



INDIAN JOURNAL OF LEGAL REVIEW

VOLUME 4 AND ISSUE 4 OF 2024

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 4 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-4-of-2024/>)

Publisher

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PAST, PRESENT AND FUTURE LEGAL EDUCATION AND JUDICIARY

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BEST CITATION – V.KARUNYA, PAST, PRESENT AND FUTURE LEGAL EDUCATION AND JUDICIARY, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (4) OF 2024, PG. 34-38, APIS – 3920 – 0001 & ISSN – 2583-2344.

ABSTRACT:

The Indian legal education and Judiciary has traversed for a prolonged period since the Vedic ancient, mediaeval and colonial stages. A era until the adaption of the constitution. This paper delves with how the post independent legal system transformed into a secular system by tracing its historical evolution during the comparative study is approached to understand the structural framework and legislative changes that took place during the pre and the post independence . Indian jurisprudence laid its basis on the rule of law, where the King himself was the supreme judge, followed by which there was a delegation of adjudicating powers to legal experts who were well versed in Vedas and later a formal legal system was formed at the establishment of courts during the colonisation , reflecting a drastic evolution.

The study aims to cover the impacts of such evolution in contemporary society in terms of its political ,economical and Administrative mechanisms. The post independence legal system has a leveraging shift in its operations. There is a remarkable expansion of the Indian judiciary by way of establishing sub-ordinate courts and Quasi – judicial systems which paved the way for time bound justice.

Additionally the study highlights the adaptation of emerging technology, which has been agreed as a gain to the legal education and judiciary. It also addresses the challenges arising in terms of implementation of the technology explicitly in the Justice system.

Further , the research aims to emphasize the importance of cultivating practical skills in the legal education system to bridge the gap between classrooms and courtrooms .

The study concludes by analysing the positive and negative impacts of the reformation of the Indian legal system and also suggests the modifications that can be brought into the Indian legal education and judicial system to encounter arising challenges.

INTRODUCTION:

Legal education is the foundation of legal knowledge and legal knowledge is the light that shuns the darkness of irregularities in a peaceful society. It establishes a capacity to differentiate right and wrong, just and unjust, equal and unequal, legal and illegal conduct of any person. This conduct of a man is observed by a part of country's government , comprised of all legal experts as Judges in the country's court of law. The legal education and judiciary of India has a proud heritage , which had a profound effect on the development of legal system and establishment of courts and legal institutions .

This legal system had its roots in English history and has been in existence even before Independence. The origin of law in India revolves around the Vedic era , which took varied paths during the medieval and colonization era.

Legal education serves as a means of social transformation where judiciary stands as a tool for social regulation. The field of legal education and judiciary is vibrant and multidimensional, covering a broad spectrum of disciplines at every stage of an individual's life. Since then, it has become an essential part of gaining knowledge and understanding of the Indian legal system.

This paper explains the history and origins of the Indian legal and judicial system, the pre- and post-colonial periods, and the reforms that have taken place in the legal field. It also recommends proposals that can be introduced and implemented for a better future in the field of law.

ORIGIN AND EVOLUTION OF THE INDIAN LEGAL SYSTEM:

Ancient India

The origin of the Indian legal system, revolves around the Vedic era, whereby the concept of “Dharma” was the basic source of law, guiding the human conduct. They elucidate that the early legal system during this period was unwritten, imparted through an oral tradition. The conduct of the kings was founded on the “Rule of law”, that the king himself was subject to law. All the powers of legislation, executive and judiciary were vested only on the king as he was the supreme adjudicator in civil and criminal matters. The king appointed counselors who were well acquainted with Vedas to assist him in resolving the disputes. The judicial procedure was less complicated as the disputes were settled in accordance with the principles of Natural Justice. The legal education aimed at teaching Dharma, abiding that “Man is potentially divine, but is the victim of his ignorance, passions and immoral tendencies created by his own past actions⁴⁴ (*karma*)”.

Medieval India

The origin of the Indian legal system was during the Vedic era and later progressed in the medieval period. The Mughals were the first to establish a court system by following a formal procedure in medieval India. The remarkable change in the legal system paved way for the emergence of legal experts who were known as Vakils at the time of Aurangzeb. It was decided that the government should appoint Vakils to represent its own interests. The Mughal code “Fatwa-E-Alamgiri” was provided for the maintenance of

code of conduct of Vakils⁴⁵. Their duty was to conduct suits on behalf of the government and to act as legal advisors to the poor. Thus it is evident from the Mughal period that there were some specialized legal practitioners during the medieval era.

LEGAL EDUCATION AND JUDICIARY – PRE INDEPENDENCE:

The existence of legal education in India had begun during the British period much before India gained independence in 1947. Although the knowledge of law was not taken as a serious exercise, there were very fewer opportunities for access to the legal resources of the Indians, because all the highest positions were occupied by the British. The attorneys of India started seeking for a law degree and legal training from England since there was a prestige attached to the holding of a degree from the Bar of London, which eventually led to the dominance of those with English degrees.

The first step towards uplifting of Indian legal education was through the Regulating Act of 1773, which empowered the advocates and attorneys to enrol and practice in the Supreme Court. However, their appearance in the courts wasn't fully entitled. Since the enactment of Bengal Regulation of 1793, which paved a way for regular legal profession and the appointment of Vakils in the provinces of Bengal, Bihar, and Orissa.

When law courts were established in several Indian provinces in 1726, the modern Indian legal profession began. The first Supreme Court was established in Fort William in Bengal through a charter of 1774. In 1861, three high courts were established in Calcutta, Madras and Bombay. The existing “vakils” during the Mughal period continued as client representatives. However, the law practitioners of English, Irish and Scottish were only allowed Commission in the Supreme Courts. This restriction was later lifted with the introduction of Legal Practitioners Act of 1879. The task of

⁴⁴ The struggle for Judicial Supremacy: Jackson.

⁴⁵ Badaoni : Muntakhab-ut-Tawarikh, quoted by M.B.Ahmad in the administration of Justice in the Medieval India, p. 278.

codifying the laws was took up by the First Law in 1834, under the chairmanship of Thomas Macaulay which led to the formation of Indian Penal Code in 1862. This imparted a responsibility on judiciary to abide by rules and procedures in deciding the matters of justice in the courts of law.

LEGAL EDUCATION AND JUDICIARY IN FREE INDIA:

After gaining independence, India embarked on a journey to reform and modernise various sectors, including the legal profession. The Bar Council of India and Advocates Act of 1961 brought about an immense change in the Indian legal profession.

Bar council of India:

At its annual conference after the Indian Constitution came into effect on January 26, 1950, the Madras-based Inter University Board passed a resolution emphasizing the necessity of an all-India bar. This resolution's main objective was to guarantee that law exams at various colleges adhered to strict guidelines. Among many other things, the creation of the Supreme Court of India contributed to the advancement of legal education standards.

The Madras Provincial Lawyers Conference, presided over by Shri S. Varadhachariar, decided in May 1950 that the Indian government should form a committee to develop a plan for an all-India bar. Moreover, the Indian Bar Council Act will be amended to correspond to the new constitution.

1951:

The Bar Council of Madras issued the following decision at its meeting on October 1, 1950: On April 12, 1951, MP Shri Syed Mohammed Ahmad Kazmi introduced a comprehensive bill to modify the Indian Bar Councils Act. In August 1951, the Indian government determined that, in view of the evolving conditions around independence, a comprehensive bill financed by the government was required. The law minister then declared on the floor of the house that the Indian government was thinking of forming a committee of inquiry to look into the matter in

greater detail.

The feasibility and desirability of creating a single, national bar for all of India was the subject of the committee's request for reports.. The preservation or elimination of distinct legal practitioner classes, such as income tax practitioners, district court pleaders, revenue agents, and SC and HC advocates. The viability and appropriateness of creating a new bar council for each state in India. The establishment of a distinct bar council exclusively for the SC. The amendment and consolidation of the various statutes pertaining to attorneys. All other related issues

1953:

The All India Bar Committee produced a comprehensive report detailing their suggestions for establishing national All India Bar Councils and state-level Bar Councils. The latter would act as the highest body monitoring legal education standards in India and controlling the legal profession. The Indian Law Commission was tasked with creating a report on the judicial administration improvements in the interim.

1961:

The Advocates Act was created by introducing a comprehensive bill in the parliament to follow the recommendations of the All India Bar Committee and to take into account the Law Commission's recommendations about the legal profession

Under the advocates act the bar council of India was established by the parliament.

As per sec 7⁴⁶ of the following statutory functions cover the bar councils' regulatory and representative mandate for the profession and education related to the legal field in India:

- To lay down standards of procedure for its disciplinary committee and the disciplinary code of conduct and etiquette for the advocates.

⁴⁶ Advocates Act 1961

- To laydown the procedure for its disciplinary committee and the disciplinary committees of every state bar council
- To secure the rights ,privileges and interest of advocates
- To encourage and support and support legal reforms.
- To deal with and dispose of any matter which is referred to it by a state bar council.
- To promote legal education and to lay down standards of legal education and every state bar council.
- To recognize universities whose degree in law shall be qualified for enrollment as an advocate.
- To provide legal aid for the poor and weaker sections of the society
- To recognize on an alternate basis , the foreign qualification in law obtained outside India for enrolment as an advocate in India
- To control and invest the funds of the bar council.
- To provide for the election of its members for the management of the bar councils.

In *Raveendranath Naik v. Bar Council of India*⁴⁷, the resolution passed by the Bar Council of India directing advocates not to participate in any programme organized by the Legal Services

Authorities in any Lok Adalat or any legal aid programme has been held illegal and void.

REFORMS:

In view of the necessary reforms in the country's legal system, it has been mandated to improve the facilities and infrastructure of courts, especially district courts, and to conduct frequent checks on pending cases and their

status to ensure prompt justice, something that has been lacking in the recent past even after the advent of speedy judicial procedures for consideration of cases.

Hence, the need for judicial reforms has acquired due importance in India and over time it has become an ideal judicial system. The urgent need for reforms in the judicial system in the country arises due to several dysfunctional mechanisms of a system where the innocent are acquitted, the guilty are punished, the rights of all citizens are respected and no victim hesitates to fight. Atrocities and the demand for justice and India in terms of judicial reforms has taken the necessary initiative that would ensure the judicial advancement due to which several cases are in the backlog, pending, convicts are under trial and the percentage has rapidly been increasing with years.

The Indian judicial system began a virtual hearing and has tried, and there is no other reason for not institutionalization of the virtual trial in the future.

Thus, the reform concerning the adoption of the emergence of bar technology is very important.

The future of the justice system could lie in IT-based automation, where applications are submitted online (with a certified and verifiable copy subsequently submitted at the hearing stage) and digitally signed copies of each court order are available for download – a great reform for a technologically advanced country.

CONCLUSION:

The Judiciary is considered the most independent and the least accountable branch of the government in India today. In the 21st century, judicial systems need to adapt to new requirements. Studies have demonstrated that legal and judicial changes play a crucial role in shaping economic development. The current direction of judicial reforms emphasizes the importance of court performance efficiency, integrity, fairness, and understanding law enforcement needs. In addition to this the judicial system should be prepared to offer a

⁴⁷ AIR 2007 KARNATAKA 75, 2007

voice to the under-privileged communities. This would provide all the citizens, particularly the poor, access to justice, which is considered as a salient aspect of legal and judicial developments to ensure in the long run, that issues related to gender, children and indigenous people are addressed by a more responsive judicial system.

REFERENCE:

1. Bansi Pandi, "Hindhu Dharma" . Pg55
2. Abbe J. A .Dubbis , " Hindu manners customs and ceremonies ".662, 1999
3. Stern and Philippe , "Ancient India and Indian civilization " .71 , 1934.
4. Sharma S.K " legal profession in India , sociology of law and legal profession". 43,1984.
5. Samuel Schmtheener , " A sketch of the development of the legal profession in India " .42(1995).
6. Kailash Rai " History of courts, legislature and legal profession in India. 340, 1977
7. Shushma Gupta " History of legal education" .51, 2006
8. <https://indianbarassociation.org>



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