Ilkogretim Online - Elementary Education Online, 2021; Vol 20 (Issue 5): pp. 5005-5012
http://ilkogretim-online.org
doi: 10.17051/ilkonline.2021.05.559

INQUISITORIAL VS ADVERSARIAL – CANVASSING A CHANGE IN THE INDIAN JUDICIAL PROCESS

Moumita Sen, Assistant Professor (Visiting Faculty) at Lloyd Law College, Greater Noida, Uttar Pradesh, India

Abstract- The word "access to justice" served to locus on two basic purposes of legal system – the system by which people may vindicate (claim) their rights and/or resolves their disputes under the general auspices support of the state. But today, in India, our legal system has undergone such a deep state of crisis that it is not able to provide justice to common man. Thus it has badly failed to come up to the aspirations of half – clad and half – hungry masses of independent India. Two general principles are inherent in the concept of adjudication that is 'resolving disputes' and 'finding the truth.' Adjudicators are to decide disputes by the applications of rules and principles. Even assuming that the rules and principles are correct, a dispute will not be properly decided in accordance with them unless the 'truth' or 'correct facts' are determined. In the present system in India, which is adversarial, litigants have found themselves impaled on this unholy trident of delay, cost and complexity. Now this paper shall examine the typical consequences of the adversarial mode and explain how the present system of access to justice is not based on the parity of powers between parties that leads to the denial of justice.

Keywords: Indian judicial, access to justice, adversarial mode

I. INTRODUCTION

There are two major legal systems for establishing fact that is the Anglo American (or the so called strict, adversarial or common law) system and the Continental (also referred to as the enquiry type or free or civil law) system, which applied in pre-colonial Africa and in most of the non-English speaking countries. The development of these two seemingly opposite systems commenced in the twelfth century. The adversarial system also called the accusatorial system was followed by the United Kingdom and they introduced it in all countries which they colonised. Hence at present all countries which were former colonies of Britain follow the common law system or the adversarial system including India.

Ancient Indian legal system was based on the inquisitorial method. This method is also followed by most non-English speaking countries especially France. This is a better option if parity has to be maintained between the parties then disparity between parties isto be eliminated if the promise of the constitution has to reach the people.[i]

The present mode of access to justice through courts operating in India is based on adversarial legalism. The present mode is an inheritance from the British. It was a blind adoption of adversarial system. The British government was based on the principle of exploitation. The source of power enjoyed by the government was not the people. The whole set up was for the benefit of the power holders and not power addressees. Whereas under the Indian Constitution the source of the power is the people and the power holders are the agents of the people.[ii] The power which has been delegated to the holders is defined and controlled by the constitution. Under the Indian Constitution all the provisions are based on duty perspective and non implementations of which calls for liability. Therefore the inherited mode necessarily can't deliver justice to the people as it was basically for the benefit of the power wielders and for the detriment of the power yielder. The State under this system merely plays the role of facilitator and is not under an obligation to deliver. It is passive towards the realities like ability of the parties to recognise their legal rights and to prosecute and defend them adequately. Justice is like any other commodity to be purchased only by those who could afford its cost and those who could not are considered the only one responsible for their fate. Formal not effective, access to justice and formal not effective equality is all that is sought.

In today's world, access to justice has become more contested issue. "Access to Justice" means having recourse to an affordable, quick, satisfactory settlement of disputes from a credible forum.[iii] Justice is the first virtue of social institutions. The word "access to justice" served to locus on two basic purposes of legal system – the system by which people may vindicate (claim) their rights and/or resolves their disputes under the general auspices (support of the state. Firstly, the system must be equally accessible to

all, and secondly, it must lead to results that are individually and socially just[iv]. Justice is the first virtue of social institutions. Basic aim of legal system is to provide justice to every man in the society. But today, in India, our legal system has undergone such a deep state of crisis that it is not able to provide justice to common man. Thus it has badly failed to come up to the aspirations of half – clad and half – hungry masses of independent India. Two general principles are inherent in the concept of adjudication that is 'resolving disputes' and 'finding the truth.' Adjudicators are to decide disputes by the applications of rules and principles. Even assuming that the rules and principles are correct, a dispute will not be properly decided in accordance with them unless the 'truth' or 'correct facts' are determined. Truth needs to be found not for its own sake but to apply the rules and principles to the disputes correctly. If the situation is not correctly understood and described, then the aims cannot be rationally served by the decision either as a resolution of the particular case or as for practical guidance, they need to be based on accurate information about the situation to which are to apply, otherwise they might prescribe impractical and even harmful conduct.

A number of principles can be identified to achieve the purpose inherent in adjudication which can be as follows:-

- The principles of economic costs – the cost of legal procedures should be minimized.
- The principle of peacefulness – procedure should be peaceful. Without legal procedure for resolving disputes, they are likely to result in violence and blood fends.
- The principle of voluntaries – people should be able, voluntarily to have their disputes legally resolved. Defendants, whether civil or criminal, should not be able to block their legal proceedings by failing to consent to them. The principle contributes to disputes resolution by enabling aggrieved parties to obtain an authoritative settlement.
- The principle of participation – Parties should be able to participate meaningfully in the legal resolution of disputes. Only reasonably desires to at least be heard, to have one's say, before decisions affecting one are made.
- The principle of fairness – procedure should be fair; fairness here means equality of treatment in the procedures. Give an equal chance of being plaintiff or defendant, one would not want the procedures biased towards one side or another.
- The principle of timelessness – procedure should provide timely decisions. People do not want to wait longer for necessary resolution of their disputes.
- The principle of intelligibility – procedure should be intelligible to the parties. Decisions should be articulated in terms of rational rules and principles and information developed at the hearing or trial.
- The principle of response – A final resolution of disputes should be made.

In order to achieve the abovementioned objective and principles either of the two modes of adjudication is adopted, viz, adversarial and inquisitorial. However in the light of present circumstances in India as well as abroad and certain established rules it is to be seen that, inquisitorial system is fulfilling the above mentioned objectives and principles much better than the adversarial system. In this present system in India which is adversarial, the litigants have always found themselves impaled on this unholy trident of delay, cost and complexity. It is quite disheartening that the present system of imparting justice has badly collapsed and the people have lost faith in its objectivity. In the present context, of courts in India, F.S. Nariman has rightly emphasised that 'the myth is that the courts of law administer justice, the truth is that the courts are agents of injustice.

II. MODES OF DISPUTE RESOLUTION

The present mode of access to justice through courts operating in India is based on adversarial legalism. According to Advanced Law Lexicon, adversarial procedure means, *'A procedural system, such as the Anglo-American legal system, involving active and unhindered parties contesting with each other to put forth a case before an independent decision maker. Also termed as adversary procedure and (in criminal cases) accusatorial system or accusatory procedure.'*

The adversarial system (or adversary system) of law is the system of law, generally adopted in common law countries, that relies on the skill of the different advocates representing their party's positions and not on some neutral party, usually the judge, trying to ascertain the truth of the case.[v] Such judges decide, often when called upon by counsel rather than of their own motion, what evidence is to be admitted when

there is a dispute. In the adversarial model, the parties are responsible for initiating and conducting the litigation. In addition, the parties bear primary responsibility for determining the sequence and manner in which evidence is to be presented and legal issues are to be argued. Underline principle of adversarial system is 'innocent until proved guilty.'

Adversarial system is characterised by high cost, contributing to a regime of plea bargaining, delay, uncertainty of law, lawyer dominated approach and the total lack of parity of powers between the two parties to the litigation. The natural consequence of this mode is that the whole burden of proof is on the parties. Justice is like any other commodity to be purchased only by those who could afford its cost. Formal not effective, access to justice and formal not effective equality is all that is sought.

Peter Murphy in his Practical Guide to Evidence recounts an instructive example. A frustrated judge in an English (adversarial) court finally asked a barrister after witnesses had produced conflicting counts, 'Am I never to hear the truth?' 'No, my lord, merely the evidence' , the counsel.[vi]

The present model is a blind adoption from the British. The whole British set up was for the benefit of the power holders and not the power addressees. Britishers only intended to exploit Indians and courts were nothing else but a means to further the interest of the Britishers who were power holders. Similarly it can be seen that even now courts are generally promoting the interest of the power holders and the power addressees. Faith of ordinary people from judiciary is slowly diminishing. Under the Indian Constitution all the provisions are based on a duty perspective and non-implementation of which calls for liability. Therefore the inherited mode can't deliver justice to the people. In ancient India we are following the inquisitorial system. Thus this adversarial system is like foreign element which does not suit the body of Indian structure. However we Indians have a dirty habit of keep dumping our own administrative set up to follow the west.

Inquisitorial System

Advanced law lexicon defines inquisitorial procedure as, 'A court procedure commonly practiced in Continental Europe whereby the trial judge conducts inquiry into the facts, rather than the parties. The judge will lead the investigations, examine the evidence and interrogate the witness.'

The inquisitorial system that is usually found on the continent of Europe among civil law systems (i.e. those deriving from the Roman or Napoleonic Codes) has a judge or a group of judges who work together whose task is to investigate the case before them. Underline principle of inquisitorial system is 'guilty-until –proved- innocent.'

An inquisitorial system is a legal system where the court or a part of the court is actively involved in determining the facts of the case, as opposed to an adversarial system where the role of the court is solely that of an impartial referee between parties. It is most readily used in many, but not all civil legal systems. As mentioned above, in contrast to adversarial system, in an inquisitorial system the role of judges is expanded and that of the lawyers are reduced. The presiding officer at trial takes an active role in search for justice. Advocates for each side may nominate witnesses but it is for the judge to determine whether they will testify and whether additional witnesses will be questioned. The witnesses themselves are questioned by the presiding judge, not by the attorneys, although the attorney may pose additional questions after the judge has concluded his questioning. The lawyers cannot even prepare and rehearse their witnesses before they appear. In Germany for example, the rules of ethics expressly forbid attorneys from coaching witnesses and even discourages them from contacting witnesses at all before the trial. The problem of coaching witness has been put in the following words, *"(The witness) often detects what the lawyers hope to prove at the trial. If the witness desires to have the lawyer's client win the case. Telling and retelling it to the lawyer, he will honestly believe that his story, as he narrates it to the court, is true, although it importantly deviates from what he originally believed."*[vii] Even cross examination at trial is also not able to rectify this defect effectively. Lawyers only play minimal role in an inquisitorial system. They only prepare written pleadings on behalf of their clients and may also prepare amended pleadings in civil cases. They also make closing arguments at the end of trial, although their effect is very limited because the arguments are addressed to a panel of judges rather than a jury. In inquisitorial system like the German rules provide '*our incentive runs the other way; we pay court reporters by the page and lawyers mostly by hour.'*[viii] On the other hand in and adversarial system counsel usually takes much higher amount of money which is not fixed by law. One of the most significant differences between the adversary system and inquisitorial system occurs when a criminal defendant admits to have committed the crime. In an adversary system, there is no more controversy and the case proceeds to sentencing; though in many

jurisdictions the defendant must have allocution of his or her crime, however a false confession will not be accepted. By contrast, in an inquisitorial system, the fact that the defendant has confessed is merely one more fact that is entered into evidence, and it does not remove the requirement that the prosecution present a full case. This allows for plea bargaining in adversary systems in a way that is difficult or impossible in inquisitorial system. Another difference is in the rules of evidence. Because the adversarial system assumes that the evidence is to be presented to laymen rather than to jurists, the rules of evidence are considerably stricter. Rules on hearsay evidence are much stricter in most adversarial systems than in inquisitorial systems.

Article 14 and 15(1) are denial of power. Purpose of article 14 is to balance power. Article 14 has both denial and direction of power. Denial in "the state shall not deny" and the direction is in "equal protection of the law and equality before law."[ix]

The Indian Concept of Access to Justice

The term or the concept of "access to justice" has different meaning for different societies.[x] For the Indian society the term does not merely connote access to dispute resolution mechanism. The term for justice, nyaya, was often synonymously with the term "dharma." The institution of king or the concept of state had an umbilical cord with the concept of nyaya to the extent that the institution of king was conceived mainly for the purpose of dispensation of justice according to the principles of dharma and it was the dharma of the king to give just decisions. The disputes relating to civil matters were not treated as being in private domain and it was the duty of the State to protect the citizens against any violation of the law.

The same idea of "justice" is incorporated in the constitution. By the virtue of the preambulatory statement to secure social, economic and political justice makes it incumbent on the State to dispense justice to the citizens. The necessary implication of this objective is that the burden of provision of justice is necessarily on the State. Article 14 of Indian Constitution further substantiates this inference. As per the article, the state is under a duty not to deny to any person equality before law or equal protection of law. Thus if by any action, whether public or private, a wrong has been committed and equal protection of laws has been denied, it is imperative for the State to restore status quo ante and correct the wrong. Thus, in the constitutional scheme, it is incumbent on the state to be an active player in the dispensation of justice. Unfortunately, the practical realities are different from those envisaged in the constitution. The Government treats civil disputes as private disputes and adopts a hands-off approach towards these disputes. To quote J. Frank:

"I suggest that there is something fundamentally wrong in our legal system.....if a man's pocket is picked, the government brings a criminal suit, and accepts responsibility for its prosecution. If a man loses his life's saving through a breach of contract, the government accepts no such responsibility. Shouldn't the government perhaps assume some of the burden of enforcing what we call 'private rights'? "[xi]

III. PROCEDURAL HURDLES IN ACCESS TO JUSTICE: IS IT HAND MAIDEN'S REVENGE

Procedural laws are not merely a body of rules meant for facilitating the dispensation of justice on substantive questions. It also represents the value choices of the makers of the law. What are their priorities – facilitating access to justice or creating hurdles in access to justice? It also reflects the kind of state a society has. If the state is interesting in providing justice, the role of individuals in bringing the wrongdoer to task is minimal. Whereas in a laissez faire state, the state treats civil disputes as concerning two individuals and they are left to fend for themselves with the state merely acting as an interested arbiter.[xii]

Unfortunately, the Code of Civil Procedure, 1908 (as amended from time to time) is an exception to the aforementioned. As already mentioned, it does not reflect the fundamental policy choices made in the Constitution of India. Instead it reflects the values chosen by the colonial masters, the British, who were least interested in the plight of Indians and thus placed several hurdles in access to justice by prescribing several technicalities.[xiii] Though the Supreme Court has said that 'procedure is hand-maiden to the substantive rights of parties,'[xiv] the practical working of this hand-maiden leads to perception that the handmaiden has had her revenge by overpowering the queen i.e. the substantive laws. Procedural laws prescribe the procedure for enforcement of substantive laws however procedural laws have been used, time and again, to defeat substantive rights.

A cursory look at the procedural code for civil disputes i.e. the Code of Civil Procedure, 1908, shows that civil disputes are treated as private affair in which the Government has no role to play except being an arbiter.[xv] From institution of the suit to the execution of the decree, it is the onus of the private individuals, not the government. In fact the burden of proof, is generally on the petitioner and the ambit of the entire proceedings is confined to the issues and facts brought before the court by the parties themselves. The lacuna is due to the adversarial model of civil procedure. Under the said model, there is no duty of the court to ascertain the truth. Adopting an adversarial model leads to a number of hurdles in access to justice, especially procedural hurdles in access to justice. These can be broadly categorised into three categories:

- Cost hurdles i.e., Court Fee – the Code of Civil Procedure, 1908 imposes a lot of threshold costs on the litigants. Court fee is a colonial baggage being carried by the Indian Courts till today. When seen in the light of power spectrum as elucidated by Prof. Julius Stone, the aspects of power relations in charging a fee for rendering justice is all on negative side. Court fee is low on ethical spectrum as it is against the basic premises of the foundation of a welfare state as envisaged in the Constitution. Since a multiple of citizens are involved in civil litigation process, the head count component is quite high so is the interest affected component as civil cases cover a broad ambit of interests. The judicial dicta on entry fee hurdle in access to justice are quite interesting.[xvi] In *Central Coal Fields Ltd. v. Jaiswal Coal Co.*[xvii] observed that effective access to justice is one of the basic requirements of a system and high amount of court fee may amount to sale of justice.

The Court observed that " it is more deplorable that the culture of the magna carta notwithstanding , the Anglo – American forensic system and currently free India's court process – shall insist on payment of court fee on such a profiteering scale without corrective expenditure on the administration of civil justice that the levies often smack of scale of justice in the Indian Republic where equality before the law is a guaranteed constitutional fundamental and the legal system has been directed by Article 39 A to ensure that opportunities for securing justice are not denied to any citizen by reason of economic……..disabilities."[xviii] The basic premise for accessing the court for redressal of an injury is that the state is liable to protect the individuals and having failed to do so, it should redress the injury. For this no fee can be charged. It is a settled principle of law that no one can profit from their own wrong. Thus state ought not and cannot profit from its own lapse in performance of duty. The present model of dispute resolution is based on private individuals taking the onus of moving to court, the cost of litigation is also borne by them. With every adjournment the cost of litigation increases. Sometimes, the cases take as long as 40-50 years to finalize and by then the cost of litigation often increases the claim prayed for in the suit.

- Inordinate Delays – 'There is enormous dissatisfaction with the state of the legal system in India. In a speech at a function to commemorate the golden jubilee of the Supreme Court, the president compared courts to casinos rather than cathedrals, since the throw of the dice determines decisions. India is a country where there are an estimated 38 million cases pending in various courts, 20 million in District Courts, High Courts and Supreme Court and 18 million in lower courts. 13.4 million of these are criminal cases. 12 million Indians await trial in criminal cases throughout the country. On an average, it takes twenty years for a dispute to be resolved, unless real estate or land is involved, in which case it can take longer. The Thorat case in Pune took 761 years to be settled, it was started in 1205 and ended in 1966. If present rates of disposal continue and there are absolutely no new cases, it will take 324 years for us to clear the present backlog.'[xix]

Code of Civil Procedure 1908 plays a big role in lagging cases for years. Instead of giving reasonable time for presentation of case, it takes a snail pace approach towards dispute resolution. For example, Order 8 Rule 1 provides that a defendant shall be given 30 days time from the day of serving of summons to file his written statement. If summons have not been served, the defendant is given 90 days. Similarly, Order XVII provides for adjournments, which instead of being used only for emergency purposes have become a regular feature of the Civil Courts. The code is a unique piece of legislation when it comes to the disputes in which one of the parties is the government. The hurdles deliberately put in the road to access to justice are clearly manifest in such cases. As per Section 80 of the Code, no suit can be instituted against the government or a public officer in connection with his official duty until the expiration of two months next after notice in writing delivered to the government unless it remains unsatisfied for the period of three months. It is quite incomprehensible that such huge times have been given to the government whereas the documents are readily available in governmental departments. Not only this, there is no duty

incumbent on the courts to pronounce the judgments at once after the case has been heard. The Code of Civil Procedure prescribes an alternative of 30 days for pronouncement.[xx]

The inordinate delays are against the time count component in the power spectrum. The head count is quite high as in case of court fee.[xxi] Delay in dispensing justice is against rule of law. Delays in justice result in higher litigation costs which in turn causes the litigants to compromise for a lesser unjust settlement out of court. Thus the interests of the litigants get affected and it influences the option of the litigants in going for out of court settlements which are often unjust.

- Other technicalities

a. Rules related to Limitation Act – As per the Limitation Act, 1963, any suit which is barred due to the fact that Limitation period has expired can only be admitted. For different types of suits, the period of limitation is provided under the Schedule

in Limitation Act. Fixing a limitation period on rights is against the principle of natural justice. It is low on ethical count against time count.[xxii]

b. Rules related to execution of decrees and injunctions – Under the Code of Civil Procedure a judgment creditor has to apply for the execution of the court's decree again in the same court.[xxiii] It is submitted that this practice is another procedural hurdle in as much as the judgment of the court should itself be enforceable and no execution decree be required for enforcement of such judgment. If a decree is required then there is no logic of pronouncement of the judgment. Moreover, many of the decrees remain unexecuted for which contempt proceedings can be initiated. It would be better if the executive wing of the state is employed in executing the decree for a court's order does not have any less sanctity than a pronouncement of law and it is the duty of the executive to ensure compliance with every law.

c. Rules related to Injunctions – A judge is vested with the discretion regarding the granting of temporary injunction. The preconditions for such grant as enumerated in CPC are[xxiv]:-

1. That when it is proved by an affidavit or otherwise that the property is dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of the decree, or
2. That the defendant threatens , or intends to, to remove or dispose of his property with a view to defrauding the creditors ;
3. That the defendant threatens to dispossess the plaintiff or otherwise cause injury to the plaintiff in relation to any property in dispute to the suit.

Amusingly, the time period allowed for giving decision on a situation of such grave emergency is 30 days. It is submitted that in situations of such grave emergency which have been proved to exist, there should be no discretion allowed to the judge. A temporary injunction to maintain status quo should be immediately granted to the plaintiff, so that no further change in circumstances qua the dispute takes place. As a consequence, restoring status ante would also be possible which is presently not being done and generally the changed circumstances are accepted as fait accompli by the courts.

The aforementioned procedural hurdles are just tip of an iceberg. It is truly the hand maiden's revenge that has dethroned the substantive laws and taken its place by denying substantive rights on the plea of procedural irregularities.

IV. CONCLUSION

In the administration of justice it is of primary importance that justice should not only be done but also appears to be done. The existing procedural laws pose innumerable hindrances to access to justice. Theseexisting procedures imbibe sense hopelessness in the present model of justice delivery system. So access to justice is hindered because the current adversarial system of justice gives emphasize to 'party capability' this term is utilised by Professor Marc Galanter rests on the notion that certain kinds of parties enjoy a set of strategic advantages. This advantage is based on the financial resources of litigants. Broadly speaking 'access to justice' signifies the arrangements made by the state to ensure that the public at large and especially those who are indigent can obtain the benefits available through the use of law and legal system. It encompasses all the means which are necessary for a person to address his grievances before a

competent authority. The system must be equally accessible to all, and must result in an outcome which is strictly in accordance with settled rules of law.

To conclude, the researcher would like to suggest a new simpler model of litigation in the civil court. For these model following assumptions/pre-requisites are required:

1) That a duty is cast on all citizens to produce all documents/papers, as and when required, in aid of justice. Any violation should be made culpable offence.
2) The state cannot claim privilege on documents.
3) A separate judicial-cum-executive wing of the government is created at district levels. This wing will investigate the cases and supervise the execution of court decrees.
4) Each subordinate officer in the said wing is accountable to the immediate senior officer with the accountability increasing with the rank in hierarchy. Any failure on part of any officer should in performing his duty should be culpable offence.
5) Reports regarding execution of the decrees to be sent to the senior officers to be sent on fortnightly basis.

REFERENCE

1. JULIUS STONE, *The Province And Function Of Law (*University of Pennsylvania Law Review Vol. 95, No. 5 (May, 1947).
2. M.RAMA JOIS, *Legal and Constitutional History Of India: Ancient Legal, Judicial And Constitutional System* (N.M. Tripathy Pvt. Ltd, Vol. 2, 1st ed. 1984).
3. *CAPPILLETTI, M., GARTH, BRYANT,Access To Justice, The Florence Access To Justice Project, Sijthoff And Noordoff, Milan (Vol I, 1978, P. 9)*
4. JOHN RAWLS , *A Theory Of Justice* (Harvard University Press, Edition 1997 p11).
5. H.M. SEERVAI, *Constitutional Law of India: A Critical Commentary* 1287 (N. M. Tripathy, Bombay, 4th ed. 1991).
6. PETER MURPHY, *A Practical Approach to Evidence* 1988 (Paperback, 3rd Revised Edition).
7. JEROME FRANK, *Courts On Trial Myth And Reality In American Jurist* (1949) at 1038 cited in John H. Langbein, *The German Advantage In Civil Procedure*, (The University of Chicago, Vol 52. 1983 at pp.829).
8. RAWL JOHN, *A Theory of Justice* (Harvard University press, Edition 1997 at p.11).
9. H.M. SEERVAI, *Constitutional Law Of India: A Critical Commentary* 1287 (N. M. Tripathy, Bombay, 4th ed. 1991).
10. P P RAO, Access *to Justice and delay in disposal of cases* (Indian Bar Review, Vol.30, 2003, pp 208 5. 'cited in' http://en.wikipedia.org/wiki/Adversarial_system).
11. FRANK. J, COURTS ON TRIAL 97-98 (1963) quoted in CAPPILLETTI. M, GOVERNMENTAL and *Private Advocates For The Public Interest Litigation : A Comparative Study* (Michigan Law Review, Vol. 73, No. 5, 1975 pp.793 – 884).
12. CAPPILLETTI, M., GARTH, BRYANT, *Access to Justice, The Florence Access to Justice Project*, SIJTHOFF AND NOORDOFF, MILAN, Vol. I, 1978, p. 9.
13. LOWENFELD, ANDREAS F, *Elements of Procedure : Are they separately portable (*American Journal of Comparative Law, Vol. 45, 1997, pg 1).
14. Sukhbir Singh v. Brijpal Singh (1997) 2 SCC 200.
15. The Law Commission in its 127th Report on, RESOURCE ALLOCATION FOR INFRASTRUCTURAL SERVICE IN JUDICIAL ADMINISTRATION, 1988.
16. Stone Julius, Social Dimensions of Law and Justice. Stanford: Stanford University Press, 1966. The bands are coercion band, ethical band, influence band, interest affected band, head count band and time count band.
17. AIR 1980 SC 2125.
18. Central Coal Fields Ltd. v. Jaiswal Coal Co. AIR 1980 SC 2125.
19. Debroy, B., *In the Dock: Absurdities of Indian Law*, Delhi, Konark Publishers Pvt. Ltd., 2000.
20. Order XX Rule 1.

21. Stone Julius, *Social Dimensions of Law and Justice,* Stanford: Stanford University Press, 1966**.** The bands are coercion band, ethical band, influence band, interest affected band, head count band and time count band.
22. Stone Julius, *Social Dimensions of Law and Justice,* Stanford: Stanford University Press, 1966**.** The bands are coercion band, ethical band, influence band, interest affected band, head count band and time count band.
23. Order XXI.
24. Order XXXIX.