Indianisation of the Indian Legal System: Mapping the Relevance of the Ancient Indian Jurisprudence

Dr. Mohammad Nasir[1] & Samreen Ahmed[2]

ABSTRACT

In recent times, there has been a lot of debate on the need for reorienting the Indian legal system and legal education. To realise the aspirations of 'New India', such reorientation should reflect the socio-cultural realities of our times. Indian legal system owes its origin to the Vedas and indigenous customs; however, it was distressed by foreign influences of invaders and colonisers—the Islamic law and the English common law. To legitimise transplantation of their legal system in India, the British colonisers propagated a false narrative that the Indian legal system was devoid of basic jurisprudential principles such as natural justice, rule of law etc. Although, "Bharat," was incorporated in Article 1 of the Indian Constitution but even after 75 years of Independence we do not have any Indigenous legal system and continue to be governed by colonial laws, largely. Arguably, any legal system that is not rooted in the native and ethnic character of the community will eventually fail to deliver justice. The contemporary debate on 'reorienting the legal system in India' is anchored towards reviewing this anomaly. Since, the present Indian legal framework is significantly transplanted and colonial in nature, hence, a natural corollary of the Indianisation of law debate is decolonialisation of law. Indianisation of law cannot be achieved in one go, it will take years to achieve the desired change. This paper attempts to trace the factors contributing to the prolonged delay in the commencement of the Indianisation of law process. The paper argues that the process of Indianisation entails infusing the Indian jurisprudence in the Indian legal framework and simultaneously divesting it of the colonial vestiges. This requires conscientious and meticulous research to identify areas requiring overhauling or change and to suggest viable Indianised alternatives.

Keywords: *Indianisation of law, de-colonialisation, Mann ki Baat, Ancient Indian Jurisprudence*

1 Assistant Professor, Department of Law, Aligarh Muslim University, Aligarh, U.P.-202002 Email: nasir.lw@amu.ac.in

2 Research Scholar, Department of Law, Aligarh Muslim University, Aligarh, U.P.-202002 Email: samreena0@gmail.com

INTRODUCTION

The present Indian legal system is palpably either British in origin or inspiration. It is infamously at odds with the beliefs and concerns of a large portion of the populace that it governs today. There have been jittery revolutions in the past for the revival of the 'indigenous' system, but nothing concrete happened until the recent past when the judges of the Supreme Court of India, incumbent Prime Minister Narendra Modi and his government took on themselves to Indianise the Indian legal system and legal education.

Indianisation, though, does not imply revival of the ancient Indian legal system *in toto;* it seeks to pick and choose from the rich ancient past and, at the same time, exhort Indians to take pride in India's legal heritage. Primarily, the movement for Indianising the Indian legal system is directed towards integrating the virtues and values of the ancient Indian legal system into the contemporary legal system.

This paper tries to find answer to the question as to why even after 75 years of Independence, India is under the influence of colonial hangover. The paper draws on scholarly literature and judicial pronouncements to prove that through vague criticism, a false narrative was built to oust the ancient legal system. The paper suggests the decolonialisation of law as indispensable to Indianisation of the Indian law and for this purpose tries to determine the contemporary relevance of the ancient Indian jurisprudence.

FACTORS AND REASONS FOR DELAY

The question that troubles contemporary scholars is why Indianisation of Indian legal system has not been seriously mulled over in the past 75 years and why the colonial legal system was perpetuated even when a major section of the members of the Constituent Assembly were legal professionals?

(Galanter, 1972a) argues that the present legal system has always been supported and endorsed by the influential class of lawyers who were fully convinced of the system's and were committed to it. They perceived that their interests were intertwined with its continuation. Hence, revivalist attempts regarding indigenous law were taken as a challenge to their livelihood and a potential detriment to the nation. Quoting a member[1] of the 1958 Law Commission who was an illustrious lawyer and later rose to the prominence

1 Marc Galanter has not named the member but the description indicates towards Gopal Swaroop Pathak who was the Law Minister when the 1958 Law Commission submitted its report.

of being the Vice-President who once commenting on the comparative study of various legal systems undertaken by the Law Commission said that it was concluded that the British legal system which India adopted was the best. Arguably, in their estimation, it secured more enduring justice. He cautioned against borrowing from other legal systems as innovations may usher radical changes.

A ready reckoner could have been *Dharmaśāstra* but some of its central themes ran against the core commitments of the Independent India viz. a secular state, protection of religious minorities, equality before the law, and equal protection of law irrespective of caste, class, religion, gender, sex, place of birth, color, etc. Interestingly, the only traces of legal force that *Dharmaśāstra* retained were also put to death knell by the blow of the Hindu Code.

The other factors underlined by scholars pertain to practical expediency, for instance, there wasn't any organised body of the proponents of the proposed alternative (indigenous laws) or educational institutions which could produce such scholars or any existing group of professionals whose professional interests were aligned or likely to be advanced with its introduction. (Galanter, 1972b) further, the major drawback was the absence of qualified experts on indigenous laws while on the contrary the lawyers were considered as the competent authority on legal reform. Other inadequacies in the restorationist movement for the indigenous system included the failure of proponents to put forth what (Galanter, 1972a) calls 'any vivid alternative'. They couldn't garner consensus amongst themselves for having any alternative language for English. Galanter aptly comments, "…this was a restorationist movement without a believable pretender!"

Some scholars are of the view that the British supplanted legal system had over the course of time become so domesticated in India that the Indianisation movement couldn't gain momentum as it should have been. Moreover, the British law also underwent certain modifications when applied to the Indian laws. Arguably, the indigenization on the ideological and programmatic level failed in India because the law had become 'indigenous' on the operational and adaptive level. The law and society had over the period of time mutually adapted in several ways. The law itself underwent considerable adaptation.

British institutions and rules were combined with structural features (e.g., a system of separate personal laws) and rules (e.g., *dharmaśāstra*, local custom) which accorded with indigenous understanding. The borrowed elements underwent more than a century and a half of pruning in which British localisms and anomalies were discarded and rules elaborated to deal with

new kinds of persons, property and transactions. By omission, substitution, simplification, and elaboration, the law was modified to make it suitable to Indian conditions. However, Galanter's contention that the British law was modified to make it 'suitable to Indian conditions' seems to be an exercise undertaken only in the post-Independence era. The modification and tweaking are temporary solutions which were used as an alternative in the early years of independence in purview of expediency but after 75 years there isn't any justification for its continuation. For the law and legal system to satiate the general consciousness it has to be Indianised.

(Setalvad, 1960) contended that most of the legal professional bodies in India were through with the existing legal system that the acquaintance barred them from visualising a legal system of a different kinds. They perceived the shortcomings and loopholes as blemishes that could be remedied and not as flaws necessitating overhauling or fundamental change. (Setalvad, 1960)made an interesting observation that for more than a century, eminent jurists and judges in India have developed their own doctrines that are tailored to the unique needs and circumstances of India, basing their ideas on the English common law and legislation. The fabric of contemporary Indian law, which is obviously Indian in its outlook and operation despite its foreign origins and antecedents, has thus been constructed on the foundation of English law.

However, unfortunately, the Indian legal framework is still under colonial hangover and our reliance on the law in UK as a model subsists till date. A case on point is Clause 3 of Article 105 of the Constitution of India concerning the other parliamentary privileges of the Members of the Parliament (other than those defined under clauses 1 and 2). Even after the two amendments, the Indian lawmakers have not been able to decolonise the effect in spirit.

Clause 3 of Article 105 reads, "In other respects, the powers, privileges and immunities of each House of Parliament, and the members and the committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined, shall be those of that House and its members and committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978."

Prior to the Constitution (Forty-Fourth Amendment) Act, 1978, originally, Article 105(3) provided that the privileges of the parliament or its members were to be those enjoyed by the members of the House of the Commons in England on 26th January 1950 until defined by Parliament by law.

The Constitution (Forty-Fourth Amendment) Act, 1978 completely omitted reference to the House of Commons in letter but not in spirit. The amendment substituted the words "shall be those of that house and its members and Committees immediately before the coming into force of the Constitution (44th Amendment Act, 1978)" for the words "shall be those of House of Commons….at the commencement of the Constitution."

COLONIALISATION OF THE INDIAN LEGAL SYSTEM AND ITS PERILS

(Borrows, 2005)the colonisers imposed their legal, political, and social structures on the Indians based on the misconceived notion that Indigenous people "did not have law because they were 'savage' and 'living without subjection'".

Character assassination and scapegoating through false propaganda were the techniques applied by Britishers to validate their incursions in India. This tactic benefitted them in two ways. First, by calling the Indian society as barbaric, disgusting and filthy, they criticised the regime under Mughal era to elicit resentment in the natives and secondly, it helped them simultaneously set the narrative against India in the global world and potentially legitimise their attempts at colonisation. In the name of 'The White Man's Burden'! the Britishers legitimised all atrocities they inflicted on Indians and the damage they did to our legal system especially by eroding all the Indian values and ethos from it.

It is a stark irony that the Britishers who are the biggest perpetrators of racism, religious hatred, bloodshed and turmoil in Europe owing to their imperialist and capitalist interests, declared and projected themselves as the most progressive and civilised men of all times. Moreover, they credit themselves of civilising Indians and other third world countries.

(Mill, 1887) wrote that on testing Indian institutions the anvil of utilitarianism he found them to be "static, retrogressive and conducive to economic backwardness." On the basis of his findings, he recommended radical change in the Indian society. Mill's observation is an example of the attempt on the part of the scholars to justify the colonial rule of the imperialists. On the similar pattern, Hegel also highlighted the absence of dialectical change in India's history and dismissed Indian civilization as being static, despotic in orientation, and outside the mainstream of relevant world history.

It is an established fact that the Britishers in the colonialisation process apart from exploiting, India economically, tried to prove themselves superior to the native Indians and therefore, at first underrated the pre-colonial heritage of India, demeaned the mindset and psyche of Indians. It was their strategy to legitimise their rule by manipulating the common Indian mentality. To them making Indians feel inferior about their culture, thought, traditions, concepts, legal system and identity was a way through which they could manipulate them and make Indians admire the British systems. Their agenda was simply cultural imperialism.

Under the guise of the guarantee of rights, liberty, and justice, the colonizers altered and diminished justice leaving it to the mercy of the State. Justice could not be demanded but rather it was allowed by the State as a matter of concession. The Britishers protected the subjects only on the surrender of the rights of the rulers. This is in stark contrast to our ancient Indian legal system, where justice could be demanded, being the concept that was inbuilt/ingrained.

The demand for rights as a matter of contest between the State and the Citizens is a gift of colonial governance framework. (Sengupta, 2023) asserts that in the colonial India's political sphere, the duties of citizens primarily revolved around the duty to pay taxes to the British government. Consequently, the citizen's demands were not centred around duties rather around the notion of rights of citizens. (Sengupta, 2023)argues that the demand for rights by Indians was a tradition that dated back to the French Revolution wherein the oppressed citizens demanded their rights as men and women equal before the law. It was premised on the canon of liberal thought that be virtue of their very existence men and women were entitled to rights. In India, the articulation of demands for independence and self-rule and independence were, therefore, manoeuvred in the form of a demand for rights. Summing up these demands, the Karachi Resolution of 1931 asserted for the seven fundamental rights to speech, association, religion, bearing arms, equality, and non-discrimination both in public places and public employment.

(Black, 1994) asserts that when the culture of the nation, the morality of the citizen dies or the social characteristic of a country dies, the nation dies. The Britishers had hit India on all three aspects. Bharat was *Vishwaguru* then with a pool of knowledge systems. India dominated and ruled the knowledge power corridors without crossing boundaries through its knowledge systems. This also added to India's economic prosperity but the colonial settler's stroke by stroke took it all and the nation died in spirit.

Analysing the perils of transplantation of law, (Asadullah et al., 2022) argue that during the process of colonization, settler's laws were enforced at the expense of Indigenous legal traditions through the seizure of land. He pitches understanding the relationship between the natural environment and Indigenous legal traditions, as a mechanism to understand how to approach decolonizing law.

DEFINING DECOLONIALISATION

Scores of scholars have furnished definitions of decolonization. Applied to the discourse on decolonialisation of law in India the definition incorporates some unique elements. The two themes that anchor the discourse are:

(1) re-establishing a connection with the Indian land; and

(2) confronting dominant systems of governance.

Prof Anju Vali Katoo, dean of the faculty of law at the Delhi University avers that for locating 'law' and 'authority' in colonial India's discourse, Austin can be taken as a reference point, as he considers law as the command of the sovereign. She describes decolonisation as the process of getting out of the clutches of British regimes and thought processes. The regimes also include legal regimes (Panel Discussion on Indianisation of The Indian Legal Landscape: Decolonising Academia & Legal System, 2023)

Decolonialisation in law is simply put, to go fall back on something that is indigenous that we have been using since decades, and which was successively enjoyed as a collective existence. And this something is our ancient Indian legal philosophy.

Dr. Seema Singh argues that decolonialisation is related to realisation of how we were at the pinnacle of knowledge and economic prosperity in ancient India. We need to find what we were before the colonisers invaded our nation to be able to gauge our strengths (Organiser Web Desk, 2021) (Mehta, Rai, & Bhattacharya, 2022) in the briefing book From Rule by Law to Rule of Law, published by a pioneering centre for legal research, Vidhi Centre for Legal Policy, clarify that the project of decolonisation of the Indian legal system is not directed at "uninstalling" a defective version of an operating system where the previous version simply stands "restored". They outline the fact that laws and legal systems are perennially a work in progress and keep on changing to meet the changing needs of society. They highlight that 'perfect' laws or legal systems were never there in India and decolonialisation process is not about the hasty removal of all that was introduced during the British rule in India.

The research centre has described decolonizing the law as an acknowledgment of India's complicated history and undertaking the task of rewriting it with the objective of aligning it with our Constitutional goals and status as a liberal and modern democracy. It is important to note here, that are constitutional values and goals are the embodiment of our Indian ethos and traditions.

The idea behind decolonialisation is neither erasure nor restoration but reimagination and reformation through the quadruple values of—liberty, inclusivity, accountability of institutions, and relevance in a constantly changing world.

The authors suggest the decolonialisation process as entailing four aspects namely, safeguarding freedoms, making the law inclusive, ensuring accountability, and upgrading the law. One of its suggestions on the sedition law has been partially accepted in the new criminal laws, although as suggested, the problematic provision has not been repealed.

It is pertinent to clarify that law reforms directed towards decolonisation cannot be put into a straight-jacket formula, rather different measures shall be required to address the various aspects. For instance, complete overhauling shall be required for the Indian Forests Act, 1927; the Law Commission of India needs structural and institutional changes. The office of the governor needs to divest itself of the colonial institutional structure, protocols, and functionality. There are laws and institutions which require complete reimagination from the point of view of the purpose behind them. For instance, the anti-beggary laws operational in different states of India and the functions of the District Collector in the administration of land.

The decolonisation project seeks to preserve political self-determination and expand development in India. It envisions the creation of an international system wherein the global power asymmetries do not make India vulnerable.

What constitutes and connotes ***Bhartiyakaran?***

India is definitely a political identity but Bharat connotes a kind of cultural identity of this country. Indianization or *Bhartiyakaran* as largely misunderstood does not imply that certain things or ideologies shall be imposed over the countrymen. It simply means bringing back to the mainstream the practices, culture, philosophy, and customs of India. Further, it does not mean blinding importing the culture, philosophy, customs, or traditions of ancient India but rather means replenishing only that part which is relevant to contemporary India.

To further, dissect this, the idea of '*Bharat*' is understood by the Constitution makers. (Kumar, 2023) observes that a close scrutiny of the genesis of India, Bharat or Hindustan, makes it clear that there was never a consensus over the name of our country and our Constitution's makers adopted 'India' as the name for the country but in the very first article to the constitution linked it with 'Bharat' to give our ancient Indian roots its due.

The original copy of the Constitution of India which is handwritten and hand-painted has pictorial depictions of the ancient, medieval period and the freedom struggle. The Constitution is adorned with photos of Indus Valley Civilisation, Ashokan edicts, Mughal courts, and Gandhi ji, to name a few. This conscious selection of pictures is a testimony to the conviction and commitment of our constitution makers towards the Indian heritage, let alone legal heritage.

A shift towards the duty-based society is a crucial aspect of *Bhartiyakaran.* Indian understanding of duties and rights was different to the western notions. India was always a duty-based society it was only due to the excesses of the British state that the Indians started demanding for rights against the State on the patterns of French revolution.

Why do we need decolonialisation or Indianisation?

"Colonial continuity", "colonial inheritance" and "colonial legacy" are the three terms that rampantly resurface in the discourse on decolonialisation. These terms have been used for two purposes largely in the post-colonial India:

1. They are imported to identify, diagnose, or explain some illness or issue of the present times.
2. At times they are also used to scapegoat or shift the blame on the colonisers for the unaddressed problems of the present.

Cautioning against the blame game, Dr. B. R. Ambedkar, the Chairman of the Drafting Committee of the Constituent Assembly warned that there is an expiry date for blaming the Britishers for all Indian issues. In the closing speech in the Constituent Assembly, he said "[b]y independence, we have lost the excuse of blaming the British for anything going wrong. If hereafter things go wrong, we will have nobody to blame except ourselves", (*Constituent Assembly Debates 25 November 1949*, 2014).

(Barra, 2016)in a similar fashion, colonial inheritance or colonial imprints are used to criticise or do away with laws or institutions. For instance, in the **Naaz Foundation v. Govt. of NCT of Delhi & Others (WP(C) No.7455/2001)** one of the arguments furnished by the petitioners was that the Indian Penal

Code, 1860 which under Sec 377 criminalises sexual activities against the order of nature is a colonial vestige and therefore must be struck down.

The continuity of the colonial institutions like bureaucracy (civil service) and the structure of police establishments which were in direct conflict with the nationalist leaders (freedom struggle) is a puzzle for scholars on Indianisation. It comes out rather as a paradox that what was criticised was not denounced in independent India. The continuity also raises questions on the political will of post-colonial India to get rid of the colonial remnants.

Locating colonialism and Indianisation debate in the contemporary scenario, it can be argued that in the comity of nations, we need to have our own unique identity, own culture, and institutions for sustaining in the entirety of the world. If India continues to be guided by ideas that have come from a colonial hangover which by and large do not fit in the Indian system, it will lead to the depredation of Indian leaders by other superpowers. Prof Amar, Vice-Chancellor of Ram Manohar Lohia National Law University, Lucknow, asserts that the identity of a nation is formed by its culture, traditions, legal system, and values. Linking this distinguished identity with confidence and position in the global world order, he emphasises He laments that the Indianisation process should have started in 1950 itself. It has taken seventy-five years for us to begin, but better late than never, he sighs with relief.

The scholars of Indianisation to explore what was exactly the problem we had in our legal system. What went wrong with that system, and how the existing system can be oriented to make it better?

During the ancient period, the legal system was more people centric, forward looking, and federal as compared to the present system which is hierarchised and highly centralised. To support this argument, Professor Amar draws on the authority of Peter Kane and Robert Lingat. Robert Lingat reports that the legal norms during ancient were in the form of authority that was translated into legality. Authority was like a floating principle and one was allowed to approach it in one's own way. It was available for the guidance of the common man. Even in cases and situations where the authority could not provide a solution for any problem, still, it was not reduced in any manner. Authority differed from legality in ancient India but the thin boundary has been transgressed in the present era. In the colonial era, this authority was interpreted and continued to be interpreted in the post-colonial era by a common law trained/guided judge and as a consequence the authority is left behind and the derived rule took centre stage. Indianisation, according to Prof Amar will bring back the law in its original form to the centre stage.

(Sen, 2016) contends that the kind of philosophies we have from ancient India are not typical lawyer's material as is the case of the statutes that we have inherited from the common law system. Indian philosophy is not purely legal, it has varied aspects clubbed together, and even Kane's book does not separate 'legal' from the 'general'. Rituals, social practices, and aphorisms have been clubbed with legal parts. There is a need to extract/ cull out genus from the species. It is high time that we kickstart the process now. This in his perception is one major reason why Indian philosophies have not been incorporated so far in our legal landscape.

Indianisation will require us to inform our institutions with indigenous ideas and to determine how Indian philosophies will be incorporated into the current system. It also necessitates recalling our philosophy and interpreting it in the present scenario with the objective of aligning it with the existing needs.

Justice Abdul Nazeer who is credited with having brought the decolonialisation and Indianisation of the Indian legal system to the forefront has highlighted important recurring themes in the Indianisation discourse:

1. To produce great lawyers and judges training in the traditions of *Manu*, *Kautilya*, *Katyayana*, *Brihaspati*, *Narada*, *Yagyavalkya,* and other legal scholars of ancient India is required.
2. The neglect of these rich resources/repositories of knowledge by Indian stakeholders over the decades runs contrary to the constitutional goals, national development, and national interest.
3. Colonial psyche dominates the administration of justice in India.
4. It is unfortunate that one needs to pray for justice even in the Independent India as we did from our colonial masters. Justice is a matter of right in a democracy and the litigant can demand for it anytime.
5. The salutations used for addressing the judges i.e., Ladyship and Lordship in a sense put the judges on the pedestal of God and the litigant at his mercy, thereby requiring him/her to pray for justice/relief in the humblest manner. The colonial masters did so as they wanted to perpetuate Her Majesty's rule and subjugate Indians forever.
6. The disregard of the law towards trivial cases is also a manifestation of a colonial mindset wherein even trivial crimes were punishable.
7. The manner of the drafting of pleadings also adds to the inaccessibility of courts to the marginalised.

8. The jurisprudence as studied today is weak and lacks theoretical nourishment as it is divorced from India's ancient legal heritage.
9. The theoretical foundations of the Indian judicial system are borrowed from other legal systems.

There is a pressing need to Indianise the entire structure of the Indian judicial system. The impact of theories of jurists, including ancient scholars, and the legal system of a country is profound even though it may be unseen and subconscious. To support his contention that Indian lawyers and judges must be oriented with the Indian jurisprudence and science of governance (*dharmashastratha kushalai rartha shastra visharadai*), Justice Nazeer draws upon the example of Russian judges who are trained in the Marxian jurisprudence which has developed over the centuries, similarly, the judges and lawyers in the United States of America, England, and Western Europe have been nourished with the jurisprudence of their respective civilizations. Through a series of examples, he establishes that the judicial process of a country must derive nourishment and strength from its own jurisprudence which has been developed in the society in which it has to be applied. Thus, nothing can justify the absence of any training of Indian law students, lawyers, and judges in the Indian jurisprudence.

It is argued by many scholars regarding certain aspects of the ancient law have become obsolete in contemporary era. This fact is true and fully acknowledged by the scholars advocating for Indianisation of law and the legal system. The obsolete parts have to be repealed. The case of laws turning obsolete is not unique to the Indian legal framework alone, the Greek and Roman civilisations also legitimised slavery earlier, so have they over the years with the progress of their civilisations completely rejected their legal system and transplanted an alien system under the pretext of certain lacunas? Similarly, the animals were tried for criminal offences in Europe till 17th Century. (Keeton, 1961) mentions an anecdote from Germany of a cock being placed in the prisoner's box being accused of making noise insubordinately. Since his counsel failed to establish his innocence, the feathered bird was unfortunately ordered to be slaughtered. Have Germans shunned their legal systems now for law is always evolving? Justice Nazeer questions. Thus, although is unreasonable to divorce the legal system from the realities of today but at the same time, it must have some footing in the past. In toto, *sui generis* system is more likely to be accepted and encompass the needs of the governed. Thus, the ancient Indian jurisprudence cannot be shunned for the mere fact that some of its components have become obsolete or archaic in the present world.

It is therefore, necessary that in the process of Indianising laws, elimination method is used for re-establishing the relevance of ancient Indian jurisprudence and simultaneously pick those aspects which have proved to be effective. For instance, the ancient laws calling for the punishment of the rulers who overstepped their authority were in many ways stronger than legal restraints on sovereign authority today. From the standpoint of the twenty-first century, if we look at the development of law, it becomes clear that law has gone from the dictate of the sovereign to place a restraining limit on that very sovereign.

Highlighting the problems of the colonial justice delivery system and its unsuitability for the Indian setup, (Ramana, 2021) claims that quite often the Indian justice delivery system tends to pose multiple barriers for the common man. The style and working of the Indian courts doses not sit well with the complexities of the system. (AnanthaKrishanan, 2021) the primary reason being the practise of colonial origin rules by the independent India's courts, which are not suited to the needs of the Indians. The working and the style of courts do not sit well with the complexities of India. In the post-independence era, the 'Indianisation' has over the decades not followed any particular trajectory of change. In some instances, it appears to "coincide with the democratization of public spaces, increased access, or more transparency" and in others, it furthers "the crystallization of the idea of a 'strong nation-state', with fewer deliberations and debates. 'Indianisation' has also meant for some, a conflation of the country with particularistic religious-cultural representations.

Presently, a significant section of the population, especially, the rural populace[1] feels out of place when the case proceedings are carried out in the English language. The process of Indianisation requires the justice delivery system to localise and adapt to the practical realities of our society. For instance, parties fighting a family dispute are usually made to feel out of place in the court. They do not understand the arguments or pleadings which are mostly in English, a language alien to them. Furthermore, judgments have become lengthy, which further complicates the position of litigants. If the parties to understand the implications of a judgment, they are forced to spend more money and avail the services of a legal professional.

Apart from Justice Abdul Nazeer and N V Ramana, many other Supreme Court judges, including the incumbent CJI, Justice DY Chandrachud, have also voiced their concerns, stressing the need for re-thinking and re-formulation of

1 Rural populace here is used for people not well-versed with the English language residing in the rural areas of India

the Indian legal system so that it reflects India's current realities, which is an amalgamation of our rich and diverse heritage of the centuries past and also the dreams and aspirations for the shining future of the billion plus Indians

(Ananthakrishanan, 2021) asserts that simplification of the Indian judicial system with enhanced transparency and effectiveness is required. (Alam, 2021)for a just and robust justice dispensation system it is necessary that while approaching the court the litigant should not feel scared.

The Indianisation debate has also become synonymous with the simplification of law, legal language (a conscious departure from legalese), and legal drafting. In connection with the use of simple and clear language in the pleadings as they form the core of the legal proceedings in an adversarial system of justice, the Andhra Pradesh High Court had in the case of **J. Pushpalatha v. Election Tribunal and Others (MANU/AP/1127/2002)** observed that the mandate under Order 6 Rule 2 of the Code of Civil Procedure, 1908 that pleadings should contain precisely only relevant facts, stems from the ancient Indian Jurisprudence and can be traced to *Dharmakosa* of *Brihaspati*.

Recently, the CJI Hon'ble Mr. Justice D.Y. Chandrachud has also urged brother judges to write judgments in simple language (Khanna, 2024).

(May, 2019) draws an incisive comparison between Ancient India's Code of Manu and Western jurisprudence to show how the ancient Indian law ushered better governance. He argues that the checks and balances system in ancient India was more comprehensive and effective and the accountability of the rulers was larger as compared to the restraints levied on the sovereign's authority today. (Manu, Olivelle, & Olivelle, 2005) under the Manu's code stringent punishment is provided for a king who exceeds his authority, it reads, "a king who is lustful, partial, and vile will be slain by the law". Similarly, a very strong sense of rule of law was imposed over even the strongest rulers. Larry contends that Manu's code sets the agenda for legal thinking. He finds it quite elaborate and encompassing in terms of the areas of common life covered.

Indianisation will also require us to inform our institutions with indigenous ideas and to determine how Indian philosophies will be incorporated into the current system. It also necessitates recalling our philosophy and interpreting it in the present scenario with the objective of aligning it with the existing needs. A pertinent issue which Indianisation of legal system can easily address is accessibility to law and the justice delivery system. Indianness is all about inclusiveness, it was also evident in the G-20 theme under India's presidency—*Vasudhaiva Kutumbakam* meaning 'one earth, one family, one

future'. Emphasizing on the relevance of the ancient Indian legal principles of inclusiveness in the present scenario and pitching them as an answer to the problem of inaccessibility which Britishers created and is still perpetuating.

The calls for Indianisation of the legal framework in India have transcended beyond closed doors to the public domain with stakeholders from all pillars of the government lending their voice.

Averring that the perpetual ingraining of Indian minds with the colonial jurisprudence runs against the constitutional ideals and national development, Justice Nazeer pitched for inclusion of the ancient Indian jurisprudence in the, "Great lawyers and judges are not born but are made by proper education and great legal traditions as per Manu, Kautilya, Katyayana, Brihaspati, Narada, Yagyavalkya and other legal giants of ancient India. The continued neglect of their great knowledge and adherence to colonial legal system is detrimental to the goals of our Constitution and against our national interest."

Another reason why we should revisit and bring back our Indian philosophy to the mainstream is the fact that our philosophy is largely based on personal experiences and reflects our collective consciousness. It aligns with the idea of innovation and the recent initiatives of Make-in India, *Vishvaguru*, Innovate India, etc.

There is no gainsaying that independent India was conceived to be decolonial in letter and spirit. As evident from the opening lines of the Preamble to our Indian Constitution which reads as "We the people of India", this implies the source of authority are Indians and establishes our collective consciousness. This phrase is an embodiment of the Bhartiya philosophy.

Considering the circumstances the Constitution was drafted, it can safely be assumed that the Constitution makers could not do away with all the colonial vestiges in one go and put in place a completely Indianized legal system, hence we do find transplanted provisions. This is further substantiated by the phrases used in the Preamble. It reads 'We adopt, enact and give to ourselves", arguably, we can 'adopt' something that is already in existence, however, enactment can be of some novel law (our original contribution).

The problem with our Indian Constitution is the absence of Indian perspective. The cherished Constitutional ideals of fraternity, equality and liberty do not reflect the Indian perspective rather are credited and perceived from the western standpoint. It is imperative to note here that as against what is largely understood, Dr B.R. Ambedkar while introducing the word 'fraternity' which was incorporated in the Preamble specified that it was a

derivation from the word 'Bodh' from Buddhism and not borrowed from any western movement. Similarly, as highlighted by Justice Nazeer highlighted that the principle of 'judicial independence' which was prevalent and fully implemented in the Indian setup is wrongly credited to have originated during the British rule. Since, its considered colonial in origin, it is implemented and understood in light of the colonial reasoning. It is very unfortunate that we Indians have left behind our rich legacy and followed the colonial footsteps. Justice Nazeer avers that the concept of judicial independence was given by the Brihaspati, an ancient Indian scholar who stated that "a judge should decide cases without any motive of personal gain or prejudice or bias and decisions should be in accordance with the law prescribes by the text.

ATTEMPTS TOWARDS INDIANISATION

A notable development towards Indianisation of the legal system has been the introduction of *Vidhik Anuvaad* Software (SUVAS) by the Supreme Court of India. It is rightly celebrated as a concrete step towards Indianisation of the legal system in the sense that it enhances the accessibility of courts. With the objective of promoting regional languages in judicial procedure, the machine assisted translation tool SUVAS which is trained by Artificial Intelligence has been put to use. It translates English Judicial Documents, Orders and Judgments into ten vernacular languages viz. Hindi, Kannada, Tamil, Telugu, Punjabi, Marathi, Gujarati, Malayalam, Bengali, Urdu and vice-versa.

It is pertinent to note here that enabling Constitutional and legal provisions in this regard were already in place since 1950. As per Article 348 of the Constitution of India and Section 7 of the Official Languages Act, 1963 there are provisions of optional use of Hindi and other languages included in the 8th Schedule of the Indian Constitution, in the proceedings and judgments etc. of the courts. In light of these provisions, the optional use of Hindi in the proceedings of High Courts of Rajasthan, Uttar Pradesh, Madhya Pradesh, and Bihar was authorized in the years 1950, 1969, 1971, and 1972 respectively ("Use of Regional Languages in High Courts," 2023).

Similarly. the recently launched Tele-Law Scheme 2.0. aims to provide legal advice and representation services to over 50 lakh people in India under the *Nyaya Bandhu* (pro-bono) programme. This single registration gateway shall provide common citizens with legal advice, assistance, and representation in one place.("Tele-Law 2.0 Unveiled by Law Minister," 2023) It is projected as an effort towards democratisation of legal services in India—one of the critical aspects of Indianisation and Ancient Indian jurisprudence. Appealing

to the legal professional community. The initiative is realisation of the Indian tradition of helping and that's precisely what is called under the modern law setup as *pro bono*.

The incumbent Prime Minister assertion in his inaugural address of the First All India District Legal Services Authorities Meet held on 30 July 2022 underscores the point. He claimed that the resolution of 01 crore cases through video conferencing implies—the realisation of ancient Indian values of justice and showcases India's commitment to match the realities of today by grounding our legal system (the footing of the legal system) in our ancient values ("PM Addresses Inaugural Session of First All India District Legal Services Authorities Meet," 2022). "Our judicial system is committed to the ancient Indian values of justice and, at the same time, is ready to match the realities of the 21st century," he added.

Commenting on the crucial facets of Indianisation of the legal system, namely, 'simplification of the language of law', 'increasing accessibility of the legal system', and 'decreasing the pendency of cases', the Prime Minister at the International Lawyer's Conference on 23 September 2023 said that his government was committed to simplifying the drafting of laws, as complicated drafting was a colonial residue. ("PM Inaugurating 'International Lawyers' Conference 2023' in New Delhi," 2023), citing the example of Data Protection Act, he stressed on the measures undertaken to simplify laws while making them accessible to all. Further, emphasising on the central theme of Indianisation i.e. decentralisation of the administration of justice and increasing access by grass-root level courts and amicable resolution of disputes, he highlighted that in the last 6 years, approximately 7 lakh cases have been solved in the Lok Adalat. Drawing on the ancient Indian past, the PM underlined the arrangement of conflict resolution through Panchayats. He delineated that resolution through amicable ways have been part of the Indian culture and to give a formal shape to this arrangement, the Mediation Act, 2023 was passed. The PM also mentioned the significant move of the government to have laws to which the populace is accustomed and is able to understand without professional help.

THREE NEW CRIMINAL LAWS: THE FIRST LEGISLATIVE FOOTSTEP TOWARDS INDIANISATION

The colonialism infused criminal laws of India are often criticised for their prejudiced perceptions of the subalterns or marginalised communities like the Adivasis, religious minorities, or Schedule Castes. Even after several years of independence, these marginalised communities suffer subjugation through

the criminal process, particularly through provisions related to the habitual offenders and undertrial. The Britishers emphasised on the creation of a police state and to establish their control, they used sedition law and the Press Act, 1835 as an instrument to suppressed dissent emanating from the Indians. These laws have continued to operate in the post-colonial India. In this backdrop, in July 2020, a committee for Reforms in Criminal Laws was constituted by the Ministry of Home Affairs with Professor Ranbir Singh as the Chairman. The committee was vested with the task of transforming the existing criminal justice system (which is a colonial institution) and imbuing it with Indian ethos and philosophies. Prior to this, an attempt at decolonising the criminal justice system was made by the Committee chaired by (Dr. Justice V.S. Malimath, 2003). However, the Malimath Committee did not provide any substantial solution, roadmap for the commencement of the decolonisation process or any recommendations for the same.

The three new laws—the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Sakshya Adhiniyam (BSA), and the Bharatiya Nagarik Suraksha Sanhita were passed recently to repeal the colonial era criminal laws. This legislative move is pitched to be a watershed moment in the process of decolonising the Indian laws. It is pertinent to note here that the 'Statement of Objects and Reasons' clause of the three new laws clearly mention the legislative intent 'to decolonise our existing criminal justice system and shun our colonial identity'. However, these laws are criticised by legal experts for their failure to address the colonial aspects of our justice system, as claimed by the government. (Bakshi, 2023) reports that on the very aspect of their nomenclature which has been changed from English to Hindi, a lawyer's association in a non-Hindi speaking state (Madras Bar Association) passed a resolution alleging that the move of the government was an attempt to impose 'Hindi' on non-Hindi speakers. The resolution stated that "the use of such language (Hindi) also reflects the majoritarian state of mind of the ruling dispensation to impose Hindi and Sanskrit on non-Hindi speaking states and people."

A group of legal scholars consider Indianisation of law process as a vehicle disguised for imposing 'Hindutva' ideologies. Their contention is that decolonisation of law is 'separation from the western ideologies or philosophy' and founding India legal framework on the philosophies of ancient Indian jurisprudence which is by and large shaped by Hindu mythologies and law. They are apprehensive that Indianisation may ultimately culminate into the creation of a Hindu Rashtra. On the contrary, for the scholars favouring the decolonisation of law process, it should be understood as an attempt to shed the colonial mentality of oppression and subjugation from the criminal system.

Another case on point is the change in the sedition law which was projected as transcendental, however in reality is filial. A glance on the new law reveals that if not explicitly, the sedition provisions exist in the new law indirectly. It is re-worded as "acts endangering sovereignty, unity and integrity of India" under Section 150. The new Section 150 covers secessionism, separatism, and armed rebellion within its ambit. Efforts have been observed to counteract these advances, such as through the expansion of police authority to secure custodial detention prior to formal charges being filed (as outlined in section 187 of the new law). Additionally, provisions enabling trials (section 356) and asset confiscations (section 107) in absentia have been proposed, with limited avenues for recourse in case of misuse of these powers by the state.

Another concern with the new laws is the opaqueness of the reformative process. There was no representation from the marginalised sections of the Indian society and only one female representative in the Committee for Reforms in Criminal Laws, 2020.

According to data from the National Crime Records Bureau (NCRB), the marginalised sections have been the major victims of the criminal justice system of India. Drawing on the NCRB data (Singh, 2023) observes that people from the Scheduled Caste (SC) and Scheduled Tribe (ST) communities comprised over 30% of undertrials (90,951 SCs and 40,221 STs in 2022) and nearly 33% of convicts (26,952 SCs and 17,910 STs in 2022), significantly exceeding their population share of 24%. (Mehmood Ahmad & Sharma, 2024) argue that despite the ongoing crisis of prolonged undertrial incarceration, there haven't been any cogent initiatives to broaden the scope for bail, the legal framework of 1923 (The Code of Criminal Procedure,1923) remains in place till date. The government had an opportunity to rectify these shortcomings of the laws however, the new laws do not deliver on the expected grounds.

The new laws should have focused on simplifying the complicated procedure, humanising the interrogation provisions, address the rise in custodial deaths, re-draft the preventive detention laws from the human rights perspective and holistically review the nature of punishment in the criminal justice system. Similarly, the power to grant custodial remands vests in the Magistrates, this leads to the practise of filing the bail application and interim bail applications by the pre-trial detainee. The colonial sensibilities towards natives perpetuates even today in form of the practise of the wide misuse of powers by the police to interrogate any suspect. This needs to change at the earliest. It is argued that such colonial attitudes of the police and the State towards the governed that has been continued in post-colonial state. These

were the major challenges which were expected to be addressed by the new laws. However, there isn't any sigh of relief yet, but a beacon of hope.

While laws assert that justice should be the primary objective of the legal system rather than solely punishment, the new laws paradoxically perpetuate colonial ideologies by increasing mandatory minimum sentences, introducing the death penalty for at least four new offenses, and reinforcing colonial policing methods. A more fundamental effort toward decolonization would have entailed recognizing the colonial influence on our perceptions and ideologies of crime and punishment. This should have been followed by a comprehensive evaluation of the lingering colonial power structures within the criminal justice system and, ultimately, the adoption of a principle-based framework for creating criminal laws and prescribing punishments. The enduring colonial legacy in the new laws is underscored by (Sekhri, 2023) as, "These new criminal laws can be seen as an ongoing effort in India to retain the "exclusionary authoritarian structures of colonialism, but colouring those power-imbalances with an Indic flourish to somehow legitimise them."

INDIAN JUDICIARY'S TREATMENT OF THE ANCIENT INDIAN JURISPRUDENCE

The Indian judiciary has recognised the pre-existing ancient Indian laws and have time and again mulled over their relevance in the contemporary scenario:

In the matter related to the recognition of marital rape as an offence in **RIT Foundation v. Union of India ([2022] 3 HCC (Del) 572)** the Delhi High Court has in its judgment has summarised in paragraph 14 the arguments furthered by Mr J Sai Deepak, the counsel appearing for the Men Welfare Trust (MWT). Relevant excerpt is reproduced here for showcasing that the discourse on Indianisation has reached the courts, and lawyers have been averring for Indianisation of Indian legal system and perusal of the law from the prism of Indian traditions and culture. "Although the impugned provisions [Section 375 (2), Indian Penal Code, 1860] are part of our colonial legacy, they have undergone a process of Indianisation after the enactment of the Constitution; an aspect which is evident from the parliamentary cogitations and consequent amendments effected in the IPC and the Code," reads a paragraph in the judgement**.**

The relevance of ancient Indian jurisprudence in the post-independence era can be established by its continuous citation and reference by the Supreme Court of India.

In **Justice K.S. Puttaswamy (Retd.) and Another v. Union of India and Others ([2017] 10 SCC 1)** recognising the right to privacy as a fundamental right, Justice SA Bobde noted that "the spirit of privacy is visible in the ancient and religious texts of India." He cited the Kautilya's *Arthashastra* which prohibited entry into one's house without the permission of the others living to establish that the privacy concerns were duly considered in the ancient Indian legal landscape.

In the case of **Mana v. State of Rajasthan ([1976] SCC (2) 827)** the Rajasthan High Court in deciding the issue on the right of private defence elaborately discussed the presence of this right in the ancient India. The court cited the authorities of *Smiritis, Dharma Shastra, Brahma Shastra* and others to prove the point that the Chapter IV of the Indian Penal Code, 1860 is nothing but re-enactment of the then existing Indian law on private defence. The court observed, "The above short survey of the old ancient Indian Laws which were known as "*Dharsmshastras"* and *"Smiritis*" would show that the English people, while enacting the provisions of right of private defence of person and property under the exceptions of Indian Penal Code (Sections 96 to 106) have virtually adopted or re-enacted the laws which were prevalent here. It goes without saying that the English law and the Roman law on the subject of the private defence is in no way different from the Indian law as mentioned above."

In **Rattan Lal v. Vardesh Chander ([1976] 2 SCC 103)** deciding the matter relating to the Transfer of Property Act, 1882 and the applicability of the natural law principles of equity, Justice Krishna Iyer in para 21 made a very sharp observation that the Indian jurisprudence must break off from the shackles of the borrowed law of England as the need of the developing country like India are very different from those of England. The court has very aptly captured the essence of consciousness of law holding that it emerges from the ethos and will of the common natives. "Unfortunately, even after liberation, many former colonies, including India, did not shake off this neo-colonial jurisprudence. This is the genesis of the idea that Indian "good conscience" is English common law during the reign of Empress Victoria. The imperatives of Independence and the jural postulates based on the new value system of a developing country must break off from the borrowed law of England received sweetly as "justice, equity and good conscience". We have to part company with the precedents of the British-Indian period tying our non-statutory area of law to vintage English Law christening it "justice, equity and good conscience". After all, conscience is the finer texture of norms woven from the ethos and lifestyle of a community and since British and Indian ways of life

vary so much that the validity of an anglo-philic bias in Bharat's justice, equity and good conscience is questionable today," the court observed.

Justice Krishna Iyer invoked Justice Cardozo's observation wherein he urges free India to find the conscience in the realities of Indian life and not in the alien legal thought. The hallmark of innovation in law and life is liberation from subliminal foreign enslavement; it is neither a silent spring nor a hothouse flower. Justice Benjamin N Cardozo wrote in *Nature of the Judicial Process*, "Life casts the mould of conduct which will some-day become fixed as law. Free India has to find its conscience in our rugged realities and no more in alien legal thought. In a larger sense, the insignia of creativity in law, as in life, is freedom from subtle alien bondage, not a silent spring nor hothouse flower."

In dealing with the question on the lawmaking power of the judges the court in **Ajanta Traders v. State of Bihar ([1996] SCC OnLine Pat 131)** in Para 19 of the judgment referred to the ancient Indian literature along with the treatises of Dias, Allen, Halsbury and Wade, noting that it would not be inappropriate to make reference to a few pertinent Sanskrit-written works from ancient India. Ancient India had a highly developed system of reasoning, jurisprudence, and statutory interpretation which existed for thousands of years B.C. They demonstrate the depth of our Sanskrit-written ancient Indian law. Using the analogy of Devtas and his attempts to find nectar, the court observed that a judge must try his level best to use reasoning to reach a just and correct decision in a situation where there is no readily available statutory or other very satisfactory statement of the law. The judges must not decide in haste. The relevant paras of the judgment are reproduced below:

"19. It would not be inapt to refer to certain relevant matters in ancient India, written in Sanskrit Literature. Thousand years B.C. much advanced system of reasons jurisprudence and interpretation of statutes existed pointed out. They indicate how rich our Ancient Indian Jurisprudence written in Sanskrit has been. In the matters of arriving at a correct decision and to reach justice even when very satisfactory statement of law either statutory or otherwise is not available it has been stated that in such matter a Judge has to proceed and go on making efforts by parity of reasoning, just like when churning of Great Ocean was being made to find our Nectar but in fact it was poison which came out nevertheless Devtas etc. did not feel nervous or frustrated but they went on making efforts and ultimately Nectar came out. The relevant Sanskrit Shlok is as follows:

The court in Para 20 cited Shlok *Brihaspati Smiriti* which provides that strict interpretation of black letters of law might at times not serve the cause of

justice. Brihaspati cautions that the failure to dispense this duty to do justice results in deterioration of religious as well as the judicial system:

"20. Again it has been stated that in so many cases where satisfactory law on the subject is not available—Covering the problem faced by the Court, in that event if a Judge tries to solve the problem by referring to the letters of the statute in that event he would not do justice with the case rather there would be deterioration of religious and judicial system."

The Indian courts have in interpreting the law simultaneously emphasising the relevance of ancient Indian jurisprudence, consciously distanced themselves and disregarded the archaic practises and traditions of the ancient Indian law. The Indian Supreme Court's stand in the **Indian Young Lawyers' Association v. State of Kerala** ([2019] 11 SCC 1) (Sabarimala Temple Entry Case) case testifies this. Referring to *Manu Smriti*, the court noted that "in ancient religious texts and traditions women during menstruation were considered polluting the surrounding environment." However, the court held that these practices restricted the freedom of menstruating women to move about, education and access to places of worship and public places. It declared unconstitutional the Sabarimala Temple's custom of prohibiting women in their 'menstruating years' from entering

Similarly, in the case of **Joseph Shine v. Union of India ([2019] 3 SCC 39)** Justice RF Nariman has dealt with the jurisprudential aspects of adultery and traced the criminality in the ancient Indian, Roman as well as religious laws. However, he notes that the reasons furthered by these laws for criminalising adultery do not satisfy him and hence, he held that these arguments have not satisfied us that adultery ought to be made punishable by law. He observed, "We cannot admit that a Penal Code is by any means to be considered as a body of ethics, that the legislature ought to punish acts merely because those acts are immoral, or that because an act is not punished at all it follows that the legislature considers that act as innocent."

CONCLUSION

In the past few years, India has made conscious efforts to 'decolonise' the Indian legal system and simultaneously promote the Indianisation of the Indian law and legal education. At the centre of the Indianisation debate has been the long-harboured desire to get rid of the colonial vestiges. The journey of *Amrit Kaal* (The Era of Elixir) which ensued after the *Azadi ka Amrut Mahotsav* (Celebration of India's 75 years of Independence) has witnessed many vociferous attempts towards decolonialisation—the new building of

the central law-making body i.e. the Parliament of India, repeal of obsolete laws and enactment of the three new criminal law bills. Although, the legal reforms were propelled by the genuine need, however, the recent ones are barely transformative let alone systemic. Moreover, the recent enactments fail to engage on the discourse on decolonisation in spirit. Instead, a holistic reassessment of the colonial laws, power structures, institutions and the offices created by the colonial laws would have been more effective. A major breakthrough would be identification of the colonial impact on our understanding of law and justice.

Decolonization is primarily the process of dismantling all those aspects of the colonial legal structure which perpetuate inaccessibility, oppression, caste system, patriarchy amongst others. As a nation, we need to realise that decolonisation is a process which requires participation of the subalterns who have over the years faced the brunt of the procedural complexities, penal institutions, criminal laws. In a way, decolonialisation calls for radical reimagination of the law from the subaltern point of view.

Indianization as largely misunderstood does not imply that certain things or ideologies shall be imposed over the countrymen. It simply means bringing back to the mainstream the practices, culture, philosophy, and customs of India. Further, it does not mean blinding importing the culture, philosophy, customs, or traditions of ancient India but rather means replenishing only that part which is relevant to contemporary India.

(Gandhi, 1921) aptly describes the goal behind India's endeavours to strip its legal landscape of colonialism as, "I do not want my house to be walled in on all sides and my windows to be stuffed. I want the cultures of all the lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any."

REFERENCES

Alam, S. (2021, October 14). CJI Ramana Wants 'Indianisation' of the Justice System. What Does That Entail? Retrieved May 11, 2024, from The Wire website: https://thewire.in/law/indianisation-justice-system-nv-ramana-democracy-nation-state

AnanthaKrishanan, G. (2021, September 19). CJI N V Ramana calls for Indianisation of country's legal system. Retrieved February 28, 2024, from Indian Express website: https://indianexpress.com/article/india/justice-system-colonial-not-suited-for-indian-population-says-cji-7517470/

Asadullah, M., Cortez, C., Holding, G., Said, H., Smith, J., Schick, K., … Dyck, S. (2022, January 14). Decolonization and Justice: An Introductory Overview. *University of Regina*. University of Regina.

Bakshi, G. K. (2023, August 26). Christening new criminal law Bills in Hindi and Sanskrit reflects majoritarian state of mind, say protesting Chennai advocates. *The Leaflet*. Retrieved from https://theleaflet.in/christening-new-criminal-law-bills-in-hindi-and-sanskrit-reflects-majoritarian-state-of-mind-say-protesting-chennai-advocates/

Barra, A. (2016). What Is Colonial about Colonialism. *American University of International Law Review*.

Black, J. N. (1994). *When Nations Die: Ten Warning Signs of a Culture in Crisis.* Tyndale House Publishers.

Borrows, J. (2005). *Indigenous Legal Traditions in Canada*. Retrieved from https://openscholarship.wustl.edu/law_journal_law_policy/vol19/iss1/13

Constituent Assembly Debates 25 November 1949. (2014). New Delhi.

Dr. Justice V.S. Malimath. (2003). *Committee on Reforms of Criminal Justice System*.

Galanter, M. (1972a). The Aborted Restoration of 'Indigenous' Law in India*. *Comparative Studies in Society and History*, *14*(1), 53–70. https://doi.org/10.1017/S0010417500006502

Galanter, M. (1972b). The Aborted Restoration of 'Indigenous' Law in India*. *Comparative Studies in Society and History*, *14*(1), 53–70. https://doi.org/10.1017/S0010417500006502

Gandhi, M. (1921). *Young India* (1st ed.). Ahmedabad: Navajivan Publishing House.

Keeton, G. W. (1961). *The Elementary Principles of Jurisprudence*. UK: Issac Pitman and Sons.

Khanna, G. (2024, March 9). CJI DY Chandrachud Urges Judges To Write Judgments In Simple Language. Retrieved May 11, 2024, from Live Law website: https://www.livelaw.in/top-stories/cji-dy-chandrachud-urges-judges-to-write-judgments-in-simple-language-251730

Kumar, A. (2023, September 23). India, that is Bharat: Protecting originality of the Constitution. *India Today*. Retrieved from https://www.indiatoday.in/opinion/story/india-that-is-bharat-protecting-originality-of-the-constitution-2432627-2023-09-07

Manu, Olivelle, P., & Olivelle, S. (2005). Manu's Code of Law. In *Oc* (1st ed., Vol. 1). New York: OUP.

May, L. (2019). Ancient legal thought: Equity, justice, and humaneness from Hammurabi and the pharaohs to Justinian and the Talmud. *Ancient Legal Thought: Equity, Justice, and Humaneness From Hammurabi and the Pharaohs to Justinian and the Talmud*, 1–730. https://doi.org/10.1017/9781108670012

Mehmood Ahmad, N., & Sharma, A. (2024). *Economic & Political Weekly EPW MARCH 16*.

Mehta, A., Rai, A. N., & Bhattacharya, A. P. (2022). *From Rule by Law to Rule of Law: Briefing Book* (1st ed.). New Delhi: Vidhi Centre for Legal Policy.

Mill, J. (1887). *The history of British India*. Baldwin, Cradock, and Joy. Retrieved from https://www.routledge.com/James-Mills-History-of-British-India/Mill/p/book/9780415153829

Organiser Web Desk. (2021, November 29). Dharma is Above Everything, It's Fundamental Says Rashtriya Swayamsevak Sangh Sah Karyawah Dr. Krishna Gopal. *Organiser*. Retrieved from https://organiser.org/2021/11/29/16424/bharat/dharma-is-above-everything-it-s-fundamental-rashtriya-swayamsevak-sangh-sah-karyawah-dr-krishna-gopal/

Panel Discussion on Indianisation of The Indian Legal Landscape: Decolonising Academia & Legal System. (2023, December 22). Gujarat: GNLU.

PM addresses inaugural session of First All India District Legal Services Authorities Meet. (2022, July 30).

PM inaugurating 'International Lawyers' Conference 2023' in New Delhi. (2023). Retrieved May 25, 2024, from Prime Minister of India website: https://www.pmindia.gov.in/en/news_updates/pm-inaugurates-international-lawyers-conference-2023-in-new-delhi/

Ramana, J. N. (2021). *Our Legal System Colonial, Need Of The Hour Is the Indianisation of Our Legal System*. Retrieved from https://www.youtube.com/watch?v=rRHCbhv5rps

Sekhri, A. (2023). Decolonising Criminal Law?: On India's New Draft Criminal Codes. *Verfassungsblog*. https://doi.org/10.17176/20230904-183210-0

Sen, P. (2016). *General Principles of Hindu Jurisprudence*. Allahabad: Allahabad Law Agency.

Sengupta, A. (2023). *The Colonial Constitution*. India: Juggernaut.

Setalvad, M. (1960). *The Common Law in India: The Hamlyn Lectures* (Vol. 12). The Hamlyn Trust, Stevens and Sons Pvt Ltd.

Singh, U. (2023, December 7). Prison Statistics India 2022: Above 75% Prisoners Are Under Trials, Actual Occupancy Of 131% In Indian Prisons; 1.9% Incidence Of Recidivism; Reasons Of 63 Unnatural Deaths In Prisons Un Known. Retrieved May 25, 2024, from Live Law website: https://www.livelaw.in/news-updates/ncrb-releases-prison-statistics-india-report-2022-243973

Tele-Law 2.0 unveiled by Law Minister. (2023, August 25).

Use of Regional Languages in High Courts. (2023, February 3).