

Introduction

*“True freedom requires the Rule of Law and Justice, and a **Judicial System** in which the rights of some are not secured by the denial of rights to others.”*

An efficient judicial system that is capable of settling disputes and penalizing behavior considered deviant with certainty, rapidity and fairness, constitutes one of the foundations of a democratic society and is considered important for the smooth functioning of the judiciary.

In a democratic setup, a **Judicial System** refers to a constitutional body enshrined with the function of providing justice while being independent of the government. The principal role of the judiciary is to protect rule of law and ensure supremacy of law. It safeguards rights of every individual, settles disputes in accordance with the law and ensures that democracy does not give in to dictatorship.

Judiciary as a pillar of democracy upholds the law. The provision of judiciary is necessary for the society as its primary function is dispute resolution and access to justice for all. Judiciary is an adjudicative measure for rights and wrongs. It consequently provides preventive measures against any unlawful activity that someone would indulge in. However, in order to be able to do all this, it is necessary that the judiciary is independent of any political pressures.

An impeccable judicial system comprises of institutions that are responsible for the **Rule of Law** and legal security. It entails in preventing and combating criminal activities, investigating crime, enforcing sentences and providing support to victims of crime. Mature judicial systems have highly articulated rules of procedure governing the relationships between courts.

Apart from these functions, a proper **Judicial System** is also necessary for ascertaining people’s faith in law by preventing any unjust use of power. Therefore, it is famously said that “Judiciary is the key to a Pandora’s Box of suffering and injustice prevalent in the society.”

Why is the study of Judicial Systems imperative?

Comparing differences and similarities of different justice systems contributes to a better understanding of foreign legal systems, broadens our understanding of how legal rules work in context, and helps us reflect critically on our justice system and legal history. Comparative legal research is the study of the relationship between legal systems or between rules of more than one system.

Comparative Law is a method of comparing legal systems. The importance of comparing justice systems is critical not only for the academic discipline of comparative law as such, but also for specific areas of law, such as criminal law and administrative law. It can play an important role in international harmonization and unification of laws, thereby leading to more international and supranational cooperation.

Some popular notions about the same talk about four possible categories of rules that are common to the well-functioning of judicial systems around the globe: rules related to concurrent jurisdiction, rules related to enforcements of judgments, rules related to precedents and rules related to interactions with political bodies.

What makes a Judicial System efficient?

Conventionally speaking, it lies on a model of external organization, positing that what makes them work is a sort of overarching document- A Constitution or at least a statute, treaty or procedural code that lays a clear hierarchy of courts.

It is apparent that most of the conventionally recognizable judicial systems rely heavily on court made doctrines related to the order and functionality of the judicial process. Some of these doctrines take the form of procedural rules while others are practices and ways of operating that guide not so much the parties as the courts in their interactions with each other.

But the practice of giving active consideration to systematic concerns is an important ingredient of functional judicial systems.

At a minimum, courts have the muscle to push the development of judicial systems of which they are a part of either in a positive or negative direction. At a maximum, the process regulating decisions of courts may be a critical factor in a judicial system's success- in whether or not it falls off the edge into chaos.

However, a closer examination of a variety of existing traditional systems reflects that the practice of courts, in themselves, regulating their relationships over time are as important as formal legal documents are, in making **Judicial Systems** function efficiently.

In other words, it shows that existing judicial systems are, to a great degree than might be expected, self-organizing. The organizing principles applied by courts may be derived from formal legal structures, but their success doesn't necessarily depend on the level of textual detail at which those structures are defined. This can be illustrated by actually comparing the impeccable **Judicial Systems of U.S.A., U.K., and India**.

Analyzing the Judicial Systems of U.S., U.K., and India

It is noteworthy that the scope of this comparison is broader than just efficiency in a narrow sense: it also emphasizes the quality and the effectiveness of justice.

- **Indian Judicial System**

India follows a hybrid legal system having elements of civil law, common law, equitable law, and customary and religious laws. The **Constitution of India** establishes a single integrated **Judicial System** for the whole of India. The **Supreme Court of India** is the highest court of the country and below it are the High Courts at the state level followed by some other Subordinate Courts. The **Supreme Court** controls and runs the judicial administration of India. Collectively, all courts in India form the link of a **Single-Judicial System**.

The **Constitution of India** is a written and enacted constitution. The right to interpret the Constitution has been given to the **Supreme Court** in India. Therefore, it acts as the final interpreter of the provisions of the Constitution.

The **Constitution of India** is the supreme law of the land. The Supreme Court is also the guardian of the fundamental rights of the people. In performance of this duty, it exercises the power of **Judicial Review**. The Supreme Court has the power to determine the constitutional validity of all laws and it can reject any such law which is held to be unconstitutional.

Indian judiciary acts as the guardian of fundamental rights of the people. The **Right to Constitutional Remedies** also provides people with the protection of their rights from courts, on violation of the same. The Supreme Court and the High Courts have the power to issue writs for this purpose.

- **U.S.A. and U.K. Judicial Systems**

One unique feature of United Kingdom and United States judiciary is its Jury system. Similar to the main subdivisions of the U.K., the different states of the U.S. have their own laws, court systems, and bar associations. In the U.S., federal law and court decisions generally take precedence over these state laws

and decisions. While, powers not granted to the federal government are instead specifically reserved to the states in the **U.S. Constitution**.

Principle of **Rule of Law** is adopted by United Kingdom as there is no formal **Bill of Fundamental Rights**, as it is in USA, and people's rights stand guaranteed under ordinary laws

Court Systems in both countries are quite similar. In U.K., minor criminal offenses and small civil disputes are handled by special magistrate courts. In the U.S., these cases are kept for state courts almost exclusively.

More serious crimes and civil cases in both the countries are subject to a three-court hierarchy. In the U.S., at the federal level, criminal cases and civil cases are not heard by separate courts[i]. Cases begin in lower courts[ii] then move on to courts of appeals, and are finally resolved in a single supreme court, if necessary.

It is important to note that U.S. does not have a "Tribunal System" as the U.K. does for certain disputes. There are, however, niche courts for certain types of cases[iii]. In U.S., parties may also agree to submit to binding arbitration or mediation as a means of alternative dispute resolution in certain cases. It provides a less costly, more streamlined, and less adversarial way[iv] to conclude conflicts.

Much like courts in the U.K., courts in the U.S. rely mainly on past judicial opinions as authoritative precedent when resolving litigation. In the U.S., these are often referred to as "opinions" or simply "cases".

Aside from differences in nomenclature, the role of lawyers in both countries is quite similar. The terms "barrister" and "solicitor" are not commonly used in the U.S., and litigators and non-litigators are not separately licensed. Instead, once an attorney is admitted to the bar in a particular state, he or she may generally practice any kind of law.

- **Judicial System of India and U.S.A**

In India and US, the Constitution acts as the 'Supreme Law of the Land' while the judiciary acts as the guardian and interpreter of the Constitution.

India follows **Procedure Established by Law**. Whereas USA follows **Due Process of Law**.

Original Jurisdiction is confined to federal matters in Indian Supreme Court. Whereas, its American counterpart enjoys wider authority. While, Supreme Court of India, in exercise of its Appellate Jurisdiction, covers constitutional, civil and criminal matters. The **Supreme Court of America** is confined to constitutional cases only.

Indian Judicial System has a wide discretion to grant **Special Leave to Appeal**. However, American Judicial System has no plenary powers to grant such an appeal.

Indian Judicial System has a provision for **Advisory Jurisdiction**. Whereas, no such provision is provided in the American Judicial System.

In India, the scope of **Judicial Review** is limited whereas it has a wider scope in USA.

In both India and USA, judiciary has acquired the power of **Judicial Review**. While, the judicial body in U.K. doesn't enjoy any such power.

- **Judicial Systems of India and U.K**

The **Judicial Systems** of India and the UK seem to be converging as well as diverging at times. The idea of convergence is the process of coming together from different directions to eventually produce a common conclusion. The convergence of laws, legal processes and systems is of vital importance since disjointed fragments of laws and procedures augment uncertainty, interruption, delay and transaction costs which instill divergence into the judicial system.

The systems of both countries face the backlog of cases which might paralyze the criminal justice system. They put a lot of efforts to cope with underfunding, and are at risk of losing the public's trust to some extent.

The time taken for the clearance of cases is quite divergent across diverse natures of cases. Judges do not display consistency while making the decisions. In India, there still exists divergence on death penalty.

In India there is a single integrated judicial system where both State and Centre laws are administered under supervision of Supreme Court. UK is a unitary state where single integrated judicial system is an operation.

The UK justice system undertook fast digitization. The Indian courts also received a major thrust in this direction to ease justice processes and reduce a backlog. Its highest court, unlike the supreme court of India, cannot strike down legislation, but it can judicially review the lawfulness of actions of great public and constitutional importance converging elements to ensure natural justice.

Conclusion

In the UK, the judicial system has been the result of a gradual evolution. In India, the judiciary has been organized and its powers have been defined by the **Constitution of India**. In the USA, judiciary stands organized under the provisions of the **US Constitution**. However, it has evolved into a fully developed judicial system during the last couple of centuries of its working.

All legal systems are mixing in one way or the other in our world of ever-increasing contacts and mutual influences inspired by globalization. This article endeavors to indicate that comparative legal method is not only a question of borrowing from other legal systems, or knowing whether other legal systems share common characteristics with one's own.

U.S.A., U.K. and India are liberal democratic states wherein the judiciary in each of these states enjoys a very important and powerful position. They have an independent, unbiased, honest and efficient judiciary. Principle of Separation of Power is followed in these nation states where the judiciary is independent of interference from the other two organs.

An enlightened discussion on such matters of concern would bring about an increased level of public understanding. A well-informed accurate awareness and understanding of a **Judicial System** is the key to a more realistic and favorable public opinion.

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[i] At the state level, however, many states do have separate court systems for these two types of cases.

[ii] Lower Court here refers to Crown Court in the U.K. and District Court in the U.S.

[iii] For example, bankruptcy court is a separate type of federal court.

[iv] Traditionally, the adversarial system is described as a contest between two equal parties, seeking to resolve a dispute before a passive and impartial judge, with a jury pronouncing one version of the facts to be the truth. Both the prosecutor and judge are actively involved in truth finding. Traditionally the English and American systems are quoted as examples of the accusatorial model.