2,092	1,328	1,737	-6,665

Year.		Acquitted or discharged.	Convicted.	Died, escaped or transferred to another court.	Cases remaining pending for trial at the end of the year.
	1	6	7	8	9
1957		256	1,289	10	580
1958		862	1,165	69	1,069
1959		481	1,120	53	176
1960		926	487	..	716
1961		3,517	1,182	2	2,918
1962		2,552	1,396	15	2,702

The number of cases pending for trial is very large particularly in the years 1961 and 1962.

The figures of criminal cases and appeals disposed of by the Sub-Judge, Madhepura who is also vested with the powers of Assistant Sessions Judge are as follows:—

Year.	Criminal cases.				Criminal appeals.			
	Total number of sessions cases.	Number of cases disposed of.	Number of cases with-drawn.	Number of cases pending.	Total number of appeals.	Total number of appeals disposed of.	Number of appeals pending.	
	1	2	3	4	5	6	7	8
1955	39	33	..	6	18	12	6	
1956	37	28	..	9	22	16	6	
1957	40	32	..	8	16	16	..	
1958	39	24	6	9	10	2	8	
1959	45	33	5	7	37	31	6	
1960	48	36	1	11	18	16	2	
1961	34	24	1	9	11	8	3	
1962	42	23	..	19	18	11	7	

The figures given in the above table are for the entire district of Saharsa as there is only one Assistant Sessions Judge at Madhepura whose jurisdiction extends over the whole district.

It may be pointed out that the number of sessions cases filed during the last eight years to the Assistant Sessions Judge, Madhepura, comes to 324 which exceeds the total number of 281 sessions cases filed during 1937-46. This indicates that the filing of sessions cases is gradually increasing.

It will be interesting to refer to the *Annual Criminal Report of the Bhagalpur District for the year 1869*, preserved in the Record-Room of the District Judge, Bhagalpur, as some of the observations still hold good:—

“Cases are disposed of in the Madhepura subdivision with greater delay than in other court in this district; the reason apparently being that the Officer in charge of the Madhepura subdivision having also charge of the Soople* subdivision has much to do both in the criminal as well as in the Revenue Departments. Furthermore, the country in the northern part of this district being rather low is not easily accessible from one part to the other during the rains and there being no railway communication more time is generally required for attendance of parties than in the southern part of the district.”

It may be pointed out here that Supaul subdivision had come into being in 1870 before a copy of the *Annual Criminal Report for 1869* was sent to the Registrar, High Court, Fort William, Bengal, vide letter no. CrI.-112, dated 4th May 1870,* from the office of the District Judge, Bhagalpur.

It is peculiar that the observations made out a century ago are, more or less, applicable even now. There are now (1963) several Munsif-Magistrates and a few Judicial Honorary Magistrates in this district to try criminal cases. But there is only one Assistant Sessions Judge and the number of sessions cases has increased to a great extent. The Assistant Sessions Judge is also the Sub-Judge and has to see to the administration of Civil Justice. All this causes a certain amount of delay in the disposal of the criminal cases. The remarks about the bad communications still hold good to a great extent.

To sum up, the organisation consists of the District and Sessions Judge, Bhagalpur who is the administrative head of the Judicial Department. There is one Sub-Judge at Madhepura who is vested with the powers of an Assistant Sessions Judge and with powers to hear appeals from others passed by Second and Third Class Magistrates. Prior to April, 1963, there were a few Judicial Magistrates.

* The old spelling of Supaul is maintained in the quotation (P. C. R. C.).

All of them have since been replaced by the Munsif-Magistrates by 1964. Now there are nine Munsif-Magistrates—posted in the different subdivisions besides two Honorary Judicial Magistrates one each at Supaul and Madhepura (May, 1964).

PANCHAYAT ADALATS.

The details of the working of *Gram Panchayats* have been given in the text on "Local Self-Government". It may be mentioned that the Bihar Panchayat Raj Act, 1947, was enforced in this district in 1948. The object for establishment of *Gram Kutcheries* is to cut down litigation, expedite the disposal of the cases cheaply at the village level and to bring about as many compromises as possible. The total number of *Gram Kutcheries* in the district is 264.

According to section 71 of the Bihar Panchayat Raj (Amendment and Validating) Act, 1959, a person who is arrested has the right to consult and to be defended by a legal practitioner. In no other circumstances any legal practitioner can appear, plead or act on behalf of any party in any suit or case before the *Gram Kutchery*.

The idea was that with the establishment and functioning of *Gram Kutchery* the cases in the courts of the Stipendiary Magistrates will decrease but in fact, this aim has not been fulfilled. On the other hand, it is found that the elections of the *Mukhiya*, *Sarpanch* and *Panches* are often followed or preceded by tension and litigation. *Gram Panchayat Kutcheries* have, so far, failed to liquidate litigation or bring about compromises in any appreciable manner.

The *Gram Kutchery* is headed by the *Sarpanch* who is elected by adult suffrage. There is a panel of eight *Panches* excluding the *Sarpanch*, out of whom four *Panches* are elected by a joint meeting of the *Sarpanch*, elected *Panches* and all the elected members of the Executive Committee excluding the *Mukhiya*.

Under section 62 of the Bihar Panchayat Raj Act, 1947, the *Gram Kutchery* has been empowered to try the following offences as well as abetment of and attempts to commit any such offence, if committed within the local jurisdiction of *Gram Kutchery*:-

Sections 140, 143, 145, 147, 157, 153, 160, 172, 174, 178, 179, 269, 277, 283, 285, 286, 290, 294, 323, 334, 336, 341, 352, 356, 357, 358, 374, 379, 380, 381, 403, 411, 426, 428, 430, 447, 448, 461, 504, 506, 510 of the Indian Penal Code.

The Bench is not empowered to take cognizance of any offence under section 379, 380, 381, or 411 in which the value of the property alleged to be stolen exceeds one hundred rupees or in which the accused has been previously convicted of an offence punishable under Chapter XVII of the Indian Penal Code with imprisonment of either description for a term of three years or upwards.

A Bench of the *Gram Panchayat* of the *Pradhan* or *Dwitya Varga* may pass simple imprisonment for a term not exceeding one month and fine not exceeding one hundred rupees and in default of payment of fine, simple imprisonment for a term not exceeding 15 days. A Bench of the *Gram Panchayat* of *Tritiya Varga* may impose fine not exceeding fifty rupees and in default of fine, simple imprisonment for a term not exceeding seven days.

Whenever an offender is sentenced to pay a fine the *Sarpanch* may take action for the recovery of the fine by issuing a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender. The accused is to be taken to the jail by the village *chawkidar* and by such members of the Village Volunteer Force as the *Mukhiya* may direct and the *Panchayat* has to meet the cost of transfer and escort of a prisoner to the nearest sub-jail.

The institution of *Gram Panchayat* is to be affected by Zila Parishad Act, which has been discussed in the text on 'Local Self-Government'. The statistics of cases and suits disposed of by the *Gram Kutchery* in this district have also been given in the text on 'Local Self-Government'.

LEGAL PROFESSION AND BAR ASSOCIATION.

The legal profession consists of Barristers, Advocates, Pleaders and Mukhtears. There is no Barrister in this district.

There are 35 Advocates, 15 Pleaders and 32 Mukhtears at Madhepura; 5 Advocates, 19 Pleaders and 12 Mukhtears at Supaul and 2 Advocates, 16 Pleaders and 7 Mukhtears at Saharsa.

The number of Mukhtears in this district is on the decline as Mukhtearship examination has been abolished. They are normally entitled to appear before the Magistrates only.

There were only four or five Advocates all at Madhepura in this district prior to 1961 when the Advocates Act, 1961, had not come into operation. This Act prescribes enrolment fees of only Rs. 250 to the State Bar Council. At present (June, 1965) any pleader or a law graduate of 21 years of age or above can be Advocate by depositing Rs. 250 to the State Bar Council. Previously the licence fees was Rs. 1,200. This concession in fees is a reason for the influx of Advocates. Recently Mukhtears of a particular standing have been allowed to enrol themselves as Advocates.

There are Bar Associations at Madhepura, Supaul and Saharsa. The Bar Association of Madhepura is the oldest in the district as the court of Munsif has been functioning at Madhepura from 1845 when the subdivision was created. There is no court of Munsif either at Saharsa or at Supaul. The Bar Association of Supaul comes next in age.

The relationship of the Bench and the Bar has been cordial. The Bar Association of Madhepura has been active in moving the authority concerned for ventilating the grievances of the litigant public. It had moved the High Court through its resolution, dated 2nd August 1951, for vesting the Sub-Judge, Madhepura, with the powers of disposing of all appeals preferred against the decisions of the Munsif of Madhepura in view of the great difficulties and harassment of the litigant public of both the subdivisions, Madhepura and Supaul, in filing and getting their appeals disposed of at Bhagalpur specially during the rainy season when the railway communication was usually seriously dislocated. The Bar Association was successful in their move and the Sub-Judge, Madhepura, was vested with such powers.. The Bar has supplied the leadership in the district to a great extent. The members of the Bar have been responsible for starting of many of the educational institutions and libraries. Some of them have taken part in the political activities as well.

• There has recently been a somewhat shift in the leadership of the area and the Bar has not been supplying it as much as it did in the past. The emergence of certain strongly based political parties where the members of the Bar do not, by and large, play much part have caused a temporary eclipse in the previous position of the Bar as supplying the leadership. With the abolition of zamindari and the creation of the Panchayat Courts, the Bar has lost much of its income. But as the repository of the intellectual brain-trust, the Bar is bound to continue in its great role in the district and in the country.