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Dichotomy of the Ancient Indian Legal History: A S-W-O-T Analysis Approach

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ABSTRACT

The following paper critically analyses the conundrum of the ancient era Indian culture using a S-W-O-T Analysis method. It deeply examines the Indian justice system of the time to present a deep image of the challenges faced by the same in the maintenance of law and order in the society. The paper focusses on all aspects of this cultural heritage to present an overview of the time and divides them efficiently amongst the 4 heads, to present a superior image of the various advancements and shortcomings of the time. As the paper progresses, the author aims to establish the most-debated issues under the cultural heritage of the world's largest democracy to give a better impact to the study done.
Keywords: Indian Culture, S-W-O-T Analysis, Legal History, Legal System.

I. INTRODUCTION

Ancient Indian Culture is an integral part of India's rich history as well as its present. Ancient Indian Culture is a blend of food, languages, clothing, music, dance, art, literature, customs, religions, and architecture. The Indian Culture indicates the general psychology of people in the society. It indicates the way people live in the society. The ideas, philosophies, and notions of the people combined formed the customs and the traditions of the place. The culture and its practices can be analysed using a significant approach, namely, The SWOT Analysis. This paper contains an analysis of the predominant Indian Culture, which existed especially during the Ancient Era.

II. S-W-O-T ANALYSIS

(A) Strength

The Ancient Indian Culture was a well-knit structure entailing various assets important for well-said administration and conduction of various activities, as were organized by the various groups of people who make up this era of history such as the Aryans or the Mauryas or the Guptas.

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The most powerful structure within this culture was the ***"sense of Justice as granted by the Indian Legal System"*** prevalent at the time. It opposed the word of certain historians and foreign jurists who believed no 'rule of law' existed in ancient India. The Indo-Aryan constitution, drafted after the series of struggles between various villages, led the Ancient-Indians on the path of distribution of certain rights to the Peasants and Self-Governance. Manusmriti, written by priest Manu, serves as a reliable source of the legal system prevailing in ancient India. It tells us how in India the King himself was subject to the law, arbitrary power was not known to the Indian political system, and forfeiture of kingship could result if there was a breach of duties on the king's part.

Manusmriti explains the hierarchal structure of the judiciary. Apart from these, we realise that like the judicial process in the State today, disputes were decided in accordance with the principles of natural justice. Doctrines such as Res Judicata were known to Indian jurisprudence, and the fundamental duty of the court was to do justice 'without favour or fear'.

Coming to our second strength, we look towards ***"The Analytical mind-set bending towards Science and Technology";*** many models and procedures discovered by the ancient Indians have generated and strengthened the fundamentals of modern science and technology. Aryabhata's discovery of the number 'zero' and the decimal system says a lot about the culture. An Indian scientist, Kanad devised the atomic theory long before the birth of Dalton. He speculated the existence of '*anu*' or small indestructible particles, much like an atom. These discoveries, among many others, strengthened the fundamentals of modern science.

This brings us to our third constructive, ***"The administrative system of the state"***. The administrative system of the state was well established. The state was prosperous under him. The king acted as both, the civil servant, and a trustee. Several steps such as adopting a god spy system, clever collection of taxes, not acquiring or confiscating the lands and property of the people without legal backing, establishing pecuniary and physical punishments for various case, and enriching the treasury or the exchequer.

The above strengths were accompanied by the most eye-catching feature of Ancient India, the ***"The Art and Architecture of India"***. India was enriched with great artists and artisans who were always ready to grace it by the magic of their minds. The cities during that time were most elaborately and rationally planned with adequate space given to all the subjects living there. Art was a form of recreation and profession. Various seals and statutes of the Harappan Civilization bear testimony to this statement.

(B) Weaknesses

Every culture has some drawbacks. Every culture has some cracks. Every culture has some fault-lines. This section presents those cracks along the line, in contrast to the previous section which gave an impression of utopia within this culture.

The first drawback of this culture represents the psyche of the subjects living in the society, being a part of various social groups. This is the *"Manifestation of Mythology over Rationale and Practicality"*. The mythological beliefs of the people living in this era acted as the pivot for the society, which stood on the pillars of religion, knowledge, and con-existence. People believed in the Lord being the sole-actor of every nuanced activity that took place around them. This was a weakness in the structure as this led to the emergence of fear of the Lord Almighty, in general and the religion.

This brings us to our second drawback which focuses on the *"Divide amongst various social groups and entities on the basis of sects and varnas"*. This acted as the main catalyst in the process of gradual growth rate of the community and the change in leaderships at times. This weakness acted as a major threat, once aggravated, as it turned into a threat for the society for it led to the transition in power from one king to another, as the political motives of the people also changed due to this. The transition from the Harappan people to the Aryans, from the Aryans to the Mauryas and from the Mauryas to the Guptas, acts as an example to it.

The third weakness of this age was *"The extent of Theocracy"*. Theocracy, meaning the rule of the priests in the name of the God, existed at the "Varna" level. The Brahmins dominated this sphere and influenced almost all processes of life, through this. The influence of Religious concepts is clearly visible in the sphere of Polity, as the King's duties also depended upon the "Rajdharma". The theory of "Dharmayudha" also serves as an example to this.

In comparison to the modern world, we see how the King's election was not very democratic. This brings us to our fourth weakness under this system, which is the *"Lack of Representation and Political Will of the people"*. However, references in the Rig-Veda and the Arthashastra present the fact that the king who is coroneted maybe elected by the people. Yet after various archaeological evidence only a certain part of the populations had the right to choose their king, preferably the leaders like the kulpatis and the vispatis.

(C) Opportunities

Ancient India contributed about 25% of the world's GDP. Most of society was characterised by economic efficiency and specialization in various spheres of activities and overall growth and development, both social and economic.

At that moment in time, India was often referred to as the **'Reservoir of Natural Leaders'** – Brahman were naturally trained in literary skills, Kshatriyas were trained in the art of leadership and different service groups in skills, not to mention the learned sages and rishis. This provided the illiterate masses to receive the benefit from various researchers and the intelligentsia. Based on their knowledge and experiences, the sages prescribed certain guidelines in the form of rituals to the illiterate population. If compared to our society today this is done by our elected governments via laws enacted.

One opportunity available to the society during this time was the **"ability to control the use of their natural resources"**, a right which was taken away after the various invasions by the Mughals, and then subsequently, the British. All groups co-existing in a particular area came to consensus about how and where the resources were to be allocated.

The occupational pattern prevalent during the period provided various opportunities for the nation to move towards prosperity. The traditional pattern provided for **"division of labour"**, which led to specialisation. Tasks were divided based on natural endowments, intelligence, aptitudes, attitudes, skills, personal needs, and other characteristics. Being highly involved in their respective family occupations, they neglected any opportunities that existed for garnering more knowledge about traditional occupations.

These were some of the opportunities available during this period which helped in harmonizing the human efforts with the objectives of the society.

The system led to **accomplish skill, specialization, success and happiness, decentralized authority and resources**, made management within each unit effective and organized human and social behaviour in tune with the objectives of the society.

The system worked so well that when the world was passing through the Dark Age, India was full of light. The first few centuries are recognized as the golden period of Indian history. During this period, arts, commerce, crafts, philosophy, and knowledge flourished magnificently.

(D) Threats

Culture can't remain stagnant. As the economic set-up changes, country culture needs to be constantly adapting. However, today this culture faces not just one but a number of challenges. These challenges prove as a threat to the very quiddity of this exquisite culture. Any culture faces enormous number of threats if the normative structure of the place changes. The customs, traditions and values of the people contribute to this normative structure. As we move from being a 'traditional' to a 'modern' society, the norms, habits and style and nature of living of

the society has changed. The normative structure in the past was influenced by the existence of the concept of *"Monarchical Conquests"*. A change in monarchy was a dominant factor, in the sphere of threats posed to the culture prevalent during this time period. A change in monarchy led to a change in the practices of the place. The laws of the land were made by the new ruler, now. These laws influenced by their personal and political desires brought about mass fluctuations in the living patterns and ideologies of the society. New additions were made to the existing groups of people living, which came along with the exit of certain dominating groups from the society. The reason why it is regarded as a threat to the Ancient Indian Culture is due to the divide that it caused among the existing subjects and between the new entries and the old ones, in the society.

Going by the order of disruption, we can include *"Dominance of the Upper Castes"* as the second major threat standing up against the Indian Culture ubiquitous at that time. The laws and norms of the society were written by the Upper Caste, namely the Brahmins, which made it quite laidback for them to incorporate themselves and more of their status and social order to be included within those norms. This led to a major setback in the Indian Cultural Structure for the rights of the lower classes were conveniently denied, which were very difficult to be attained even under the Judicial Structure for the King, irrespective of being <u>fair</u> and <u>impartial</u> was a puppet in the hands of the "King-Maker", at most instances.

Another peril faced by this exquisite culture, was the issue of **ill-interpretation** and **lack of active dissemination of appropriate and accurate knowledge**. The Ancient Indian Culture was an epitome of religious knowledge and prolific virtue of language. However, this was a luxury only to the Brahmins and the Kshatriyas, as they were the "overlords" according to the "Varna" system or the Caste System of India. This led the lower-factions such as the Vaishyas and the Shudras to be of lower standard when it came to the level of knowledge present in the general society.

Coming to the last part of this section, there exists a threat, completely deep-rooted in the society which is wearing away all the customs and traditions of the past, which are still a part of the present cultural set-up. This threat is called as *"Influence of Foreign Culture" or "Westernization".* This threat is so deep rooted that it has left the ancient culture completely hollow from the inside. The act of giving up one's own customs and traditions in order to copy what seems to be better, and is present with our brothers in the west, is what has become the general practice of the people.

III. CONCLUSION

On this account, we realize that Ancient Indian Culture is the by-product of various positive and negative factors involved in the play. Hence, wiping out the entire culture on grounds of renewal shall not be a viable option. Thereby, focussing upon the strengths in order to imply and implement them in a positive manner and thereby, on the negatives in order to rectify the fallacies there, appears to be a possible solution.

The Legal System holds an important place in the Indian System, which needs to be well looked after. The involvement of Polity with the legal system presents a big threat to the concept of justice and independence of the legal system. The concept of Justice and Fair Play and Equity is a Utopian Concept, the execution of which is possible in the real world. We see the same happening with the current administrative system as well.

The weaknesses of mythology over rationale and divide within divide can only be solved by proper education over this subject. Rationale and Practicality are the two basic pillars of a prosperous culture in today's world, and hence, we need to eliminate this mind-set and replace it with a logical approach to every issue that one faces. The problem of Theocracy and it's involvement in every aspect and sphere of human life presents a disheartening image of the country, for it makes the culture go bleak along with its possibility to change turn to dust.

Hence, as the citizens of this country, we need to realize that the country's true self resides in its history and till the time we can rescue it from the clutches of Westernization, we cannot call ourselves to be the guardians of our motherland, the guardians of our culture.

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