The system of punishments in foreign jurisdiction may be understood from the Criminal laws which are in vogue in those countries and the principles which are followed by them in criminal law. There is a close nexus between the principles of criminal justice and the system of punishment. The system of punishment takes its form from the principles of criminal justice. If therefore the principles of justice are altered, the system of punishment undergoes a change, the kind of punishment, the kind of procedure all undergo a change if the principles of justice are altered. This is the chief factor to be borne in mind when we study the nature and scope of the system of punishments.

Yet another factor to be noted is that the criminal laws of all foreign countries are not the same everywhere; they are not governed by one and the same principle, hence a change in one system of criminal justice does not bring about a change in all systems of punishment; rather the systems of criminal justice in vogue in foreign countries are autonomous and they operate under an independent apparatus which is free from foreign control. Even the principles under which they operate are independent and they undergo a change owing to changes in the local conditions of their own countries.

The consequence of all this is that the system of punishments has not undergone a change at one and the same time at all places and owing to one and the same factors. Rather the changes have been because of changes in the conditions peculiar to each system. This is the key to understanding the nature and scope of the system of punishments in foreign jurisdictions and the factors which have been responsible for bringing about a change in the foreign penal systems.

One and the same factor has not been responsible for bringing about a change; rather different reasons have resulted in changes at different places.

This chapter has the object of presenting the factors which have been responsible for bringing about a change in the system of punishments in foreign countries. Since it is not possible to describe the conditions of all the foreign systems of law only a few countries have been selected for analysing the factors which have been responsible for bringing about a change in the system of punishments. These factors bear testimony of the fact that the same is not the position everywhere and the same factors do not lead to a change. The system of punishment obtaining in a few
foreign countries, which are major legal systems of the world, may be analysed by way of example, as follows :-

I. The System of Punishments in England

English criminal law refers to the body of law in the ability of England and Wales which deal with crimes and their penalty, and which is balancing to the civil law of England and Wales. wrong acts are consider offences against the whole of a society. The state, in accumulation to certain worldwide organizations, has liability for crime avoidance, for bring the culprit to justice, and for commerce with convict offender. The police, the criminal courts and prisons are all publicly funded services, though the main focus of unlawful law concern the role of the judges, how they apply criminal statutes and ordinary law, and why some form of activities are measured criminal.

United Kingdom is nation but divided in to three parts. 1) England and Wales 2) Scotland 3) Northern Ireland

The judicial system and courts are not uniform and same all over United Kingdom. In England and Wales there is one system, in Scotland a different system and in Northern Ireland a third system exists. Northern Ireland was not part of England but was accessed in 1877.

There are three types of adjudication tribunals in England and Wales. The charge is officially fixed against an accused not by a single judge but by a panel of three magistrates acting as a bench. Juvenile courts in England are known as Youth courts. Youth courts are less formal than magistrates courts. All minors under 18 years are tried by Youth court.

County courts are civil courts dealing with money and property and contracts. There is no jury in county court.

Crown courts deal with serious crimes like rapes murders robberies. Crown courts are also appellate courts to hear appeals from the magistrates courts. Jury is attached to the Crown courts.

highcourts are single judge courts and also benches of tow or three judges. Lord Chief Justice of England and Wales decides high profile civil and criminal cases.

judicial history of England is very dark. It had common law practice of Bill of Attainder. Any person in England could be arrested or hanged by Bill of Attainder. King usually signed the writ to arrest anybody, forfeit anybody’s property or hang anybody without trial. Even if trial was conducted, it was conducted by a puppet court which would sign the death sentence as per the king’s order. King Henry VIII used the Bill of attainder to kill one of his six wives Queen Anne
Bolyen by beheading her on 16 may 1536 on charges of high treason though there was no proof against her. King Henery VIII also ordered arrest his second wife Queen Catherine Howard .and got her killed on charges of adultery. In February 1542. Henry VIII killed thousands of commoners and tens of noble people.

The parliamentarian of House of Commons ordered arrest of King Carles I. When King Charles I was weak due to vanishing support of the army, subjects and peers, as he was indulging in unnecessary wars especially war with Spain and entering into treaties. The parliament wanted to limit the powers of the king but the king thought being a king nobody would question his acts. The original parliament was dissolved by the King. Between 1642 and 1651 three civil wars were fought in England. Colonel Pride purged the parliament, making it defunct. Rump parliament was formed and Rump parliament was functioning with the support of the army. The king had held army’s salaries in arrears. In February 1648. The Rump parliament ordered arrest of the King Charles. King Charles was beheaded in front of thousands of spectators on 30 January 1649.

All courts in England were puppet courts. They would order anything by fear or by taking bribes. So the history of British courts is dark.

Before the supreme court was established in 2009, the House of Lords would sit as appellate authority to hear and decide appeals. The judicial function of House of Lords ended after the supreme court of United Kingdom was established by part 3 of constitutional Reforms Act. 2005.

Historically in England; the House of Lords in addition to having legislative function also had judicial function of hearing appeals. The judicial role of House of Lords was gradually reduced in 20th century. Final trial of a Peer in House of Lords was conducted in 1935. The last appeal which was heard by Peers of the House of Lords was in 1948.


Family courts in England and Wales do not decide divorce annulment and maintenance. The Family courts decide mostly cases relating to children. Adoption, safety and custody of children when parents become separate, Safety of children in institutional care etc. are heard in family courts.

Operation of Criminal Justice System in the United states (America)
In any country the criminal justice system is the outcome of provincial and the federal government. There is no uniformity in the American judicial system. Applicable all over the nation but rather small components of a big system. The criminal justice system is endemic. It works in specific area restricted by jurisdiction. Area can widen if encompassing the wide area where crime occurred. Tribal and military area and protected zones have stricter laws. The federal system had less the crimes on union property and the crime committed by same accused in many states.

**Different Components of criminal justice**

Most criminal justice systems have five components 1) law enforcement, viz police 2) prosecution viz., government pleaders 3) defending attorneys viz. lawyers of the accused 4) adjudicating machinery viz. courts 5) corrections viz. prisons and probation each performing its limited in any system.

1) **Law Enforcement:** law enforcement officer’s i.e. Police, take reports. Patrol Police officers roam throughout the city and can apprehend anyone doing offence. Their duties include 1] investigation 2] prosecution.

2) **Defines attorneys:** The accused persons have right to hire attorneys of their choice to defend the charges. At the time of plea bargaining defence attorney contacts the prosecutor. Victim needs to be in touch with the prosecutor to who his/her case is allotted.

3) **courts:** courts are presided over by judges, who have to look at what law is. The judges must also see whether the court procedure is on the right track. The judges decide whether first time accused persons can be released on probation. judges adjudicate the cases against the accused and convict them or relase them at the end of trial.

4) **Corrections:** Jailors are also called correction officers because jails are called correctional systems. Jailors feed and supervise jail population until they are in jail as under-trials or convicts.

**Federal Bureau of Investigation (FBI)**

FBI is a prime investigation agency for federal crimes taking place in united states. United states being the Federal country the states have their own constitution, national anthem, Flag, state tree state bird and state laws. The crimes which take place at federal government's property and the crimes on lands reserved for Native Indian tribes are investigated and filed by Federal Bureau of Investigations. Besides these crimes tax evasion and possession of weapons banned by the federal law are crimes which are investigated by the Federal Bureau of Investigation.
Department of Homeland Security (DHS)

After the 11 September 2001 bombing of the World Trade Center New York the entire World was panicked shocked and became worried about security of public places. The United states of America in response to terrorist attack on WTC and with the responsibility of protecting United states territory formed Cabinet Department of Homeland Security with a massive budget. Department of Homeland Security was allocated budget of 98.8 billion dollars in 2011 and the DHS actually spent 80% of that amount. With 2, 00,000 employees and about 199 billion dollar budget the DHS is one of the largest cabinet departments of the United states handling inland security.

9/11 investigation is being handled by the federal government of the United states.

Outline of the Criminal Justice Process

Sequence is given as infra, beginning with the reporting of crime by the victim or observation of the crime by police. The procedure may differ as per the jurisdiction each case has, the type of crime trivial or serious (felony or misdemeanour) whether the offender is a minor or major whether male or female with pregnancy. The cases do not require same chain of steps. Many crimes remained unsolved due to lack of evidence of any kind.

crime entry into the system

reporting of crime: Police receives the report.

( Scene of crime Officer ) rushes to the spot of crime within shortest time and gathers evidence for example finger prints, cigarette stubs etc. thrown by the criminal, dust, blood stains, semen stains (in sexual assault). In USA generally the SOCO reaches the spot of crime within half an hour. In India there is no SOCO type evidence collection. The overburdened police in India reach the spot of crime at their own convenience. In some cases six months have passed but the police is yet to collect and record the evidence.

Rodney King Episode that shook America

In early hours on March 3, 1991 a black youth Rodney King and two of his friends were driving Hyundai car at prohibited speed 117 miles per hour. The car was chased by one patrol police couple Tim and Melanie Singer in a police patrol car. The car did not stop but increased the speed. The patrol police gave signal to Police Helicopter and at 12.30 AM. On 3rd March 1991 surrounded the Car which ultimately stopped. All in the car were asked to get out of the car and lie down. Two in the car obeyed but Rodney King did not. He was pulled out and beaten up
with batons by white Police of LAPD (Los Angelese Police Department) using excessive force with racial prejudice.

Police officers Koon and Powell who used excessive force while arresting Rodney King were arrested stripped off their posts and were sentenced to 30 imprisonment while Rodney King got 3.8 million dollars in compensation.

The most important fall out of the case was that use of excessive force by police was the videotape shot by one amateur videographer who was standing in his balcony and shot the video thinking that something unusual was happening. The video shot by George Holliday amateur videographer from his balcony facing the road where Rodney King was beaten up has been a fairly early example of modern surveillance (it is different surveillance), where private citizens, assisted by increasingly sophisticated, affordable video equipment, record significant, sometimes historical events. Several "copwatch" (Police brutality watch) organizations subsequently appeared throughout the United states to safeguard against police abuse, including an umbrella group, October 22 Coalition to Stop Police Brutality.

Investigation: Police officer to whom case is allotted investigates the crime. Officer tries to identify the suspects and extricate sufficient evidence.

Arrest or Citation: If the police find a suspect and sufficient proof of his/her involvement, police officers may detain the suspect. This decision depends on whether crime is trivial or serious and whether there is CCTV footage or eye witness. If officers cannot identify a suspect, they realize he without prosecuting him/her if evidence is scanty.

First court Appearance: If the prosecutor or the government pleader files the charge sheet etc. If the accused is not have any advocate or cannot to afford one, the judge may give the accused legal assistance court may appoint one.

Bail or Bond: On the first date of court attendance court can give police custody in jail or to be realized on surety. The judicial officer may not give bail if the accused is not found. The accused can be in magisterial custody or be in jail or even be released on bail bond, or on his/her own surety. The trust worth who would not abscond. He may consider the factors like job, residence and relationship with respectable families to send the accused to jail or to release on bail.

Grand Jury : In about 25 states of the USA, accused can be tried by jury. The juries can convene, release acquittal the accused. As per the evidence the court a release orders. This arrangement brings transparency in criminal justice system. India must have this jury system.
since police and judge connive in regard to any innocent person and hang him/her under false charges.

**Arraignment:** Is bringing the accused before court for preliminary if the accused confesses offence. Trial is not necessary. judge is only to decide the quantum of punishment. If the accused pleads not guilty and gets ready to defend it. If a plea bargaining is negotiated trial will be speedy and can finish in a week or two.

**Adjudication (the Trial )**

**Plea Bargaining** : The most cases in USA are solved in America by plea bargaining. Here he/she gets a reduced sentence. The prosecutors negotiate with defendants and victims about plea agreements..

**Trial:** Trials are either stated or delayed. The prosecutor presents evidence and defending lawyer questions witnesses. The judge or jury finds the defendant guilty or innocent on the original charges or lesser charges. Defendants when found innocent are usually released. If the judge finds the accused guilty, the judge will set a date for announcing sentencing. There is option to the plaintiff and the complainant in criminal case to choose between the bench trial or the jury trial. In bench trial the adjudication is speedy but the single judge who okays the charges and also hears the entire case may become biased or may be glared. In jury trial the eminent members of public sit as jurors and mould the course of the trial. In jury trial also judge presides but sits as catalyst showing and answering law point only.

For the victim of crime the criminal justice system can be agonizing since every step is new for a victim and one who does not work within it every day finds the system cumbersome and insensitive. As a victim a member of the public needs to knowledge of some legal clinic run by some local law college throughout the process where law students who work as legal apprentice come as help. For example, if a victim is on parole/escape/acquittal in appeal of a prison inmate is notified on police we If a victim is chased and harassed by the offender or his agent at any point of time in the criminal trial, the crime victim must report of harassment to the police or the prosecutor. If the victim puts in an application for information about offender’s release/parole such information must be given to victim as per law.

**3. French Criminal law**

In franc they have a unique judicial system in which the offences have been categorised into three classes.
Contravention :-

They can be treated as small offences rules of travel. Then there are misdemeanour they are more serious offences theft hurt and grievous hurt. There are also felonies which are tried by the assizes they include the sever crimes like murder and rape. It is to be noted that there is a slight deference between the French meaning of crime rather than its English meaning. In France there are no juries in lower court. There are juries only in the assizes. It is a penal of 12 people out of which 9 people are good citizens and three are trial judges and one chief judge the use of English is not frequently done in French courts however the Latin is used with its simple translation in French.

Criminal law of Australia

The criminal law of Australia is a part & partial of ancient Anglo sections jurisprudence based on common law principals. Common Wealth of Australia a part & partial of Her Majesty's Roil Administration. Queen Elizabeth II\textsuperscript{nd} is the reigning menarche of Australia as per the provisions of Govt. of Australia Act-1986. The Act has established a federal Govt. in Australia consisting of six states which are fully self governing territories. The matters in relation to prosecution are under the jurisdiction of the concerned the states. The federal govt. has a little power in these matters. The English common law principles are fully applicable in New South Wales, South Australia & Victoria. crimes Act of New South Wales passed in 1990 expects that the new offences can only be added by the parliament & not by the courts. There is a little scope for judicial activism. However in the Australia Capital territory, northern territory, Queens land & Tasmania there is full scope for judicial activism. judicial precedents & interpretations have added much substantive law in criminal code.

The federal govt. is trying to introduce model criminal code and expects consolidation of the varsity of criminal enactments in the Australia states, here it should be carefully noted that, the Australian constitution has left a merge scope in federal government. It's recommendations may be accepted or may not be accepted by the consumed state government for ex- The human rights (sexual conduct) Act 1994 passed by Tasmania has clearly overridden the sodomy laws of the Model criminal court.

In 2001 an Amendment appeared by which the offences relating to corporations were kept under the jurisdiction of the federal govt. for many references of substantive law we have to turn the English common law For ex. The crimes Act 1900 has prescribed punishments for larceny but there is no definition of larceny anywhere in the Act. We have to take it from the English common law Sir Samuel Walker Griffites, The Chief Justice of queens law recommended to borrow elements from the Italian penal code 1889. These recommendations are called the Griffit’s code in
Australia. The Australia state has accepted certain recommendations of ser Griffits in order to improve the criminal administration.

The Common Wealth countries like naigaria, Papua New Guirea and Nauru have also accepted the Griffits code with minor alterations. The code has described the elements of mens rea in an exhaustive and elaborative manner. The mental element has been given proper wattage in the offences like murder and man slaughter. The element decisively plays an important role when the crimes are committed in deep thinking and planning when the offence are committed under the influence of alcoholic drinks or mistake of fact, the mental element done not play important part there. Recently the legislation has passed the Road safety (Alcohol & Drugs) Act.

Criminal law of Canada :-

The Dominion of Canada is essentially a common law country; its legal administration is a part & partial of Anglo Saxon jurisprudence. In historical Quebec region was under the severity of France was the civil law system. After certain development lord Durinan submitted his historic report to the British parliament & recommended to unite the whole Canada under the authority of the crown. The British North America Act was passed in 1867 and the govt. of Canada Act was passed in 1986 by which Queen Elizabeth II is declared as head of the state.

Canada has feared govt. Criminal code of Canada is implemented in most of the state. In summary trials normally a fine up to $5000 or six months imprisonment are inflicted. Canada also recognized certain principles plea bargaining it is interesting to know that the criminal administration in Canada recognized the jury system but the numbers of jury vary in each state. The Canadian court further ellobretr hybrid offences Sec-554 of the code powers which may curtail the freedom granted under the Canadian constitution. The court has clearly elaborated the concept of acts rues a complied by means rea i.e. state of mind.

In Canada every offence must be proved beyond reasonable doubt otherwise full English Common law and its implementation in the dominion of Canada. The subjective state of mind deserves a special place under the Canadian law. The in Canada recognizes three important defences which include duress in toxicities & necessity there is also a partial defence of sudden provocation. It can decrees the insanities of offence and a skilled legal practitioner can turn a murder into man slighter. The partial defence is elaborated by sec-232 of the Canadian court. Apart from these defences the common of has further provided the traditional defences like self protection. The suprem court of Canada has recently stuck down certain provisions of sec-7 of the code as volatile to the Canadian constitution. The defence like mistake of fact must be carefully proved otherwise they are not considering by the court. The criminal administration in Canada the jury system and
there number in jury box is always odd. In the cases where a drug addict committees a crime sec-232 of the code. Sometimes the lawyers also invoke “charter defence.”

In Canada if the accused is not brought to trial within a reasonable time, the criminal proceeding may be sated as per the provisions of sec-11 and sec-24 of the Canadian charter vexatious litigation is discourage under the abuse of process. Section-19 of the code has fully prohibited the ignorance of law as defiance. The Canada Justice of peace are appointed in the name of the queen they have certain powers under the evidence act private prosecution in camera are restricted & normally the crown a major prosecuting party in criminal cases certain offences specially severe once like murder, waging of war (Terrorism) etc. discretionary powers of the judges.

The Canadian courts has been Amended in 2004 by which certain new offences have been adopt the provisions of appeal in criminal cases likely very in Canada if compare to in common law system in U.K. There is no is no limitation for the crown however the private parties under the obligation to file an appeal in higher courts within a span of 30 days after deceiving the verdicts & there certified copies from the court. In many criminal cases the date of verdict and the date of gating the certified copies are different. The common law stresses for the public benefit at a large hence the time of appeal runs for the date of receiving the copies.

The difference between a Grand Jury and the trial juryIn Europe, Australia and America the single judge neither adjudicates the criminal case nor decides the bail. Every judge is assisted either by a panel of judges or by jury. Grand jury consists of 23 jurors while the trial jury consists of 6 to 12 jurors. Such arrangement has been in place in European countries, Australia and America to avoid corruption fear bias, social pressure entering the process of adjudication and grant of bail. India has single judge trials in which the chances of error in perception are big. Chances of personal bias, bribery, favouritism, pressure from media entering adjudicating process also cannot be ruled out.