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## Justice System in India

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*The ancient Aryan rulers were confronted by political, economical, and social problems in many ways similar, to those with which modern Britishers, statesmen and social reformers are struggling. Indo Aryan's constitution was formed by the intelligence groups of peoples, village communities, secured to the Indian proprietors not only ownership of land but the power of self-governance. In ancient times India's GDP was much higher than other nations and this leads to the developed Human Civilisation. Many English scholars think that this can't be possible without a sound Justice system, but at that, there was no such dispensing or well-developed justice system in ancient India so, what was the justice administration existed during that day, what were the norms (rule of law) followed at that time which contribute to the attainment of such highest stage of Human Civilisation. The justice system was evolving as time passes and new methods & techniques of rendering justice came. How Britishers established the modern court of justice in India which lead to the formation of the properly organised body of the legal system. To answer all such questions there is a need for a survey of the Indian Justice System.*

**Keywords:** *dharm, shruiti, smritis, justice.*

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## INTRODUCTION

India has the oldest judiciary in the world though, there was no profound justice system but the various myths and beliefs which regulate the behaviour of the people and help in self-governance. The idea of dharma has been there from the Vedic length as much as Muslim invasions from kings to his remaining servants every person became certain through Dharma. The phrase Dharma became derived from “Dhr” to intend to uphold, maintain or nourish. Many oracles regularly used it in additionally partner with “RTA” and “Satya”. “RTA” method intellectual notion and realisation of god and “Satya” method speak the truth. Dharma method ‘Principle of righteousness’ or ‘Duty’, the precept of holiness and additionally the precept of unity. Yudhishtira use to say in his instruction to Bhishma that whatever leads to conflict is Adharm, and whatever puts to an end of conflict and brings unity, sense of brotherhood is Dharma. Dharma is something which was been followed by many for ages. In ancient times people used to rely upon that and they work according to the Dharma which maintain social peace and order in the society. If they tried to change dharma then it might be trouble for them to decide whether it would bring them good or whether give rise to evil.

The administration of justice was not part of the state’s responsibility in the early days. In Vedic literature, there was no reference to the specific judicial organisation. The aggrieved party used to sit before the accused house to its false reliefs and don’t travel until his (aggrieved party) arguments get resolved. The tribe and clan assemblies play the role of judicial organisation and provide subsequent justice. But the king was eventually come to be called the root of justice with the expansion of its duties towards the state and also the development of royal powers, and from their more or less the actual judicial administration came into being. The reference of the well-developed justice system can be seen from Dharma, Shashtra’s, Niti shastras, and even the Arthshastras. The king was the main figure of justice, according to tot his literature and he was expected to spend a few hours in adjudication. The primary responsibility of the king is to protect his subjects, which entails the prosecution of wrongdoers. In various ruling dynasties of ancient India, the judicial structure for criminal and civil cases was very prominent. The definition of sin is the norm on which crime is established,

while civil law largely applied to conflicts over money. There were six courts in ancient India according to their hierarchy:

**Kula (Family):-** it represents the joint families in the villages or clans, in which the conflict among the two members of the family was resolved by the elder member groups of the family. The informal body of family elders is known as Kulas.

**Shrine (Council of trade or profession):-** the matter was brought to the Shrine court when the attempt to family arbitration failed. The word Shreni was used to describe the guilds which were a prominent feature of ancient India from 500 B.C. Shreni courts have four or five members of their executive committees and all belong to some specific occupation like shoemaker, vendor and betel seller, etc.

**Gana (Assembly of villagers):-** this was a large assembly of elderly members of a village which were accepted by people in the areas as learned, integrity and impartial.

**Adhikari (court-appointed by kings):-** these were the courts authorised by the king for delivering the justice in which a person who is well versed in the Sutras and Smritis are appointed as a judge. These kinds of courts are varied types as consistent with their jurisdiction.

**Sasista (King's court):-** this was the highest of justice at that time, it was presided over by the king himself. There was a chief justice called pradvivaka and a group of judges called sabhyasta to aid and assist the king.

**Kripa (King himself):-** the king was the supreme authority in the adjudication legal process and was guided by the principles of Dharma, which he could not override.

Kula, Shreni, and Gana were the courts at the village level and have their jurisdiction in all civil and criminal disputes except for an offence of violence. All those cases which involve violence should be tried before Adhikrita who was appointed by the King. All the corporal punishment is to be decided by the Sasista (king's court) but to be finalised by the king itself. All court decisions can be reviewed by their subsequent higher courts. The panchayats or local

village councils Kulani, consist of a board of four or five members (Pinchas) to resolve disputes at the local level and help them in rendering justice. They play a significant role in ancient India because this was the foundation of the modern concept of Arbitration and mediation system. At a better stage in the towns or districts, the courts have been presided over through the authorities' officials below the authority of the king to supply justice. The hyperlink among the village management in nearby and the legitimate management became the pinnacle guy of the village. He holds the hereditary position and helps in maintaining peace & order and administering justice, he was also a member of a village council, he acted both as a head of a village and mediator with the government.

### **JUSTICE SYSTEM IN MEDIEVAL INDIA**

After the fall of the Harsha Empire, there was no such empire in which the justice system can be lifted till the Muslim invasion. Muslim invasion has changed the whole thesis of the justice system in medieval India. The ideal of Islam was one of the highest in the middle ages. It was being said that the justice system after the invasion of Muslims was very small and poor. Most of the Muslim rulers only engage in seeking the possession of others and a lot of wars, no one has focused on the legal and justice system of India except the Mughal Empire. They invade India for their sole purpose only. The justice system during the period of the Delhi sultanate was fitful because it was so complex which make it confusing and chaotic. One dynasty replaces another and the quality of justice depends upon the personality of the sovereignty. As per Islam, the Sharai was the law for the administration of justice. The Mughals somehow focus on the justice system of India, they were fond of justice and were considered as the 'fountainhead of justice 'thought.

They had come for the same purpose of invasion but to strengthen their stake in India they made a very efficient justice system. The emperor set up a separate justice system called Mahakuma-e-Adalat to govern and see the proper administration of justice within their empire. The unit of judicial administration system was Qazi-an office which was borrowed from Caliphate. Under whom the actual whole justice system take into shape, each provincial capital had its own Qazis and the head of judicial administration is the Supreme Qazi of the

empire. Moreover, during that time every village or town has been classed into Qasba and each Qasba has been appointed with Qazi. Qazi has to be a Muslim scholar of blameless life thoroughly conversant with the prescriptions of the sacred laws. As per the great historians of the Mughal empire, *“the defects in the department of law and justice was this that there was no system, no organisation of the law courts in a regular gradation of the courts from higher to lowest, no proper mechanism has been followed while delivering justice.”* It was being said a large number of litigations were naturally calm up to the courts of Qazis or Sanders. The position of Qazis was not authoritative enough to give rational decisions. The majority of Qazis were corrupt, all the Mughal Qazis were infamous for taking bribes with a few honourable expectations. The administration of justice during the Mughal era was very poor and reached its highest peak during Akbar's reign, and it constantly dropped under Aurangzeb's reign. There was a strong classification of courts but there were no laws to their working loyally. Many officers become greedy, start taking bribes, and being corrupted. There was no decentralisation of authority, all powers were in the hands of heads only. The legal and justice system is barbaric & inefficient.

## **JUSTICE SYSTEM IN MODERN INDIA**

When Britishers ruled over India they exploited the Indian traditional justice system for their advantage for some time. In 1772 Warren Hastings took the responsibility of presiding over the civil and criminal court in India. The civil courts (Diwani Adalat) were established and they were regulated and headed by collectors the criminal courts (Faujdari Adalat) were established and they were administered by Qazis (Judges) and muftis (theologians) were appointed to assist judges in their decision making process. Such a system was established in each district to administer justice. Hindu law was applied to the cases concerning Hindus and Muslim law was applied to the cases concerning Muslims. For a while, the Supreme Court was established in 1774, tried to uniformly apply English law in India but such movement was bitterly opposed by many Indians. The Act of 1781 restricted the application of English law to English men of India only. After a certain time, the conditions were changed there was an urgent need for codified laws and a justice system that can be applied uniformly to all Indian subjects. Lord Cornwallis took the obligation of making use of British legal guidelines in India,

implying the perception of equality for all earlier than the law. He is likewise credited with the creation of the secular justice gadget in India. To a great extent, the regulations accommodated the personal laws of Hindus and Muslims, and it was believed that those regulations were published in English and Indian languages both. The punishment was defined on the state laws and regulations rather than the vague customs and will of the rulers. Cornwallis also separated the judiciary from the executive because what he believed was the one person cannot effectively control both wings, so he separated the executive and judiciary. To make the justice system more effective the provincial circuit criminal courts were established. Both districts courts were president over by English judges. Munsif Courts (Local courts dealing with matters of civil matters) and Registrar's Courts (dealt with the matters of purchase and sell of land) were presided over by Indian heads. Sadr Diwani (an apex court that dealt with the matter of civil cases) and Sad Nizamat (Apex Court dealt with the matter of criminal cases). These were the highest court that was established in Kolkata, both courts were presided over by the governor-general. Capital punishment was awarded only by Sadr Nizamat to the accused and this was the highest court of appeal.

In 1883 the Law Commission was established to codify the written laws and court procedure in India. After which the British parliament passed the Indian High court act in 1861 after various High courts were established in many states. Federal courts were established under the government of India Act 1935 which was inaugurated in New Delhi in 1937. This court was given all three kinds of jurisdiction: original, appellate, and advisory. Though Britishers introduced the judicial system in India with the notion of everyone is equal in the eye of the law but in practice, this was not happening, the Britishers were suffered from their affliction of racial superiority, so whatever the case was tried by Indian judges were opposed by Britisher. The British bureaucracy and police enjoyed arbitrary powers. Therefore, in practice, the British system of law and justice failed to establish rule of law and equality before the law.

#### **LATER DEVELOPMENT AFTER INDEPENDENCE**

India attained independence on 15th August 1947, and its constitution was adopted on 26 January 1950. A single integrated system of court for the union and the states, to administer

both the state laws and union laws, was accepted. The three-tier judicial system was established in India, at the Union level Supreme Court, at state level High courts, and district level District courts.

**The Supreme Court** - At the apex of the complete Judicial machine is the splendid court. The selection of the Supreme Court is binding to all different decrease courts. Initially, this courtroom docket had one leader justice some other seven judges. The very best enjoys original, appellate, and advisory jurisdiction. It can supply one-of-a-kind jurisdiction within-side the rely upon among the relevant and the kingdom, among the kingdom and the State and others. It is likewise a custodian and a dad or mum of the essential rights of the residents. It prolonged its arms to defend the essential rights of the residents each time they get violated. It has additionally begun out wonderful public hobby litigations. It acts because the very last arbiter in charter questions. The Supreme courtroom docket can render recommendations or can ask questions about regulation or the reality of public hobby as is probably stated it's for attention from the president. Supreme Court is the courtroom docket of record, as its listening to are recorders for the perpetual verification and evidence.

**The High Court** - These are the courts at the state level which hear the matters regarding the state or the others. It can take steps to ensure that lower courts discharge their duties properly and can issue writs where ordinary legal rights have been infringed. They entertain both civil and criminal cases.

**The lower Court** - These are the courts at the local level, they function under the supervision of High courts. When the judges listen to the civil fits then it's far referred to as district court and while he presided over the crook court, then it's far referred to as the consultation choose. They remedy the disputes on the local level. Apart from those courts, sub choose court(courts subordinate to the district choose), Munsif court, and different courts additionally seem on the district level. The panchayats or village councils also play an important role at the local level. The Mukhiya(head of the village council) and Sarpanch (a figure who looks after the judicial matter at the village level) also hold some judicial powers and can exercise such powers. Inquiries are to be carried out and punishments are imposed on the offenders



In Indian courts, several instances are pending, numerous cases are pending. To give a roof to such cases and to solve them at a faster pace the ADR (Alternate Dispute Resolution) has been set up. ADR normally includes negotiation, mediation, discretion, arbitration, and conciliation, etc. ADR incorporated forms and processes that are out-of-court procedures. Due to the pendency of the cases, such a mechanism has been developed to resolve pending cases and deliver justice at a faster pace and outside the court. Much of the criminal cases can't be possible resolve tide the court due to which it loses somehow significance in ADR but much of the civil cases can be solved outside the court. The idea of ADR mechanism in criminal trials grew out of a critical need to give a simple and to be had answer for negative criminals who're blameworthy and responsible for motor coincidence instances and different unimportant crook instances. In such cases, the ADR can be possible. This mechanism of resolving disputes is generated from Indian soil. This is a mechanism that can help people to resolve disputes within limited costs & time and less legal proceedings.

## CONCLUSION

The justice of system of India is evolving from time to time, though in ancient times there was no organised body to administer justice still the dharma and kings were there to render justice and maintain peace and order in the country. When a country develops its legal and justice system also changes many rules came and develop it. Medical times faces with lack of a proper administration system for justice, the punishment was too much severe and corruption was present. Britishers were the ones who develop the modern justice system by introducing the court system and fixing the roles and responsibilities. In India panchayats system also play a significant role from ancient Indian onwards it was being present and render justice at the local level. Such developments were done in that and rendering of justice was also done outside the courts with the newly developed mechanism of ADR (Alternative Dispute Resolution). Due to pendency of cases, there is a need for such a mechanism to get developed. The Justice system in India is always developing and in the future, facets of the system can be developed and courts can more focus on the pendency of the cases and try to resolve them all at faster paces. "*Justice delayed is justice denied.*" So, the justice system has to be dynamic.