

Court System — India

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Introduction	2
Evolution of the Court System in India	2
Current Scenario of the Court System in India	3
The Supreme Court of India	3
The Supreme Court Functions	4
High Courts in India	4
Functions of a High Court	4
Subordinate Courts	4
Classification of Subordinate Courts	4
Tribunals	4
National Green Tribunal	5
Claims Tribunal	5
Industrial Tribunal (Labour Court)	5
National Company Law Tribunal	5
Lok Adalats	5
Juvenile Courts	5
CBI Courts	6
Conclusion	6
References	6

Glossary

Adalat Court of law

Sadr Superior

Suba Province

Abstract

The concept of judicial activism in India has played a very important role which was inculcated by the judiciary for protecting the rights and freedom of every individual in India. Through judicial activism, the judicial system has not just become a mere adjudicator of disputes, but also a player in controlling executive action. It is because of an independent judiciary, citizens in India are breathing fresh air of equality, fraternity, and liberty. The highest judicial authority acts as the guardian of democracy and protector of the constitution, ensuring the preservation of fundamental rights and delivering justice to every citizen. In accordance with the directive principles of state policy, the Indian government is obligated to follow the directives issued by the apex court. The judicial system in India plays a significant role in many spheres by providing justice to the people by applying the principle of natural justice. Constitutionalism which is the essence of democracy is protected by the judiciary. The judiciary in India is persistently endeavoring to protect the fundamental rights of the citizens. This article articulates the hierarchy of the court system in India and its function with relevant cases which symbolizes it as a pillar of democracy by upholding the rule of law.



Introduction

Over the years, the judiciary has delivered several landmark judgments that had a far-reaching impact on society. The judiciary intervened in all imperative concepts whether it is climate issues or protection of women and children, upholding human rights, environmental protection, or releasing of bonded laborers. This proactive role of the judiciary gave rise to judicial activism through public interest litigation which helped the common man to avail justice without any fear. The Indian court system evolved from the legacy of the common law system. It was based on the theory of separation of power which was coined by Brede et de Montesquieu who visualized that it is necessary to embrace the doctrine of separation of power to administer justice to all. Even India follows the separation of power in an implied manner (Som, 2022). Reasonable separation of power is recognized between three organs i.e., the executive, legislature, and judiciary (Rai, 2017). The judiciary acts as the guardian of the constitution and plays an imperative role in providing justice to the citizens of India. It prevents arbitrary acts of the state officials in the public administration. Therefore, it is crucial for the judiciary to remain uninfluenced by the actions of the executive, ensuring the rule of law and the fair delivery of justice. Under the Indian constitution the word "justice" plays a vital role in safeguarding the valuable liberty of every individual of the nation. The preamble in the Indian constitution imbibes the word "justice" which signifies political, social, and economic justice to all people (Kumar, 2018). The constitution establishes criteria for the interactions among government organs, establishes a system of checks and balances in administration, and delineates the roles of each organ concerning state governance, encompassing the judiciary, therefore upholding the basic structure of the constitution and principles of natural justice.

Evolution of the Court System in India

India's recorded legal history starts from ancient Vedic period (1500 BCE), when some sort of formal legal system came into being (Flavell, 1918). Interestingly, the law at that time appealed both to the educated elite as well as to general masses. For the elite, it was philosophy, and for the masses it was religion, which guided the formation of law. Primary religious texts [the "Shrutis"] like the Vedas and Upanishads were the basis of earliest Hindu law. Later period saw incorporations from secondary texts [the "Smritis"] like Manusmriti (200 BCE–200 CE), Naradasmriti (100 BCE–400 CE), Yajnavalkya Smriti (200 CE–500 CE), Brihaspati Smriti (200 CE–400 CE), Vishnu Smriti (700 CE–1000 CE), and Katyayana Smriti (300 CE–600 CE). Both *Shrutis* and *Smritis*, incorporated philosophy as well as religious teachings. Ancient Hindu law was thus guided by both philosophy and religion, and since both taught the concept of "dharma" [righteousness, duty], the law ultimately taught one to be righteous and dutiful toward the State.

The first major kingdom to flourish in India were the Mauryas (c. 324–187 BCE). They mostly followed the earlier law. However, under their advisor Kautilya (375–283 BCE) (Fig. 1), they modified and developed a judicial administration that considered the King to be the main person to provide justice to the people. Though there were different grades of courts existing in ancient India, the King was given a prominent place in delivering justice in the open court (Judicial History and Courts of Madhya Pradesh, 2020).

Later, when India came under the control of the Delhi sultanate, the performance of the court system changed somewhat. The Delhi sultans established a court structure in India that comprised four types of courts at the provincial headquarters. Two prominent sultans, namely Sultan Qutbuddin Aibak (1206–10) and Sultan Iltutmish (1211–36) had a prominent role in establishing this structure (Arif, 2017). Four types of courts were constituted. *Adalat Nazim-e-suba* [Court of the Governor of the Province] had original and appellate jurisdiction. *Adalat Qazi-e-suba* [Court of the Provincial Judge] was used for civil and criminal cases. *Diwan-e-suba* [Revenue Court of the Province] dealt with revenue matters, and *Sadr-e-suba* [Head Court of the Province] dealt with the grant of stipends and land for education and religious activities.

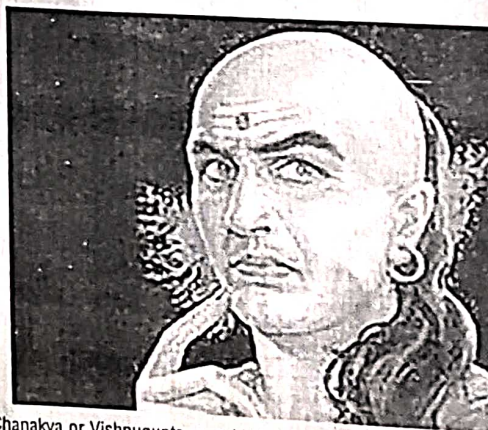


Fig. 1 Kautilya, also sometimes called Chanakya or Vishnugupta, a multitasking man, who as royal advisor to the Mauryas, helped develop a sound legal system, far more advanced than that of equivalent civilizations of that time.



Around 1600 when the East India company established their foothold in India, the court system was unorganized. The East India company also was not willing to organize the court system in India. However, in 1726 a Mayor's court was established in the presidency towns of Calcutta, Bombay and Madras, under the charter of 1726 (Rai, 2016). The court system in 1687 derived its power from the East India company but later after 1726 it got its authority from the British crown. The difference between the prior Mayor's courts and the current court was that the former was established by the company Mayor's court under the charter of 1687, while the latter obtained its authority from the crown through the charter of 1726. The charter explicitly mandated Indian Mayor's courts to adhere to English law.

In the years 1773 and 1774, the legal system in India moved into a new phase under the Regulating Act which encouraged the British crown to establish a supreme court in India. The British crown under charter 1774 [formed under Regulating Act of 1773] established a supreme court in Calcutta. Later in the year 1861 under the Indian High court Act 1861, high courts were set up in the presidency towns. Indian Bar committee was set up in 1923, this committee emphasized the establishment of a Bar council for all the high courts hence under the Indian Bar councils Act of 1926 which provided for the establishment councils for high courts. The function of the councils was advisory in nature. Later under the Government of India Act of 1935, a Federal court was set up in Delhi. Following India's independence, the nation emerged as a fully sovereign entity, and on January 26, 1950, a written constitution was established. With this new constitution in place, the apex court assumed the role of safeguarding it (Bhargava, 2023).

Current Scenario of the Court System in India

The functioning of the court is enshrined in Part IV of the Indian constitution under Articles 124 to 167 titled "The Union Judiciary." In India, a country known for its secular nature, a centralized judicial system exists, and the supreme court is recognized as the apex judicial body, serving as the mediator in issues concerning the relations between the Union and the States, as well as between the States themselves (Basu, 2015). The supreme court and the high courts are envisaged with responsibility as the stewards and watchdogs of the people's fundamental rights and freedom under the constitution. The apex court has effectively reserved and safeguarded citizens' fundamental rights and the rights of vulnerable groups against the innovations of "an excited democracy," and for that aim, it has heavily relied on the Directive Principles. Directive principle of state policy which is non-justiciable by the courts still acts as the cornerstone by imposing an obligation to the state to provide welfare measures to the people of India. Often direction will be given by the apex court to the administrative authorities to implement the welfare measures to citizens for instance in the case Bandhua Mukti Morcha v. Union of India the apex court directed the government to provide rehabilitation and benefits for the bonded labourers.

The Supreme Court of India

The federal court was established in India under the Government of India Act of 1935 which continued to flourish as the final court of appeal, till 1950 (Sushree Surekha Choudhary and Federal Court of India, 2022). The first Attorney General of India M.C Setalvad stated that the jurisdiction of the court is much wider than those exercised in any country of commonwealth nations and the supreme court of the US Earlier the supreme court consisted of one Chief Justice and seven puisne judges under the original constitution of 1950; now under the present scenario, it is 34 including the Chief Justice. This number can be increased by the parliament through legislation. The supreme court has a constitutional bench that comprises nearly five to more judges on it. This is not a routine phenomenon because if the case is of national interest, then the sitting of the judges will increase to 13 judges on the bench. Most of the cases in the supreme court are heard by two judges which is called a divisional bench. The supreme court has the power to issue directions to the government and also issue writs. Constitutional remedies are provided by the constitution under Article 32 of the constitution. Any citizen whose fundamental rights are violated can approach the supreme court directly under Article 32. A person with a public-spirited mindset holds the right to file a writ petition in the interest of the public, seeking redressals if their fundamental rights are violated, and this becomes a powerful tool wielded by the judiciary (Bhakshi, 2018; Jain, 2019; Pandey, 2022; Raj, 2023; Singh, 2019).

The Supreme Court Functions

1. It is in charge of interpreting the constitution's provisions. The supreme court holds the crucial responsibility of interpreting the provisions of the constitution. It possesses the power to nullify and declare void any Central or State laws that are found to be inconsistent with or infringe upon constitutional provisions or the fundamental rights guaranteed to individuals under the Indian constitution.
2. The supreme court plays a multi-faceted role in protecting the constitutional, fundamental rights of individuals and also being the interpreter of the fundamental rights of the citizen.
3. The apex court makes policies, procedures, and rules based on the rule of law which is regarded to be the essence of democracy.
4. The apex court possesses the authority to issue writs aimed at safeguarding citizens' rights, thereby staying true to the principles of justice outlined in the preamble of the Indian constitution.
5. The supreme court is in charge of defending and protecting the integrity of the entire legal system, and it has the authority to bring individuals who disparage the judiciary in contempt.



6. It settles disagreements between one or multiple states as well as between the central government and the state governments.
7. It is the highest court of appeals. It considers appeals from decisions made by lower courts and tribunals and issues rulings that are final in the case.

High Courts in India

The primary objective of the judicial system is to ensure justice for the nation's people. At the pinnacle of the state judicial system in each state lies the high court, an institution with a long history dating back to 1862. It is stated that the high court was first established in the three presidency towns of Calcutta, Bombay and Madras. In the current scenario, every state in India has a high court. The Parliament holds the authority to establish common high courts for two or more states. As an example, the northeastern region of India comprises seven states sharing the Gauhati high court for the administration of justice to the people of northeastern India (Aggarwala, 2014; High Court, 2023; High Court in India, 2022).

Functions of a High Court

1. The high court of every state formulates rules and regulations for the operation of the subordinate courts and scrutinizes the records and documents of the subordinate courts.
2. It reviews its petition on any apparent error. It is considered under the principle of stare decisis.
3. Appeals from decisions and orders of subordinate courts are heard by the high court under appellate jurisdiction.
4. The high court has the power to issue writs under Article 226 of the constitution.
5. If a statute is determined to be in violation of the constitutional requirements, the high court has the authority to declare it void.
6. The high court has the authority to review the order of the subordinate courts. This is done by the court if it finds that subordinate courts have exercised its judicial power inappropriately.

Subordinate Courts

Subordinate courts or lower courts are established in each district of all the states in India.

Classification of Subordinate Courts

Subordinate courts typically fall into one of two categories:

1. Civil courts
2. Criminal courts

Civil courts resolve legal disputes involving issues like contracts, rent, and divorce. These disputes are resolved in accordance with the guidelines set forth in the Code of Civil Procedure of 1908.

Criminal courts deal with cases of legal violations brought by the state, which encompass offenses such as murder and dacoity. To regulate the functioning of these criminal courts, the Code of Criminal Procedure (1973), outlines the necessary procedures. In India, district courts handling criminal cases are known as session courts. The term "district judge" encompasses various designations, including judges of city civil courts, additional district judges, joint district judges, chief judges of small courts, chief presidency magistrates, session judges, additional session judges, and assistant session judges. Any individual who feels aggrieved by the decision of a district court has the right to lodge an appeal with the high court.

Tribunals

The government has established several specialized tribunals to handle various issues, such as taxes, land disputes, etc. Tribunals can be quasi-judicial or judicial. The term "Tribunal" doesn't carry an identical meaning to "Court." Instead, it encompasses all bodies responsible for adjudication, as long as they're established by the government and endowed with judicial functions rather than administrative or executive tasks. Tribunals offer swift justice and are typically constituted when there are numerous cases pending before regular courts over a specific subject matter. As a result, these tribunals assist in lightning the workload of regular courts (Tribunals in India, 2023).

National Green Tribunal

The National Green Tribunal (NGT) was founded in accordance with the National Green Tribunal Act of 2010, aiming to provide a streamlined and prompt resolution for cases pertaining to the preservation of the environment. The primary seat of the NGT is



situated in New Delhi, while additional benches are located in cities such as Bhopal, Pune, Kolkata, and Chennai. The NGT plays a crucial role in addressing matters related to environmental conservation and sustainable practices, ensuring that legal proceedings are conducted efficiently and effectively across its various benches.

Claims Tribunal

Originating from the Motor Vehicles Act of 1988, the Motor Accidents Claims Tribunal was established to provide swift remedies to individuals affected by motor vehicle accidents. This specialized tribunal system operates without a fixed time constraint for submitting claims related to motor vehicle accidents. Individual state governments have the authority to establish one or more Motor Accidents Claims Tribunals as needed. Notably, civil courts lack jurisdiction over matters falling under the purview of the Motor Accidents Claims Tribunal. Appeals against the decisions made by these tribunals are directed to the respective high courts.

Industrial Tribunal (Labour Court)

An Industrial Tribunal is a specialized legal forum governed under the Industrial Disputes Act, 1947 dedicated to resolving disputes and conflicts that arise between employers and employees in the industrial or workplace context. These tribunals play a crucial role in addressing matters related to employment conditions, grievances, and disputes that cannot be settled through regular negotiations. Industrial Tribunals are designed to provide an impartial and formal platform for both parties to present their cases and evidence. Their decisions are legally binding and contribute to maintaining a fair and harmonious work environment.

National Company Law Tribunal

The National Company Law Tribunal (NCLT) serves as a quasi-judicial entity responsible for resolving matters concerning Indian companies. Enacted under the provisions of the Companies Act 2013, the NCLT was officially formed in 2016 by the Indian government. This tribunal holds the authority to make judgments and decisions on a range of corporate issues, playing a pivotal role in regulating and overseeing the corporate landscape of the country.

Lok Adalats

Lok Adalat is regarded to be one of the conciliatory methods in resolving disputes. It is been monitored by the state legal aid and advice boards (Supreme Court of India, 2023). Lok Adalat, also known as "People's Courts" are presided over by active and retired judges. The Legal Services Authorities Act, 1987, grants statutory recognition to the legal aid movement and facilitates the establishment of legal service authorities at the central, state and district levels. Every award passed by Lok Adalats is deemed to be a decree of a civil court or tribunal and holds binding force on the involved parties as a final settlement (Tribunals in India, 2023).

Juvenile Courts

The juvenile court in India is a specialized legal institution focused on cases involving individuals below a certain age, usually 18 years, as per the Juvenile Justice (Care and Protection of Children) Act, 2015 (Khanuja and Vyas, 2018). The need for juvenile courts arises from the understanding that juveniles possess different levels of maturity and accountability compared to adults. By providing a separate court system, it is ensured that juvenile offenders receive appropriate attention, guidance, and rehabilitation, preserving their potential for a productive future. These courts are established in various cities and districts across India, situated within the premises of district courts or designated child welfare institutions.

CBI Courts

The CBI court, also known as the Central Bureau of Investigation court, is a specialized legal entity in India that exclusively handles cases investigated by the Central Bureau of Investigation (CBI) (Central Bureau of India, 2023). These cases typically involve complex and high-profile matters such as corruption, major financial fraud, serious criminal conspiracies, and cases of national significance. While the judgment of a CBI court holds substantial weight, it is not necessarily considered final. Like other court judgments, there is a provision for appeal from the judgment of a CBI court. Parties unhappy with the verdict can pursue further legal remedies through the appellate process, which involves higher courts reviewing the decision to ensure a comprehensive and just judicial procedure. A notable case that was referred to a CBI court is the Aarushi-Hemraj double murder case, which garnered widespread media attention and presented significant legal and investigative challenges (Gawali and Dube, 2013).



Conclusion

The judiciary in India has been very progressive since the independence of India. The constitution has given the judiciary the power to safeguard the fundamental rights of the citizens. The Indian judiciary plays an important role in ensuring the primacy of justice, which forms the bedrock of democracy. By providing equal protection of law to all people of India the judiciary preserves the constitutional value.

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