3. Administration of Criminal Justice in Goa

3.1. Administration of Criminal Justice: Judicial Setup

1\textsuperscript{st} December, 1866, was an important year for the administration of Criminal Justice in Goa. A novel effort was made to have a common system of criminal law in the province of Estado de India, Mozambique, Macau and Timor. The provinces of Mozambique, Macau and Timor continued to come under the jurisdiction of High Courts in Goa.\textsuperscript{1}

The provinces of Mozambique, Goa, Macau and Timor were grouped into one judicial division called the judicial division of Nova Goa. This district was divided into six Comarcas and three smaller independent judicial areas. The Comarcas were further sub-divided into Julgado and Barroughs and according to the availability of the population. The judicial division had one High Court, the Comarca had the service of a Comarca Judge where as an ordinary judge functioned at the level of judicial area and Justice of Peace at the level of Barroughs.

The High Court had its seat at Nova Goa and it comprised of four effective judges with a provision for three substituted judges to be appointed. The President of the High Court was nominated by the King in Portugal while three substitutes were Comarca judges of Ilhas, Bardez and Salcet and they came to

\textsuperscript{1} Dr. Carmo D'Souza, Legal System in Goa, Vol. I Pg. 127.
the High Court whenever there was a need for a larger bench. The High Court jurisdiction not only in matters enumerated in the present regiment and the reforms but also took cognizance of appeals permitted to the Police Correctional Court from areas of Ilhas, Bardez, and Salcet.

The next important court was the Supreme Council of Military Justice. This court was located in Nova Goa and took cognizance of Crimes committed by military personnel in the State of India. It consisted of four members, one promoter, one secretary and one High Court judge as relator.

A Board of Justice was provided for Mozambique and Macau. It consisted of a president and seven members, i.e. the Governor of the province, the District Judge who functions as a relator, three senior most officials of the highest rank, Law members of Government council and a substitute of a District Judge. The Board had the jurisdiction to judge at first instance ordinary crimes and also to take cognizance of sentences given by the War Council. It also took appeals of crimes against the decision of the Judge of first instance\(^2\).

\textit{i. Police Correctional Court:}

These courts were set up in Quelimane, Daman, Diu and Timor. The courts settled appeals against the sentences delivered under procedures of Police Correctional Crimes by ordinary judges.

\textsuperscript{2} Ibid.
ii. Judges of First Instance Court:\(^3\)

The Comarca judge decided all civil and criminal cases not specifically left-out of its purview by the regiment or by the judicial reforms.

The above were the highlights of the decree of 1866. This decree also did away with the jurisdiction of the General Chambers in criminal matters and also elected judges which were replaced by Justice of Peace. This created a positive direction towards bringing about uniformity in the judiciary.

iii. Decree of 1869:\(^4\)

Though it was a very small piece of legislations, it played a major role in bringing about uniformity and independence in the Judiciary. The objectives of the decree were:

a) To raise the standard of judiciary in the Overseas by providing a qualified personnel.

b) To secure certain guarantees and benefits to the Judicial Official who ventured out to go to remote and inhospitable climate.

This was a good incentive for judges to work in different situations and places. We do not find such provision in any of the Indian laws.

\(^3\) Ibid

\(^4\) Id at 130
iv. Decree of 1878:⁵

According to this decree the Portuguese’s possessions in Asia, Africa and Oceania were to constitute two judicial Districts as earlier, Eastern and Western, each with the HC at Goa and Luanda. The Eastern District was subdivided into eleven Comarcas. The decree abolished the independent judicial areas of Daman and Diu. It also created two Julgado ordinarios in Diu and Nagar Haveli.

v. Regiment of Administration of Justice 1894:⁶

This was a major judicial reform in matters of Criminal justice System. The regiment extensively laid down the jurisdiction of the High Court in Art 78. Some of the matters referred to were:

1) To accept appeals against the decision of the First Instance Comarca judge and Arbitrators.

2) To take up appeals made to the Crown against the decisions of Bishops and other ecclesiastical authorities on grounds of violence or illegal exercise of their functions.

3) To review sentences of foreign courts and to confirm them as per laws.

4) To decide appeal against electoral list.

⁵ Ibid
⁶ Id at Pg. 131.
5) The High Court judged errors of office and crimes committed by the First Instance Comarca judge and representative of Public Ministry whether in or out in course of duty.

There was special provision regarding Comarca Judges. In the head quarters of the Comarca there was a first instance Comarca judge nominated by the King. Next to the Comarca judge was a delegate of the Procurator of Crown and Revenue nominated from among the Law degree holders by the government. The jurisdiction of Comarca judge was both civil and criminal. The Comarca judge exercised the functions of the Chancellor for the Comarca.

**vi. Organization of Judiciary of Colonies 1927:**

This decree had detail on profession of Advocates and Solicitors on their inscription, qualification and professional restrictions. The decree stressed upon the maintenance of the independence of the Judiciary. The other matters related to judicial efficiency, imposition of Penalties, censures etc. Article 183 in the decree lay down that Criminal Procedure Code for Portugal was made applicable to all their areas abroad.

To conclude we can say that the organization of judiciary in 1927 was very similar to the regiment of Administration of Justice of 1894 with regard to the basic framework of judicial structure. But 1927 decree produced a Superior

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*Id at 135.*
Council of Judiciary of Colonies for regulating as well as for taking disciplinary measures against the judges of the colonial cadre.

**vii. Special Judicial Set Up for New Conquests**

Due to promises made to the inhabitants of New Conquests in mid-eighteenth century, a special set up resulted in the New Conquests and an idea of the system may be obtained from the Circular of 1840 and Regulations of 1853 which were later axed in favour of uniform judiciary

A circular of 1840 clarifies the application of criminal procedure in the New Conquests. According to it criminal procedure was to be carried as per the uses, customs and practices given in edicts and laws. The procurator of the Crown and Revenue intervenes in grave crimes such as homicide and robbery. In crimes of less gravity, to set the judicial process in motion, there had to be a petition of complain by the offended party. In other cases were to be processed by correctional Trial by Grant. The clerk had to send a written report to the judge of the public crime committed within a period of 24 hours containing all the information such as circumstances, time, place, mode, names of persons present and so on.

Clause 20 incorporated the important principle of jurisprudence of that era, that no one was to be imprisoned without being accused of guilt nor was to be

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8 *Id* at 138-145.
9 *Id* at 138-140.
conducted to prison, if he had obtained security as per the prevailing uses and
customs or if he gave suitable finances in terms of prevailing laws.

No official of justice could enter the house of any person except at the time and
incases permitted by law and with express orders of the judge. No official was
to accept any food, money or other items, except the allowances prescribed or
recognized by practices which were already being legalized. However, these
privileges were not available in cases involving crimes against the state or
Governor General or Judges or military commander of the province.

Under the regulations of 1853\textsuperscript{10} certain clarifications were issued with regard to
producers in criminal cases. Crimes of Correctional type or accusations were to
be carried up to a certain stage in summary proceedings. According to the
regulations bail was to be given to accused in most of the cases except those of
serious nature like crime against Human or Divine Majesty, Sodemy,
Counterfeit Currency, Death, Robbery of houses and so on. The Public
Ministry had to say whether the crime committed was of public nature except
of adultery or rape. In these two cases the procedure adopted in judicial reforms
were to be followed.

In criminal cases by accusation, private cases after closing at the preliminary
summary proceedings and the indictment, the whole process was to be prepared
and submitted to the respective General Chamber for Judgement. The Chamber

\textsuperscript{10} \textit{Id} at 140-145.
met once in three months. The Chamber could examine the witnesses, question
the accused and do all acts necessary for decisions. The Chamber after
formulating the sentence would hand over the deliberations to the clerk to be
handed over to the Judge for judgement. Serious crimes threatening the very
stability of the State was kept out of the sphere of General Chambers.

Given the above developments, Dr. Carmo D’Souza\textsuperscript{11}, draws the following
conclusion which are very apt and provide us a bird’s eye view of reforms
carried out.

1) In Portugal in the post 1820’s period, new concepts on judicial
organization began to evolve as a result of influences of the other West
European countries. These concepts and ideals were put into practice in
the State of India by the decree of 1836.

2) In the beginning of the nineteenth century the judiciary in the State of
India, was of rather complex nature and not in accordance with the
juristic ideas propounded in Europe of those days. So the decree of 1836
provisionally organized the judiciary in the new lines. The decree of
1836 was skeletal and it gave the directional trend for the growth of
judiciary. However it was not possible to implement a uniform pattern in
the whole territory of Goa by the decree as the local system of
administration of justice still prevailed in the new conquests.

\textsuperscript{11} Id at 149-150.
3) The decree of 1836 was followed by others namely the decree of 1866 and 1894 in the nineteenth century and the decree of 1927 in the twentieth century. The decree of 1866 was comprehensive and consolidated the position of 1836. The decree of 1894 was a master plan organizing the judiciary in the nineteenth century. By this time uniformity in judicial organization had been achieved in the State of India.

4) Two legislative pieces namely the circular of 1840 and the Regulations of 1853 give an insight into local procedures of settling disputes both civil and criminal, which were prevalent in the new conquests. However the material that can be gathered from these pieces is rather scanty and needs to be corroborated by other documentary evidence. This is a fertile field for further research.

From the scholars point of view the rules framed to keep the judge on the right track and to deal with them very strictly, did help to maintain the sanctity of the law and to punish the wrong doer. It is probably these controls which were strictly enforced which ultimately helped in reducing the crimes with the territory and create a respect and fear for the law. Laws alone cannot bring justice. It is the judges who with strict interpretation of law and honest handling of cases can bring down the crime rate within the territory.

Though the Portuguese government was tough and strict and sometimes dictatorial, what is appreciable is that they created an independent judiciary
with the message. The message was, no corrupt, no careless or no indifferent judge will be tolerated. Everybody had to do their job according to the evidence available and only their conscience to guide them.

3.2. Criminal Courts

1. Levels of Criminal Trials:

Art 62 of Portuguese Penal Procedure Code provides that there is a common process of

i. Summary Trials

ii. Process Correctional (Offences punishable with imprisonment up to two years)

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12 Art. 35 of Penal Procedure Code refers to courts that have penal competence. All the courts mentioned where not there in Goa. They are: 1. Supreme Court of Justice, 2. The High Courts (Relações) 3. Collective Courts of “comarcas”, 4. Juries, 5. Judges of direito of comarca, 6. Criminal Judges, 7. Assistant Judges (Juizes auxiliares) of criminal investigation. 8. Judges of transgressions, 9. Justices of Peace, 10. Especial courts that take cases related to minors, delict of contraband etc, military tribunals etc and other designated by laws. The competence (jurisdiction) is discussed under Title II of Book I, Arts. 35-61.

13 Art. 67 of Portuguese Penal Code, referred to Summary Process. It was applied to process of Transgressions for contraventions of regulations, bye laws (posturas) etc. i.e. regulamentary in nature. Decree no. 16.489 of 15 February of 1929 approves the Codigo de Processo Penal. Decree no 19.271 of 24 January 1931 declares the Code of Penal Procedure in force in colonies. See also Antonio Simoes Correia, Codigo do Processo Penal, Livraria Ferin, Lisboa, 1947.

14 Art. 65 of Portuguese Penal Code, referred to Processo de Policia Correctional for the following cases: (a) Correctional imprisonment till 6 months, (b) Exile (Desterro) till 6 months, (c) Multa till 5000$, later raised to 20.000$00 by Decree no. 35.978 of 23 November 1946, (d) Suspension of employment till 2 years, (e) Temporary suspension of Political rights, (e) Reprimand (Représao), (h) Censure.
iii. Querela (for major crimes i.e. two years rigorous imprisonment and above).

2. *The Judicial Hierarchy*\(^{15}\):

\[
\text{TRIBUNAL DE RELACAO} \\
\uparrow \\
\text{COMARCA COURTS (JUIZ DE DIREITO)} \\
\uparrow \\
\text{JULGADO COURTS (JUIZ ORDINARIO)}
\]

3. *Committal Proceedings*\(^{16}\):

There were no provisions for committal proceedings as there were no district and intermediate courts.

4. *Examination of Witnesses*\(^{17}\):

- The list of witnesses was decided by the *Delegado*.
- The witnesses had to depose before a court of law.

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\(^{15}\) *Criminal Justice India Series*, Vol. 9, Goa 2002, Pg. 138.

\(^{16}\) Ibid

\(^{17}\) Ibid
5. **Number of Witnesses**:\(^{18}\)

- For minor crimes only three witnesses could be examined per fact.

- For major offenses, five witnesses could be examined per fact, subject to maximum of twenty witnesses.

- Witnesses could be asked questions only with respect to the facts of the case.

- There was nothing called cross examination.

- No suggestive or trick questions could be asked either by the prosecution or by the defense.

6. **False Witnesses**:\(^{19}\)

If two witnesses contradicted each other, the court was empowered to call both witnesses at the same time and both the contradicting witnesses were examined face to face and the judge decided the matter on the spot.

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\(^{18}\) *Ibid.* See also Art 222 of Portuguese Penal Procedure Code. Proof by Witnesses and Declaration is discussed in Arts. 214 – 244 of Portuguese Criminal Procedure Code. Art. 240 on who have to be heard as witnesses, such as people indicated by Public Ministry, offender, accuser etc. Art. 215 that no one can refuse to be a witness except those expressly forbidden by law. Art. 215 on those, who are disqualified to be witnesses. Art. 217 on those who cannot be compelled to depose or give declaration. Art. 219 on Head of State, Ministers, Judges of Supreme Court or High Courts to be inquired at their residence if they have to give evidence or declaration. Art. 222 states that in corpo delito the number of witnesses is unlimited. But the sole para permits the judges to restrict witness to particular numbers depending on the type of case provided he is satisfied on their sufficiency.

\(^{19}\) *Ibid*
7. **Witnesses not Included in the Charge sheet**:20

Such witnesses could be examined as there was no restriction on the examination of such witnesses. The list of witnesses was prepared by the *Delegado*.

8. **Punishment**21:

Punishment for the various offences was enumerated in the Penal Code. The punishment was divided into Frames.

<table>
<thead>
<tr>
<th>Frame</th>
<th>Sentence</th>
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<tbody>
<tr>
<td>First Frame</td>
<td>2-8 Years</td>
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<tr>
<td>Second Frame</td>
<td>8-12 Years</td>
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<tr>
<td>Third Frame</td>
<td>12-16 Years</td>
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<tr>
<td>Fourth Frame</td>
<td>16-20 Years</td>
</tr>
</tbody>
</table>

In case of Homicide, the sentence could be increased by 1/4th in cases of

i)  Patricide

ii) Matricide

iii) Assassination of the President/Head of State

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20 *Id* at 139.

21 *Ibid*
Only in exceptional circumstances could the judges award punishment of a frame than that which was prescribed. This could be done by invoking section 96 of the Penal Code.

9. **Prosecution and Defence**\(^{22}\):

- Prosecutors were permanent officials. The prosecutors in the Comarca Courts were called *Delegado* and their counterparts in the Julgado were designed as *Sub-Delegados*.

- A *Delegado* was essentially of the rank of the Comarca Judge. (That was the reason why the table of the *Delegados* in the Comarca Courts was at the same level or of the same height as that of the Judge). He was essentially a magistrate with accompanying magisterial powers. However, he was not vested with judicial powers. He did not have the power to convict and send a person to prison. The primary responsibility for the investigation of criminal cases was vested with the *Delegados*. *Delegados* were eligible to be promoted as Comarca Judges.

- *Sub-Delegados* were the counterparts of the *Delegados* at the Julgado courts. They were generally local advocates and did not belong to the permanent judicial cadre.

\(^{22}\) *Ibid*
- There were no restrictions in place on the right of the accused to appoint a lawyer of his choice for his defence.

- An accused could not himself plead his case. If the accused did not have the means to engage a lawyer, an obligation was cast upon the Court to appoint a lawyer for the unrepresented accused. The Delegado, Comarca Judge and Conservador (Sub-Registrar) constituted a committee which considered cases eligible for free legal aid. However, if the committee was of the view that the accused had no case, it would refrain from appointing a lawyer to represent the accused. In other words, if the committee felt that the accused was truly guilty, it was felt that he deserved no consideration in the matter of free legal aid.

3.3. Police Procedure\textsuperscript{23}

1. Investigation:

The powers of investigation were primarily vested with the Delegado, who could take the assistance of the Police in his investigation. Though the Delegado had the power to arrest, he had no power to detain a person.

2. Evidence:

- There existed no cumbersome Evidence Act.

\textsuperscript{23} Id at 140.
• Judges were free to interpret the facts; they were also empowered with the freedom to evaluate the evidence as per their individual perceptions.

• Evidence could be accepted even without witnesses/panchas. However, if the court had the slightest doubt it would straightaway discard that particular statement/evidence. The system placed a lot of faith and trust in the Police.

3. Confessions:

• No plea was allowed.

• The confessions of the accused unaccompanied by any other corroborative evidence could not be used for the conviction of an accused.

4. Interrogation of Suspects:

• In principle the powers of interrogation of suspects were vested with the Delegado. However, in practice many powers of investigation and interrogation of suspects were delegated to the police.

• During interrogation, the suspect/accused was to be accompanied by a lawyer.
5. House Search\textsuperscript{24}:

- No house search was permitted from sundown to sunrise.

6. Recoveries, Arrest, Detention\textsuperscript{25}:

- The police were empowered to effect recoveries without a warrant and without independent and respectable witnesses.

- The police were empowered to keep a suspect under detention for thirty days. However, during this period the Court could call for the case concerning the person detained.

7. Military Court (Tribunal Militario De Goa)\textsuperscript{26}:

This court had jurisdiction over the following matters:

i) All offences by military and police personnel.

ii) Certain offences, which affected to keep a suspect under detention for 30 days. However peaceful and non-violent in nature, committed by civilians were also tried by this court. These cases against civilians were investigated by the police before trial.

- The court comprised of two members who were military officers of the rank of Major/Captain.

\textsuperscript{24} Id at 141.
\textsuperscript{25} Ibid
\textsuperscript{26} Ibid
- The Court was presided by the Comarca Judge of Panaji, the capital.

- The role of the Comarca Judge was to state the law and to draft and pronounce the judgment.

The procedure of this court was governed by *Codigo de Justica Militar* (Code of Military Justice). Cases before this court were presented, on behalf of the state, by an Army officer called Promoter de Justica. All crimes were tried summarily, though the accused could engage a civilian lawyer for defence in the Military Court. The punishment for political offences used to be long periods of imprisonment, sometimes coupled with exile and forfeiture of civil rights for a considerable period.

It is interesting to carry research into the trials of some of the Satyagrahis involved in peaceful and non violent methods. The records are made public today and some of them have been published as books earlier by P. P. Shirodkar. For instance trial of T. B. Cunha, Trial of Laxmikant Bhembre, Trial of J. I. Loyola, Trial of P. K. Kakodkar throw light on several issues.

### 3.4. The Prosecution

#### 1. The Directorate of Prosecution\(^{27}\):

The Directorate of Prosecution is the overall supervisory body of prosecution in the State of Goa.\(^{28}\) The state takes over on behalf of the victims of the crimes

\(^{27}\) *Ibid.*
and prosecutes the offenders to bring them to justice. The Directorate of Prosecution comes under the Department of Law. It is manned by qualified and experienced Public Prosecutors and supporting staff.

The post of Directorate of Prosecution was created by the Code of Criminal Procedure (Amendment) Act, 2005 (25 of 2005) by which Sec. 25 A was inserted but in fact in State of Goa Directorate of Prosecution was created prior to this amendment.  

2. Organizational Structure:

At present the senior most Public Prosecutor (PP), Panaji is holding the additional charge of Director of Prosecution.

There are two districts i.e. North Goa and South Goa. In each district there is one District Court and one or more Additional District Courts. The prosecution work in the District Courts and Additional District Courts is being looked after by Public Prosecutors whose offices are in the respective court buildings.

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28 The Directorate of Prosecution is appointed by the State Government under the Home department in concurrence with the Chief Justice of the Bombay High Court.

29 Allocation of Business Rules 1987, Official Gazette 13-08-1987 Series 1 No.20

30 Supra note 15.
<table>
<thead>
<tr>
<th>Name of the Court</th>
<th>Number</th>
<th>Public Prosecutor</th>
<th>Assistant Public Prosecutor</th>
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<tbody>
<tr>
<td>High Court of Bombay Panaji Bench.</td>
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<tr>
<td>Court of District and Sessions Judge I (Principal) Panaji.</td>
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<td>Court of First Additional District and Sessions Judge II Panaji.</td>
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<tr>
<td>Court of Second Additional District and Sessions Judge III Panaji.(Fast Track)</td>
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<td>Court of Additional and District Sessions Judge IV (NDPS) Mapusa.</td>
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<td>Court of Judicial Magistrate First Class Pernem</td>
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<td>Court of Judicial Magistrate First Class Bicholim</td>
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<td>Court of Judicial Magistrate First Class Valpoi (Sattari)</td>
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<td>Court of Judicial Magistrate First Class Ponda</td>
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31 Table 1 and 2 has been updated by the researcher as per the current position.
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<tr>
<th>Name of the Court</th>
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<th>Public Prosecutor</th>
<th>Assistant Public Prosecutor</th>
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<tbody>
<tr>
<td>1. Court of District and Sessions Judge (Principal) Margao</td>
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<td>2. Court of First Additional District and Sessions Judge I Margao</td>
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<td>3. Court of Assistant District and Sessions Judge II Margao</td>
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<td>4. Court of Assistant District and Sessions Judge III Margao</td>
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<td>5. Court of Assistant District and Sessions Judge IV Margao</td>
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<td>6. Court of Adhoc Additional District and Assistant Sessions Judge (Fast Track) Margao</td>
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<td>Court of Judicial Magistrate First Class Canacona</td>
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The Assistant Public Prosecutors are appointed in each Taluka for looking after the criminal cases in the Courts of Judicial Magistrate First Class (JMFC). One Upper Division Clerk (UDC) and three Lower Division Clerks (LDC) are posted at Mapusa, Bicholim, Panjim and Madgaon to look after the general correspondence and Accounts work of all Public Prosecutors/Assistant Public Prosecutors.

The roles and responsibilities of various members of the Directorate are given below.

3. **Director³²:**

1) Giving opinions: Police and other Government Departments of Goa approach the Director, Directorate of Prosecution, either through the Home Department or directly seeking opinion for filing appeal/revision against the orders of a trial court.

2) Overall supervision and control of the staff of the department.

3) Making prompt temporary arrangements for substituting a Public Prosecutor/Assistant Public Prosecutor in case he/she is on leave.

4) Process and forward to the Law Department leave application of Public Prosecutor/Assistant Public Prosecutor.

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³² Id at. 91 to 92.
5) The Director suggests the transfers of personnel in the Directorate of Prosecution to the Law Department.

6) Any other matter pertaining to administration.

4. Public Prosecutor\textsuperscript{33}:

The basic functions of Public Prosecutor are to conduct cases in the Sessions Courts to secure justice for the victims. The functions of a Public Prosecutor are similar to those of Assistant Public Prosecutors except for the difference that Public Prosecutors handle cases in which the gravity of the offence committed is higher. They also give opinion, if requested, to the police in cases exclusively triable by a Court of Sessions.

5. Assistant Public Prosecutor\textsuperscript{34}:

Assistant Public Prosecutor conducts cases in the Court of Judicial Magistrates First Class (JMFC). The Assistant Public Prosecutors are also supposed to conduct cases before the District Magistrate and other Executive Magistrates. They also give opinion, to the police about cases referred by them

\textsuperscript{33} Ibid
\textsuperscript{34} Ibid
6. **Steps in the Process of Prosecution**:  

1) Police frames suitable charges on the basis of FIR and investigation and lodges the cases in the court.

2) The Court registers the cases and a unique number is assigned to that case.

3) Police gives the supporting documents of that case to the Prosecution Department for further proceedings and arguments.

4) In the office of Public Prosecutor/Assistant Public Prosecutor, a case register is maintained in which the Police Orderly enters all the details.

5) Court sends summons to the person accused of the offence and intimates him about the date of hearing.

6) Concerned APP is also informed of the dates.

7) APP studies the case and on the date of hearing, advances arguments in favour of the complainant for framing charges against the accused.

8) After recording evidence of Prosecution Witnesses and Defense Witnesses, if any, arguments are heard and the Judge gives his decision on the same.

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35 *Ibid*
9) Public Prosecutor/Assistant Public Prosecutor sends back the investigation case papers to the concerned police station, along with his/her opinion as to the fitness of the case for filing appeal or otherwise and a copy of the same is submitted to the Director of Prosecution.

10) If the judgment given by the court is not satisfactory to the Public Prosecutor/Assistant Public Prosecutor, then he/she suggests to the police station to make an appeal in the higher court giving his/her observations and remarks.

3.5. Appeals & Withdrawals

1. Appeal against Decision given by Judicial Magistrates First Class/Session Judges:

1) If the judgment given by a JMFC is not satisfactory to the APP, then he suggests along with his observation and remarks to the Police to make an appeal in the appellate court.

2) Police studies the comments given by a Public Prosecutor/Assistant Public Prosecutor and decides to go or not to go to higher courts for appeal.

3) If the police decide to go for appeal then they send the file to the Home Department through the Superintendent of Police.

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36 Id at 93.
4) Home Department sends the file to the Director, Directorate of Prosecution to seek his opinion on the same.

5) Director studies the case and gives his opinion and sends the file back to the Home Department.

6) Home Department returns the file to the Superintendent of Police for further proceedings. Home Department can also reject the opinion.

7) Public Prosecutor lodges the case in the Court.

2. Withdrawal of Cases:

Whenever any complainant or accused wishes to withdraw the case filed in a court, he files an application to the Government for the same. The Government then seeks the opinion of the Director who in turn seeks the opinion of the concerned Assistant Public Prosecutor. The Government after considering the opinion of the Director of Prosecution decides on the acceptance or rejection of request.

1) Whenever any complainant or accused wishes to withdraw the case filed in a court, he files an application to the Government (Home Department).

37 Id at 93 to 94.
2) Home Department sends the request to the Director, Directorate of Prosecution to seek his opinion on the same.

3) Director in turn sends this request to the concerned Public Prosecutor/Assistant Public Prosecutor to seek his comments on this request.

4) Concerned Public Prosecutor/Assistant Public Prosecutor gives his remarks on the request and sends it back to the Director.

5) Director examines the case and sends it back to the Home Department with his opinion.

6) Home Department decides about the request and if acceptable, conveys the same to the Director, Directorate of Prosecution for further proceedings. Home Department can also reject the opinion of the Director.

7) Director sends the same to the concerned Public Prosecutor/Assistant Public Prosecutor with request to file an application in the Court for withdrawal of the case.

8) Then finally the judge gives orders approving the withdrawal of a case.
3. The Prosecution Point of View\(^{38}\):

At present there are no prescribed procedures/guidelines to the investigation authorities in the matter of filing Charge sheet before the Court of Judicial Magistrate First Class. There is also no uniformity in respect of filing appeals or revisions before higher courts in respect of judgments passed by the lower courts.

4. The Stages of Investigation\(^{39}\):

Criminal law and Procedure is set in motion once the First Information Report (FIR) is lodged. A great deal of care is required to be taken at the time of recording a FIR by the Investigation Officer (IO). It is commonly known that the complainant who approaches the police for filling complaint/FIR is generally in a disturbed state of mind. Therefore, the recording officer should be sensitive. Members of the public are generally reluctant to approach the police for filing FIR on account of rumors of arrogant, rude and uncooperative behaviors of the police.

This is one of the causes of delay in filing FIR which ultimately may prove fatal to the case of the Prosecution. The police therefore should invariably to be courteous while dealing with the complainants. Sometimes the FIR is registered in great haste, in haphazard manner and thereafter, supplementary

\(^{38}\) *Id* at 94.

\(^{39}\) *Id* at 94 to 95.
statements are recorded to introduce facts which could and ought to have been recorded at the very first available opportunity. This practice should be avoided by every means.

Generally speaking, the prosecution agency does not come into the picture at the stage of investigation. The Investigation Officer is the master of the investigation subject to general or specific control and supervision of his superiors. However, in serious and complicated cases, in case the Investigation Officer faces some legal difficulty to proceed with the investigation, he may consult the Public Prosecutor or Assistant Public Prosecutor for discussion and guidance.

Individually, Investigating Officers approach the Public Prosecutor/Assistant Public Prosecutor frequently with written requests for piecemeal opinion during the course of investigation or sometimes even before the registration of the FIR. This practice is totally uncalled for. However, the Investigation Officer may approach Public Prosecutor/Assistant Public Prosecutor for consultation in case they want any guidance or advice during the course of investigation. Thereafter, the Investigation Officer should proceed with further investigation and complete the investigation after which a charge sheet/final report should be filed.

Sometimes serious offences are partly investigated by police officers of the rank of Head Constable or Assistant Sub Inspector. This procedure is highly objectionable and certainly not in the interest of administration of justice.
Offences triable exclusively by Court of Sessions should preferably be investigated by an officer of the rank of Deputy Superintendent of Police and in no event such offences should be investigated by an officer below the rank of Police Inspector.

The offences against women, particularly rape cases, should be investigated by lady police officers. If this is not practicable in each and every case, then a lady constable must remain present at the time of interrogation and recording of statement of rape victims.

5. Procedure for Filing Charge sheet/Complaints before the Magistrate by the Investigation Agency:

It is generally believed by the Investigation Officers that their job is over once the charge sheet is filed in the court of law. This is to overlook the duty of the investigating agency to keep in touch with the Public Prosecutor/Assistant Public Prosecutor from time to time to give material information and instructions to them.

The Investigation Officer should remain present in the court during important stages of the trial, particularly at the time of recording of evidence of important witnesses such as the complainant, Panch witnesses for attachment of property and other material witnesses. The presence of the Investigation Officer in the court at the time or recording evidence makes a lot of difference. The witnesses

40 Id at. 95, 96, 97.
who are won over by the accused will not easily switch loyalties when the Investigation Officer who has recorded their statements is present in the Court.

The Investigating Officer should appear in the court for his own evidence without waiting for summons from the Courts. In fact many Investigating Officers do not turn up even after repeated messages by Public Prosecutor/Assistant Public Prosecutor. Generally the presence of Investigating Officer is secured by the Court by issuing summons to them. It is unfortunate that sometimes the Investigating Officer do not appear before the Court in spite of repeated summons from the Court, thus compelling the court to issue warrant of arrest against them. This process of securing the presence of police officer is extremely painful and pernicious. Senior officers should issue strict instructions to the Police Investigating Officers to get their evidence recorded by the Court without even waiting for summons from the Court. In any event, in case warrant of arrest is issued against the police officer to secure his presence, the Public Prosecutor/Assistant Public Prosecutor should bring this fact to the notice of the Superintendent of Police who in turn should initiate appropriate action against the defaulting officer.

Some Investigation Officer does not obtain any opinion at all from the concerned Public Prosecutor/Assistant Public Prosecutors before filing charge sheet. This is awkward for the Public Prosecutor/Assistant Public Prosecutors in case there is no prima facie case for the Prosecution or in case the prosecution is not maintainable on points of law. Therefore,
1) In all the cases concerned Investigating Officer should submit the papers of investigation to Public Prosecutor/Assistant Public Prosecutor for opinion before filling charge sheet/complaints. While giving opinion the Public Prosecutor/Assistant Public Prosecutor should point out the deficiency, if any, in the investigation which should be rectified by the Investigating Officer before filing charge sheet.

2) The Public Prosecutor/Assistant Public Prosecutor should give opinion as soon as possible. It should be the responsibility of the Investigating Officer/complainant to collect papers from the Public Prosecutor/Assistant Public Prosecutor after the opinion is ready as the Public Prosecutor/Assistant Public Prosecutor neither has the manpower nor machinery to return the papers to the Investigation Officer/complainants.

3) In case the Public Prosecutor/Assistant Public Prosecutor opines that the case is not fit for filing charge sheet and in case the investigating agency does not agree with the same they should submit the papers to the higher authority for further guidance that in turn may approach the Director of Prosecution for second opinion. In case the Director of Prosecution is also of the opinion that the case is not fit for filing charge sheet/complaints, no charge sheet or complaints should be filed.
6. Procedure for Filing Appeals from Lower Courts to Higher Courts:\textsuperscript{41}

One of the main causes of delay in processing the files for filing appeals is the apparently unnecessary backward and forward movements of the files from one department to another.

Another reason is that there is no time frame in the concerned departments to clear files within a stipulated time.

The third reason for delay is that whenever case papers of investigation/files are submitted for opinion it is generally found that either all the papers of investigation have not been made available for perusal or sometimes the photo copies supplied are not clearly legible. Sending the papers of investigation back to the investigation authorities inevitably results in wastage of time.

Yet another reason for delay is on account of the fact that either the investigating agency or Home Department refers the file to the Law Department even after obtaining opinion from the Director of Prosecution. There is no necessity to refer such files to the Law Department in criminal cases which amounts to seeking third opinion for filing appeal. The opinion of the Director of Prosecution in the matter of filing appeal should be final.

A proper system/procedure to ensure prompt processing of files by removing the above drawbacks would ensure that:

\textsuperscript{41} Id at 97, 98, 99.
i) The Public Prosecutor/Assistant Public Prosecutor should apply for certified copy of the judgment on the same day on which the judgment is pronounced.

ii) The Public Prosecutor/Assistant Public Prosecutor should forward the papers of investigation to the concerned investigating agency as early as possible after the receipt of certified copies from the court, along with his opinion. Public Prosecutor/Assistant Public Prosecutor should not take a casual and mechanical approach while giving opinion, but should make objective assessment of the judgments clearly indicating on what material points the trial court has gone wrong, by giving detailed opinion. All efforts should be made to forward the case papers within seven days. Delay, if any, in forwarding the papers should be recorded in writing.

iii) In case the concerned investigating agency is interested in filing appeal against the judgment they should first take a clear decision that they desire to file an appeal and thereafter forward the papers of investigation along with the opinion of the Public Prosecutor or Assistant Public Prosecutor to the office of the Director as early as possible through higher officers. The file should be forwarded through superior officers not below the rank of Superintendent of Police. Every effort should be made to forward the papers to the Director within seven days after the receipt of the papers from the
Public Prosecutor/Assistant Public Prosecutor. Delay, if any, should be recorded in writing.

iv) On receipt of the papers from the concerned Investigating Agency, the Director of Prosecution should clear the file as soon as possible. Endeavour would be made to clear the files within seven days. Delay, if any, should be recorded in writing. The file should then be forwarded by the Director to the Home Department under intimation to the investigating agency.

v) On receipt of the file from the Director of Prosecution the concerned Secretary/Under Secretary to the government should process the file as early as possible. Endeavour should be made to process the file for approval of the government to file appeal within seven days. Delay, if any, should be recorded in writing. The concerned Secretary/Under Secretary to the Government, after processing the file, should convey the approval to the Government to file appeal or otherwise to the concerned investigating agency, under intimation to the Directorate.

vi) On receipt of the file from the concerned Secretary/Under Secretary of the Government, the investigating agency should approach the Public Prosecutor in the High Court for filing appeal without delay. Endeavour should be made to approach the Public Prosecutor in
High Court for filing appeal within three days. Delay, if any, should be recorded in writing under intimation to this office.

vii) On receipt of the papers from the Investigating Agency, the Public Prosecutor should file appeal in the High Court without any delay. In any event, the appeal should be filed within the period of limitation by the Public Prosecutor. Delay, if any, should be recorded in writing.

7. Procedure for Filing Revision before the Sessions Court or High Courts by the Investigation Agency:

i. The Public Prosecutor/Assistant Public Prosecutor should apply certified copy of the interim order passed by Court of Judicial Magistrate of First Class/Session Court on the same day as the order is passed.

ii. The Public Prosecutor/Assistant Public Prosecutor should forward the relevant papers to the concerned investigating agency as early as possible after the receipt of the certified copy from the court, along with the opinion in case he/she is satisfied that the case is fit to be challenged before the higher court. Endeavour should be made to forward the papers within four days. Delay, if any, should be recorded in writing.

42 *Id* at 99 - 100.
iii. In case the investigating agency is interested in filing revision against the order, then the Investigation Officer should consult his superior officer and thereafter should submit the relevant papers along with the opinion of Public Prosecutor/Assistant Public Prosecutor and the certified copy of the order to the Director for approval through their higher officer for filing revision. The decision of the Director of Prosecution in the matter of filing revision against the interim order should be final. Endeavour should be made to forward the papers within four days after the receipt of the papers from Public Prosecutor/Assistant Public Prosecutor. Delay, if any, should be recorded in writing.

iv. On receipt of the papers from the concerned investigating agency, the Director of Prosecution should either convey approval or otherwise as early as possible. Endeavour should be made to clear the file within 4 days. Delay, if any, should be recorded, in writing. The papers then should be returned to the investigating agency along with the approval or otherwise.

v. In case the Director of Prosecution is of the opinion that the case is fit for filing revision then the concerned Investigating Officer, on receipt of papers, should contact the Public Prosecutor in the Session Court or the High Court as the case may be, immediately for filing revision. The Public Prosecutor should take steps to file revision
application as early as possible. In any event, the revision should be filed within the period of limitation. Delay, if any, should be recorded in writing.

It is pointed out that in case no satisfactory explanation is given for unreasonable delay in processing the files, persons responsible for delay should be made accountable for unexplained delay.

8. *The Police Point of View*:

The courts in Goa are putting in the cause list 20 cases in the morning session and 20 in the evening. Accordingly summonses are issued to 2 or 3 witnesses in each case. In actual experience, the Court is able to examine very few witnesses. The witnesses so summoned, therefore, will have to return without having done any work. This practice causes considerable wastage of time and money to the witnesses, besides embarrassment and inconvenience to them.

Frequent adjournments are major causes for considerable delay in disposing of the cases. The Public Prosecutor/Assistant Public Prosecutor should, therefore, ensure that only a few witnesses are called for examination after having thoroughly scrutinized the case file. Under no circumstances, the recording of evidence should be postponed once the witnesses are called for it. The judges also should attend the court in time setting an example to others.

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43 *Id* at 100 to 101.
According to the new format of FIR and other case papers introduced by the National Crime Records Bureau, the final form is the Court Disposal Form. This form is to be filled in by the Public Prosecutor/Assistant Public Prosecutor who has conducted the prosecution of the case wherein he notes down the reasons why the case ended in acquittal, e.g. hostile witnesses, improper Panchanama, lapses in investigation etc.

At present little effort is made to ensure filling up of these forms and thereafter correlating/analyzing the reasons for acquittal. If properly done, this would provide valuable data useful for introducing improvements/correctional measures. This data when analyzed would also offer insight into the current thinking of the judiciary and the current standard of prosecution of investigation. Regular scrutiny and analysis of the Court Disposal Form should be done at the Police Headquarters in coordination with the office of the Director of Prosecution for achieving better quality of investigation and subsequently better prosecution thereby enhancing the conviction rate.

9. Briefing of Witnesses (Minimizing memory lapses due to passage of time)\textsuperscript{44}:

It is an accepted fact that apart from offences which are triable in specially appointed courts, the time span between the date of cognizance of the offense and commencement of trial and its conclusion generally stretches to several

\textsuperscript{44} Ibid.
years. This phenomenon results in several undesirable developments. Those affecting the witnesses can be broadly identified as:

a) Lapse of memory of the witness due to passage of time.

b) Disassociation or distancing of the witnesses from the crime and the Investigation Officer thereby creating apathy/indifference to the fate of the case.

c) ‘Approaching’ of the witness by accused party.

d) Change in location/address of witnesses resulting in non-availability.

e) Death of a witness due to illness whereas timely action should have been taken to record statements under section 106 of CrPC.

f) Creation of stock witnesses.

To combat these evils a record of the witnesses should be chronologically maintained and a system of briefing/refreshing the memory of the witnesses should be in place whereby the Investigation Officer and the Public Prosecutor/Assistant Public Prosecutor should maintain periodic contracts with the witnesses. This will prevent apathy on the part of the witness in the case. If it seems that such a system is impracticable in all cases, it can be limited only to grave and heinous crimes. If adopted, this will go a long way in ensuring the positive interest of the witnesses and thus increase the evidentiary value of his deposition.
10. Overburden of Case Loads on Public Prosecutors/Assistant Public Prosecutors⁴⁵:

It is seen that the Assistant Public Prosecutors on lower courts and the Public Prosecutors are tremendously overburdened with the case loads. For example, the Vasco JMFC Courts had in January 2008 over 1,500 cases pending trial but there were only three Assistant Public Prosecutors which meant that on an average each APP had to conduct prosecution of at least 500 cases. A person, however capable he may be, cannot do justice to such a work load. The result is predictably miserable performance. Appointment of more Public Prosecutors / Assistant Public Prosecutors is essential. The situation in other courts is more or less the same.

11. Transfer Policy of Officers⁴⁶:

A great amount of time of an officer posted at a police station is spent in courts. This is more so in the case of senior officers in charge of police stations who have to spend several hours almost on alternate days in the courts. It is but natural that an investigation Officer who has put in more than ten years of service will have a reasonably busy court schedule.

A stage is reached where the police officer cannot do justice to either cases in courts or his police station and the result is reduced performances in both the

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⁴⁵ *Ibid*
⁴⁶ *Id* at 102.
areas. The transfer and posting policy, particularly at police station level, should be spaced so as to give a maximum of two years posting in other units i.e. non-executive postings. This will have certain salutary effects:

A) Prevent an officer from being overburdened with pending trial cases.

B) Allow him to concentrate on charge sheeted cases.

C) During non-executive posting, an officer gets a chance to relieve physical and mental stress.

D) Judicious spacing of posting promotes the overall development of the person as a police officer and increases his knowledge and improves his experience.

If officers are able to truly concentrate on their pending trial cases, the conviction rate will increase.

**12. Interaction between Police and Judiciary by the way of Workshops and Conferences**:

Today there is virtually no interaction on a regular basis with any level of the Judiciary. Purely personal relations between individuals may be there. The following present weaknesses are to be faced:

a) Lack of a platform for interaction between the Police and the Judiciary.

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b) Lack of channel to view and assess the current trends of judicial wisdom.

c) Lack of debates/discussion about use or misuse/misinterpretations of old existing laws and new laws. Another aspect is the applicability of new judgments pronounced by the higher judiciary in other parts of the country.

d) There is no mode to gauge the judiciary’s reaction to current policing or its opinions about methods of police investigation other than by reading judgments and strictures passed in them.

3.6. Functioning of Police Department in Goa

1. Structure of the Department:

The Director General of Police, with his headquarters at Panaji, heads the Department of Police. The Deputy Inspector General of Police assists him.

The offices in the Police Department can be broadly outlined as under:

1) Deputy Inspector General of Police, Goa.

2) Superintendent of Police, North Goa District, Porvorim.

3) Superintendent of Police, South Goa District, Margao.

4) Superintendent of Police, CID, Panaji.

\[^{48}\text{Id at 145}\]

6) Superintendent of Police, Training, Panaji.

7) Superintendent of Police, Headquarters, Panaji.

8) Superintendent of Police, Motor Transport, Panaji.

9) Deputy Commandant General, Home Guard/Deputy Director, Civil Defence, Panaji.

10) Principal, Police Training School, Valpoi.

The police Department primarily deal with the maintenance of law and order, prevention, investigation and detection of crime, VVIP/VIP security, management, control and regulation of vehicular traffic as well as attending complaints/grievances of the members of public.

The state of Goa is divided into two Districts, i.e. North and South.

2. Functions of the District Superintendent of Police⁴⁹:

The District Superintendent of Police, North Goa has his office located in the Police building at Porvorim. The District Superintendent of Police, South Goa has his office at Margao.

⁴⁹ Ibid
The overall supervision of the police stations in the two districts rests with respective District Superintendent of Police.

3. Basic Functions of the Police Station\(^{50}\):

i. The police stations take cognizance of the complaints lodged by the members of the public given in writing or orally. If the complaint discloses the commission of cognizable offense, a case is registered as envisaged under section 154 CrPC and investigation is taken up. These are cognizable offences. As regards the non-cognizable cases, action is taken u/s 155 CrPC and the complainants are advised to seek redress in the competent court of law.

ii. The officer in charge of police station is to maintain law and order within his jurisdiction and to provide security to public within the community/locality.

iii. Prevention, investigation and detection of crime are one of the important functions of the police.

iv. Management, control and regulation of vehicular and pedestrian traffic are the other functions performed by the police station. Traffic offenders are booked and punished for offences committed by issue of challans on the spot. In case of road accidents, the injured is

\(^{50}\) Id at 145 - 146
rushed to the hospital by Emergency Ambulance 108 for first aid and prompt medical treatment and action is taken against the offenders.

v. Enquiries in arms licenses and renewal of arms licenses are also taken up and reports submitted within the time limit prescribed.

vi. Tourist Police: Goa is one of the most popular tourist spots in the country. Due to its moderate climate, the tourists come to Goa round the year. It has become extremely popular after the CHOGM in 1983.

In view of interaction of the tourists with local population, the following needs had to be created for:

a) Regulating at the Ferry Point, Inter State Bus Terminal.

b) Information and guidance to tourists.

c) Management of parking areas at tourist spots.

d) Patrolling on the beaches to prevent

- Crime

- Proliferation of vendors and unauthorized massage boys

- Unauthorized construction, etc.

e) Check and control on suspicious foreigners.

f) Control of the drug menace.
g) Prevention of the drowning cases.

The tourist regulations were part of the general management of the police stations. But due to increase in tourism trade, a separate wing, named as Tourist Police was created under the Tourism Department.

4. General Guidelines\textsuperscript{51}:

1) Fixing service standards in terms of time limit for completion of particular jobs: time limit for furnishing information on action taken reports in all cases is one week. However, in respect of time bound matters, reports are dispatched within the time frame stipulated.

2) Improving quality of service for bringing about efficiency and police-public inter face: Policemen are advised to be courteous towards members of public approaching them with their complaints. Grievances/complaints are heard and action taken on merits of the case.

3) Avenues for grievance redressed in cases where commitment is not adhered: Members of public are free to meet any senior police officer in case their complaints are not looked into properly or delay is caused at the police station. Notice boards and complaint boxes are put up at every police station for the benefit of aggrieved public.

\textsuperscript{51} Id at 146 - 147.
5. *Superintendent of Police, CID*\(^{52}\):

The office of the Superintendent of Police, CID, is situated in the Police Headquarters building at Panaji and he is overall in charge of the Crime Branch and Special Branch, CID.

6. *Crime Branch*\(^{53}\):

Deputy Superintendent of Police heads the Crime Branch, CID. The Crime Branch deals with collection of criminal intelligence, investigation of cases entrusted to it, under the supervision of SP (CID). It also assists the other police stations in the investigation of the heinous offences.

The service rendered by the Crime Branch to the members of the public are grant of No Objection Certificates (NOC’s) in respect of transfer of vehicles and enquiries into antecedents of individuals who apply for conductor badge license in connection with Motor Vehicle license. This is done within seven days.

7. *Foreigners Branch*\(^{54}\):

The foreigners Branch is headed by Deputy Superintendent of Police, CID FB and functions under the overall supervision of SP (CID).

\(^{52}\) *Id* at 147.
\(^{53}\) *Ibid*
\(^{54}\) *Ibid*
The service rendered to the public by the Foreigner’s Branch is:

1) Issue of residential Permits on registration: All the foreigners who enter India on the visas valid for a period exceeding 180 days are required to register themselves with the Foreigners Registration Office (FRO). A set of registration forms are issued for which a fee of Rs. 30 is charged and receipt issued. On submission of duly filled in forms, residential permits are issued within a week.

2) Processing of application for extension of visa: On receipt of the duly filled in forms along with the required documents for extension of stay, a report is submitted to the Home Department (Foreigners and Citizenship Division) within a week. A set of 3 extension forms are issued at the cost of Rs. 30/- and receipt issued. The FRO is not empowered to grant extension of stay in India to foreign nationals.

3) Passport Verification: On receipt of the passport application forms from the Passport Office, the same are dispatched for enquiry to the respective police station and CID, FB within 24 hrs. On receipt of reports from the police stations and CID, FB, consolidated reports are sent to the Passport office within two days.

4) Issue of PCC for Migration: On receipt of application for police Clearance Certificate (PCC) for migration aboard, the NOC’s are issued
within 2 days after receiving the verification report from the police stations.

5) Inquiry into applications for grant of Indian Citizenship: On receipt of applications from the District Magistrate, the applicants’ statement is recorded and a report is sent within 2 days.

On receipt of application from the Under Secretary (Home) the applicant is requested to furnish a sworn affidavit for grant of Indian Citizenship. After the sworn affidavit is furnished, a detailed report is sent to the Under Secretary (Home) within a week.

8. Superintendent of Police, Traffic and Security\textsuperscript{55}:

The Traffic Cell is headed by Deputy Superintendent of Police (Traffic) and Security Branch by Deputy Superintendent of Police (Security) under the overall control of SP (Traffic and Security).

The Security Branch provides security cover to the protected persons, VIPs/VVIPs etc. The Traffic Cell deals with the management, control and regulation of Vehicular traffic and takes action against offenders’ violating traffic laws.

\textsuperscript{55} Id at 148.
9. Superintendent of Police (Training)\textsuperscript{56}: 

The Office of Superintendent of Police (Training) is situated in the Police Headquarters building at Panaji. Deputy Superintendent of Police (Wireless) and Deputy Superintendent of Police (Goa Reserve Police) are working under the overall control of Superintendent of Police (Training).

10. Wireless Section\textsuperscript{57}: 

There are two Police control Rooms in Goa, one for North Goa and one for South Goa. Police Central Room of North Goa is situated at PHQ, Panaji while the South Goa, PCR is located at Margao. Police Emergency Telephone No. 100 is installed in both the Police Control Rooms. All emergency calls originating from anywhere in North Goa are received at Police Control Room, Panaji while all calls originating in South Goa are attended by the Police Control Room, Margao. Thereafter police assistance is provided to the people in need and distress by the quickest possible means.

In order to reach the affected/injured persons in minimum time possible, mobile vans are deployed for round the clock public service at Panaji, Margao, and Mapusa. The information regarding occurrence of any crime, accidents etc. are reported to the Police Control Room, which in turn passes the information to senior police officers. Deputy Superintendent of Police (GRP) provides

\textsuperscript{56} Id at 148 - 149.

\textsuperscript{57} Ibid
guards/police protection to vital installations like TV Centre, (All India Radio), Banks, Department of Telecommunication and VVIPs and at the residence of Ministers and other dignitaries visiting Goa.

11. Superintendent of Police, HQ\textsuperscript{58}:

The office of Superintendent of Police, HQ is situated in the Police Headquarters building at Panaji. SP (HQ) is the head of office for the administrative office under DGP and all administrative matters of this Department are handled by him.

DY. SP (HQ) functions under the overall supervision of SP (HQ). He monitors the deployment of PHQ Guard, escorts for prisoners to the various courts and hospitals for medical treatment and maintenance, cleanliness and upkeep of the entire PHQ buildings/complex.

12. Superintendent of Police, Maintenance\textsuperscript{59}:

Superintendent of Police (Maintenance) has his office situated in the Police Headquarters building at Panaji. He supervises maintenance, servicing, overhauling and repairs of all police vehicles. He also monitors the deployment of police vehicles for various law and order duties including security arrangements for VIPs/VVIPs visit.

\textsuperscript{58} Ibid

\textsuperscript{59} Id at 149 - 150.
13. **Deputy Commandant General, Home Guards/Deputy Director, Civil Defence**\(^{60}\):

DCGHG/DDCD is the second in command in the Home Guards and Civil Defence Organization. The DGP Goa is the Ex-Officio Commandant General, Home Guards and Director, Civil Defense. The Home Guards organization is a voluntary organization and draws volunteers, both male and female, for enrolment as Home Guards. Home Guards are utilized by the Police Department as ‘Auxiliary Force’ to supplement the needs of District Police for meeting law and order situations, *bandobust* and for security duties.

14. **The Police Training School, Valpoi**\(^{61}\):

Principal, Police Training School is of the rank of Superintendent of Police, heads the police Training School, situated at Valpoi. Recruitment of police constables for Goa Police is done by the office of the Director General of Police. After initial appointment, the recruited police constables are deputed for basic training of 9 months duration to the Police Training School, Valpoi. Training is imparted to them in indoor and outdoor subjects.

Police drivers, after recruitment, are put through a crash course of police basic training for a period of three months. Refresher/reorientation courses are conducted for Assistant Sub Inspectors, Head Constables and Police

\(^{60}\) *Ibid*

Constables. The Police Training School has in the past imparted basic training to Customs Guards/Excise Guards/Forest Guards.

3.7. Prisons

a. Origin of Prison\(^{62}\):

During the days of the imperialist Portuguese regime, the administration of the jails in the territory of Goa was entrusted to the Procuradoria de Republica i.e. Chief Prosecutor who also acted as the Legal Adviser to the government. For the administration of justice the entire territory of Goa was divided into 5 Divisions known as Comarcas which were in turn divided into sub-division called Julgados. The Comarcas having their headquarters at Panjim, Margao, Mapusa, Bicholim and Quepem respectively had a jail situated within their headquarters limits.

In addition the Julgados of Marmugoa and Ponda also had jails situated within their territorial limits. The Delegados (Public Prosecutors) looked after the Comarca Jails, whereas the Julgado jails were looked after by the Sub-Delegados (Assistant Public Prosecutors).

After liberation the office of the Procuradoria de Republica came under the administrative control of the Law Secretary and Assistant Public Prosecutors were appointed as ex-officio Superintendent of Jails. The office of the

\(^{62}\) Supra note 15 at 109.
Procuradoria de Republica from 1st March, 1968 was renamed as the office of the Inspector General of Prisons-cum-Procuradoria de Republica.

b. Organizational Set-Up\textsuperscript{63}:

The prison system in Goa today comprises of one Central Jail situated at Aguada, one sub Jail cum judicial Lock-up at Sada, Vasco-da-Gama, and three Judicial Lock ups situated at Panjim, Margao and Mapusa. The Home Department deals with matters relating to prisons in Goa. The Home Minister is the political head of the Department and the Secretary (Home) is the administrative head. The Inspector General of Prisons is the executive head of the Department of Prisons in Goa. In the absence of an independent and full-fledged Prisons Department, the Collector of the district of North Goa heads the department and holds charge as the ex-officio Inspector General of Prisons. He is assisted by an Additional Inspector General of Prisons who is a senior scale officer of the Goa Civil Service.

The central Jail situated at Aguada is headed by a Superintendent of Prisons who is an officer belonging to the junior scale of the Goa Civil Service. Soon this would be relocated in Colvale. State is planning to build a modern central jail with high security and facilities such as workshop for prisoners, library, hospital, meditation centre and recreation hall.

\textsuperscript{63} Ibid
The Judicial Lock-ups at Panjim, Margao, Mapusa and Vasco are headed by the respective jurisdictional Deputy Collectors (sub-divisional Officers/sub-divisional Magistrates) who act as ex-officio Superintendent of their respective Judicial Lock-ups.

Panjim sub-jail is located at Panjim police station. Under trials and convicts of less than two years are housed in this jail. It also consists of judicial lockup. Similarly Sub-jail in Vasco – Sada houses under trials and convicts of less than two years preferably whose cases are in South Goa. Mapusa Sub-Jail is located at Mapusa police station, opposite Mapusa post office. Margao Sub-jail is located near to the District Court. Unlike other jails, it has a separate cell for women.

c. Recruitment\(^{64}\):

Recruitment in the Goa Jail Service is done at the level of Jail Guard, Assistant Jailor and Jailor. Selection is on the basis of a written examination followed by an interview conducted by the office of the Inspector General of Prisons.

d. Training\(^{65}\):

The training prescribed for jail guards is a three months Basic Training Course at the Police Training School at Valpoi. The course is similar to that imparted to the police constables with the difference that the duration of the course is

\(^{64}\) Id at 113.  
\(^{65}\) Ibid
three months instead of the nine months prescribed for police constables. At present, a batch of newly recruited jail guards are undergoing their initial training at the Police Training School at Valpoi.

The training prescribed for Assistant Jailors and Jailors is a one-year course at the Regional Institute for Correctional Administration (RICA) at Vellore in Tamil Nadu.

e. **Parole and Remission of Sentences**

Under the Jail Rules, there are provisions for the remission of sentences and parole, which may be granted to prisoners.

f. **Women Prisons**

The women prisoners (convicts as well as under trials) in the state of Goa are usually housed at the Central Jail at Aguada which has a registered capacity of 25 for female convicts and under trials. Women prisoners comprise about 2% of the total prison population in Goa.

g. **Jail Manual**

A Jail Manual is a complete compilation of the rules and regulations governing prisons and prisoners. Every jail is governed by it; every prisoner is bound by

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66. *Ibid*
67. *Id* at 115.
68. *Ibid*
it. Nearly every state has a Jail Manual of its own. However, till date, no Jail Manual has been prepared for the state of Goa. But there exists the ‘Compilation of Rules’ which is out of print for the last five years. One copy of this compilation is available at the library of the Central Jail, Aguada. It is not known whether prisoners have access to this copy.

h. A List of the Acts and the Rules in Force in the State Of Goa in Connection with Prisons:

Acts:

1) The Prison Act, 1894, in force since 6th February 1964

2) The Prison Act, 1900, in force since 6th February 1964

3) The Identification of Prisoners Act, in force since 6th February 1964


Rules:

1) The Goa Prisons (Remission) Rules, 1965


69 Id at 115 - 117.


17) The Goa Prisons (Habitual And Hardened Criminals) Rules, 1969
18) The Goa Prisons (Staff Functions) Rules, 1969

19) The Goa (Civil Prisoners) Rule, 1969


3.7.1. Correctional Services

a. Probation Services\(^{70}\):  
The Probation service in the state of Goa comes under the purview of the Department of Women and Child Development. This subject is looked after by a troika of officers who constitute the cadre of the probation service consisting of:

1) The Probation Officer

2) The District Programme Officer

3) The Superintendent-cum-Probation Officer, Apna Ghar, Merces.

4) The Superintendent Protective Home cum Reception Centre.

However, the post of District Probation Officer has now been delinked from the purview of probation service and has been redesigned as Assistant Director (Scheduled Castes).

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\(^{70}\) The data has been collected from Department of Women and Child Development, Government of Goa.
**b. Recruitment Training and Promotion**\(^{71}\):

The three posts mentioned above are filled by direct recruitment done by the Goa Public Service Commission and by promotion from amongst the cadre of Child Development Project Officers (CDPO). The ratio between direct recruits and promotes is 50:50. The minimum qualification for a direct recruit is a Master’s Degree in Social Work, Psychology or Sociology. 50% of the posts are reserved for Child Development Project Officers (CDPOs) having a Master’s Degree along with the necessary seniority.

There is no initial pre-service formal training imparted to the probation officers, neither are they sent for orientation or refresher courses conducted by the National Institute Of Social Defence, New Delhi, the Regional Institute for Correctional Administration (RICA), Vellore and other related institutions.

The cadre of probation officers being an isolated cadre comprising of just three officers, no avenues for further promotion exist resulting in low morale and motivation among the officers in the cadre.

**c. Pay scale**\(^{72}\):

The probation officers are appointed in the pay scale of Rs. 9,300-4200-34,800.

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\(^{71}\) Supra note 15 at 123.

\(^{72}\) Supra note 69.
d. Role of Service Performed by the Probation Officer\textsuperscript{73}:

The main function of a probation officer is to investigate the social background of and supervision over the probationers referred to them by the Court. The legal framework for probation services in the state of Goa is provided by the Probation Of Offenders Act, 1958; the Juvenile Justice (Care and Protection of Children) Act 2000; the Criminal Procedure code, 1973 (Sec 360); the Goa Prevention of Begging Act, 1972; Prevention of Immoral Traffic in Women Act (PITA).

Under sec 13(b) of the Juvenile Justice (Care and Protection of Children) Act 2000, upon a juvenile being arrested, the officer in charge of the police station or the special juvenile police unit to which the juvenile is brought shall, as soon as may be after the arrest, inform the probation officer of such arrest so as to enable the probation officer to obtain information regarding the antecedents and family background of the juvenile and other material circumstances likely to be of any assistance to the Juvenile Justice Board for making the enquiry.

The Juvenile Justice Board before passing an order under the Act with regard to the guilt of the juvenile shall obtain the social investigation report of the probation officer and it shall take into consideration the findings of such report.

\textsuperscript{73} Id at 124.
e. Reality Check\textsuperscript{74}:

Probation services in the state of Goa are still in a stage of infancy. There exists no proper infrastructure for the conduct of probation services.

The role of the probation officer in Goa as of now is just to act as a via media between the accused/convict and the courts. A large part of the probation officer’s job entails providing information when requested by the court about the social and economic background of accused whose cases are being considered by the courts for the release on probation. At present the probation officer receives about fifteen requests per mensem for background information.

There is no institutional treatment/rehabilitation programme for the juveniles and other probationers. It is a known fact that with respect to the probationers, the probation officer has nothing to do but to make a periodical contact with their homes and report to the courts.

The administrative head of the Apna Ghar, Merces has been designated as Superintendent-cum-Probation Officer. However, this designation is a misnomer as the aforesaid officer does not perform any probation services, which are in reality performed by the Chief Probation Officer.

In reality the Chief Probation officer is the one and only officer performing a semblance of probation work in the territory of Goa. As such the officer is

\textsuperscript{74} Id at 124 to 125
overburdened with work, which has a telling effect on the quality of probation work. Further, lack of means of transport and the absence of supporting ministerial staff has worsened the situation resulting in the non-compilation of annual statistics and improper filing and maintenance or records.

3.7.2. Juvenile Correction in Goa- Authorities and Institutions

a. Origin and Evolution

After the liberation of Goa from the colonial Portuguese rule in 1961, there being no proper institutions to house juvenile delinquents in the Territory, they were sent to the ‘Certified School’ situated at Khanapur in the Belgaum District of the State of Karnataka. Such an arrangement continued till the 14th of November 1975 when the Bal Niketan, an institution to house juvenile delinquents, neglected and abandoned children was set up at Ribander. In October 1999, the Bal Niketan was shifted to new premises situated in the village of Merces. In September 2002, the Bal Niketan was renamed as Apna Ghar by which name it is known today.

b. Apna Ghar (Bal Niketan)

The Apna Ghar situated at Merces is the designated institution which functions as, 1) an Observation Home under section 8 of the Juvenile Justice (Care and Protection of Children) Act, 2000 and 2) a Special Home under section 9 of the

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75 Ibid
76 Id at 125 - 126.
same Act. The Apna Ghar is headed by an officer designated as
Superintendent-cum-Probation Officer. It functions under the overall
supervision of the Director, Department of Women and Child Development.
The Secretary, Women and Child Development is the administrative head of
the Department.

c. Medical Facilities\textsuperscript{77}:

The medical facilities available at the Apna Ghar are mainly in the nature of
two full time staff nurses who have been brought on deputation from the
Department of Health Services (DHS). In addition, once a week a medical
officer from the Primary Health Centre situated at Corlim visits the institution
and looks into the medical needs of the inmates. The institution has also been
provided with an adequate stock of basic medicines. In case of serious ailments
and emergencies the inmates are admitted either to the Primary Health Centre
at Corlim of the Goa Medical College Hospital at Bambolim.

d. Facilities for Formal and Vocational Education\textsuperscript{78}:

A primary school has been established at the Apna Ghar at Merces wherein
classes are conducted from class I to IV. Inmates who progress beyond class IV
are sending to the nearest Government Middle and High schools.

\textsuperscript{77} Id at 127.
\textsuperscript{78} Ibid
The vocational education imparted to the inmates consists of tailoring classes conducted for girls.

**e. Security Facilities**:79

The Apna Ghar at Merces is located on a hillock away from any human habitation. The location provides a degree of isolation which by itself provides for a certain sense of security. In addition, there is a barbed wire fences around the outer perimeter of the complex. The location of the residential quarters of the staff around the building housing the inmates also, to a certain extent enhances the security of the institution. Recently the security of the complex has been handed over to a private security agency, which has deployed two security guards to the institution which prima facie seems to be insufficient.

**f. Juvenile Justice Board (Juvenile Court)**80:

Section 4 of the Juvenile (Care and Protection of Children) Act, 2000 confers on the State Government the power to constitute one or more Juvenile Justice Boards for exercising the powers and for discharging the duties conferred on such boards in relation to juveniles in conflict with the law. Accordingly, the Government of Goa in exercise of its powers under the above provision has constituted a Juvenile Justice Board which has jurisdiction over the entire state of Goa.

79 *Id* at 127 to 128.
The board sits at the Apna Ghar at Merces and its proceedings are conducted once a week (normally on Mondays). The board consists of a judicial officer normally of the rank of JMFC and two social workers of whom one must be a woman. The above functionaries constitute a bench which shall be vested with all powers conferred by the Criminal Procedure Code, 1973 on a Judicial Magistrate of the First Class. The judicial officer, who has been designated as the Principal Magistrates presides over the proceedings of the Bench.

**g. Child Welfare Committee**:

The Government of Goa in exercise of its powers under Sec 29 of the Juvenile Justice (Care and Protection of Children) Act, 2000 has constituted a Child Welfare Committee consisting of a chairperson and four members. The Committee has a bench of Magistrates and has been vested with all the powers conferred by the Criminal Procedure Code on JMFC.

The committee has the final authority to dispose of cases for the care, protection, treatment, development, and rehabilitation of children, especially neglected as well as to provide for their basic needs and protection of human rights. This Committee has the power to deal exclusively with all proceedings under the Act of 2000 relating to children in need of care and protection.

The above machinery for administration of Criminal Justice in Goa has been evolved over four centuries. The important aspect of it is the continuation of

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81 *Id* at 128-129.
the system with the Periodic Amendments made. There was some sense of permanence and there were also expectations among the people that those who do not obey the law would be severely punished. The chapter that follows on sentencing and criminal procedure will highlight how the Administration of Justice functioned during the Portuguese Rule and thereafter when Goa was liberated.