



Evolution of Judicial Administration in India: A Critical Analysis

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Abstract: *Indian Law is a unique blend of English, Hindu, Islamic and other influences upon a culture which has a long history of 3000 years. It has modified and in addition created in the course of recent hundreds of years to ingest surmising from the legal systems over the world. The Constitution of India is the wellspring of the Indian Legal System. Our legal system is based on British Laws. Before that, the kings who ruled India followed their own Personal or Religious Laws. Hindus followed the concept of Dharma which deals with duty, religion and inseparable quality of the thing or order. Dharma signifies moral laws based on righteousness. Then the Muslims followed Quran and the sources that the Prophet Mohammad directed. Amid the move from Mughal legal system, the advocates under that regime, advocates, too took action accordingly, however they generally proceeded with their before part as customer agents. The present judicial system of India was not a sudden creation. It has been evolved as the result of slow and gradual process and bears the imprint of the different period of Indian history. The period which however, have made the greatest impact on the existing system are those nearest to the present times and it is not surprising that the period preceding and following the down of independence, more particularly that one after the coming into force of the constitution have been the greatest moulding factors. Administration of justice is one of the most essential functions of the state. The Indian Legal system has evolved as world's largest democracy from the artifice of colonial invasion. The judicial body adjudicates disputes in the areas assigned to them. The structure and process behind the rules and regulations led to the expansion of legal system.*

Key Words: Indian law, unique blend, Islamic, influence, culture, long history, modified, addition.

Introduction- India has the oldest judiciary in the world. No other judicial system has a more ancient or exalted pedigree. Law is continuously evolving norm or rather we should say that it is a part of a normative system whose work is to regulate certain norms in society. It is dynamic and is never at any point of time static. Law has to change from time to time as according to the ever-changing demands of society. Law doesn't exist for its own state. It has to achieve certain objectives, which may be short term or long term. Law aims to create an order in society. Law tries to create a working environment which is equally just to all sections of society.

The Indian Legal System is one of the most seasoned legal systems in the whole history of the world. India by virtue of its connection with Indus Valley Civilization has one of the most ancient of

civilized systems in the world. The Indian subcontinent is the cradle of one of the world's oldest civilizations. The Indus civilization or Harappa Culture which flourished from 2700 to 1500 B.C. In the succeeding centuries, roughly between 1500 to 500 B C the Harappa culture declined and during this period Aryans invaded the subcontinent from Central Asia.

This paper involves jurisprudential analysis of ancient, medieval and existing of judicial administration system in India. To understand the evolution of Indian judicial administration from ancient period, medieval period to present modern India, study have been divided in to five heads; Hindu Law Period, Muslim Law Period, Mughal Period, British Period and Modern India Period. Hindu Law Period

The concept of Nyaya can be traced back



to the religious scriptures like Ramayana, Mahabharata, Smriti and Vedas. The picture of modern Law will give a distorted and pervert picture if we begin with the perception that the legal system began today only or few centuries ago. The past traditions and development have led the foundation for present legal system.

In the ancient Hindu society, the disputes are mainly between groups of people but not amongst the individuals. Mediation and conciliation are mainly used to resolve the disputes and to cause justice. Thus, conciliation, consensus and nonviolence are the traditional foundations of Indian Justice. It is believed that the Hindu law is a divine law. It was revealed to the people by God through Vedas. Various sages have expounded and refined the conceptual ideas of life mentioned and explained in the Vedas. Hindus used the concept of Dharma which tells how human beings should lead their life. Hindu law, one of the oldest system of the world, has its origin in the Vedas and Manu's Manava Dharmashastra. Manu, during the first two centuries A.D. compiled a series of religious legal and moral pronouncements in his Dharmashastra. In the succeeding centuries, many legal texts are developed based on Manu's Dharmashastra.

Sources of Hindu law was divided into ancient sources- Shruthi, Smiriti, Commentaries and Digest, Customs and Modern sources: Equity, Justice and Good Conscience, Precedent, Legislation. During Hindu regime, the judicial administration was based on the concept of Dharma. The two main schools of law thus developed are Mitakshara and Dayabhaga. The Dayabhaga School prevailed in Bengali speaking areas of Bengal and Assam: and Mitashara prevailed in the rest of India. The two schools mainly differed in their laws of inheritance and certain aspects of Hindu joint families. In those days there was no reference for Judicial Organization in Vedic Literature. Later after the Kings rulings, the Judicial Administration came to existence through the concept of Dharma. Kings were the head of the Justice.

Kings Court was presided by king to render justice. Brahmanas advised the king and they were called Adhyaksha or Sabhabathi. Apart from king, the court consists of Pradivivaka- chief Justice and three juris. Principal Court were existed in large towns to hear the disputes.

Kula system, mitakshara as consisted of a group of relations, near or distant. When quarrel occurred by the family members, it was solved by the elders of the family. It is a type of an informal court. Sreni, if the family dispute not settled in Kula system, then the matter was taken to Sreni Court and the Sreni court heard guild disputes and settled commercial matters in ancient India. Puga, This was an association of persons drawn from various castes and following different profession. This is also an informal court.

From about 500 B.C, till the Muslim invaded India in the twelfth century, a series of Hindu Kings ruled India and Hindu civilization prevailed. The Hindu society relied on the Dharma and viewed the legal, moral and religious duties as different aspects of Dharma.

Muslim Law Period- The twelfth century marked the beginning of a long period of Muslim dominance, first in northern India, and later, under the Mughals, in almost all parts of the subcontinent. The Islamic Law has become a part of the country's legal and social heritage.

The sources that the Prophet Mohammad directed will be the primary sources of Muslim law. The Islamic Law is derived from two main sources: the Qur'an and the Sunna of the Prophet Mohammad. Primary sources are Quaran, Sunna or Ahadis, Ijma, Qiyas. These are to be followed in their respective order of priority. They are also called formal sources. The whole of Muslim personal law is based on these. Secondary Sources are Urf or Taamul (Customs), Judicial Decisions, Legislations. These sources explain or modify the primary sources.

Islamic Law is based on the five doctrines which are collectively called Iman, meaning Faith. The first doctrine is faith in the absolute unity and



oneness of God. The second doctrine is the belief in angels and their work as messengers and helpers of God. Third doctrine concerns Prophetic messengers. The fourth belief is in a final judgment, or doctrine of the last things. The fifth fundamental Islamic belief is in 'divine decree and predestination'.

In medieval India the Sultan, being head of the state, was the supreme authority to administer justice in his Kingdom. The Administration of Justice was one of the important functions of Sultan, which was actually done in his name in three capacities. Diwan-E-Qaza (Arbitrator), Diwan-E-Mazalim (Head of bureaucracy), Diwan-E-Siyasat (Commander-in-chief of Forces). The Judicial system under the Sultan was organized based on the administrative divisions of the Kingdom. A systematic classification and gradation of the courts existed at the seat of the capital.

The Kings Court, which were established at the capital of the sultanate and presided over by the sultan, exercised both original and appellate Jurisdiction on all kinds of cases. It was the highest court of appeal in the realm. The sultan was assisted by two reputed Muftis highly qualified in laws. The Court of Diwani-E-Mizalim, It is the highest court of criminal appeal. The Court of Diwani-E-Risalat, It is the highest court of Civil Appeal. The above two courts presided over by Sultan but in his absence, the Chief Justice Qazi-ul-Quzat presided over these court. Sadre Jehan's Court and Chief Justice Court were the Separate Court attached with the chief justice court for assistance.

Mughal Period- During the Mughal Period, the emperor was considered as the Fountain of Justice at Delhi, which was the capital of the Mughal Emperors in India, three important courts were established. The Emperor Court was the highest Court of the Empire. The Court had Jurisdiction to hear original civil and Criminal Matters. The Chief Court is the next important Court at Delhi and it was presided over by the chief justice to hear civil and criminal matters and hears appeals from the provincial courts. The Chief Revenue Court, It is the third important court at Delhi and it

was the highest Court of appeal to decide revenue cases and it was presided over by Diwan-e-ala.

Thus, the Islamic Law is based on the religious beliefs as the Hindu Law. There are many similarities between the Muslim and the Hindu legal systems. Both legal cultures used Consensus and stressed the importance of maintaining harmony. For both cultures, there are no individually based rights. Instead, people had duties and religion and law are treated in the same way in both the legal systems.

British Period- In search of trade and conquest, European warriors and traders visited India at an early period. Of the many European invaders, the British had exerted the greatest impact upon the country through their East India Company, a commercial venture founded by the private businessmen in London. The East India Company was established in England with the object of furthering the British commercial interests in overseas countries. The company's representatives set their foot in India to carry on trade effectively during the reign of Jehangir. They established a few factories and slowly these have become the bases for the establishment of British rule in India, The Englishmen realising the importance of a sound judicial system in India, undertook the task of evolving a judicial system at the very outset of their administrative career.

During British period, custom-based law system a system of law in view of recorded legal points of reference came to India with the British East India Company. The company was allowed sanction by King George I in 1726 to build up "Mayor's Courts" in Madras, Bombay and Calcutta. Legal components of the company expanded extensively after its triumph in Battle of Plassey and by 1772 company's courts stretched out from the three important towns.

An elementary judicial system was founded primarily in the three Presidency Towns - Calcutta, Bombay and Madras. Later, the Supreme Court is established at Calcutta in the year 1774. It is a court of English Law. In course of time similar courts are



established at Madras in. 1801 and at Bombay in 1823.

Following the First War of Independence in 1857, the control of company regions in India go to the British Crown. Being a piece of the realm saw the following huge move in the Indian legal system. Incomparable courts were built up supplanting the current numerous oral courts. These courts were changed over to the fundamental High Courts through letters of licenses endorsed by the Indian High Courts Act pass by the British parliament in 1862.

Coding of law additionally started decisively with the shaping of the principal Law Commission. Under the stewardship of its director, Thomas Babington Macaulay, the Indian Penal Code was drafted, established and brought into constrain by 1862. The Code of Criminal Procedure was additionally drafted by a similar commission. Host of different statutes and codes like Evidence Act (1872) and Contracts Act (1872).

A notable feature of the Indian judicial system before 1862 is the existence of two parallel systems of courts - the Supreme Courts in the Presidency Towns and the Adalats in the territory, known as the 'Mofussil Courts' outside the Presidency towns. The judicial system in the Presidency towns was developed primarily to cater to the needs of the Englishmen residing there and therefore, it was a replica of the English judicial system. On the other hand, the British administrators, realising the fact that an alien judicial system could not work effectively in the Indian populated regions, promoted the establishment and working of the Adalat system which mainly administered the Hindu and the Muslim laws.

In 1862, the judicial systems existing in the Presidency Towns and the Mofussils or District are unified by establishing the High Courts which are the precursors of the modern system of law and justice in India. Another notable development in the evolution of the judiciary is the emergence of the Privy Council as the ultimate court of appeal

for India. The Privy Council played a vital and creative role in the development of Indian Legal System.

Modern India Period- The modern judicial system in India started to take shape with the control of the British in India during the 17th century. The British Empire continued till 1947, and the present judicial system in India owes much to the judicial system developed during the time of the British.

After the independence India brought about certain inescapable changes in the structure of the judiciary, the hugest of which was the substitution of the Supreme Court in the place of Privy Council as an extreme court of request. The present judicial system in India comprises of a various levelled system of courts. Liberal arrangements exist for taking interests from the lower to the higher courts. The Supreme Court, the most noteworthy court of the arrive, implements an elevated requirement of equity and advances a basic way to deal with the law all through the nation.

The judicial system provided by the Constitution of India is comprised the three type of courts. At the top, it is Supreme Court, at middle the High Courts and at bottom the subordinate Courts in addition to the Constitution, there are other laws and rules which direct the composition, power and jurisdiction these courts.

The Hierarchy of Courts in India basically include Supreme Court, High Court and District Courts. The Supreme Court is placed at the topmost position of the entire judicial system of the country. The Supreme Court, which is the highest authority in The Hierarchy of Court in India, deals with the cases related to conflict between the Central Government and the State Government or between the governments of two states. In the hierarchy of courts in India, Supreme court is followed by the High Courts. There are total 24 High Courts across the states in the country. Each and every high court has the power to interfere with the proceedings of the lower courts. The Apex Court in India, Supreme Court can change the decisions made by the High



Courts of India. There is also the system of original appellant jurisdiction in some of the High Courts, like those of the Mumbai, Kolkata and Chennai. The Lok Adalat are the last level of court under the hierarchy of courts of India, which are basically the voluntary agencies and non-permanent convenience courts at the disposal of Public. These agencies are engaged in solving the disputes with the help of various peace-making processes.

Conclusion- The roots of the present day human institutions lie deeply buried in the past. This is also true about the country's law and legal system. The legal system of a country at any given time cannot be said to be creation of one man for one day; it represents the cumulative effect of the endeavour, experience, thoughtful planning and patient labour of a large number of people throughout generations. History comprises of the growth evolution and development of the legal system in the country and sets forth the historical process whereby a legal system has come to be what it is overtime. The present judicial system in India consists of a hierarchical network of courts. Liberal provisions exist for taking appeals from the lower to the higher courts. The Supreme Court, the highest court of the land, enforces a high standard of justice and promotes a common approach to the law throughout the country. With the coming of the British to India the legal system of India changed from what it was in the Mughal period where mainly the Islamic law was followed before that the Hindu laws were followed. The legal system currently in India bears a very close resemblance to what the British left with. Law in India has primarily evolved

from customs and religious prescription to the current constitutional and legal system we have today, thereby traversing through secular legal systems and the common law. The present legal system is formed and evolved as a result of various struggles undergone during various phases.

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