

BANKING FRAUDS AND INDIAN LEGAL SYSTEM

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ABSTRACT:

The Indian Legal System is one of the oldest Legal System which have been implemented by the British during their regime i.e. Indian Penal Code 1860, Law of Contract 1872, Code of Civil Procedure 1908 and Indian Evidence Act 1872 etc. There are other Laws also which have been implemented during the regime of British. But the HEART and SOUL of Indian Legal System is came into inforce after adoption of “INDIAN CONSTITUTION” which have been adopted on 26/11/1949 and implemented from 26/01/1950. The Constitution of India is the Supreme Legal, Written and Longest Constitution of the World. After 75 years of Independence Three major laws have been reframed as per Indian environment in the year 2023 which have been implemented since 01/07/2024 are “ Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita(BNSS) and Bharatiya Sakshya Adhiniyam(BSA) which have replaced Indian Penal Code 1860, Cr.PC 1973 and Indian Evidence Act 1872. Although more work to be done to reframe other Laws also. Most of laws are of British regime which are now irrelevant in the present situation of the society.

Keywords:

IPC 1860, Cr. PC, IEA, Civil law, Indian contract act 1872, BNS, BNSS, BSA, Courts, DART,DRT, NCLT, Special Courts.

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INTRODUCTION:

The Indian Legal System is one of the oldest legal system which used to remain a premier landmark of various judgement. If we see even the judgement of International Court of Justice several decision are having the locale of Indian Legal System. We can see several land mark judgement which have their impact on the society. The Freedom of speech, Right to equality, Freedom of Religion and Right against Exploitation are the basic pillar of the Indian Constitution. Dr. B.R. Ambedkar referred that Article 32 is the “Heart and Soul” of the Indian Constitution. There are other very important Laws which drives the power the Constitution i.e. Indian Panel Code 1860 now BNS 2023, the Working of Parliament, Powers and Duties of Supreme Court, President, State Government, Election Commission etc. are govern by the Constitution. The Supreme Court of India is the ultimate guardian, interpreter of the Constitution. The Supreme also ensure that the citizens are abided by the Constitution and Government is protecting the democracy and civil rights of citizen. There should be Rule of Law as per Constitution not of “might is right”. However the Indian Constitution is one of the lengthiest constitution of the world which have try to cover every aspects of the Individual, society, State Government and Central Government, Governor, President, Judiciary and Statutory bodies etc.

DEFINATION:

The Indian Legal System is one of the oldest legal system which is based on various Traditions, Judgements and Wisdom of the Judges in the given framework and environment. The Legal System takes very long time to complete the process, there are several cases pending more that even 20 years and many under trial persons are into judicial custody for the year’s together and their cases have still to be listed. If we talk about banking frauds cases the Law Enforcement Agencies after registering the FIR and following the procedure of investigation it takes more than 5 to 10 years to file a case in the court of Law in the Jurisdiction of the Magistrate court i.e. Session Court or Additional Session Judge court, CBI courts etc. in criminal cases, where as in civil suits are filed in Civil Court which takes almost 8 to 10 years to conclude the case in these trial courts, after that matter will be in the form of appeal in High Courts and if the matter is not resolved then it can also refer to higher bench or in the Supreme Court. Hence the Judicial Procedure is very lengthy some time it will take more than 2 decade also to finalizing the case. If we the “Latest case of M C Singhla case of Banker’s Pensioners which is still to be listen properly by the Bench of two Judges for final hearing” and sh. Singhla is no more but case has yet to DECIDE. There are

borrowers who have left countries after siphoning the money. Sometimes there are various incidents are happening which draw immediate attention of various authorities including Supreme Court and High Court. It is the duty of apex court to take so motto of these sensitive and unlawful activities so that speedy action can be taken by appropriate authorities. There should not be a case of, that you show me the face I will show you the Rule. Our Apex Court is having super Power in our Constitution to take care of Indian Citizen according to Law and Rule of Law can be established.

Literature Review:

The Legal system is taking long time in finalizing/deciding the case, If we look that data of pendency of cases in the Supreme Court of India, as per data available on the site as on September 2025, the number of pending cases in Supreme Court are:-

- Total Pending Cases: 88417*
- Total Civil cases: 69553
- Total Criminal cases: 18864

The record high cases have come despite the Supreme Court is operating with the full strength of 34 Judges. Beyond the Supreme Court if we see the pendency of cases across all the level as on March 2026 total number are more than 5.58 Crore* out of which more than 85% are pending in District courts.(National Judicial Data Grid).*

Since implementation of Three New Laws BNS, BNSS, BSS which have replaced IPC, Cr.PC, IEA from 01/07/2024 it is expected that there will be improvement in disposal of cases. There are other old Laws which also need to change as per Indian environment not according British time, since last 75 years there is lot of change in the Indian Environment after Independence is also required changes in Civil Cases also. Other subsidiaries laws are also needs to change/modify keeping in view the present environment of the society.

DISCUSSION:

The Supreme Court who work as watch dog of Indian Constitution always ensure that Executive should ensure the proper implementation of rules should be in accordance to the Constitution. The Parliament whose duty is frame the rules has to make rule as per basic guidance given in the Constitution, no rules or guidelines should be issued which against the Constitution. The Fundamental Rights and duties are the basis of various laws which always keep the PEOPLE in center, so that "Justice Should Prevail"

over any tradition. There are several poor prisoners whose case are under trial but most of them don't know whether they will get bail or not, time limit for cases are not certain. So a detailed study is to be carried out for all the cases and all the prisoners so that detailed online data should be available on the website for normal prisoners and for hardcore criminals separate detailed data should be created so that people of the society must aware of these criminals. The basis of criminal cases is Police Act which is of 1861, by the British who frame this law to ensure that Police must take care of their rights, the **Jallianwala** baug incident which took place on 13/04/1919 the order of Firing was given by General Dyer but fire was made by Indian police who were govern by British rules and same police act is still continue. We have seen there are several IPS and Police Officers who behave like SINGHAM even they don't care any rules or laws, they are known as encounter specialist but if you see that they never one the encounter of any big criminals who is having political background in U.P. i.e. Ateeq Ahmed, Mukhtar Ansari, Vikas Dubey types big criminal are operating in different part of Country or abroad also i.e. Gang of Lawrence Bisnoi, Goldy Brar, Dawood Ibrahim, Chhota Shakeel, Chhota Rajan etc are few popular names are in the list of International criminals, now where our these so called singham/encounter specialist who are not in position to handle these people. The cases of Terrorist and Anti National must be trial on priority basis and cases should be disposed off at the earliest so any criminal will think twice before doing any anti-national activities.

There are several civil cases which are pending more than 2 generations, the legal heirs are fighting the cases and getting dates after dates but are not getting the justice.

Several Banking cases are pending in different courts including DRT, DART, NCLT, CBI courts, various District court, High Courts and in Supreme Court also. Fraudulent people or borrowers have flown to abroad and cases are pending in India, even few are enjoying in the Country and playing with Bank's money which is loss to the Nation. These people have been siphoned the banks money and banker are running from post to pillar to recover the money they are facing various charge sheet and criminal cases also for the faults of others.

There are few institution i.e. CIC, CVC, ED, NIA, CBI, Custom and Income tax and FIU-India are also playing an important role and there timely support to the Legal System will help for speedy and timely conclusion of cases. If the Legal system will available cheap, easy and to help the citizen there

will be more respect to the Law than fear in the mind of citizen. Moral of citizen should always high so that they respect the Law, Constitution and Country.

CONCLUSION:

There is need of time that most of the old laws should be reframe, rewrite in the present environment as **three major law** have been replaced. The Parliament first of all should pass a resolution that clean and educated people should only contest the election because our politician are the showcase of our Democracy and reflection of India in the Universe. Hon'ble Supreme should take suo motto cognizance that no criminal, bahubali and anti-national persons should allow to contest any election. There should be a committee under chairmanship of retired Chief Justice of India along with other four/ five Judges from Supreme Court and High Court to review each law. These Law should be rewrite or reframe keeping in view the present scenario of the Country. Supreme Court with Larger bench or Constitutional bench should watch over the entire process of reframing new in tune with Indian Constitution and new laws should frame to replace old laws to give the proper and speedy Justice to the people of the Country.

To have competent, honest and knowledgeable Judges, there should be Higher Judicial services so that knowledgeable and competent unbiased Judges will reach on higher position to have fare and speedy justice because "delay in justice is denial of justice". So the Legal system should be such that people must have fear in mind and always follow the Law. Hence the people should be law abiding citizen of the country. The details of Assets and Liabilities of Hon'ble Judges, Politician, Bureaucrats and Serving People should be on web site, it should be updated on annual basis. For other citizen details of their assets and liabilities should be available at Tehsil level so that corruption can be checked.

There should be various committee for reframing the old Laws keeping in view the present scenario. The Indian Constitution the Father of all Laws must be kept in center so that life of normal law abiding person should remain smooth so that they can survive happily and peacefully without any fear whereas any antisocial person always have fear in mind that any illegal activity will not only ruined their life but also put family in trouble, such cases should be decided at earliest to give it's impact on the society.

Like three major laws BNS, BNSS and BSA have been replaced in lieu of IPC, Cr.PC and IEA. Now time has come now the Police Act 1861 must be rewrite as per present Indian conditions and police

should also made responsible/ accountable for the activities done by them like Doctors, Engineers and other paid government public servant. They should serve the public not having collusion with antisocial people, if any crime happen in the area of any police station concerned officer and staff should hold responsible till the outcome of matter, if in investigation they are held responsible then a stringent action should be taken against the erring staff of the police station.

There should be Time Frame right from lodging of FIR, it should be done within 12 hours of any incident, inquiry should be done within 3 working days and case should be decided in the session court/ District court within 12 months.

There should be guidelines to the Courts below High Court that within 12 month the case should be disposed off, so that it can travel to High court and if needed be to Supreme Court and the cases should be disposed off within 12 months in the Apex courts. There is need of massive overhauling/ reforms in the judicial system for ease of citizen and Rule of Law can be established because "Justice Delayed is Justice denied". The police people should be given proper behavior training that how they should behave with normal citizen and criminal, as how they are behaving with their family member because unnecessary poor, innocent, law abiding people should not be harassed and they should be treated properly whereas on the other hand any law breaking person should be treated properly so that fear of Law should be prevail in the mind of citizen. There should not fear of Law but there should be respect for Law in the mind of citizen so that **Rule of Law and Justice** can prevail.

Author Contributions:

KRK was primarily responsible for preparing the original draft of the study. The work relating to conceptualization, selection of methodology, and legal analysis was also carried out by KRK.

RS supervised the research throughout the study. RS also assisted in developing the ethical analysis framework, checked the accuracy of the work, and reviewed the final manuscript before submission.

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Conflicts of Interest

The authors state that they have no conflict of interest, financial or otherwise, in relation to this study or its findings.

Availability of Data

Generated through publicly available regulatory documents and statutory analysis.

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