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CURRENT PROBLEMS IN THE INDIAN JUDICIAL SYSTEM

INTRODUCTION- Indian Judicial System is a mixture of laws which were made during the British Period in the Modern Times and during the Mughal Period in the Medieval Times. Capital Punishments, brutality in the name of law etc. were very rampant during the rule of these two dynasties. Since then, it has seen various changes and also made necessary amendments with the passage of time.

India has a recorded legal history starting from the Vedic Ages. It is believed that ancient India had some sort of legal system in place even 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 the Indian Judicial System, hence has taken its roots from these sources and most importantly from Manusmriti which discusses about all types of codified laws, lives related to common people, women, eating habits etc.

Secular Law in India varied widely from region to region and from ruler to ruler. Court Systems India derives their existence from the ancient Kingdoms of Mauryas, Guptas, Rajput Rulers, Delhi Sultanate, Mughals and the Britishers and has seen many reforms in its system since then.

Manusmriti since the ancient times in India, the Mofussil and the Diwani Adalats during the Mughal and British Period have largely contributed in the development of Indian Judicial System. British have given us CrPC and IPC of 1860. The Section also describes the evolution of Hindu Law during the British rule as well as the modern times, to conceptualize ancient Indian Law in relation with modern Law. Islamic Law became relevant in India only during the medieval period or the middle Ages, especially with the advent of the Mughal Empire in the Mid-16th Century.

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¹ The official title of the Act was: "The East India Company Act", 1773

The names of the first Governor-General and Councilors were mentioned in the Act itself

Jois, Justice M.Rama (April 2004) Legal and ConstFirst (1984) ISBN 9788175342064 Retrieved 6 November 2015

The Common Law Based Legal System in India was developed by the Britishers and also they have brought modernization in the Judicial Functioning of the Country. The development of the British Common Law based system can be traced to the arrival and expansion of the British East India Company in India in the 17th Century. The East India Company gained a foothold in India in 1612 after the Mughal Emperor Jahangir granted it the rights to establish a factory in the Port of Surat. Some of the Courts in India such as Allahabad High Court, Calcutta High Court, Bombay High Court, Madras High Court etc. have become so old (most of them were established in the 19th Centuries) that they need modernization and India is still facing the problem of traditionalism in the Indian Judiciary System and hence the modernization in the legal system in India is a need of an hour. Further, there are more than 1000s law colleges in India who are still the old curriculum in the respective law colleges and universities and there are many problems related to the legal field in India. We shall be studying all these in detail.

PROBLEMS FACED BY THE INDIAN JUDICIARY- Nowadays, if we keep aside the glorious history of the legal system and see the current scenario of the Indian Judicial System, then we can see the sorry state of Indian Judicial System because the working and efficiency of various Courts in the Country is getting pathetic day by day. Further, there have been problems in nepotism that have been alleged by the masses in Legal Field of the Country. The major problem that the Indian Judicial System is facing is the lack of modernization. It has been observed over a period of time that pending cases in the **Supreme Court, High Courts, District and Subordinate Courts, Magistrate Courts, Lok Adalats etc** takes a really longer period of time and there are lakhs of files which still needs to be opened on the bench of the Judge and the number arrear cases still remains pending which are to be resolved as quickly as possible. For example, **The Nirbhaya Case** and the justice delivered to the victims is a really slow and tedious process. Further, **The Supreme Court, The High Courts, District and Subordinate Courts** needs to check the Constitutionality of the Law which has been passed by the Parliament and hence I further take longer duration of the time for these courts to deliver speedy justice and thus it results in the long and slow welfare measures which can be executed in the country because many amendments have to be made now in these bills and then only it can be implemented in the country.

There are also allegations of bribery in the judicial field. There are allegations that the topmost lawyers of the country take bribes in order to fulfill their own selfish needs from the people and in return they fail to deliver the justice to the people and doing serious injustice with them. Many of the poor sections of the society allege that fighting a case in the court is the costliest affair that they ever have to face in their lives in order to get the justice delivered to them and hence they mostly ignore to go to the courts and their mindset is like the justice whatsoever would not be delivered, it would be an utter waste of time visiting these so called “temple of justice” i.e. a court.

“History of Judiciary” All-India Judges Association Retrieved 29 April 2015

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These greedy and parasitic lawyers would only bribe them and they are not at all concerned with the welfare of the people or the delivery of justice to them. Hence these poor people don't visit the courts for justice. Other problems that are faced by the Indian Judicial System is the pendency of the cases in various **High Courts, District and Subordinate Courts and the Supreme Court**. Right now, if we file an RTI about how many cases are these Courts then we will come to the conclusion that there are about lakhs of cases that will be pending in these courts Some of the cases would have been unresolved, some would take longer period of time, some may even not be resolved after 50 years like that. These cases if they came in the hands of the high-profile lawyers then are high chances that the corruption would rampant because the first priority of these lawyers would be making money instead of delivering justice on time and there also lacks a transparency in these cases. The problem of less availability of technology is also another major concern of the Indian Judicial System because the solving of different types of cases involves a very long period of time and non-availability of technology means less transparency and more time-consuming affair in the legal field of India.

There are problems which are related to Low Judges Strength and their appointment. Low Judges means slow delivery of justice to every section of the society and more problems related to solving humongous cases which would be pending in various courts of the country and hence speedy and equitable justice to everyone would all be in vain and hence proper attendance of all the Judges and lawyers is a must for speedy and equitable justice. The other problems that are faced by the Indian Judiciary are hardships of the under trials and no interaction with the society whatsoever respectively. This results in lawlessness in the country and distrust among the people.

FACTS RELATED TO JUDICIAL PROBLEMS- According to the World Bank, **“although India’s courts are notoriously inefficient, they at least a functioning independent judiciary”** **A functioning judiciary is the guarantor of fairness and a powerful weapon against corruption. But people’s experiences fall far short of this ideal. Corruption in the Judiciary goes beyond the bribing of judges. Court personnel are paid off to slow down or speed up a trial, or to make a complainant go away.**

Indian Judiciary Issues have been depicted in several films, one of them being a 2015, Marathi Film, **Court**

In 2015, it was reported that there were close to 400 vacancies for judge’s post in country’s 24 high courts.

Arrears in the Supreme Court have mounted to around 65,000. There are some 30 million cases in various courts. Budget allocation for judiciary is a miserly 0.2 per cent of the gross domestic product. The Judge-Population ratio is 10.5 to one million, which would be 50 to one million.

According to a report released by Centre for Public Policy Research and British Deputy High Commission “here are a total of 16,884 commercial disputes pending in High Courts with ²original

² For the first time, serving judge appointed Union Law Secretary” *The Economic Times* 21 October 2019 Retrieved 15 December 2019

Court of Judicial Commissioner

“*The Supreme Court Rules, 1966*” (PDF) New Delhi: *The Supreme Court of India*, 2010

jurisdiction. Of these Madras High Courts tops with 5,865. With the number of commercial disputes growing rapidly, facilitating a seamless dispute resolution system through alternate means has become crucial

CONCLUSION- After the above discussions it can be concluded that the condition of Indian Judiciary System is deteriorating day by day, the justice delivered to the common citizens is vague and the cases that are either unresolved or take a very long period of time to get resolved needs to be improved and these issues are need to be seriously looked at if we want a speedy and equitable justice in each and every part of the country and hence Indian Judicial System needs to learn from the Judicial Systems of different countries of the world how to deliver speedy and equitable justice to everyone and hence winning the trust of the common citizens in the Indian Judicial System. India's Judicial System has a glorious history and great image and hence it cannot be tarnished now in the present scenario. It is the responsibility of the common citizens to create mass awareness among all the citizens among the positive outcomes of improving the Indian Judicial System and make it technically efficient so that Indian Judicial System can work properly and efficiently. The negative mindset that has been built in the minds of the people towards the Indian Judicial System needs to be changed and the resolution to make speedy and corruption-free judicial system so that the lost trust of the people in this system can again be won

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