



STRUCTURE OF INDIAN JUDICIARY SYSTEM - ORIGIN AND IT'S DEVELOPMENT

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ABSTRACT

The Indian Legal System is one of the oldest legal systems in the entire history of the world. It has altered as well as developed over the past few centuries to absorb inferences from the legal systems across the world. The Constitution of India is the fountainhead of the Indian Legal System. It demonstrates the Anglo-Saxon character of judiciary which is basically drawn from the British Legal System. India is a land of diversified culture, local customs and various conventions which are not in opposition to the statute or ethics. People of different religions as well as traditions are regulated by all the different sets of personal laws in order to relate to family affairs.

The judicial system or Indian legal system is a unique feature of the Indian Constitution. The Supreme Court of India is the uppermost part in the Indian legal system. Under this, each state or a group of states possesses High Courts. There are several subordinate courts under these High Courts. India has an organic law as consequence of common law system. Through judicial pronouncements and legislative action, this has been fine-tuned for Indian conditions. The Indian legal system's move towards a social justice paradigm, though undertaken independently, can be seen to mirror the changes in other territories with common law system.

This paper will focus on the drastic changes and their influence in modern Indian judiciary system because India has been the home of four major legal traditions, Hindu, Muslim, British, and that of modern, independent India. Important elements of the earlier traditions remained in each new system, and all of the earlier traditions are present in contemporary Indian law.

KEYWORDS:

- Introduction :**

The legal system of a country is part of its social system and reflects the social, political, economic and cultural characteristics of the society. It is therefore, difficult to understand the legal system outside the socio cultural milieu in which it operates. In the case of India the legal system is still alien to the majority of the Indian's whose legal culture is more indigenous and whose contact with the formal legal system (the imported British Model) is marginal if not altogether non-existent. Nevertheless, the rights and benefits conferred by the laws and constitution offer opportunity for those very people to enjoy the fruits of a welfare democracy which the people of India have given unto themselves on the **26th January, 1950**. It is in this context familiarity with law and its processes become essential to every Indian.

- Objectives of the Study:**

1. To Know the Legal Administrative levels in India from ancient to modern era.
2. To study the role of Judiciary in India as a drive for the Nation in different sectors.
3. To overview the basic principles and values, largely outlined by the constitution.
4. To study the global drastic legal changes and their influence in modern Indian judiciary system.

- Historical aspects:**

- Judiciary system in Vedic period:**

Law in India has evolved from religious prescription to the current constitutional and legal system we have today, traversing through secular legal systems and the common law.

India has a recorded legal history starting from the Vedic ages and some sort of civil law system may have been in place during the Bronze Age and the Indus Valley civilization. Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India. Emanating from the Vedas, the Upanishads and other religious texts, it was a fertile field enriched by practitioners from different Hindu philosophical schools and later by Jains and Buddhists.

Secular law in India varied widely from region to region and from ruler to ruler. Court systems for civil and criminal matters were essential features of many ruling dynasties of ancient India. Excellent secular court systems existed under the Maurya's and the Mughals with the latter giving way to the current common law system.

- Judicial Hierarchy of courts in ancient India:**

India has the oldest judiciary in the world. No other judicial system has a more ancient or exalted pedigree. British Henry Maine described the legal system of ancient India "as an apparatus of cruel absurdities". An

Anglo-Indian jurist made the following remark about what he called "the oriental habits of life" of the Indians before the British turned up in India: "It (British rule in India) is a record of experiments made by foreign rulers to govern alien races in a strange land, to adapt European institutions to Oriental habits of life, and to make definite laws supreme amongst peoples who had always associated government with arbitrary and uncontrolled authority."

These may be due to sheer ignorance or imperialist self-interest, or contempt for Indian culture and civilization which was a part of the imperialist outlook which dominated British Jurists, historians, and thinkers in the heyday of imperialism. But the effect of this miss representation, which has few parallels in history, was to create a false picture of the Indian judicial and legal system both in India and outside. Indian jurisprudence was found on the rule of law, that the King himself was subject to the law, that arbitrary power was unknown to Indian political theory and jurisprudence and the king's right to govern was subject to the fulfilment of duties the breach of which resulted in forfeiture of kingship, the judges were independent and subject only to the law, the ancient India had the highest standard of any nation of antiquity as regards the ability, learning, integrity, impartiality, and independence of the judiciary, and these standards have not been surpassed till today.

- Law and legal system in British Period:**

The common law system – a system of law based on recorded judicial precedents- came to India with the British East India Company. The company was granted charter by **King George I** in 1726 to establish "**Mayor's Courts**" in **Madras, Bombay and Calcutta** (now Chennai, Mumbai and Kolkata respectively). Judicial functions of the company expanded substantially after its victory in Battle of Plassey and by 1772 company's courts expanded out from the three major cities. In the process, the company slowly replaced the existing Mughal legal system in those parts.

Following the First War of Independence in 1857, the control of company territories in India passed to the British Crown. Being part of the empire saw the next big shift in the Indian legal system. Supreme courts were established replacing the existing many oral courts. These courts were converted to the first High Courts through letters of patents authorized by the Indian High Courts Act passed by the British parliament in 1862. During the Raj, the Privy Council acted as the highest court of appeal. Cases before the council were adjudicated by law lords of the House of Lords. The state sued and was sued in the name of the British sovereign in her capacity as Empress of India.

During the shift from Mughal legal system, the advocates under that regimen, "vakils", too followed suit, though they mostly continued their earlier role as client representatives. The doors of the newly

created Supreme Courts were barred to Indian practitioners as right of audience was limited to members of English, Irish and Scottish professional bodies. Coding of law also began in earnest with the forming of **the first Law Commission**. Under the stewardship of its chairman, **Thomas Babington Macaulay, the Indian Penal Code** was drafted, enacted and brought into force by 1862. The Code of Criminal Procedure was also drafted by the same commission.

- **Judiciary system after Independence:**

At the dawn of independence, the parliament of independent India was the forge where a document that will guide the young nation was being crafted. It will fall on the keen legal mind of B. R. Ambedkar to formulate a constitution for the newly independent nation. The Indian Bar had a role in the Independence movement that can hardly be overstated – that the tallest leaders of the movement across the political spectrum were lawyers is ample proof. The new nation saw its first leader in Jawaharlal Nehru, and a paternal figure in M. K. Gandhi, both exemplary lawyers. Perhaps it is the consequent understanding of law and its relation to society that prompted the founding fathers to devote the energy required to form a Constitution of unprecedented magnitude in both scope and length.

The Constitution of India is the guiding light in all matters executive, legislative and judicial in the country. It is extensive and aims to be sensitive. The Constitution turned the direction of system originally introduced for perpetuation of colonial and imperial interests in India, firmly in the direction of social welfare.

India has an organic law as consequence of common law system. Through judicial pronouncements and legislative action, this has been fine-tuned for Indian conditions. The Indian legal system's move towards a social justice paradigm, though undertook independently, can be seen to mirror the changes in other territories with common law system. From an artifice of the colonial masters, the Indian legal system has evolved as an essential ingredient of the world's largest democracy and a crucial front in the battle to secure constitutional rights for every citizen.

- **Present day Judiciary system:**

A very brief description of our judicial system today Barring the Supreme Court, India has no federal judiciary like the United States. Each State has its own judiciary, which administers both Union and State laws. As during the Maurya Empire, each district in the State has its hierarchy of judicial officers- Munsif, Civil Judge, Civil and Sessions Judge- with the District Judge as its head. I shall not give a detailed description of the organization of our state judiciary.

The Constitution of India created for the first time in Indian history a Supreme Court for the whole of India. The establishment of this Court with an all-India jurisdiction is likely to accelerate the development of a common law extending over every nook and corner of the republic. Article 141 enjoins "that the law declared by the Supreme Court shall be binding on all Courts in India." It gives the opinions of our Supreme Court a constitutional force. The judicial process can be an effective weapon for forging national integration.

- **Conclusion:**

The Legal System of a country is part of its social system and reflects the social, political, economic, and cultural characteristics of that society. It is therefore difficult to understand that legal system outside the socio-cultural milieu in which it operates. The legal system based on British model is full of technicalities and procedures, and this makes the system still foreign to the majority of Indians (whose legal culture is more indigenous) and limits access to justice for poor and illiterate people. Nevertheless, the rights and benefits conferred by the laws and the constitution offer the opportunity for those very people to enjoy the fruits of a welfare democracy. Thus, every Indian should be familiar with law and its procedures.

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