
LEGAL SYSTEM IN INDIA

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ABSTRACT

This paper focuses on the development of the Indian legal system. In the last hundred years, the Indian legal system has evolved greatly from the civilisations to the Gupta and Mauryan empires to the emergence and settlement of Mughals in India. This paper will primarily focus on the Legal systems and a shift in the legal and judicial system in India during the medieval period and the current legal system. The difference in the administrative procedures of the Mauryan, Gupta and Mughal empires are also evident. The judiciary was far more developed under the Guptas than it had been in the past. The Mauryans had two separate kinds of courts: Kantakasodhana dealt with criminal cases, while Dharmastheya dealt with civil ones. Several courts were established under the Mughal empire to address various sorts of matters. In contrast to Hindu law, the Islamic criminal code did not see all crimes as injuries to the state. The three categories into which the offences fell were crimes against God, crimes against the State, and crimes against private individuals. India still has a hybrid legal system that mixes civil, common law and customary, Islamic ethics or religious law within the framework left over from the colonial era. Many laws originally passed by the British are still in effect today, albeit with minor modifications.

Legal system in Gupta Era¹

Under the Guptas, the judiciary was far more advanced than it had been in the past. During this time, a number of law books were written, and for the first time, the lines between civil and criminal law were firmly defined. Criminal law applied to crimes like theft and adultery, whereas civil law applied to disagreements over different kinds of property. There are detailed laws regarding inheritance. Numerous rules were still founded on varna distinction, just like in former times. The monarch had a responsibility to protect the law and hear cases with the assistance of brahmana priests. The guilds of merchants, artisans, and others had their own regulations that they followed. Seals from Bhita near Allahabad and Vaishali show that these guilds were thriving throughout the Gupta era. The Gupta administration was not as complex as the Mauryas. The kumaramatyas held the position of most prominent commanders in the Gupta empire. They may have received monetary compensation and were appointed by the monarch in the home provinces. Due to the fact that the Guptas may have been vaishyas, recruitment was not limited to the highest varnas; instead, numerous offices were united in one person's hands, and positions became hereditary. Naturally, this reduced the power of the king.

The Gupta administration was not as complex as the Mauryas. The kumaramatyas held the position of most prominent commanders in the Gupta empire. They may have received monetary compensation and were appointed by the monarch in the home provinces. Due to the fact that the Guptas may have been vaishyas, recruitment was not limited to the highest varnas; instead, numerous offices were united in one person's hands, and positions became hereditary. Naturally, this reduced the power of the king. Organized professional organisations were given a lot of influence in the urban government. By serving on the same corporate body as merchants, artisans, and the guild head, they definitely managed the affairs of the town, as shown by the sealings from Vaishali. The head trader, chief merchant, and chief artisan made up the Kotivarsha district's administrative board in north Bengal (Bangladesh). Land transfers were seen to require their permission. Bankers and artisans each had their own distinct guilds.

At Bhita and Vaishali, there are a lot of guilds of artisans, dealers, etc. Silk weavers had their separate guilds in Indore and Mandasor, both in the Malwa region. The oil pressers in the Bulandshahar area of western UP were divided into guilds. It appears that certain organisations,

¹ Sarthak Mishra, The Legal System in India: An Analysis, LEGAL SERVICES INDIA, <https://www.legalserviceindia.com/legal/article-4877-the-legal-system-in-india-an-analysis.html>

particularly the merchant guild, benefited from specific privileges. In any case, they managed the affairs of their own members and dealt out punishment to anyone who disobeyed the guild's rules and traditions. Only the regions directly administered by the officials chosen by the Gupta rulers, including north Bengal, Bihar, UP, and some surrounding portions of MP, were subject to the above-described administrative structure. Feudatory chiefs controlled a large portion of the empire, and many of them had been subjected to. They rendered the royal respect by personally attending his court, paying him homage, and presenting him with daughters for marriage in their capacity as subordinate princes. They appear to have been granted charters to govern their territories in exchange, and these charters, which bear the royal Garuda seal, appear to have been given to the vassals. In MP and elsewhere, the Guptas therefore had authority over a number of subject rulers. The second significant feudal development that occurred during the Gupta era was the giving of priests and administrators financial and administrative privileges.

The Satavahanas began the technique in the Deccan, and Samudragupta, in particular, popularised it throughout the Gupta era. Three responsibilities belonged to the vassals who resided on the periphery of the empire. Religious officials received land that was exempt from taxes for future generations and were given the authority to collect any taxes that had previously been paid directly to the emperor from the peasants. The recipients were also given the authority to punish offenders, and the villages handed to them were off limits to royal agents, retainers, and others. It is unclear whether state officials in Gupta periods were compensated with land concessions. The prevalence of gold coins would indicate that senior officials were still paid in cash, though some of them could have received compensation in the form of land grants. The Gupta monarchs did not need as many officials as the Mauryas did because a large portion of the imperial government was run by feudatories and beneficiaries, and also because, in contrast to the Maurya state, the Gupta empire did not significantly control commercial activity.

The necessity to retain a sizable entourage of officers was further diminished by the involvement of prominent artisans, merchants, elders, and others in the rural and urban government. The Guptas did not require or possess the sophisticated administrative apparatus of the Mauryan era, and their political structure appears to have been feudal in certain respects.

Legal System during Mauryan Empire²

The monarch was the source of law and the leader of justice; he made decisions about all serious topics. In the cities and villages, there were specialised courts presided over by pradesikas, mahamatras, and rajukas. There were two different types of courts: dharmastheya handled civil issues, while kantakasodhana handled criminal ones. At least one court and one police headquarters were established in all significant cities and administrative centres. The village elders in the panchayats resolved minor disputes in the communities. The Hindu law as outlined in the shastras was applied in civil proceedings. The criminal law was applied with rigorous adherence and was exceedingly punitive. The fundamental purpose of these penalties was to serve as an example for others and to discourage them from doing improperly.

Legal System during Mughal Empire⁴

The Mitakshara school of law, which had a very specific interpretation of the law and which was compiled by a Chalukya monarch in the 11th century, was the most widely used during the Indian Middle Ages. These days, Hindu Joint Family laws are based on this law. When Mohammed Ghori defeated Prithviraj Chauhan at the Second Battle of Tarain in 1192 A.D., Islam then entered India during the 11th century, and Qutubuddin Aibak became the first Sultan of Delhi under the Slave Dynasty.

There were seven courts of justice throughout the Sultanate era, each of which dealt with a distinct branch of the law. The Qazi deal with religious laws and are not subject to judicial oversight. Non-Muslims have the freedom to follow their own laws and to convene their own tribunals. As a result, the Sultanate era's judicial system was poorly set up. There were two types of courts during the Mughal era:

1. Courts governed by personal or religious law.
2. Common law, secular, and political crime courts.

² Vanshika Shukla, The Judicial Administration of Mauryas: Military and Governance, Volume: 7 Issue: 10, EPRA- IJMR, October 2021

³ Reshma Rai, Essay on the judicial system of Mauryan rulers(India), PRESERVE ARTICLES, <https://www.preservearticles.com/essay/essay-on-the-judicial-system-of-the-mauryan-rulers-india/13733>

⁴ Shivali Srivastava, Judicial System during the time of Mughals in India, IBLOGPLEADERS, <https://blog.ipleaders.in/judicial-system-time-mughals-india/>

However, there was no administrative hierarchy or clearly defined court jurisdiction throughout the Mughal era. Judgments are inconsistent because judges' decisions are highly subjective and differ from judge to judge.

Concept of Law

All of the Sultans and Mughal Emperors upheld Islamic law, or Sharia, during the time that Muslims ruled India. The Quran, which was revealed to the Arabian Prophet, was meant to serve as a final definition of Muslim criminal law as it is practised in India (hadis). The Muslims upheld the idea of men being treated equally and had no confidence in the caste system's graded or sanctified inequity. In the Muslim religion, differences in class, nation, race, and colour are superseded by the idea that all men are created equal in the eyes of God. This idea of equality, however, only applied to Muslims. Non-Muslims were not accorded the same rights and privileges as Muslims under Islamic law. They were referred to as "zimmis" and were not accorded the same legal rights as Muslims. Their testimony against Muslims was not admissible in court. They were required to pay a second tax known as "jizya," in addition to paying standard taxes at a rate that was twice that of a Muslim. The Muslim criminal jurisprudence considered criminal law as a component of private law rather than public law, which was a unique aspect of Muslim law. The fundamental idea behind the statute was to help those who have been harmed in civil disputes rather than to punish those who broke the law. Private individuals were responsible for utilising state resources to combat such offences; the state would not automatically take such actions under its purview.

King⁵

One of the King's main responsibilities was the execution of justice. The king served as the institution's chief judge. The ruler was considered to be the highest court of justice in Islamic and Hindu jurisprudence, respectively. One of the King's key responsibilities was to uphold and enforce the law. He had the absolute power to dispense justice in his kingdom because he was the leader of the state.

⁵ Abhishek Acharya, Legal systems in India, ACADEMIA.EDU, https://www.academia.edu/12096011/legal_system_in_mughal_empire

Courts

To handle various types of cases, several courts were set up. Courts were established in the central capital as well as the provincial, district, and parganah capitals. The Court of Diwan-e-mulzim served as the highest court of appeal for criminal cases throughout the Sultanate era. A separate court, Diwan-e-siyasat, was established to handle the cases of rebels being charged with high treason as well as criminal prosecutions. The Chief Sadr and Chief Qazi, who typically held both positions, were in charge of the judiciary and police. A hierarchy of Qazis was eventually established to handle matters including civil disputes and criminal charges. Adalat Qazi-e-subah was given the authority to try any kind of civil or criminal case in the provincial headquarters, as well as to hear district court appeals. The district and parganah administrative centres both had courts. Appeals against the rulings of the Parganah Qazis, Kotwals, and local Panchayats were brought before the district court. Cases involving minor crimes were brought before the Kotwal, who served as the towns' chief executive.

Sher Shah Suri made a number of changes to the judiciary. For civil and criminal proceedings, separate first instance courts were formed in the parganahs. Magisterial powers within the parganahs were granted to the Shiqahdars, who up until this point possessed abilities comparable to Kotwals (of cities). They still had control over the neighbourhood police.

A distinct department of justice (mahukma-e-adalat) was established during the Mughal era to control and ensure that justice was properly administered. A series of courts, starting with the Village Council (Panchayat), then the Parganah, Sarkar, and Provincial Courts, and lastly the Chief Sadr-cum-Qazi and the Emperor himself, was used to administer justice. Original and criminal matters might be heard in Emperor's Court. Like the Attorney General of India today, the Mohtasib-e-Mumalik or Chief Mohtasib aided the Emperor in criminal matters. The Chief Justice and Qazis of the Chief Justice's Court were on the bench that the Emperor presided over to hear an appeal. The Court of the Chief Justice was the second-most significant court in the empire (Qazi-ul-qazat). This also heard appeals and had original civil and criminal jurisdiction. The Provincial Chief Appellate Court, presided over by the Qazi-e-subah, was tasked with overseeing the operation of the province courts at each provincial headquarters. In addition to hearing appeals, it also had original civil and criminal jurisdiction. The Qazi-e-sarkar, who served as the district's chief judicial authority, presided over the major civil and criminal courts in each district. The Adalat-e-parganah, which had to handle all civil and criminal issues that

came up within the parganah's authority, including the village, was presided over by the Qazi-e-parganah.

Crimes and Criminal Procedure⁶

The Islamic penal code did not see all offences as harms to the state, in contrast to Hindu law. Crimes against God, crimes against the State, and crimes against private people were the three categories into which the offences fell. Crimes against the State and God were considered violations of public morality. Other crimes were viewed as offences against specific people, and it was up to private citizens to use state resources to combat them because the state wouldn't automatically take notice of them. While consuming wine was viewed as a very terrible offence against society, murder, which is now considered the most horrific crime under contemporary law, was viewed as an offence against a person.

In the past, the verdict was announced in public. The verdict was not delivered in open court unless in extraordinary circumstances when either the public trial was against the interests of the state or the accused was dangerously powerful. The Hanafi law divided evidence into three categories: (a) tawatur, which refers to complete corroboration; (b) ehad, which refers to a single witness' testimony; and (c) iqrar, which refers to an admission that includes a confession. The evidentiary law that was required to establish the crime was quite complex. Following are a few of the rules of evidence that were used in Muslim criminal law: In other circumstances, the testimony of one Muslim was seen as being comparable to the testimony of two non-Muslims. Two women's testimony was deemed to be as reliable as one man's. In order to get a conviction, the evidence had to be direct—that is, it had to come from eye witnesses exclusively and not from other sources—and there had to be a minimum number of witnesses.

For instance, four such witnesses were required to prove the crime of rape in addition to eye witnesses. Women's testimony was not allowed to be used to support a murder charge or in any hadd or kisa proceedings

⁶ Tarini Kalra, Indian Legal System: An Overview, IBLOGPLEADERS, <https://blog.ipleaders.in/indian-legal-system-an-overview/>

Institution of Lawyers

Before the courts, litigants were represented by qualified legal professionals. Their name was Vakils. During the Islamic era, the legal profession saw great growth. The administration of justice was heavily influenced by the function of the attorneys. The obligations of a Vakil are spelled out in detail in two Muslim Indian Codes, notably the Fiqh-e-Firoz Shahi and the Fatwa-e-Alamgiri. They were occasionally chosen to help outdigent litigants by providing them with free legal counsel. In court, a Vakil had the right to be heard. The Vakil were supposed to uphold a high Legal System during Gupta Empire.

Modern Legal System in India

The Indian legal system is referred to as the law of India. Within the framework left over from the colonial era, India retains a hybrid legal system that combines civil, common law, and customary, Islamic ethics, or religious law. Various laws initially enacted by the British are still in force in somewhat modified forms today.

Constitutional and Administrative Law

The longest written constitution in the world is that of India, which went into force on January 26, 1950. It incorporates a number of additional articles that were taken from other constitutions throughout the world at the time of its establishment, despite the fact that its administrative provisions are mostly based on the Government of India Act 1935. It clarifies the relationships between the Federal Government and the State Governments and offers information on how the Union and the States are administered. A chapter on citizens' fundamental rights and a chapter on the overarching principles of state policy are both included in the text. The federal form of government mandated by the constitution includes a distinct division of legislative and executive responsibilities between the Federation and the States. The State Governments are free to create their own laws on topics that are considered to be state matters. All Indian residents must abide by legislation approved by the Indian Parliament and other central laws that already exist on topics categorised as core issues. The Constitution does, however, also contain some unitary elements, such as the Federal Government's exclusive right to modify the Constitution, the lack of dual citizenship, and the Federal Government's assumption of supreme authority in emergency situations.

The other laws include those pertaining to crime, torts, labour, contracts, companies, property, taxes, and family. Court System Hierarchy The Indian judicial system is based on the common law, with legislation passed by the Parliament or state legislatures, customary law, and Supreme Court and High Court rulings having great weight when rendering judgements 18.

The three-tiered structure of the judiciary is primarily comprised of the following:

1. The Supreme Court, which sits at the very top.
2. In addition to 25 High courts located around the nation that have authority over several states
3. District and sessions courts as well as many tribunals for various conflict categories.

Conclusion

As can be seen from the following, India's criminal justice system under Muslim control underwent a considerable transformation from that of the Hindu era. The functioning of the courts and the constitution received particular attention. Under the Guptas, the judiciary was far more advanced than it had been in the past. Even yet, the Gupta administration was not as complex as the Mauryas'. The Guptas did not require or possess the sophisticated administrative apparatus of the Mauryan era, and their political structure appears to have been feudal in certain respects. India's legal system has seen several modifications throughout the years. The Indian Constitution, which has created the functioning of the whole judicial system in India, is the utmost pillar and foundation. The country's quick development necessitates substantial judicial reforms as well. The Indian government is making an effort to clear the obstacles and backlog. However, additional development still has to be undertaken.