

CHAPTER XII
LAW AND ORDER AND JUSTICE

LAW AND ORDER

During the British occupation of the area, now covered by the present district, law and order did not present any particular problem. In fact, the small number of cognizable offences rendered the police an object of secondary importance. In 1816, murder was a crime almost unknown, and theft and robbery of rare occurrence. Affrays of a serious nature were seldom heard on and even petty assaults were infrequent. While a number of robberies occurred in the tract along the foot of the hills, almost all of them were perpetrated by people from the plains, who went back with their booty. The noticeable common offence was that of adultery but it seldom formed a subject of complaint in court, unless accompanied by abduction of the adulteress. The deterrent system of punishment and the severe ordeals, to which the accused was subjected during pre-British days, had effectively checked the incidence of crime in this area.

Crime

Statement I, which follows, shows the number of cognizable crimes reported to the police, and non-cognizable cases sent up for trial, and their results. In Statement II figures of important crimes and the results of prosecution are given.

STATEMENT I

Year	Cognizable crimes								Non-cognizable crimes	
	Cases pending investigation at the beginning of the year	Cases reported to police	Cases investigated	Cases sent to courts	Cases pending in courts at the beginning of the year	Cases disposed of			Cases tried in courts	Cases ending in conviction
						Convicted	Discharged or acquitted	Compounded		
1	2	3	4	5	6	7	8	9	10	11
1961	4/0	12/3	10/3	11/2	6/1	3/2	3/0	..	..	..
1962	1/0	34/10	30/10	14/0	9/10	2/0	..	..	10	..
1963	6/1	41/3	39/3	20/4	17/2	17/4	2/0	..	128	28
1964	6/0	53/48	53/48	24/34	20/1	15/31	7/3	3/0	84	19
1965	5/1	49/69	41/67	14/75	18/14	12/72	1/3	..	56	2
1966	8/0	102/80	98/80	36/42	25/6	27/41	9/1	..	87	9

N.B. — The numerator represents figures relating to offences under the Indian Penal Code and the denominator those falling under special and local laws.

STATEMENT II

Crime	Year				
	1961	1962	1963	1964	1965
1	2	3	4	5	6
Murder					
Reported	..	..	..	1	2
Convicted	..	..	..	..	..
Acquitted	..	..	..	1	..
Theft					
Reported	11	3	14	20	59
Convicted	1	2	4	2	5
Acquitted	2	1	..	..	..
House breaking, Burglars					
Reported	..	1	10	13	16
Convicted	..	2	5	4	2
Acquitted	..	2	2	2	..
Kidnapping					
Reported	1	1	..	1	3
Convicted	..	..	..	..	..
Acquitted	1	1	..	..	..
Sex-crimes (376/377 I.P.C.)					
Reported	2	1	1	3	1
Convicted	1	..	..	1	1
Acquitted	1	1	1	1	..

Cases of dacoit and robbery are conspicuous by their absence.

Organisation of Police

In the early part of this century, there were no regular police in the areas now covered by the district. It was only during the pilgrim season that wayside guard houses, with accommodation for 2 or 3 constables, were occupied by the regular police, sent by the superintendent of police, Kumaon. The roads traveled by pilgrims were patrolled daily.

Almora, from which the district has been carved out, was divided into two parts for police administration. The regular police administered in important towns like Almora and Ranikhet and the rest of the district of Almora was under the charge of the revenue police.

The existence of a system of revenue police is a distinguishing feature of the Kumaon division. The regular revenue officials are invested with police powers and function under the Rules and Orders, Kumaon Division. Formerly, the few peons attached to the courts and tahsils performed with the assistance of the *patwaris*, *thokdars* and *padhans*, the duties of apprehending offenders and escorting prisoners. The *padhan* arrested the offenders and reported crimes to the *patwari* and provided for the dispatch of persons charged with heinous offences for trial. The *thokdars* supervised the work of the *padhans* and were bound to report crime overlooked by the latter. They were exempt from the provisions of the Indian Arms Act, in respect of a gun and a sword. The *padhans* were also the headmen of their villages and required to perform all the duties assigned to them in the enactments then in force.

In 1950, a police-station for regular police was set up at Pithoragarh. The jurisdiction of the police-station at Pithoragarh extended besides the town, to all motor roads. A considerable

number of villages, preferably within a radius of about 8 km., of the police-station, were attached to this police-station after 1951.

Since 1960, when the district was created, there have been two parts of the police organisation (a) revenue police and (b) the district executive police, the details of each being given below:

Revenue Police

The revenue police (also Known as village police) is under the district magistrate who exercises the powers of the superintendent of police for the revenue police. The district is divided into *pattis*, each consisting of several villages and under a *patwari* who exercises the powers similar to those of a station officer of a police-station, in addition to his revenue duties. Though he has only one peon to assist him, all the headmen (known in Kumaon as *malguzars* or *padhans*) of the villages in his circle, afford him the necessary assistance in the discharge of his duties. The regular police also, whenever possible, assist him in the investigation of serious crimes. In the revenue police organisation, there are superintendent *patwaris*, commonly known as *kanungos*, who exercise all the powers and functions of a circle inspector of the regular police.

District Executive Police

The district executive police is headed by a deputy superintendent of police who has been delegated the powers of a superintendent of police. The district falls within the jurisdiction of the deputy inspector general of police, Hill Range with head quarters at Naini Tal. The executive police has three broad divisions—the civil police, the armed and the prosecution unit.

In Pithoragarh there is a judicial lock-up in which only under trials are kept. The tahsildar of Pithoragarh tahsil is in charge of this lock-up. As there is no revenue lock-up, all defaulters of government dues are also kept in this magisterial lock-up.

JUSTICE

Early History

Previously, the local chieftain or ruler, either himself or through his officers, dispensed justice. During the brief Gurkha rule, the administration of justice was still more autocratic and each officer exercised jurisdiction according to his position. All civil and petty criminal cases were disposed of by the commandant of the troops to which the tract was assigned, while cases of importance were disposed of by the civil governor of the province (covering be present at his headquarters. During the commandant's absence the *bechari* (his deputy) officiated.

A brief oral examination of the parties was conducted in court and if there was any doubt about the veracity of a statement, a copy of *Harivamsha* was placed on the head of the witness, who was then required to depose the truth. When the evidence of eye-witnesses was not procurable or the testimony was conflicting, as in the case of boundary disputes, certain ordeals had to be undergone. There forms of such ordeals were in common usage: *gola-dip* (carrying a bar of red hot iron in hand for a certain distance), *karhai-dip* (the accused was required to plunge his hands in boiling oil and was acquitted if they were not burnt), and *tarazu-ka-dip* (weighing the accused person against stones and reweighing him the next morning. If after reweighing an increase in weight was found, the person was held guilty. The judgment was recorded on the spot and witnessed by the bystanders and then handed over to the successful party, whilst the other was mulcted in a heavy fine proportionate more to his means than the importance of the case.

In cases of disputed inheritance and commercial dealings, frequent recourse had to be taken to the panchayats or councils of arbitrators. These were, however, disposed of by lot before an idol in a temple and also by swearing before the idol. Some of these temples are still in existence.

Treason alone was punished with a death sentence. Murder, if committed by a Brahmana, brought a sentence of banishment. For others, and for all other crimes, fines were imposed and property confiscated. The willful destruction of a cow, or the infringement of caste by a Dom, such as touching the hookah of a Brahmana or a Rajput, was also punished with death. Under the Chand rajas, death was inflicted by hanging or beheading, but the Gorkhalis introduced capital punishment after torture.

After the treaty of Sigauli, the British who took over control of the administration tried to effect some improvements, mostly confined to the maintenance of law and order.

Civil Justice

In 1815, E. Gardner was appointed as the first commissioner of Kumaon and was authorized to administer both revenue and police. He was succeeded in 1817, by Traill, who was not only an administrator but also framed certain laws for Kumaon and for many years his was the only court.

In 1820, an eight-anna court-fee stamp was introduced by Traill on his own authority. If the plaint was not rejected in the first instance, the plaintiff was furnished with a notice to be served on the defendant by himself. It was found that in three-fourths of the cases, the practice resulted in a compromise, and when ineffectual the defendant was summoned, the parties and their witnesses, if necessary, were called and examined. Oaths were seldom administered and no law agents were permitted to practice. A suit seldom lasted more than twelve days.

The first *munsif* was appointed in Kumaon, in 1829, for the cognizance and adjudication of civil claims. Later, seven *kanungos* were invested with the title and powers of *munsif*. In 1838, the Sadar Board of Revenue was invested with final powers in all fiscal matters. In the same year the whole of Kumaon was made subject to the jurisdiction of the Sadar Diwani Adalat, Agra, in civil matters, The Assam Rules (with certain limitations) were promulgated in 1839 for the administration of civil and criminal justice and remained in force till 1863, when the Jhansi Rules were passed and introduced. They provided for the extension of the laws of limitation to Kumaon and declared that the Indian penal Code would be in force. The Kumaon Rules came into force in 1894, and in 1906 various portions of the Land Revenue Act of 1901 were extended, to the Kumaon Division.

Prior to 1953, the deputy commissioner, Almora, exercised jurisdiction over Pithoragarh as civil judge and took cognizance of all original civil suits cognizable by civil court, subject to the provisions of section 15 of the Code of Civil Procedure, 1908. Some assistant collectors of the first class were invested with the powers of a civil judge for all original suits the value of which did not exceed Rs 5,000. Throughout the limits over which they exercised jurisdiction as assistant collectors. Similarly, assistant collectors of the second class, other than tahsildars were invested with the powers of a *munsif* for all original suits of which the value did not exceed Rs 500. The jurisdiction of the assistant collector, who was a tahsildar extended to all original suits of a nature cognizable by a court of small causes under the Provincial Small Cause Court Act, 1887, of which the value did not exceed Rs 100. Such jurisdiction was exercised by virtue of notification no. 543/VII-421, dated April 1, 1926. The court of the commissioner functioned as a high court in civil matters but the government could refer cases decided by the commissioner to the high court of judicature at Allahabad for opinion in order to arrive at a correct decision.

In February, 1952, the power of a civil judge, exercisable by the deputy commissioner, were withdrawn and sub-divisional magistrates were invested with the powers of a *munsif* in respect of all civil suits the value of which did not exceed Rs 5,000.¹

With effect from July 16, 1953 the powers of the *munsif* conferred on the assistant collectors and judicial officers were also withdrawn.

A regular court of *munsif* at Pithoragarh was created. However, in view of the low institution of cases at Pithoragarh, the court of the *munsif*, Pithoragarh, was kept in abeyance with effect from March, 1954, and the *munsif* of Almora was asked to dispose of the civil cases of Pithoragarh district also. This practice still continues. The *munsif*, Almora, has jurisdiction to try civil cases up to the valuation of Rs 250 and regular suits up to a valuation of Rs 5,000 for Pithoragarh as well. Civil cases above the valuation of Rs 5,000 cases under the Hindu Marriage Act, 1955, and those relating to guardianship, succession, probate, trust, letters of administration and land acquisition, are filed in the court of the district judge of kumaon, who also bears appeals against the judgments and decrees passed by the *munsif*.

The number of suits pending at the beginning and the end of 1965, and the number of cases instituted and disposed of in the civil courts in 1965 are given below:

Cases	Number
Pending at the beginning of 1965	105
Instituted in 1965	85
Disposed of in 1965	70
Pending at the end of 1965	120

In 1966, the number of suits instituted for immovable property was 47 and that for money and movable property was 62.

The number of suits of different valuations, they were instituted in 1966, is given in the following statement:

Valuation of cases	Number
Not exceeding Rs 100	20
From Rs 101 to Rs 1,000	78
From Rs 1,001 to Rs 5,000	10
From Rs 5,001 to Rs 10,000	1
Exceeding Rs 10,000	..

The number of suits disposed of in 1966 is given in the following statement:

Details of disposal	Number
Disposed of after trial	23
Dismissed in default	2
Otherwise decided without trial	42
Decreed ex-party..	13
Decided on admission of claims	2
Settled by compromise	11
Settled by arbitration	..

The number of civil appeals instituted and disposed of in 1966, was as follows:

Nature of civil appeals	Number instituted	Number disposed of
Regular civil appeals	19	16
Miscellaneous civil appeals	1	1
Rent appeals	..	..

Criminal Justice

Criminal justice during the earlier year of British rule gave little trouble. Traill writes, "In petty thefts, restitution and fine were commonly the only penalties inflicted; in those of magnitude, the offender was sometimes subjected to the loss of a hand or of his nose. Crimes of the latter description have, however, in these hills, been extremely rare, and did not call for any severe enactment. Acts of omission or commission, involving temporary deprivation of caste, as also cases of criminal intercourse between parties connected within the degree of affinity prescribed by the Hindu law, offered legitimate objects of fine. Adultery among the lower classes was punished in the same manner".

In former times the husband of the adulteress could inflict the capital punishment on the adulterer after informing the executive government. The practice resulted in deaths of many innocent persons at the hands of jealous husbands who found themselves both judges and executioners. But from 1817, this was declared an offence punishable with death and thus effectually it put an end to a custom which was one of the most frequent sources of hereditary feuds.

Under Regulation X of 1817, which was enacted in July of the same year, a commissioner was appointed for the trial of heinous offences subject to a report to the Sadr Nizamat Adalat, who passed the final sentence, which was then carried into effect by the local officer. For Nepali criminals it was settled that only those should be delivered to the Nepal authorities who were charged with heinous offences and for whose arrest the warrant afforded *prima facie* evidence that they were guilty of the offences imputed.

From 1828, some of the criminal cases were sent up for trial in the court of the judge at Bareilly. From 1836, the trial by various ordeals was also abolished, and from 1843 rules pertaining to the punishment of adultery were also enforced in Kumaon. Till March, 1914, the commissioner continued to be the session judge and heard appeals of the judgments of the district magistrate and his subordinate magistrates and tried cases committed by them to his court. In the same year, this arrangement was changed and new session division, to be called the Kumaon sessions division, consisting of the revenue districts of Almora, Garhwal and Naini Tal, was established under the district judge of Pilibhit. In 1930, Pilibhit district was excluded from the limits of the Kumaon sessions division. Since then the sessions judge of Kumaon, whose headquarters are now at Naini Tal, has been exercising jurisdiction over the area now cohered by the district of Pithoragarh.

Comment: Notification no. 1314/VI-48 1914, of March 26, 1914, Judicial Department

Comment: Notification no. 2151/VI, of June 16, 1930

In 1960, on its formation, the district comprised four subdivisions, each having a sub-divisional magistrate with first class powers, with headquarters at Dharchula, Munsyari, Didihat and Pithoragarh. There are tahsildars (with second class magisterial powers), posted in tahsils Dharchula, Munsyari, Didihat and Pithoragarh which are coterminous with the subdivisions.

Details of cases committed to criminal courts and the number of persons tried and sentenced in 1964 and 1965 are given in the statement that follows:

Cases/ persons tried/sentences	Number in lower courts		Number in sessions court	
	1964	1965	1964	1965
Cases				3
Affecting life	11	10	6	
Kidnapping and forcible abduction	16	6	..	2
Hurt ..	48	43	1	1
Unnatural offences	..	1	..	1
Extortion	..	..	..	..
Other cases	562	611	..	3
Persons tried	1,099	1,046	5	19
Persons sentenced to Death	..	..	..	..
Rigorous imprisonment	30	18	2	2
Fine	436	384	1	..

Separation of Judiciary and Executive

The judiciary has not been separated from the executive in the district.

Nyaya Panchayats

In August, 1949, under the U.P. Panchayat Raj Act, 1947, the number of panchayati *adalats* (now called *nyaya* panchayats) that were established in the district (then a tahsil) for entrusting judicial work to the village people, was 41. In 1960, the number increased to 46. The jurisdiction of a *nyaya* panchayat extends from 5 to 23 *gaon sabhas* depending on the population. The number of *nyaya* panchayats in each tahsil in 1966 was as follows:

Tahsil					Number of <i>nyaya</i> panchayat
Dharchula	..	..	..	..	6
Didihat	..	..	..	..	15
Munsyari	..	..	..	..	6
Pithoragarh	..	..	..	..	19
District Total	..	..	..	..	46

Panchs in the *nyaya* panchayats are nominated from amongst the *panchs* elected to the *gaon* panchayats by the district magistrate with the help of an advisory committee on the basis of prescribed qualifications, age, etc. The *panchs* elect from amongst themselves a *sarpanch* (who is its presiding officer) and a *sahayak sarpanch* (assistant presiding officer), both of whom have powers to record proceedings. In 1965, there were 1,050 *panchs*, 46 *sarpanchs* and an equal number of *sahayak sarpanchs*. The tenure of office of both the *panchs* and the *sarpanchs* is 5 years which can be extended for another year by the State Government. Cases are heard by benches, each consisting of 5 *panchs* and constituted for a year by the *sarpanch*.

The *nyaya* panchayats are empowered to try criminal cases under the Acts or specific sections there of as given below:

- (a) The U. P. Panchayat Raj Act, 1947
- (b) Sections
140, 160, 172, 174, 179, 269, 277, 283, 285, 289, 290, 294, 323, 334, 341, 352, 357, 358, 374, 379*, 403*, 411*, 426, 428, 430, 431, 447, 448, 504, 506, 509, 510, of the Indian Penal Code.

*involving an amount up to Rs 50

- (c) The Cattle-Trespass Act, 1871 (sections 24 and 26)
- (d) The U. P. District Boards Primary Education Act, 1926
(Sub-Section 1 of section 10)
- (e) The Public Gambling Act, 1867 (sections 3, 4, 7 and 13)

The *nyaya* panchayats can try civil suits up to a valuation of Rs 500 and also revenue cases if the parties concerned agree in writing to such a course. These courts cannot award imprisonment but are empowered to award a fine up to a hundred rupees only. Revision applications against their decisions in civil, revenue and criminal cases lie to the *munsif*, the sub-divisional officer and the sub-divisional magistrate, respectively.

The number of cases heard and disposed of from 1960-61 to 1964-65 by the *nyaya* panchayats and their revision courts were as under:

Year		No. of cases heard		No. of cases disposed of	
		<i>Nyaya</i> panchayats	Revision courts	<i>Nyaya</i> panchayats	Revision courts
1960-61	..	1,146	132	893	117
1961-62	..	760	247	479	213
1962-63	..	1,168	159	999	137
1963-64	..	866	101	730	91
1964-65	..	576	67	504	52