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EVOLUTION OF JUDICIAL SYSTEM IN ANCIENT INDIA: AN ANALYTICAL STUDY

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ABSTRACT

Law and religion have coexisted for as long as civilization has existed, with both being aimed at regulating the character and behavior of civilization. There is a distinction between religion, which is a source of law and also exists as a separate entity, and law, which is both abstract and well defined at the same time. rules in the contemporary age are more formal in character and are passed by the legislature, in contrast to the ancient civilizations, which drew inspiration for their rules from both nature and society. As a result of the fact that religion is the origin of law, it is only natural for the law to include concepts and regulations that are comparable to those of religion. As an illustration, the idea of dharma has been incorporated into contemporary laws and continues to have an impact on laws even in the present day. Contracts are present in every facet of life, and it is certain that religion, too, contains elements of contractual duties in some form or another. Not only are contracts essential in contemporary business, but they are also essential in modern living. The law of contracts is a significant and well-established field of commercial law, and contracts are essential in modern life. However, contract law existed even during the ancient mediaeval period, as evidenced by the Manusmriti, a religious text of India that is hundreds of years old. The Manusmriti contains detailed verses on topics such as breach of contract and its consequences for both parties. It also provides commentary on the contract of pledge and its complexities. It is generally accepted that the majority of the contemporary principles of contract law were developed in England. India is also governed by the Indian Contract Act of 1872, which was drafted.

Keywords*: Law , Religion, society, Criminal Law*

1. INTRODUCTION

As there was no state or other authority in early culture, the victim was responsible for punishing the perpetrator using retaliatory and revengeful ways. This was naturally guided by chance and personal emotion. In early societies, the victim had the ability to exercise this authority. Even during the more evolved Rigvedic period, there is a reference of the fact that the person who was offended carried the responsibility for the punishment of a thief.[1] In the course of time, individual vengeance gave way to collective vengeance. This was due to the fact

[1] Chaudhuri, Dr. Mrinmaya . Languishing for Justice,

that the man could not have developed and survived in full isolation, and it was essential for his own life and existence that he lived in communities. Consensus on principles and the establishment of standards of behaviour that were to be adhered to by members of the group were both necessary components of group life. Those who disobeyed these norms were subject to the consequences that were outlined in these regulations, which outlined the right behaviour that was expected of them. The term "dharma" or "law" was established to refer to this code of behaviour, which was responsible for governing the affairs of the people.

Criminal law came into existence.

Over the course of human history, people have come to the realisation that it is more convenient to live in society as opposed to living in small groupings. The societies were formed as a result of the fact that organisations that were founded on the concept of blood link eventually gave rise to bigger groups. At the very beginning of the history of Indian culture, the concept of Dharma was accorded a tremendous deal of significance. Dharma was being followed by everyone, and there was no need for any authority to force compliance to the rule because everyone was acting in accordance with it. For the first time in history, the society was liberated from the ills that resulted from the exploitation and greed of individuals. [2]The rights of the other members of the society were regarded with the utmost respect by every individual in the society, and violations of these rights were extremely uncommon or nonexistent. The passage that follows provides evidence that such a perfect society does in fact exist.

2. OBJECTIVES

1. with the purpose of researching how India's court system developed throughout time.
2. examination of contractual law as it pertains to sacred scriptures from ancient India.

3. RULE OF LAW IN ANCIENT INDIA

It's possible that the prehistoric Indians possessed a judicial system. It is preferable to let the texts make their own judgement. [3]The Mahabharata declared, "A King who fails to protect his subjects after having sworn that he shall protect them should be executed like a mad dog." The Mahabharata had a reference to this clause. "A king who does not protect the people, but who deprives them of their property and assets and who does not seek advice or guidance from anyone should be put to death by the people," "A king like that is not a king but rather a misfortune." These requirements meant that sovereignty was based on an implicit social contract, and the King

[2] Adams, Thomas F., Law Enforcement: An Introduction to the Police Role in the Community, Englewood Cliffs, New Jersey, 1968.2

[3] Agarwal, B.D., ―Criminal Justice System: Is Lie Oriented‖, Criminal Law Journal, Vol. 99, December1999.

would forfeit his throne if the old agreement was broken. Regarding the historical period of the Mauryan Empire, Kautilya gives an account of a king's duties in the Arth-shastra. He states, "In the happiness of his subjects lies the happiness of the King; in their welfare his welfare; whatever pleases him he shall not consider as good, but whether pleases his people he shall consider to be good." [4]

The foundation for the idea that Kautilya expressed was an ancient ritual that existed even before the period of the Ramayana. Because his supporters disapproved of him taking back a bride who had spent a year at her kidnapper's residence, Rama, the King of Ayodhya, was forced to banishe his beloved queen, in whose virginity he had total faith. It was a woman he had dedicated his whole life to defending—Rama's Queen. Even yet, the monarch acceded to the people's will, even though it broke his heart. A ordinary fisherman refused to marry his daughter to the King of Hastinapur, so long as the King would accept the condition that his daughter's sons, not the apparent heir from a previous queen, would inherit the country, according to the Mahabharata. The King had to agree to this requirement in order to approve the marriage proposal. When Prince Deva Vrata decides to resign his kingdom and adopt the Bhishma Pratgyan vow of celibacy for the rest of his life, it is one of the most emotionally charged scenes in the Mahabharata. But jurists find significance in the fact that even the king was subject to the law. The most humble of the Hastinapur King's subjects could not be forced to give him his daughter as a marriage if they refused to comply with his demands. This evidence refutes the notion that the emperors of ancient India were "Oriental despots" who could do as they wanted, disregarding the law and the rights of their subjects.

4. JUDICIARY IN ANCIENT INDIA

Following the issuance of this warning, I shall make an effort to explain the legal system that was in place in ancient India. The Artha-shastra of Kautilya describes the administrative divisions of the realm as Sthaniya, Dronamukha, Khrvatika, and Sangrahana. These divisions are the ancient equivalents of the districts, tehsils, and Parganas that are used today.[5] The first Mauryan Emperor, who reigned from 322 to 298 B.C., is generally credited with serving as Prime Minister. In addition to the establishment of law courts at the district meeting sites (Janapadasandhishu), law courts were also created in each sangrahana. Sthaniya was a stronghold that was located in the midst of eight hundred villages, a dronamukha that was located in the middle of four hundred villages, a kharvatika that was located in the middle of two hundred villages, and a sangrahana that was located in the centre of ten villages. This court was composed of three ministers, known as amatya, and three jurists, known as dhramastha. In light of the fact that it is highly improbable that three ministers were permanently appointed to each and every district in the realm, this provides evidence that circuit courts do presently exist.[6]

[4] Kulshreshtha VD. Landmarks in Indian Legal and Constitutional History, 4 -6.

[5] Kumar, Dr. Surendra, Manu Smriti . Published by Arsh Sahitya Prachar Trust, New Delhi,

[6] Wilkin WJ. Hindu Mythology, 2, 90 -91.

The renowned jurists Manu, Yajn-valkya, Katyayana, and Brihaspati, amongst others, were responsible for documenting in great detail the judicial system and legal procedure that existed in India from ancient times until the end of the Middle Ages. Vachaspati Misra and other commentators who came after him also made contributions to this representation.

5. HIERARCHY OF COURTS IN ANCIENT INDIA

Brihaspati Smiriti asserts that in ancient India, there was a court system that started with the family courts and ended with the king. This hierarchy was created step-by-step. The least important of the group was the family arbitrator. The Chief Justice's court, often referred to as Praadivivaka or Adhya Ksha, was the next higher court, and the highest court that was accessible was the court of the King. It was agreed that each court's jurisdiction would be determined by the gravity of the issue, with the king deciding on the most important cases and the lowest court handling the least important ones. The decisions made by each higher court superseded those made by the lower court. According to Vachaspati Misra, "The binding effect of the decisions of these tribunals, ending with that of the king, is in the ascending order, and each following decision shall prevail against the preceding one because of the higher degree of learning and knowledge".[7] The Indian judiciary currently consists of a hierarchy of courts set up in accordance with a similar concept. Village courts, Munsifs, Civil Judges, District Judges, High Courts, and ultimately the Supreme Court—which took the role of the King's Court—are some examples of these courts. It is significant to remember that the Indian judiciary likewise uses this system of court hierarchy. Unknowingly, we are following a long-standing tradition that has been handed down through the centuries.

One organisation that merits consideration is the family judge system. The core social unit of societies was the joint family, which may span three or even four generations. Which meant that a joint family may have a lot of members at any one time, therefore it was important to use a combination of subtlety, sympathy, and firmness to settle their differences. Another perfect result would have been for a family member acting as an arbitrator to resolve conflicts before they arise. Modern Japan may have a family court system that is essentially similar. The family courts' success and general significance may be attributed to the fact that the legal system was born out of the social system. The king was the source of justice that flowed from the spring. The power to impose penalties and administer justice was considered by Indian legal philosophy to be one of the most significant features of sovereignty. It was originally expected that the monarch, who was revered as the wellspring of justice, would administer justice himself, but he would do it under the cautious supervision of judges who had received legal education.[8] The monarch had to follow a very strict code of conduct when it came to justice. His dress and

[7] Rangarajan LR . Kautilya -The Arthashastra, 377.

[8] Paranjape .N. V., "Studies in Jurisprudence And Legal Theory", Central Law Agency, Allahabad 2013, p. 229.

demeanour had to be planned so as not to frighten the parties engaged in the case, as he was required to decide cases both in open trial and in the courtroom. When he made choices regarding circumstances, he had to swear an oath of impartiality and behave without bias or attachment. "The king should enter the courtroom modestly dressed, take his seat facing east, and with an attentive mind hear the suits of his litigants," writes Katyayana. "The king should also take his seat while facing east." He should follow established protocols under the guidance of his Chief Justice (Praadvivaka), judges, ministers, and the Brahmana members of his council. Heaven is the home of a king who executes justice in this way and in compliance with the law. [9]

It is important to take these provisions seriously. It was essential for the king to wear a veil of modesty (vineeta-vesha) in order to keep the litigants from becoming afraid. When serving as a judge, the king was required to be devoid of any "attachment or prejudice" in order to adhere to the strict rule of behaviour that was set up for him. Narada said: "If a king disposes of law suits (vyavaharan) in accordance with law and is self-restrained (in court), in him the seven virtues meet like seven flames in the fire" Narada says that since the king has taken the oath of the son of Vivasvan, he is bound to be impartial to all beings when he sits in the dharmasanam, the seat of judgement. The deity of death, Yama, is the son of Vivasvan and upholds the pledge of impartiality towards all living beings. [10]

The King's Judges

It was necessary for the judges and counsellors who were assisting the monarch during the trial of a case to be brave and independent in order to avoid the king from making any mistakes or providing him with any unfair treatment. According to Katyayana, "If the king intends to impose upon the litigants (vivadinam) a decision that is unlawful or unjust, it is the responsibility of the judge (samya) to warn the king and prevent him from doing so." It is the responsibility of the judge who is advising the monarch to provide his opinion, which he believes to be in accordance with the law. Even if the king does not listen, the judge has at least fulfilled his obligation. When a judge becomes aware that the monarch has done anything that is contrary to equity and justice, it is not his responsibility to try to appease the king since this is not an opportunity for gentle discourse (vaktavyam tat priyam natra). If the judge fails to fulfil his job, he is guilty of committing a crime.

Delegation of Judicial power by the King

As civilization progressed, the king's tasks got more numerous, and he had less and less time to personally hear lawsuits. As a result, he was forced to assign an increasing amount of his judicial role to professional judges. According to Katyayana: "If due to pressure of work, the king cannot hear suits in person he should appoint as a judge a Brahmin learned in the Vedas. High standards were set for the credentials that a judge needed to possess.

[9] The Bar Council Of India 20 4. S. P. Indian Legal System. Mittal Publications, 2014

[10] Basu D.D. Judicial Review and Constitutional Limitations, (S C Sarkar & Sons, Calcutta 1972)

[11]In accordance with the teachings of Katyayana, a judge ought to possess the qualities of being austere and controlled, unbiased in temperament, firm, God-fearing, diligent in his responsibilities, free from wrath, leading a moral life, and belonging to a good family. In the course of time, a judicial hierarchy was established, which relieved the king of a significant portion of the judicial labour. However, the monarch's authority as the highest court of appeal was not significantly affected by this development. During the time of the Mauryan Empire, there was a consistent judicial system, as was mentioned earlier.

6. QUALITY OF THE JUDICIARY: INTEGRITY

It is at this point that I would like to discuss the features of the legal system and the code of ethics that is in place for judges. Being impartial and totally devoid of any bias or affiliation was one of the most significant duties of a judge: upholding their integrity. The judicial code of integrity was given very strict guidelines, and the concept of integrity was also given very broad interpretations. According to Brihaspati, a judge ought to make decisions based only on the procedure prescribed by the scriptures, without any personal bias or advantage. If a judge serves in this way, he or she may attain the same degree of spiritual merit as someone who leads a Yajna. To ensure impartiality among the judges, the strictest protocols were implemented. A trial had to take place in open court since it was understood that a private hearing may result in bias (pakshapat), and judges were not permitted to do private negotiations with the parties while the case was still ongoing. According to Shukra-nitisara, judges' impartiality is undermined and they take sides in arguments for five reasons. These include the feeling of listening to a party in secret, as well as attachment, greed, fear, and resentment. [12]

Even if the king served as the lone judge, they could not oversee legal processes. This was an additional step taken to guarantee the integrity of the judicial system. The prehistoric inhabitants of our culture discovered that the probability of corruption or error is decreased when two brains work together. Consequently, they mandated that judges sit on benches with an equal number of judges and that the King must make judgements on cases while seated with his advisers. Shukra-nitisara made it abundantly apparent that "Persons entrusted with judicial duties should be learned in the Vedas, wise in wordly experience and should function in groups of three, five, or seven." Furthermore, Kautilya mandated the dharmasthstrayah procedure, which calls for matters to be heard by three judges. This good safeguard is not rigorously followed by the British-established legal system that we currently have. All cases are presently heard by a single Munsif, civil judge, or district judge due to economic reasons. But in ancient India, the state was more focused on upholding the rule of law than on the prosperity of the nation's economy.

7. INTERPRETATION OF THE TEXT OF THE LAW

[11] C. K.Takwani, Lectures on Administrative Law, (Lucknow: Eastern Book Company), 4th Edition

[12] Chandra Bipin “Modern India”, New Delhi Publication Department NCERT 1990

The development of interpretation principles was brought to an exceptionally high degree of perfection. Judges were required under the statute to provide rulings in both criminal and civil cases. It was necessary to interpret the textual wording of the statute, which was a difficult undertaking. Clarifying unclear words and phrases within the text, reconciling contradictory provisions within the same law, resolving conflicts between the letter of the law and the principles of equity, justice, and good conscience, adjusting custom and smritis, and many other issues were among these challenges. There was a great deal of progress in this field of law, and certain guiding principles were established to direct the courts. The ones connected to the conflict between the artha-shastra and the dharma-shastra were the most important of these. The three systems of substantive law recognised by the court were the dharma-shastra, the arth-shastra, and the custom, also known as sadachara or charitra. First of all, they had laws derived from the smritis, which served as their final authority. There were governance concepts in second place. [13]

The demarcation line between the two frequently overlapped. The dharma-shastra may or may not be secular, but the arth-shastra is always secular, which is the primary distinction between it and the smritis. Actually, the artha-shastra is so remarkably secular in its treatment of the problems that arise in governance that some scholars have taken up the theory that the artha-shastra, literally meaning "the science of artha" or "the pursuit of material welfare," actually originated independently of the dharma-shastra and developed alongside it. Regardless of where they each originated, there are some places in which the arthashastra and the dharma-shastra disagree with one another. What strategies did the courts use to resolve this dispute when it surfaced in particular cases? The first idea was called avirodha, which indicated that the court had to try its hardest to resolve any apparent differences between the two. These days, this idea is known as the notion of harmonious construction. But in case the matter could not be settled, it was suggested that the authority of the dharma-shastra be given preference. The Bhavishya purana states that "whens mriti and artha-shastra are inconsistent, the provision in the artha-shastra is superseded (by smriti); but if two smritis, or two provision in the same smriti are in conflict, whichever is in accordance with equity is to be preferred."[14] If there is a conflict between two sections of the smritis, the Narada smriti provides an interpretation approach that is similar to depending on reason.Forty But the court's interpretation of the written law must have kept in mind that upholding justice was its first priority, not following the wording of the statute exactly. Brihaspati had to stop: "The court should not give its decision by merely following the letter of the shastra for if the decision is completely devoid of reasoning, the result is injustice (dharma-hani)." Brihastpati further argues that the court should rule in conformity with national customs and norms, even when doing so goes against the letter of the law. He offers several excellent examples that, incidentally, throw a great deal of light on the social conditions of the modern era.

- **Changing customs: Changing laws**

[13] D. D.Basu, Shorter Constitution of India, 10th Edn 1988 (New Delhi, Prentice Hall 1988)

[14] Dicey A.V.: The Law of the Constitution (10th Ed.) Captus Press, 1991 Dr. P.N. Sen “Hindu

Given the significant role that customs (achara, sadachara, and charitra) play in society, the State was obligated to keep an official record of the customs that are followed across the nation. According to Katyayana, "Whatever custom is proved to be followed in any particular region, it should be duly recorded as established (dharya) in a record stamped with the seal of the Sovereign." However, if a long-standing custom eventually proved unfair, it may be legally "disestablished". In actuality, the Sovereign's responsibility was to periodically eliminate the decaying or dead branches of tradition. Katyanana ordered: "When the Soverign is satisfied that a particular custom is contrary to equity (nyayatah) in the same way-that is in the way it was established- it should be annulled by a formal decision of the Sovereign." [15]

This astounding clause demonstrates how advanced the Indian legal and judicial systems were in antiquity. All legitimate customs practiced in the various parts of the realm had to be documented by the state in an official record. Proof of the existence of a custom was frequently the deciding factor in court cases. "Dharma-shastra, (ii) previous judicial decisions (vyavahara), custom (charitra), or the decrees of the Soverign" are the possible bases for court decisions (vyavahara), according to Narada. These four have authority in reverse order, with the one after it superseding the one before it. There's a similar clause in the artha-shastra.

- **Evolutionary concept of law**

It is impossible to place enough emphasis on the relevance of these regulations. Indian jurisprudence provided the notion of law a secular substance by adapting the law to changing norms rather than focusing on religious law. In addition to this, it contributed to the development of the evolutionary notion of law and contradicted the idea of an absolute, eternal, and unchanging rule. "The laws of kritayuga are different from those of treat and dwapara, and the laws of kali yuga are different from those of all the previous ages—the laws of each age being according to the distinctive character of each age (yuga roopanusaratah)," Manu and Parashara both declare. "The laws of kali yuga are different from those of all the previous ages."

- **Mode of Proof (Law of Evidence)**

The law of evidence, sometimes referred to as the type of proof, and the calibre of a judicial system are correlated. The Indian judicial system was significantly superior to any other ancient governmental framework in this specific area. Using paranormal technology, including holding trials via trials of suffering, to provide evidence was a common practice in ancient societies. It was the preeminent school of thinking in England right up until the very end of the Middle Ages. But as long as there was documented or oral evidence, our legal system forbade the employment of magical tools in any situation.[16]

[15] Jurisprudence" Allahabad Law Agency, Allahabad 1984 352

[16] Dr. Radha Kumud Mukerji, "History of Medieval India" India Press 1966

- **Discovery of truth is real test**

Any judicial system should really be able to help the courts find the truth, and the legal system of ancient India passes this test with flying colours. "In disputes the Court has to ascertain what is true and what is false from the witnesses," prohibits Gautam. Based on the data that is now available, giving a false statement was highly despised in ancient India. From Megatheres in the third century B.C. to Huan Tsiang in the seventh century A.D., every foreign traveller attested to the fact that Indians valued honesty in their interpersonal relationships. Megasthenes remarked, "Truth they hold in high esteem". Huan Tsiang and Fa Hien made similar discoveries when they travelled to India during Harsha's reign. A thousand years of practice turned a virtue into a tradition. Falsehood was discouraged by the Courts' method and culture. Unlike now, when a peon administers the oath, the judge himself performed it. The judges had to address the witness under oath, praising honesty as a virtue and denouncing dishonesty as a terrible evil. According to Brihaspati, "Judges who are well-versed in the dharmashastra should address the witness in words praising truth and driving away falsehood (from his mind)" .

The judges' speech to the witness was a moral admonition meant to instill fear of God rather than a predetermined set of words. On this issue, all the scriptures agree. Narada stated that "The judges should inspire awe in the witness by citing moral precepts which should uphold the majesty of truth and condemn falsehood" . Perjury in front of a court is both a grave criminal and a horrible sin, according to all the smirtis. There were other clauses designed to lessen the likelihood of providing misleading information. "The Sovereign should not grant any delay in the deposition of witnesses; for delay leads to great evil and results in witnesses turning away from the law," Katyayana enjoined, with much common sense, that there should be no delay in the examination of witnesses—obviously because delay dims the memory and stimulates imagination.

Administrative Courts

The Kantakasodhana Courts, also known as Special Courts with criminal jurisdiction, were a crucial component of the legal system in ancient India. Three commissioners (pradeshtarah) or three ministers are tasked with handling steps to suppress disturbances to peace (kantakasodhanam kuryuh), according to the artha-shastra. The artha-shastra states that these tribunals considered legal infractions committed by officials while performing their official responsibilities in addition to offences against the States. Hence, the Kantakasodhana courts stepped in to punish the offenders if dealers used fictitious weights, sold contaminated goods, or charged exorbitant rates; if workers in the factory were paid less than a fair salary or failed to do their jobs correctly. [17]The same court required appearances from officers accused of wrongdoing, as well as from those accused of theft, dacoity, and sexual offences. All the traits of administrative courts were present in these courts. The Artha-shastra's Fourth Part mentions the existence of an Administrative Code.

Administrative Code

[17] ECS Wade & G.Philips: Constitutional and Administrative Law, Franz Steiner, 1999

In ancient India, the State possessed a vast public sector that was involved in trade and industry. To our ancient ancestors, the idea of contemporary capitalism—that is, that there should be no state-run industries—would have seemed idotic. There was a state commerce department, a state textile industry, a state mining industry, and a state mercantile marine department under the Mauryan Empire, all of which were overseen by a Superintendent-General of Shipping (navadhyaksha). Trade, mining, and textiles (Sootradhyaksha, Akaradhyaksha). Every state industry was governed by its own set of regulations, which were all collected and categorised in the artha-shastra and might be thought of as an administrative code. I'll provide a few examples.
A comprehensive Administrative Code outlining guidelines for riparian and marine navigation is provided by the artha-shastra. "The Superintendent of ships shall examine the accounts relating to navigation not only on the oceans and mouths of the rivers, but also on lakes, natural or artificial, and in the vicinity of Sthaniya and other fortified cities," the enjoinment stated.

The State was to appoint a Superintendent-General of Navigation. The chapter includes a clause requiring the ships to have a sufficient number of people. Strict rules were in place to guarantee the security of ships: "There shall be a service of large boats (mahanavo), with a captain (shasaka), pilot (niyamaka), a crew to hold the sickle and the ropes, and to clear the boat of water for navigation on large rivers which cannot be forded (atarya) even during winter and summer season."

Regulations from the artha-shastra also mention that the state mercantile marine operated on the high seas and stipulate that "passengers arriving in port on the royal ships shall pay their passage money (yatra-vetanam)." The Superintendent-General was to set the tariffs. By the way, the fact that this code exists establishes beyond a shadow of a doubt that Indians were seafarers with close trading ties to other nations. Similar to this, there was a public and a private sector involved in the production of cotton yarn and textiles, which was a significant industry that exported textiles to other nations. A Superintendent General of Textiles oversaw the public sector (Sootradhyaksha). Under him was a huge organisation. The obligations of the Sootradhyaksha and the other officials who report to him are outlined in the artha-shastra. It mandates that "qualified individuals shall be employed by the Superintendent-Genral of Weaving to manufacture treads (sutra), coats (varma), clothes (vastra), and ropes." One of his responsibilities was to place ladies to work in their houses. The department either collected the cotton that had been spun into tread or the ladies themselves gave it to them. Nonetheless, the artha-shastra forbids taking unfair advantage of these women or refusing to pay them. The nonpayment of salaries will also be subject to penalties. Another rule made it illegal to give a female employee any unfair preference. It stated: "An official will face consequences if he gives a woman wages for work that is not performed." [18]

8. JUDICIAL SYSTEM IN MEDIEVAL INDIA

The history of India is shrouded in secrecy with the fall of the Harsha dynasty and is not revealed again until the Muslim conquest. The nation was split up into little kingdoms once more. However, this had no significant

[18] Fontana Press; Fifth edition (Reissue) edition (4 Oct 2010)

impact on the legal system that had developed over the thousands of years prior. Despite political conflicts, the nation's basic legal and procedural concepts were upheld, the unity of culture was preserved, and each kingdom upheld the norms and goals of justice. The fact that eminent legal commentaries such as Mitakshara and Shukarneeti Sar were composed at this time and attained widespread recognition in India serves as evidence of this. However, the arrival of Muslims in India marked the beginning of a new era in our legal history. New social structures, new civilizations, and new religions were all brought about by the Muslim invaders. This will undoubtedly have a significant impact on the legal system. [19]

Throughout the Middle Ages, Islam upheld one of the greatest standards of justice. The criteria were established by the Prophet. "Justice is the balance of God upon earth, in which things when weighed are not by a particle less or more," he says in the Quran. He also designated the balance so that he would not deviate from it; so, maintain a fair weight and do not undermine the equilibrium. It is also said that he told God that a minute spent administering justice is more devoted to Him than the dedication of a guy who fasts daily and prays nightly for sixty years. Thus, the Muslim rulers considered it a religious obligation to administer justice. The initial four Caliphs were the pinnacle of this esteemed institution. The Caliph Umar, who established the idea that the law was final and that a judge should never be a subject of the monarch, selected the first Qadi. He allegedly once had a personal lawsuit against a Jewish subject. Both of them came before the Qadi, who stood up in reverence upon seeing the Caliph.[20] "Umar considered this to be such an unpardonable weakness on his part that he dimissed him from office." These lofty principles were brought to India by the Muslim rulers. According to Badaoni, the Qadi dismissed a libel action that the Kind had brought against Shaikhzada Jami while Sultan Muhammad Tughlaq was in power, yet he suffered no injury. Nevertheless, this did not stop the Sultan from putting the defendant to death without a trial. Each Sultan had very high standards for justice. Justice, in Balban's view, is the cornerstone of sovereignty, "wherein lay the strength of the sovereign to wipe out the oppression," according to Barani. But regrettably, the Sultans' system of justice was erratic in its operation. The main reason for this was that anarchy and disarray characterised the whole Sultanate era. It was a long time before any Sultan felt safe. A relatively short span of time saw the violent replacement of one dynasty by another. As a result, the sovereign's character greatly influenced the standard of justice.[21]

According to a contemporary author, "The mediaeval State in India, as elsewhere in its history, had all the drawbacks of an autocracy—everything was ephemeral, individualised, and devoid of fundamental solidity. The

[19] Hakeem, Farrukh B., et al. “Police and the Administration of Justice in Medieval India.” Policing Muslim Communities, 2012, pp. 59–74.

[20] Hamid, Abdul. A Chronicle of British Indian Legal History. South Asia Books, 1991.

[21] Jain, M. P. Indian Legal History 2006. Lulu Press, Inc, 2014.

personal element in administration had grown to such an extent that even a small departure from the route of duty by the head caused parallel changes throughout the whole "trunk." "His Magistrates were seen drunk in public" if the King was inebriated. Without security, justice cannot be served, and the Indian Sultans never felt safe. As a result, India was not familiar with the democratic concept of governance that Islam promoted.[22] While the judicial traditions of ancient India had been deeply ingrained over several millennia and were impervious to political conflict, Islamic ideals of justice did not establish themselves as a tradition in India under the Sultanate. The nation had an effective political structure under the Moghal Empire, which led to the development of the legal system. The Qazi office served as the judicial administration's section and was a holdover from the Caliphate. Each province capital had its own Qazi, and the Supreme Qazi of the empire (Qazi-ul-quzat) oversaw the judicial branch. Furthermore, every hamlet and town big enough to be called a Qasba had a Qazi of its own. Theoretically, a Qazi needed to be "a Muslim scholar of pure life, fully versed in the requirements of the holy law."

9. CONCLUSION

In addition to this, the offences and inappropriate conduct that were committed by members of the law enforcement community, the superintendent of the jail, and other public employees were taken into serious account, and severe sanctions were handed down. The rule said that judges should be removed from their positions if they made orders that were not just, if they received bribes, or if they damaged the confidence that was placed at their disposal. The material that has been provided thus far makes it abundantly evident that the institutions that constitute the administration of criminal justice in India may trace their roots back to the Vedic period. According to the Arthashashtra, during the time of the Mauryan dynasty, a clearly defined system of criminal justice had been established. Over the duration of the Mauryan administration, this structure had been rapidly expanding with each passing year.

10. REFERENCE

1. Chaudhuri, Dr. Mrinmaya . Languishing for Justice,
2. Adams, Thomas F., Law Enforcement: An Introduction to the Police Role in the Community, Englewood Cliffs, New Jersey, 1968.2
3. Agarwal, B.D., ―Criminal Justice System: Is Lie Oriented‖, Criminal Law Journal, Vol. 99, December1999.
4. Kulshreshtha VD. Landmarks in Indian Legal and Constitutional History, 4 -6.
5. Kumar, Dr. Surendra, Manu Smriti . Published by Arsh Sahitya Prachar Trust, New Delhi,

[22] Jatar, Nilakshi, and Laxmi Paranjape. Legal History: Evolution of the Indian Legal System. 2012.

6. Wilkin WJ. Hindu Mythology, 2, 90 -91.

7. Rangarajan LR . Kautilya -The Arthashastra, 377.

8. Paranjape .N. V., "Studies in Jurisprudence And Legal Theory", Central Law Agency, Allahabad 2013, p. 229.

9. The Bar Council Of India 20 4. S. P. Indian Legal System. Mittal Publications, 2014

10. Basu D.D. Judicial Review and Constitutional Limitations, (S C Sarkar & Sons, Calcutta 1972)

11. C. K.Takwani, Lectures on Administrative Law, (Lucknow: Eastern Book Company), 4th Edition

12. Chandra Bipin “Modern India”, New Delhi Publication Department NCERT 1990

13. D. D.Basu, Shorter Constitution of India, 10th Edn 1988 (New Delhi, Prentice Hall 1988)

14. Dicey A.V.: The Law of the Constitution (10th Ed.) Captus Press, 1991 Dr. P.N. Sen “Hindu

15. Jurisprudence” Allahabad Law Agency, Allahabad 1984 352

16. Dr. Radha Kumud Mukerji, “History of Medieval India” India Press 1966

17. ECS Wade & G.Philips: Constitutional and Administrative Law, Franz Steiner, 1999

18. Fontana Press; Fifth edition (Reissue) edition (4 Oct 2010)

19. Hakeem, Farrukh B., et al. “Police and the Administration of Justice in Medieval India.” Policing Muslim Communities, 2012, pp. 59–74.

20. Hamid, Abdul. A Chronicle of British Indian Legal History. South Asia Books, 1991.

21. Jain, M. P. Indian Legal History 2006. Lulu Press, Inc, 2014.

22. Jatar, Nilakshi, and Laxmi Paranjape. Legal History: Evolution of the Indian Legal System. 2012.