

BRITISH JUDICIARY SYSTEM IN INDIA: A VIEWPOINT

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Paper Received: 21.04.2022 / **Paper Accepted:** 25.06.2022 / **Paper Published:** 01.07.2022**Corresponding Author:** Naresh Chander; doi: 10.46360/cosmos.ahe.520221011**Abstract**

The current framework of our legal system is derived from British common law. Prior to that time, the monarchs who ruled India obeyed the laws of their own personal religions or cultures. Because of its relationship to the Indus Valley Civilization, India possesses one of the oldest civilization systems in the world. The Ramayana, Mahabharata, Smriti, and Vedas are some examples of sacred texts that contain references to the Nyaya philosophy. If we start with the misconception that the present legal system only began a few hundred years ago or less, then our vision of modern law will be skewed and twisted. The present legal system is founded on the traditions and growth of the past, which led to the formation of the foundation. It is possible that without the necessary historical context, it will be impossible to grasp why a specific system is the way that it is. There are many authors, each of them has their own unique style of portraying the history of the Indian judicial system. However, none of the proposed explanations of Indian legal history were identical; rather, each theory proposed a unique set of events. As a result of reading a variety of books and transcripts, I've come up with a concept for how I might present my thoughts on this issue in a manner that is simpler and more transparent to comprehend. One cannot grasp the legal system of present-day India without first gaining an understanding of the legal systems that presided over each successive era of India's history.

Keywords: British Judiciary System, Legal, Legislative, India.**Introduction**

During their dominance of the colonies, the British imposed their legal system, which was based on the ideas of common law and was known as the English legal system. It was eventually decided that English law would serve as the primary legal framework, and courts in England would be established to administer justice.

British Judges and Magistrates: Throughout the history of the British judicial system in India, major roles were occupied by British judges and magistrates. They were tasked with interpreting and applying English law in Indian courts, which was their area of responsibility. The British colonial period was marked by the establishment of a more centralised and hierarchical legal system. Uniformity and Hierarchy. The creation of High Courts as well as lower courts was done with the intention of ensuring that the law is applied in a uniform and consistent manner.

Legal Precedents: The British legal system adhered to the theory of legal precedent, sometimes known as "stare decisis." This meant that lower courts were required to abide by rulings reached by higher courts. In the application of the law, this approach ensured consistency and gave some degree of predictability.

Legislative Influence: The British introduced legislative reforms, such as the Indian Penal Code (IPC) and the Criminal Procedure Code (CrPC),

which were both drafted by the British. Because of these rules, India's criminal laws and processes are now standardised across the country.

Literature Review

(2018) Madan [1]; The evolution of the Indian judicial system is the topic that will be covered in this research paper. The legal system in India is considered to be one of the oldest and most established legal systems in the entire history of the planet. In the course of the most recent hundreds of years, it has undergone modification and moreover been produced to incorporate inferences drawn from the legal systems all over the world. The Indian Legal System has its roots in the Constitution of India, which serves as its guiding document. Since India has been the birthplace of four significant legal traditions-Hindu, Muslim, British, and that of contemporary, independent India-the primary focus of this article will be on the extraordinary changes that have taken place in the legal system there and the influence that these changes have had. The current framework of our legal system is derived from British common law. Prior to that time, the monarchs who ruled India obeyed the laws of their own personal religions or cultures. Dharma, which deals with responsibility, religion, and the inseparable quality of the item or order, was a philosophical principle that was adhered to by Hindus. The term "dharma" refers to ethical laws that are founded on righteousness. After then, Muslims looked to the Quran and other sources for guidance, as directed by Prophet Muhammad.

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In the midst of the transition away from the Mughal legal system, advocates under that regime also took action accordingly; yet, they generally continued with their previous role as customer agents.

(2013) Choudhary; despite the fact that Ancient India has a long and illustrious history of jurisprudence, the modern legal system of the country is mostly derived from the British legal system and is based on English Common Law. English Common Law is a body of law that operates on the principle that judicial precedents should be documented. Previous laws pertaining to mental health were largely focused with the institutionalization of people who suffered from mental illness as well as the protection of society as a whole. In addition to this, the determination of competency, lessened responsibility, and/or the welfare of the society are all topics that are addressed by Indian law. The United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) was approved in 2006, which signals a paradigm shift in respect to disabilities (including disability related to mental illness), shifting the focus from a social welfare problem to an issue pertaining to human rights. The presumption of legal ability, equality, and dignity are the pillars around which the new paradigm is built [2, 3, 11].

British Judiciary System

The judicial system of the United Kingdom, more commonly referred to as the legal system of the United Kingdom, is both one of the world's oldest and one of the most prominent legal systems. It is the basis for the legal systems of a large number of other countries, particularly those that are a part of the British Commonwealth, and has developed over the course of several centuries. The following are the primary components that make up the British judicial system:

- The British legal system is built on the common law tradition, which looks on judicial precedents and previous decisions as the primary sources of legal authority. This is known as the common law. Judges interpret and apply the law by building a body of case law based on previous verdicts in cases that are similar to the one they are now hearing. This case law is then used to guide future judgements.
- Courts are organised in a hierarchical structure: The courts in the British judicial system are organised in a hierarchical structure. The Supreme Court of the United Kingdom, which is both the highest court

in the country and the final court of appeal, sits at the very top of the legal hierarchy in the United Kingdom. Following the Supreme Court are a number of courts with progressively lower authority and jurisdiction, including the Court of Appeal, High Court, Crown Court, and County Courts. Each of these courts has its own unique set of responsibilities.

- **Independence of the Judiciary:** The independence of the judiciary is a basic concept of the judicial system in the United Kingdom. Judges are selected not on the basis of their political affiliations but rather on the basis of their qualifications and experience in the law. When deciding cases, they are required to do so in a manner that is unbiased and unaffected by any outside influences.
- The principle that an individual must always act in accordance with the letter and spirit of the law is known as the rule of law. It implies that no one is above the law and that everyone, including those in positions of authority in the government, is accountable to the law. The judicial branch serves as a check and balance on the power of the executive branch and guarantees that the law is implemented uniformly and equitably.
- The British constitution adheres to the principle of "separation of powers," which is also known as "checks and balances." Since the judicial system is apart from both the executive and legislative branches of government, it is able to arbitrate legal disagreements in a manner that is fair to all parties involved.
- Laws relating to offences against the state and laws regarding problems between private parties or organisations: The British legal system makes a distinction between criminal law, which deals with offences against the state, and civil law, which addresses problems between private parties or organisations. Those that are considered to be criminal are pursued by the state, whereas those that are considered to be civil are brought by private parties who are seeking restitution or compensation.
- The guilt of a criminal defendant is frequently decided by a group of average persons sitting on a jury in a trial for a

criminal offence. Following deliberation, the jury decides whether the defendant is guilty or not guilty based on the facts presented in court. In contrast, a judge will typically make a decision about civil cases.

- Barristers and solicitors make up the two branches of the legal profession that exist in the United Kingdom. Clients can seek legal assistance from solicitors, who are also responsible for handling documentation and representing clients in lower courts. Barristers are highly trained professionals who advocate on their clients' behalf in higher courts.
- Access to justice is guaranteed by the legal system in the United Kingdom through the provision of legal assistance. Those who qualify and are unable to pay for legal representation on their own receive financial support so that they can obtain legal services.
- Changing Nature of the Legal Environment: The legal system in the United Kingdom is constantly evolving to accommodate shifting social norms and advances in technology. Courts have a critical role in interpreting the law to solve contemporary situations, which becomes increasingly important when new legal challenges emerge.
- Prior to the creation of the Supreme Court of the United Kingdom in 2009, the House of Lords functioned as the country's highest court of appeal. In 2009, the Supreme Court of the United Kingdom took over this role. In the majority of instances, it functioned as the highest possible court of appeal, and the Law Lords, who were senior judges, served as its members. However, the establishment of the Supreme Court achieved the goal of separating the legislative function of the House of Lords from the judicial function, which resulted in an increase in the independence of the judiciary.
- Courts Specialising in Particular Areas of the Law: The United Kingdom has, in addition to the standard judicial hierarchy, specialised courts that hear cases in particular areas of the law. These include the Family Court, which handles family and marriage cases, the work Tribunal, which handles conflicts connected to work,

and the Intellectual Property Court, which handles issues pertaining to intellectual property rights.

- Influence from the European Union Up to the United Kingdom's departure from the European Union in January 2020 (often known as "Brexit"), the UK's judicial system was subject to the influence of European Union (EU) legislation. During the time that the United Kingdom was a member of the European Union (EU), EU law held precedence over British law, and British courts were obligated to interpret and apply EU regulations. After Brexit, the courts in the UK have fully reclaimed their autonomy in determining how domestic laws should be interpreted and applied.
- Devolution and Independent Legal Systems: The United Kingdom is made up of four different countries: England, Scotland, Wales, and Northern Ireland. Each of these countries has its own distinct legal system. Because of the process of devolution, each of these countries has some aspects of its own legal system. Particularly notable is the fact that the legal system of Scotland is wholly unique, being a hybrid of common law and civil law ideas.
- Judicial Review: The British judiciary possesses the power of judicial review, which enables it to assess the lawfulness of governmental actions, decisions, and legislation. This power was granted to the British judiciary by the British government. If a court determines that a decision or action was taken in violation of the law, it has the authority to declare that decision or action to be invalid.
- Legal Precedents: The principle of legal precedent, commonly referred to as "stare decisis," is an indispensable component of the judicial process in the United Kingdom. The decisions that are reached by higher courts in instances that are comparable must be followed by the lower courts. The use of this principle assures that the law will be applied in a consistent and predictable manner.
- Alternative Dispute Resolution (ADR): Methods of ADR, such as mediation and arbitration, are utilised often in the United Kingdom to settle legal disagreements

outside of the standard judicial system. Alternative dispute resolution (ADR) offers the parties more pliable and confidential means of settling their issues.

- The British judiciary has embraced technology to modernise court proceedings, which has resulted in the creation of virtual courts. The use of online hearings and virtual courts has grown increasingly prevalent, particularly in times of crisis such as the COVID-19 epidemic. This has made the administration of justice more accessible and efficient.
- Guidelines for Sentencing: The United Kingdom (UK) has guidelines for sentencing that judges use to determine what sentences are suitable for various types of criminal offences. These guidelines intend to guarantee that sentencing practises across jurisdictions are consistent with one another.
- Access to the Proceedings of the Courts in the United Kingdom: In many situations, the proceedings of the courts in the United Kingdom are open to the public. The open justice principle encourages transparency and gives members of the public the opportunity to watch how the judicial system works.

The legal system in the United Kingdom is distinguished by its devotion to the rule of law, its common law tradition, its hierarchical court structure, its independence of the judiciary, and its common law tradition. Its influence is felt well beyond the borders of the UK, having an effect on legal systems all over the world and acting as a model for many nations that are working to develop a judicial system that is both fair and effective.

Conclusion

The notion of justice and government went through substantial shifts as a result of British colonial authority in India, which lasted from the middle of the 18th century until 1947. These shifts occurred throughout the period of time when India was ruled by the British. The British administration introduced new legal systems, administrative structures, and philosophies, all of which had a tremendous impact on how people viewed and administered justice, as well as how they ran the government. The following is a list of important features of the way people in the British era perceived justice and governance:

- The British East India Company initially administered India as a trade corporation, but later on, direct administration by the British Crown was formed in the shape of the British Raj. This was the beginning of the era of British colonial authority in India. The colonial power dynamic had a significant impact on people's conceptions of justice and governance. During this time, the British were recognised as the authoritative governing body, while Indians were considered to be their subjects.
- The British established the English legal system as the principal legal framework, which was founded on the ideas of common law. This was done through the introduction of English common law. The English legal system was gradually incorporated into the Indian legal system, and in civil cases, it coexisted with the country's traditional Hindu and Islamic legal systems.
- Rule of Law and Uniformity: The British placed a significant emphasis on the concept of rule of law as a fundamental component of effective governance. They worked towards making the legal system unbiased and standardised, regardless of factors such as caste, religion, or social standing. This was done with the goal of bringing uniformity and consistency to the legal system.
- The role of British Judges and Magistrates: British judges and magistrates held major positions in the judicial system and were responsible for interpreting and applying English law in India. They were also responsible for holding key positions in the judicial system. As a result, the higher judiciary, which includes the High Courts, came into being as a result of this.
- Indian Penal Code (IPC) and Criminal Procedure Code (CrPC): In 1860, the British established the Indian Penal Code (IPC) and the Criminal Procedure Code (CrPC), which went on to become the primary pieces of criminal legislation in India. The purpose of these guidelines was to provide a procedure for dealing with criminal situations that was both standardised and comprehensive.

- The British were responsible for the establishment of several contemporary administrative institutions, including the police force, the district administration, and the tax administration. These institutions were conceived to improve the efficiency of governance while also preserving law and order.
- Reforms of the Judiciary: In order to make the legal system more effective: The British government implemented a number of judicial reforms. These changes included the installation of civil and criminal courts at a variety of different levels as well as the implementation of jury trials for specific types of cases.
- Reforms to the Land Revenue System: The British government enacted land revenue reforms in an effort to rationalise the land taxation system. Important instances of such reforms include the Permanent Settlement in Bengal and the Ryotwari System in some regions of South India. Both of these reforms took place in India.
- Traditional Elites Were Displaced: The British administration in India removed traditional Indian nobles and elites from their administrative positions and replaced them with British bureaucrats. This caused a shift in how authority and governance were perceived, with British administrators coming to be considered as the people with the ultimate decision-making power.
- Indian nationalism and the search for justice: As India's sense of national identity developed, so did the country's citizens' yearning for more autonomy and more direct participation in the administration of law and order. The Indian National Congress and kindred nationalist movements championed the cause of increasing the number of Indians serving in positions of authority within the judicial and public service systems.
- Indian Civil Services (ICS): The British were responsible for the recruitment and training of officers for the Indian Civil Services, which played an essential part in the governance of India. Despite this, British officials had a significant amount of power within the ICS, which contributed to a feeling of colonial servitude.
- The advent of the legal profession in India may be traced back to the time when the British colonial administration was in power. Indian attorneys were pivotal figures in the nationalist movement, playing a crucial part in the fight for justice and rising to influential positions in the profession.
- Inequality in Treatment Despite the British administration's emphasis on the rule of law, Indians and Europeans were frequently handled differently in legal affairs by the British administration. This led to the idea that racial discrimination and inequality existed.
- Suppression of Revolts: The British administration employed a heavy-handed strategy in dealing with opposition and revolts, which led to episodes such as the massacre at Jallianwala Bagh and other incidents that formed impressions of British governance. This policy led to the deaths of hundreds of people.

The colonial power dynamic and the imposition of British legal and administrative institutions were the primary factors that contributed to the formation of the Indian populace's perception of justice and governance during the British era in India. In spite of the fact that the British ruled India with the intention of bringing modernity, efficiency, and uniformity to governance, their reign resulted in conflicts, uneven treatment, and resistance from the local Indian populace. After India attained its independence in 1947, this era set the framework for the later growth of the country's legal and administrative institutions.

Conflicts of Interest

The authors declare that there are no significant competing financial, professional, or personal interests that might have influenced the performance or presentation of the work described in this manuscript.

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