

“BOATS THE PHRASE WE THE PEOPLE AND THE PEOPLE'S ANXIETY OVER THE RULE OF LAW”

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ABSTRACT

The law commissions and eminent intellectuals appear to have spent their considerable time for analyzing the reasons what would be behind in the lethargy of the judicial and political system, rather than looking into the seriousness about making which easily accessible to the common poor or on the issue of judiciary and governmental responsibilities and accountability as both are very crucial.

All the powers emanates from the people of democratic nation as to the governmental system and judiciary playing a vital role as only in written papers but sarcastically against the common people in the way of corrupt atmosphere created by high admired and gentle rich man's bribe.

This article will picturize neither the government nor the higher judiciary has shown its optimistic view towards the implications on reform's. Thus, rich and powerful defendants (black man's guide) have perturbed over the common honest poverty man on for their truth and justice, who had the desire and the need to live but not the ability.

Key words: Judiciary, Political system, Innocent, Rich defendants, Law commission, legal reform.

INTRODUCTION

–“State infringed the law and citizens are interfered in it.”

The historical study on effectiveness of judiciary in India and the pathway on the modern changes in law are made and made for only the known people (rich) not unknown people (poor). In the case of arbitrary decision also justice is unfair against the unknown people.

When the phrase was propounded as WE THE PEOPLE, it has implied mean as CITIZENS and not the “state”, where the common people elect authorities for democratic nation to the high intellectual post to serve: “Of the people, For the people and By the people.”

A fair and impartial judiciary, independent legislature and the executive are among the main features of the Constitution. This framework to this era has totally corrupted by fluctuated economic malpractice of known and authoritative people and biased-delayed justice. Thus the scenario has changed the state (government) having powers infringed the rules and favours laws where the rule of law is against the common citizens.

Through the cosmopolitan political system and judiciary at some point of situation act on both right and wrong, making wrong a right and right a wrong, it has been understood that the law and politics is what it was intended to be, not what we might want it to be.

Real illustration- If an innocent boy caught with traffic police for the offence of without helmet is charged and made guilty before a judge. But if a girl of judge itself caught by the traffic police she leaves home innocently without any charge of offence.

KNOWN PEOPLE

There are several ways in which rich and powerful person's can avoid the law in the first place and completely evade it if they have been caught on the second place.

- **PLEA BARGAINING**

The concept of plea bargaining undermines the public's confidence in the justice system and as result of this it will lead to the conviction of innocent's, inconsistent penalties form similar crimes or offences and lighter penalties for the rich. Thus, the unknown poor are humiliated by rule of law.

- **EVADING OR AVOIDING THE LAW**

The simple way to escape from the legal consequences like; theft or robbery, attempt or complete murder, civil or criminal conspiracy or any other crimes is to fix high prices, exploitation of those worker's and default on guarantees by the influent rich is because to control the politician's whom are vested with powers in making laws. Controlling the strategy carefully planned vary from campaign donations then to bribery and to terrorizing pushy judiciary and law enforcement officers.¹

UNKNOWN PEOPLE

-“Eating up of lion's share is like court's time” is the modern judiciary

Judiciary is a heartless mindless procedural machine that victimizes some people so hard that they can't even cry or protest because that would be criminal contempt.

- **BY UNPROVEN EVIDENCES**

In **Hashimpura massacre case**², all the sixteen state Uttar Pradesh cops are been accused of the charges on killing over 40 Muslims intentionally in Meerut city of state Uttar Pradesh were acquitted by a trial court on ground of failure to prove such evidences against the accused. Thus, it took around 28years for judging the case and finally hearing that by giving benefit of doubt to the accused in the old sensational 1987 case, the court finds lack of evidence especially regarding on the identity of the charged accused.

- **IMPACT ON VICTIMS FAMILY AND OTHERS**

"Honour the victims but not with more killing"

Susan F. Sharp has written in her book –

"The family of the person facing execution are fortunate than the family members of murder victims in one important way. Their family member is still alive, and they can have contact, although limited. The family members of the victim had no time to prepare themselves for loss. On the other hand, the protracted death process or “anticipated death” faced by families of those sentenced to death can take a toll, resulting in anger, depression, and frustration. Social isolation is common.”³

Yes, it is impossible for any State to cure every problems happening within the families. But to some exceptions it has to intervene with the light of the assistance, irrespective on concerning whether the family is related to the person murderer or the murdered. The Indian government at some cases provides monetary compensation to such crime victims and his family, especially if the offence happened is newsworthy, but it is also not common.

Example- the **Sarabjit case** was a miscarriage of justice was no doubt given by the Pakistan Judiciary and for no reason the case was made delayed and at last an innocent was murdered, after then family got compensation from the Central government of India and Punjab government but not the justice.

¹ <http://www.critcrim.org/redfeather/crime/014rich.html>

² <http://timesofindia.indiatimes.com/india/Hashimpura-massacre-case-For-lack-of-evidence-all-16-accused-walk-free/articleshow/46649048.cms>

³ <http://lawlex.org/lex-pedia/the-untold-story-of-hidden-victims/4633>

Thus, it is up to the judiciary to consider that upon which accused the punitive action is deemed to be fit and to what extent, but there are a many number of families who where left behind after the death of innocent unknown common person to look after. Such of them ought not to be ignored. So, to look upon that by providing Death penalties the innocent lives should not be affected.

- **BY ALIENATING THE POOR**

The common poor man by getting alienated with the judicial system make him feels that the court room as an alien-land because the procedures and technicalities are governed more, rather than the truth (justice) and morality. Thus, it is so difficult for an common man to get pass through the complicated procedures where their is a exploitation through ignorance for making money.⁴

The problem which distress to the Indian judicial system and make it slow and pushes it down can be;

Firstly, the **loopholes and gaps** in Indian laws and acts are too many which resulted in filing up of several flippant cases and thereby increasing the number of lawsuit before the court.

Secondly, the **pendency backlog** where the legal proceedings are itself so complicated where the rate of clearing of cases been dreadfully slow to the extent of 30 million pending cases out of which around 4.5 million are on High Court, 65,000 on the Supreme Court. This clearly shows the insufficiency of the legal system. Thus, to the effect of this backlog more prisoners in India's prisons are kept as detainees been waiting for the trial.

Thirdly, there is **less count of judges** in Indian courts. The statistic by the Press Information Bureau, 2016, the high courts and Supreme Court has 464 vacancies of judges. Thus, democratic India consists of 10.5 judges per million of growth of population. This considered to be poor ratio when compared to other such countries.⁵

Fourthly, the **Corruption in judiciary** is present as like in other institutions of the Government in India. The most recent scams such like the CWG (common wealth games) scam, Adarsh Society scam and 2G scam including cases of such other affront in the society shows the height of corrupted judges.

Fifthly, the **Lack of transparency** which can be seen in the Right to Information (RTI) Act which is totally out of the scope of the legal system. Thus, in functioning of the judiciary, the concept of quality of justice, credibility, accountability and the transparency are not seen.

Sixthly, the judiciary has **No interaction with the academia and society** as a result it is irregular and irrelevant. Thus, it can be seen that the law officers have not came closer to the ground for interacting with the common people and also to academia that provides guidance and feedback. Now a day's universities offer fertile ground for cultivating to grow up fresh ideas and to have budding think tanks.

IMPLICATIONS

-“Poor cannot pay the price of truth as it is extremely high.”

For a healthy democracy it requires an efficient judiciary working independently alongside an effective executive and a responsible legislature. Looking at the lack of transparency and simplicity in our judicial system, it is time for We the people of India to assert ourselves.⁶

- To simplifying judicial procedures, practices and making the delivery of justice to the common man closer.

⁴ <https://socialissuesindia.wordpress.com/2012/03/03/how-healthy-is-indian-judicial-system/>

⁵ <http://www.dnaindia.com/india/column-action-and-not-tears-will-change-the-indian-judicial-system-2208084>
<https://javedrafi.wordpress.com/2013/01/14/the-untold-story-of-hidden-victims/>

⁶ <https://socialissuesindia.wordpress.com/2012/03/03/a-suggested-roadmap-to-reform-indian-judiciary/>

- Better equipped courts with better and sufficient staff adequate infrastructure and good facilities can deliver justice faster and more efficiently.
- The existing practice of writing and reporting judicial proceedings, decisions and orders needs to be reviewed carefully in order to enhance the efficiency of the courts.
- IT and communication technology will provide some relief by implementing E-Courts Project which facilitate expeditious disposal of cases by harnessing Information Communication Technology (ICT).
- The requisites of intense all inclusive debate in the media without the fear of contempt of the courts.
- The Government of India should also examine the feasibility of creating an all India Service for judicial officers in the same manner as that of IAS and IPS officers. It will also attract talent in judiciary services.
- National Judicial Commission (NJC), which must be created as a statutory body like the Election Commission. It must not be monopolized by existing or retired judges and must include respected members from the legislature and academia, independent thinkers, and activists. The commission has to be empowered to appoint judges and also probe complaints on their misconduct and initiate immediate criminal proceedings without any other body's consent.
- The Roles of NGO's and Activists must have exerted pressure both on the government and the judiciary to speed up judicial reforms at all levels. Anna Hazare's movement has generated a massive momentum; it must not be allowed to die down.

CONCLUSION

-“The beginning is what the people expects and the end is what we execute”

Above all, this article clearly enumerates that common people elect authorities by voting at beginning and the result is democratic form of government where the executive head and other officers (legislative and judiciary) violates rights and duties of such by over helming the people of itself.

-“There cannot be brand new beginning but can be brand new ending.”

After 69 years of independence, decades from beginning have past, but the anxieties of people has not “take the edge off” either by one of the three branches of the government. But judiciary can resolve it by its fair judgment to all people as whole without considering economic advantage of some and without delay. This brings a new start from the old practice by pointing it as its end.

-“Reform by new implications or old infringements”

Thus the author provides for the reader's of this article on the current topic a transparent implications for reformative changes to those high dilemma faced by those fluctuate people and requisite the authorities of altruistic to create such impact. This reform by judiciary through its review can place more effectiveness.

Point of information: A speedy trial involving cases of rich defendants have made anxious not only the unknown common people, but include the top judicial body throughout the country.

The Supreme Court, in a series of observation's, have admitted that the Indian judiciary was been ignoring the common man (unknown people) while giving priority to rich, influential and powerful people in hearing the cases and said some high introspection has been called for in this current regard.⁷

⁷ <http://www.dailymail.co.uk/indiahome/indianews/article-2449211/Top-judges-admit-Indias-justice-tragedy-common-citizens-ignored-favour-high-profile-cases.html#ixzz4QBSyFdsF>