
DEGENERATION OF JUDICIARY POSES THE GREATEST THREAT TO DEMOCRACY IN INDIA

Description



Chief Justice of India TS Thakur on 24 April 2016 made a rare emotional appeal to Prime Minister Narendra Modi to double the number of judges to handle an 'avalanche' of backlogged cases

Time and again, the wanton inability of the Indian judiciary to deliver speedy and affordable justice has been coming under scrutiny. But it has never been as chronic as these days when the very Chief Justice of India became emotional and literally broke down while addressing the inaugural session of Joint Conference of Chief Ministers and Chief Justices of High Courts on April 24, 2016, for the reason that no one is paying attention to what CJI said “crisis of credibility” of our judiciary and called to fix what he termed “challenges from within”.

Here I am examining the following factors that mainly lay behind the crisis:

- 1.

How Collegium, a cosy colonial club, has become a potential cancerous virus devastating most benefits of democracy

2.

How the Judiciary in India, literally a colonial hangover, embolden certain egoistic judges to subvert the system through judicial activism, a sample of which we recently saw in the state of Uttarakhand when a high court judge (appointed by the previous Congress Government) sabotaging the order of the President of India. Here how on earth the judge forgot the fact that it is the President who appoints even the highest judge in India, namely CJI, and also it is the President who is empowered to pardon a convict sentenced to death by the Supreme Court of India. This sort of over-indulgence of the interference of courts in the policy and execution domains can ultimately lead to a situation like that in Pakistan, where the judiciary considers itself more powerful and legitimate than an elected Government.

Unable to bear the brunt of the highly degenerating judicial system in India (largely a colonial legacy of an adopted judicial system from then colonial Britain) the honourable Chief Justice of India, Justice T. S. Thakur became emotional and literally broke down in front of Prime Minister Narendra Modi, while addressing the inaugural session of Joint Conference of Chief Ministers and Chief Justices of High Courts on April 24, 2016. Here the emotional CJI was appealing to PM Modi, present on the dais, to rise to the occasion. We should try to feel the pain CJI must be in; the incident tells that CJI really cares about the state of the degenerating Judicial System of India and that is what really matters.

INDIAN JUDICIARY: A COLONIAL HANGOVER

Colonial Legacy and the Vitiating of Indian Democracy

It all seems that India is badly caught in the vicious circle of her own COLONIAL LEGACY. The post-independent Indian administrative structure is largely a legacy of the British rule. The various functional aspects such as judiciary, public services, education system, political set-up, media, recruitment, training, office procedures, districts administration, local administration, police system, revenue administration, budgeting, auditing, and so on, have their roots in the British rule. The continuing OMNIPOTENCE OF COLONIAL LEGACY is still prevalent in Indian psyche that is being pathetically getting manifested through her borrowed CONSTITUTION, DEMOCRACY, JUDICIARY and BUREAUCRACY from her former ruler, the colonial Britain.

Our colonial legacies are highly dangerous viruses that are sickening and damaging all democratic achievement by the people in India. The greatest and the longest lasting colonization is the colonization of the mind. In the initial stages of colonization, the

conquered people are enslaved and controlled with the force of arms. The weakness of this form of colonization is that the colonized people can rise up in revolution and send the colonizer packing permanently. This colonization is transient. However, the colonizer has other weapons in their arsenal and these are used to colonize the minds of the conquered people, even after the colonized people gain independence and freedom, since colonization of the mind is more permanent

Today India is reeling under the worst colonial legacy in history. With key sectors like the Indian Constitution, Indian Democracy, Judiciary, Education, Economy, Science and Technology, Media ... all having been deeply entrenched in her colonial legacies and having strong western orientation, 'handling' or dealing with any post-independent government in India has been a child play for the global forces exploiting India, especially the global corporate owned Indian media.

The Colonial Hangover of India's Legal System

What the contours of the legal system in India were in pre-colonial times and how British colonialism altered it to its detriment has great relevance today. After all, the system that is in practice today is part of our colonial legacy. Our continuing legacy of enslaved mentality is obviously demonstrated and celebrated even in our own convocation dress code that we 'religiously' follow when these highly poisonous and destructive second-third-fourth-fifth-hand 'knowledge', in the forms of degrees, are conferred on us.

It's time India disbands the cosy club of judges who claim to be working under collegium model and instead adopt the US model of direct executive appointments of judges. They say that the Indian judiciary is owes its allegiance to the colonial British judiciary which was forced upon us as a colonial legacy which we meticulously follow with our own constitution itself as a copy of the colonial Britain.

It all seems that Indian Judiciary is still harbouring its colonial mindset of looking at India and her affairs as that of a British colony. One wonders why the British legacy of wearing such summer unfit black ceremonial robes and coats should remain a matter of such profound importance for many. Being conservatively romantic about legacies is fine. It is high time the Indian judiciary undress her colonial dress, stop speaking colonial English. We must urge the Indian judiciary to become wholly Indian – mentally and physically – and it can start it by putting on the Indian dress and speaking the Indian language in our courts.

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Who/what weakened judiciary; how judges in India emerged as the virtual slaves of neo-colonial forces

Congress governments appointed judges who were congress party slaves. See what happened few days ago, one judge in Uttarakhand high court had the guts to make comments on the decision of the union cabinet and president and tried to bring a corrupt congress CM back to office. It literally looked like a judicial coup is taking shape in India: a lower judge's order versus Presidential order. (<http://timesofindia.indiatimes.com/india/Uttarakhand-high-court-sets-aside-proclamation-of-Presidents-rule-in-state/articleshow/51925245.cms>)

Despite the mounting of lakhs of court cases (38 lakhs cases today) since decades everything connected with this particular case had only hardly a month's duration. What prompted the concerned judge to act so irresponsibly?

Can a judge set aside not only a central government order but also the same Presidential order?

Since when has judiciary risen above not only the state executive but also the President of India?

Since when does the judiciary started creating laws or striking down laws passed by both houses of the parliament, and now by The President of India?

Is the judiciary in India, in the process, hijacking her democracy?

Remember the President is the First Citizen and also the Supreme Commander of the Army! This exposes the vulnerability of our President. Who has given them the power to set aside president's rule? Are they elected by the public? Court has gone beyond their jurisdiction. Why should they question the President's powers? Even the Chief Justice of India is appointed by President. The Indian president can pardon a man sentenced to death by the Supreme Court. This high Court judge does not know the Indian constitution. This development provoked me to post an article in my groups with the title: A Judicial Coup Is Taking Shape In India: Judge's Order vs Presidential Order – India Seems To Be Heading Towards A Very Dangerous Free-For-All.

<https://www.facebook.com/groups/allindiaadvocatesandlawyersassociation/permalink/1133873003>

Judiciary has lost the trust of "we the people". No court can re-instate the government dismissed by the President. Democracy just does not work that way. Over-indulgence of the interference of courts in the policy and execution domains can ultimately lead to a situation like that in Pakistan, where the judiciary considers itself more powerful and legitimate than an elected Government. Pakistan Supreme Court sacked democratically elected Prime Minister Yousuf Raza Gilani for what it called "Contempt Of Court".

This is conspiracy activism by the HC. How can such high responsibility be vested upon the Judges. Does that mean someone studies law – mainly colonial laws – for a few years, become a judge and rule this country? The present trend shows just this only. Here the connection of certain foreign funded Trojan horse NGOs, their 'PIL' tricks, and judicial overreach and unholy nexus with certain judges and the mainstream media cannot be ruled out. Here we cannot forget certain bizarre facts in history when:

- Apartheid was "legal"
- Slavery was "legal"

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- Colonialism was “legal”

and thus ‘legality’ emerged as a construct of the powerful, the links of which invariably extent up to the neo-colonialists that are ruling the world from behind the scene, in the grab of global corporate. Thanks to judiciary falsely interpreting the laws favouring the corporate interests, the global corporate continue the blunt exploitation of natural resources, despite opposition from peoples movements and their representatives in government executives. The ongoing exploitation of huge quantity of water by Pepsico (the Coco Cola multinational company) in Palghat-Kerala, solely on the strength of court order, is a classical example of the ‘success’ of the powerful and the failure of the peoples’ movements and their representatives in panchayath governing bodies.

Should our judges be the slaves of neo-colonial forces?

Lots have been said and debated about the way JUSTICE is delivered and even many Presidents and prominent ex-CJI have always gave strong advise to CHANGE the way things in Judiciary are happening. A Judge can also go wrong. Here it is interesting to note that it is only a couple of days back President Pranab Cautioned Judges Against Perils Of “Judicial Activism”.

If a High Court can challenge an elected Indian President – why at all we need the President? It is indeed setting a wrong precedent, smacking of certain conspiracy. The comments made by the HC against the President are totally uncalled for. The HC action of setting aside Presidential order is unacceptable. This is high handed political activism by a petty judge (compared to the President of India) much beyond the domain of judiciary. If the President can make a mistake, so can a judge. After all, the President is the elected head of this nation. The judge is only an appointed official. He has no business to ridicule the President. Perhaps Prime Minister Narendra Modi made the mistake of not doing away with the former government stooges in judiciary, as soon as he came to power. Any judge passing a wrong judgement cannot go unpunished, particularly when the judgement is damaging the whole democratic system of the nation.

Now in seeking a way out of this degeneration of Indian judiciary, I think the whole rot starts from the bizarre colonial practice of selecting judges in India.

COLLEGIUM: A Cosy Colonial Club and Its Judges as the Servants of Neo-Colonialist Forces

Just imagine the following (ongoing) scenario:

A group of people, who make creeping acquisition of powers illegally and appoint, administer, promote and retire themselves, are a law unto themselves. They sense the weakness of our lawmakers, and dared to trespass the constitution, invented a club called 'collegium' to appoint, promote, administer, and retire themselves without ever being responsible to the people, their representatives or to the constitution. They invented PILs under the pretext of violation of fundamental principles to interfere into administration and legislation. A law unto themselves, they become the investigators, appointed monitoring committees to supervise the upkeep of – even railway platforms! They appoint and control prosecutors because everybody else, they claim, was corrupt and could not be trusted. They 'legislated' (appointed) 800 odd judges as 'representatives' of the people and the people themselves are considered inept. Money bill or no money bill, constitution or no constitution, they can become 'philanthropists' and order free food grains to the poor, cleaning of rivers, building of roads to Vaishno devi , for example.

The above is a typical replica of how the highly degenerated Indian Judiciary, which indeed is a colonial hangover, today functions in its core called the system of 'collegium'. The manner of functioning of the collegium of the Supreme Court of India has drawn flak from all sections of society and it is a matter of utmost concern and even a matter of shame for the members of the judiciary that the collegium of the Supreme Court is blissfully remaining insensitive to public opinion/reaction, in that this colonial legacy leads to the ongoing vitiation of Indian democracy.

Here it has now become very apparent as to why the collegium of the Supreme Court is being very secretive in its conduct and functioning in the matter of selection of judges of the High Court and the Supreme Court, now that such manner of functioning has also drawn flak and adverse criticism from all sections of society, including a major section of the legal community itself. The collegium refusing to divulge information has not been taken kindly by the members of the public and this conduct and attitude is looked down with suspicion and as a possible cover up resorted to on the part of the members of the collegiums.

The collegium judges, who have 30 years of lakhs of cases pending, taking up a new particular case even on Sunday nights cannot be viewed as genuine, particularly by the public. Laymen on the street, or elite and enlightened in their palaces, have all been critical of the manner of functioning of the collegiums in general and the collegium of the Supreme Court in particular! The defence of collegiums, through the slender arguments of the matter being confidential and may not be conducive for the proper functioning and efficacy of the judicial system in the country, is not taken accepted or respected by the members of the public.

Judges should be allowed to own up and correct themselves for mistakes while others are to be punished, so says the Chief of our all powerful judiciary. And we have a billion plus people who can suffer without even a murmur the ignominy and slavery of this colonial hangover, called judiciary where things have gone from bad to worse.

Abolish this ELITIST COLONIAL CLUB! We are a Democracy!

99% of the nuisances you see in our Court System are due to this Colonial Legacy of 'White' Judges methods and their exclusive elitist clubs that help them to deliver travesty judgments. The constitution does not allow "collegium" judges , where judges elect judges

Removal of independence of judiciary is one option. Make judiciary accountable. The elected executive wing of the government must have the main role in selecting and

appointing the judges and not the present practice of judges themselves appointing judges. Further, effective alternative methods of faster fair judgment delivery system should be evolved so that the common man should not have the opportunity to say “justice delayed is justice denied”.

For more on my post on this subject, please click on to:

<https://www.facebook.com/groups/TheSupreme.Court/search/?query=muthukat>

The following essays explain these facts more candidly, with proofs:

1.

Anti-Indian Forces, Using Divide-and-Conquer Tactics, Convert Hindu Temples as Battle Grounds: <http://www.humanfirst.in/essays/anti-indian-divide-and-conquer-forces-converting-hindu-temples-as-battle-grounds/>

2.

HOW COLONIAL LEGACIES CONTINUE TO RULE THE WHOLE MANKIND – SOON TO ITS IMMINENT DEMISE: <http://www.humanfirst.in/uncategorized/how-colonial-legacies-still-rule-mankind-soon-to-its-imminent-demise/>

3.

Shrinking Communication, Growing Miscommunication:
<http://www.humanfirst.in/essays/communication-natural-versus-mechanical/>

4.

CORPORATE PRESIDENCY OF DEGENERATION
<http://www.humanfirst.in/essays/corporate-presidency-of-degeneration/>

5.

Genocide, Ecocide and the Empire of Chaos by Professor John McMurtry, (Fellow of the Royal Society of Canada and [University Emeritus Professor at the University of Guelph, Canada](#)):
http://www.theecologist.org/Interviews/2986750/genocide_ecocide_and_the_empire_of_chaos

6.

‘How Mainstream Media Brainwashes The Masses’. “Only a handful of corporations, 6 to be exact, control over 90 percent of the media. That means nearly everything we hear on the radio, read in the news, and see on television (including ‘news’):
<http://www.collective-evolution.com/2015/08/13/cbs-news-investigative-journalist-explains-how-mainstream-media-brainwashes-the-masses/>

7.

Who Controls the Indian Media? by Gautam Sen :
<https://apostlethomasindia.wordpress.com/about-us/who-controls-the-indian-media-gautam-sen/>

8.

REAL FACTS – INDIAN MEDIA

<http://realfacts-indianmedia.blogspot.in/>

9.

THE COLONISED MIND: Why colonialism remains the zombie gnawing at India's intellectual, social, political and cultural fabric., and how Indian bureaucracy, jurisprudence, and its magnificent— and often decaying—physical structures are all vestiges of the colonial mastery over natives: <http://www.hafsite.org/media/pr/open-magazine-colonial-minds-and-other-demons#.Vtbik3gCtfA.facebook>

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