

The legal information system in India: an analysis

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Abstract

India has one of the oldest legal systems in the entire globe. India has experienced many civilizations and dynasties throughout its history, including the ancient Indus Valley civilization, the Vedic Age, the Haryanka and Mauryan dynasties in the north, the Sangam and Chola dynasties in the south, the Islamic Delhi Sultanate empire, the Mughals, and finally the British Empire, whose legal system and administrative apparatus we still use in India.

The Rule of Law is the ultimate power in the state, and the King must obey the law in order to achieve Dharma. In Ancient India, there existed a hierarchy of courts that went from the family courts to the King, according to Brihaspati Smiriti. The foregoing analysis thus leads to the conclusion that the Indian legal system has a bright and progressive future, with young, first-generation lawyers entering the field and graduating from the best law schools in the twenty-first century. If there is a desire to modify, the aforementioned adjustments can be applied swiftly to the system to prevent the administration of justice from being hampered.

Keywords: legal information system in India, Rule of Law, hierarchy, Dharma, traditional

Introduction

With its rules and jurisprudence stretching back centuries and evolving like a way of life as Indians adapted to the changing times, India has one of the oldest legal systems in the entire globe. It is a misconception that the Indian legal system only took on a systematic form and development under British rule; in reality, we have a traditional mindset that emphasises abiding by the law and performing our civic duties. This traditional mindset can be inferred from verses in the Manusmriti, which state that Dharma, or the Rule of Law, is the ultimate power in the state and that the King must obey the law in order to achieve Dharma.

Yuan (1997) watched a group of law students' LexisNexis quick law searches over the course of a year. Oulanov and Pajarillo (2003) similarly conducted a study on how academic librarians at Queens Borough Community College in New York City perceived LexisNexis, but this time they used structured questionnaires. Regarding the use and reuse of information, Komlodi and Soergel (2002) concentrated on legal information searchers and how they used their memories and externally recorded search histories to guide subsequent searches. Like Kuhlthau and Tama (2001) and Blomberg et al. (1996), Komlodi and Soergel discovered that when conducting legal research, students had to refer to both personal research files and computerised legal resources.

India has experienced many civilizations and dynasties throughout its history, including the ancient Indus Valley civilization, the Vedic Age, the Haryanka and Mauryan dynasties in the north, the Sangam and Chola dynasties in the south, the Islamic Delhi Sultanate empire, the Mughals, and finally the British Empire, whose legal system and administrative apparatus we still use in India.

After gaining its independence on August 15, 1947, India set up a constituent assembly to draught a new constitution that incorporated the values of democracy, secularism, fraternity, and—most importantly—the right to equality for every citizen. However, we kept the same infrastructure and legal system, and the majority of the laws that are currently enforced in India date back to the British era. The parliamentary system of government, the Rule of Law, and legal systems are all taken from the United Kingdom (UK), and the majority of the constitution's structure is taken from the Government of India Act, 1935, which was passed by the British parliament.

The future of the Indian legal system and profession appears bright with the development of information technology and artificial intelligence because these technologies will improve accessibility to justice and reduce costs. As a result, the researcher will examine the legal system and profession in India's past, present, and potential future in this study.

The world's oldest judicial system is found in India. No other legal system has a more distinguished or ancient history than Justice Dhavan, S.S.

The Legal System in Ancient India:

India's legal history is the longest in the world, dating back to the Neolithic period and including the civil and criminal adjudication process that persisted until the Indus Valley Civilization, but the main indication of India's historical legal system and heritage can be found in the Vedic period, when the primary idea of justice and law is given by the idea of Dharma as illustrated by various Hindu texts such as Puranas and Smritis.

Dharma is a generic term that refers to the principles of oneness, holiness, and good behaviour. In his instructions to Bhishma, Yudhishtira states that whatever causes conflict is Adharma, and whatever puts a stop to conflict and fosters harmony and oneness is Dharma.

In Ancient India, there existed a hierarchy of courts that went from the family courts to the King, according to Brihaspati Smiriti. The family arbitrator was the least effective. The Judge Court was the next higher court, followed by the Chief Justice, also known as Praadivivaka or adhyaksha, and the Kings Court was the highest court.

The government and King had little authority over the idea of public courts, which was quite similar to the current panchayat system in India. As the monarch was in charge of his subjects, he had a duty to defend them.

King was given the utmost priority in the administration of justice, and he or she was expected to follow it with attention and integrity. Wise and fearless judges served as the king's advisors in accordance with the then-applicable rule of law. However, as time went on, the king was forced to take on more and more duties, which led to the selection of special judges to handle the task of administering justice. This can be seen in the reign of the Mauryan Empire, which had an effective judicial system.

A Judge should decide cases without any personal bias or expectation of profit in accordance with prescribed regulations, as Brihaspati stated in ancient Hindu texts. At that time, the judicial system was known for its integrity, transparency, and strict adherence to rules and regulations. 6. One of the most striking aspects of the ancient or Vedic judicial system was the jury system, or sabhyas, in which councillors or jurors served as the judge's or king's advisors. This system is comparable to the jury system that existed in India after independence but was later abolished as a result of the well-known KM Nanavati vs. State of Maharashtra case.

The Caste was employed in the jury system at the time to select jurors, or abayas, for various cases. For instance, any significant legal or philosophical issue was assigned to a Brahmin juror, and if there was a conflict between two groups, the jury members had to come from those communities in order to render a verdict. Thus, it is clear that Ancient India had a caste-based legal system.

As opposed to today, when judges are expected to follow a specific procedure, listen to the arguments, and then render judgements, the nature of the trial back then was inquisitorial, where judges instead of solicitors were expected to properly examine the witnesses by cross-examining them. However, there were pandits and shastris who had a thorough understanding of the law in place of attorneys at that time; therefore, there was no legal profession with standards of conduct.

The Legal System In Mediaeval India:

The Mitakshara school of law, which had a very specific interpretation of the law and was compiled by a Chalukya monarch in the 11th century, was the most popular during the Indian Middle Ages. Hindu Joint Family Rules are now based on this law. When Mohammed Ghori defeated Prithviraj Chauhan at the Second Battle of Tarain in 1192 A.D., Islam then entered India during the 11th century, and Qutubuddin Aibak became the first Sultan of Delhi under the Slave Dynasty.

For Muslims, the Koran is the only book that accurately captures the words of Allah. The Hanafi system of law was regulated and practised in India during the Islamic era. Non-Muslims were compelled to pay a levy called jeziya, but conversion to Islam was not required. From the Slave Dynasty to the Lodhi Dynasty (1206–1526), Muslim rule in India was known as the Delhi Sultanate. After Ibrahim Lodhi was defeated by Babur, the Mughal Empire began to rule in India and lasted until Bahadurshah Zafar's death in A.D. 1707. There were seven courts of justice throughout the Sultanate era, each of which dealt with a distinct branch of the law. As an illustration, Diwan-i-Mazlim handles problems involving administration or bureaucracy. The Qazi deal with religious laws and are not subject to judicial oversight. Non-Muslims have the freedom to follow their own laws and

to convene their own tribunals. As a result, the Sultanate era's judicial system was poorly set up. 12

During the Mughal period, courts were divided into two categories:

1. Courts Of Religious or Personal Law
2. Courts of secular, common law, and political offences

However, there was no administrative hierarchy or clearly defined court jurisdiction throughout the Mughal era. Judgements are inconsistent because judges' decisions are highly subjective and differ from judge to judge.

Legal System During the Colonial Period in India:

The British East India Company brought the common law system, a body of law built on judicial precedents that have been documented, to India. Due to the disorganised and ineffective nature of the Mughal judicial system, the English governor of Surat, where the first English factory was established after receiving permission from Emperor Jehangir, decided to establish their own legal processes and regulations to control the employees who worked at the factory.

King George I issued a charter to the East India Company for the purpose of establishing mayor's courts in Madras, Bombay, and Calcutta (present-day Chennai, Mumbai, and Kolkata, respectively). These courts were empowered to make decisions in both civil and criminal cases, but they received their authority from the Company 15.

King George's Charter resulted in the creation of Mayor's Courts, which tried to handle cases that occurred within their jurisdiction or the region of their corporation and had jurisdiction over all other courts. Following the British victory at the Battle of Plassey (1757), the British Parliament issued the Regulating Act of 1773, which authorised the establishment of a Supreme Court in Calcutta with authority remarkably similar to that of our current Supreme Court in Delhi.

With the passage of Acts like the High Courts Act of 1861 and the Indian Council Act, which resulted in the establishment of three high courts at Calcutta, Bombay, and Madras and the abolition of Supreme Courts, the Privy Council served as the highest court of Appeal for nearly 200 years. 16, the control of India from the East India Company passed on to the British Crown after the First War of Independence. Following the passage of the Government of India Act in 1935, India came under British control and adopted a federal structure. A new Federal Court was established in Delhi and was given authority over both the states and the provinces. Like the Supreme Court of India, it can interpret any substantive legal issue and has both appellate and advisory powers.

The Legal System in India after Independence:

After gaining independence, India's leaders faced the enormous challenge of creating a constitution to govern a nation with a population of more than 350 million and such a wide range of cultures. The responsibility rested on a constituent assembly made up

of representatives from all societal groups, with Dr. B.R. Ambedkar serving as the chairman of the constitution-drafting committee and Dr. Rajendra Prasad as its president. Thus, over three years later, on January 26, 1950, India became a Republic as The Constitution of India took effect.

Any measure that violates the provisions of the Indian Constitution would be ruled unconstitutional. The Constitution of India serves as the foundation for all laws and acts in India. The Indian Contract Act of 1872, the Indian Penal Code of 1860, and laws like sedition (section 124A of the IPC), which were used to silence the voices of freedom fighters before Independence but are now used by various governments to silence dissenters, activists, and opposition leaders, are just a few of the outdated laws and even full codes that India still adheres to from the British era.

The British left behind not just the laws but also the judicial system and the practise of law in India.

Hierarchy of Courts:

The Indian judicial system is based on the common law, with statutes passed by the Parliament or state legislatures, customary law, and Supreme Court and High Court rulings having great weight when rendering judgements.

The three-tier structure of the judicial system consists mostly of:

1. The Supreme Court is the highest court in the legal system.
2. In addition to the 25 High courts located around the nation that have authority over multiple states
3. District and session courts as well as various tribunals for various conflict types

Issues in the Indian Legal System:

The sophisticated Indian legal system is evidence of the inventiveness of the human mind. A magnificent tapestry of substantive and procedural legislation has been woven using the threads of constitutional philosophy. Mr.Ranjan Gogoi, a retired Indian Chief Justice

One of the foundational elements of Indian democracy is the judiciary, which has fought for the rights of those who have been wronged by governments and people. But it has been clear in recent years that there are numerous issues and difficulties with the administration of justice to the general public. The problems influencing the Indian judicial system are

1. Pending cases:

With more than 3.5 crore cases still waiting in the nation's various courts, it has become a major issue for the judiciary and the general public during the past 70 years. There are around 44.75 lakh cases pending in high courts and 59,867 cases in the Supreme

Court. A startling 3.14 crore of cases are still outstanding at the district and subordinate court levels.

It is believed that cases will be settled in a reasonable amount of time in a democratic society with an independent court; however, the aforementioned statistics have proven that reality is far from ideals. The plaintiffs suffer greatly as a result of this judicial delay, which also raises the expense of getting justice. Additionally, it undermines public confidence in the legal system and encourages litigants to look for out-of-court settlements as an alternative conflict resolution option.

There are various causes for the high pendency in these instances, including:

1. India has a stunning 1.2 billion people in its population.
2. The increase in the dynamics of the legal sector in respect of various fields such as Information Technology, economic offences, company laws, and intellectual property rights has led to a large increase in cases, and subsequently, the courts have not evolved with this level of advancement.
3. Review petitions and higher appeals in higher courts also account for a large number of pending cases.
4. The courts have not developed to match this degree of innovation due to the increased dynamism of the legal sector in relation to many disciplines such as Information Technology, economic crimes, company laws, and Intellectual Property Rights.
5. Higher court appeals and review petitions also make up a significant portion of the backlog of cases.

2. Infrastructural Concerns:

Court infrastructure is frequently disregarded when discussing issues of timely access to justice, but it is a crucial factor because it affects how effectively judges and solicitors, who spend six to seven hours per day in these courts in unlivable conditions, perform their jobs. A major source of worry is the lack of hygiene, which can contribute to the spread of infections. Additionally, the lack of separate restrooms for women makes it difficult for female attorneys to practise in these courts, which is also gender biased.

3. Vacancy:

As 38% of the sanctioned seats for judges at the High Courts across the country are currently vacant, this is one of the concerns that needs to be handled as soon as possible at both the subordinate court and High court levels. This has an impact on how quickly the general public may receive justice. The conditions of lesser courts are equally appalling because state governments are solely in charge of appointing judges and Munsifs to these positions, and the high courts of the various states decide whether to promote them. Because of the constant inconsistencies and delays in recruitment for the lower courts, candidates for the judicial services sometimes lose interest in taking these exams.

4. Transparency and Unaccountability:

Since the country's independence, a contentious issue has been the nomination of judges to its highest courts and the transparency of their work. Although one of the fundamental elements of the constitution is the independence of the judiciary, the collegium system occasionally appears to make decisions without any accountability or justification, which encourages the growth of corruption and favouritism in the selection of judges and magistrates. The distribution of cases should be taken into account as well, as in recent years there has been turbulence in the judiciary, most notably in 2018, when four judges of the Supreme Court convened a news conference to call for the selective distribution of cases to a particular bench.

Reforms Needed for the Indian Legal System:

Numerous Law Commission papers and independent research studies from civil society organisations have been published in an effort to enhance our legal system; however, the execution of these reports is still far from reality.

Here are several actions that could change the judiciary:

1. Filling Judicial Positions:

The aforementioned conclusions show that judicial appointments need to be made right away since the backlog of cases is overwhelming an already slow and ineffective system. According to Report No. 245 of the Indian Law Commission, Higher Judicial Services are handling fewer cases and have the most open seats as compared to Subordinate Judicial Services.

2. Creation Of All India Judicial Services:

Over 5000 vacancies in district and subordinate courts throughout the states might be eliminated by establishing an Indian Judicial Services based on the IAS, IPS, and IFS. 21 As we see a shift in legal education from the three-year traditional LLB course to a five-year integrated BALLB course and the opening of National Law Universities, which meet the highest standards in the world for legal education, it would also draw the best talent from the nation. Additionally, it will broaden the variety of the judiciary and increase the representation of underprivileged groups like the SC, ST, and OBC because, under the existing system, each state has its own reservation policy, which can be detrimental to the communities on the margins.

Decriminalisation of Petty Offences:

These cases include minor offences like traffic challans and check bounce cases, which should be disposed of within a specific timeline as they account for the majority of the pending cases, and special courts headed by retired judges can be established to deal with these petty offences.

4. Solving Infrastructural Issues:

In order to boost the productivity of judges and solicitors, it is important to build contemporary, easily accessible infrastructure for the high courts and sessions of the current courts. Child witnesses should have specific accommodations established inside the complexes, and blind litigants should have access to PWD amenities, including ramps and special Brill papers. The District courts had the biggest disruption during the COVID-19 outbreak because, in contrast to the High court or the Apex court, they lack the requisite virtual hearing systems, such as computers or sufficient internet connectivity. Therefore, in the future, plans should be created for both judges and solicitors to handle any unforeseen circumstances that might interfere with the regular physical hearings of courts.

5. Promoting Alternative Dispute Resolution (ADR):

It may be possible to lessen the pressure on the judiciary by encouraging ADR practises such as mediations and negotiations among people and families and expediting their procedures. It will lower the expense of litigation and increase the sense of satisfaction among the parties, who might feel unsatisfied following a court decision.

Conclusion

Despite having one of the oldest legal traditions, India's judicial system is still lagging behind contemporary democratic legal systems in terms of infrastructure, the number of judges to population ratios, the persistence of heinous crimes like sexual assault, and the lack of access to justice for the most vulnerable members of society. Even though India gained independence from Britain seventy years ago, the colonial mindset that has been ingrained in our thinking and way of life hasn't disappeared, and our legal system is still plagued by that culture as a result. As a result, many serious problems have recently arisen, including injustice due to lengthy procedural requirements and the continued enforcement of antiquated laws like Section 377 of the IPC's prohibition on homosexuality and obscenity. Due to judges' extremely high prestige in Indian society and their exclusion from all forms of oversight, this colonial culture has also contributed to judicial corruption and non-transparency. Governments and civil society groups have also called for changes to the current collegium structure to increase accountability, but these reforms won't take place until the judiciary agrees, as was the case with the NJAC Act of 2014, which was overturned by the Supreme Court.

Therefore, from the above study, it can be concluded that the future of the Indian Legal System is bright and progressive, and in the 21st century, young first-generation lawyers are entering the profession and graduating from the top law schools. The above changes can be brought into the system drastically if there is a will to change, as we have seen during COVID-19 how quickly changes were made into the system so that the process of justice does not get disrupted.

The foregoing analysis thus leads to the conclusion that the Indian legal system has a bright and progressive future, with young, first-generation lawyers entering the field and graduating from the best law schools in the twenty-first century. If there is a desire to modify, the aforementioned adjustments can be applied swiftly to the system to prevent the administration of justice from being hampered. This was demonstrated during COVID-19.

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