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Whether India gets the Intellectual Capability of Jurisprudence through the School of Contemporary Jurisprudence along with considering the impact of Contemporary Jurisprudence upon following Democratic and Judicial Structure

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ABSTRACT

whether India has gained the Intellectual Capability of Jurisprudence. An analysis is for estimating the shape of the proposed Democratic and Judicial System as per the philosophical view of Contemporary Jurisprudence. Examine the ground on which the present Democratic and Judicial System has been denied by Contemporary Jurisprudence. An analysis of for estimate the, what types of changes to be made in the futuristic Democratic System and Judiciary System as per Contemporary Jurisprudence.

Keywords: *Contemporary Jurisprudence, Futuristic Democratic System, Futuristic Judiciary System, School of Contemporary Jurisprudence.*

I. INTRODUCTION

Although Jurisprudence is considered supreme for maintaining Civilisation as well as an important branch of Social Science, Jurisprudence is prime for the development of our present Democratic and Judicial structure, which has been a continuously developing process to fulfil the needs of the human race since the early stage of Civilisation, in this journey we have already covered as Natural, Historical, analytical, Sociological and realist Jurisprudence, through which we have been got the present Civilisation. In the History of Jurisprudence record, the United Kingdom launched the Analytical/Imperative school of jurisprudence (1800 to 1850), which was propounded by Bentham and Austin. Germany launched the Historical School of Jurisprudence and Sociology School of Jurisprudence (1750 to 1890), Likewise, Friedrich Savigny and Ihering called as the father of Historical Jurisprudence and the Father of Sociology Jurisprudence respectively. USA launched the realism school of jurisprudence, which was propounded by John Grey and Oliver Wendell Holmes during (1950-1920), likewise called as father of realist jurisprudence. Therefore, the UK, Germany, France and the USA are the most recognizable states, for having the intellectual capability of jurisprudence. Recently a new

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approach of Jurisprudence has been propounded by India as Contemporary Jurisprudence, which has challenged the cardinal principle of the present Democratic, Judicial, Social and Political Structure. For more clarification take the short brief of all schools of Jurisprudence along with Contemporary Jurisprudence.

1. Analytical Jurisprudence or Imperative School (Austinian school) was propounded by Bentham and Austin (U.K). Austin is known as the father of the analytical school of Jurisprudence. Analytical Jurisprudence laid more emphasis on what law is and what it ought to be law. Analytical School of Jurisprudence awarded intellectual capability to mankind to understand what law is. Analytical School is much more focused on the theory of imperative law. analytical school is related to the origin of civil law. Analytical school talks about the concept of rights and duties and investigates legal models such as acts and contracts. Analytical school of law believes that law should be codified and the law must be governed by the state with the aim of the benefit of people. Analytical School is much more focused on the theory of imperative law. analytical school is related to the origin of civil law. Analytical school talks about the concept of rights and duties and investigates legal models such as acts and contracts. Analytical school of law believes that law should be codified and the law must be governed by the state with the aim of the benefit of people.
2. Historical jurisprudence was propounded by Savigny (Germany). Savigny laid more emphasis upon law is the source of custom, ritual etc. The historical school of Jurisprudence awarded mankind for customs playing an important role in law-making. Savigny is known as the father of Historical Jurisprudence, whereas Montesquieu, Henry Maine and Puchta are other pioneer jurists of Historical Jurisprudence. The historical school believes that law is a consequence of years of growth in our society. The historical school believes that the sources of law are customs, religious philosophies and societal rules. Historical school is too much dependent on the past and as a result, it becomes much more conservative but still after such conservatism, the historical school states that law must change with the people.
3. Sociology jurisprudence emphasises social activity, like society, government and others. This was the first school of jurisprudence, which laid focus on the basic rights of the public and interacted to judicial connection with public. Ihering, Roscoe Pound, August Comte, Ehrlich and Duguit are the main jurists of the Sociology school of Jurisprudence. Rudolph Van Inhering is known as the Father of the Sociological school of Jurisprudence. Sociological school concentrated more on the function of law rather than

its intangible content. The sociological school came into existence due to the accumulation of various thoughts of jurists. The sociological school wanted to connect law with society and law can be adjusted according to the needs of society. Sociological school talks about legal institutions, doctrines and other theoretical aspects of the law

4. Realistic jurisprudence was propounded by John Grey (America). This school of Jurisprudence emphasized court proceedings, judgement, and the role of judges. He predicted that “Judgements are the source of law”. John Grey and Oliver Wendell Holmes are considered as the Father of Realism School of Jurisprudence and Jeremy Frank and Levellyn are considered as other Pioneer jurists of Realism. Realist school is technically not a school of jurisprudence; rather realist school is tutoring of thoughts. Realist school, are much more focused on the actions of the court and what they create. The realist school merely makes logical assumptions from the general law

II. SCHOOL OF CONTEMPORARY JURISPRUDENCE

As per the ideology of Contemporary Jurisprudence, the Status of Parliament as an absolute representation of the Republic of State has been denied, the proposed Parliament Structure is divided into a two-layer system as Govt and representative of Society (the group of common interest as Worker, Student, Entrepreneurs etc) in the role of opposition.

The status of the Judiciary body of the State as an independent body has been changed as a body of the State, therefore a new Concept of Just In Trial has been introduced, whereby the Bench and Judges are considered a Public-servant and the Chartered law officer is to be considered as a representative of Society.

The present Democratic structure and Judiciary system have been denied on the grounds that -

- The Parliament/Legislative Assembly cannot be considered an absolute representative session of the Republic of State, because the individual interest of an elected person (MP/MLA/Mayor) never be the same as the collective interest of the Republic of State.
- Judiciary System - The School of Contemporary Jurisprudence also denied the Judiciary System of the State is an independent body of Democratic Structure, a serious challenge to the basic principle of the present Judiciary system as on-
 - i. The judiciary of any State does not undertake the election process, hence never considered as an independent body of the State. The Judges/Bench can never be treated as an independent Judiciary Body,
 - ii. on the ground that the Court cannot be treated as an independent Judiciary Body

because the Court/Judges, Judges are also present under the State. Let's work in the case of State vs. Republic, the decisions can be full of bias.

- iii. The present Bar-Bench and three-layer Lower Court, High Court and Supreme Court is a decentralized Judicial system, speedy Justice is not possible through this decentralized processing Structure. The present Judiciary system is not suitable for the States with large populations.

Therefore, as per the School of Contemporary Jurisprudence,

- 1) The Parliament or legislative cannot be considered as an absolute representation of the Republic of State.
- 2) The judiciary system is a part of the Govt of the State and not to be considered as an independent body.

From my point of view, the above criticism grounds seem to be fair and valid, most likely, this opinion will be acceptable by the general public as well as the group of hon'ble Jurists, philosophers, Social and Political Scientists.

The school of Contemporary Jurisprudence was propounded by an Indian jurist Mr. Deepak Sharma (often referred to as the father/founder of Contemporary Jurisprudence). He has validly challenged the basic tenets of the existing Judiciary and Democratic Jurisprudence.

In Contemporary Jurisprudence, the power of formation of law has been divided into two representation sessions of Parliament Govt and Society Representatives. The first time proposed the Direct representation of Societal representation in Parliament in the role of opposition. Based on the above legislation.

III. CONCLUSION

(A) India has gained an intellectual Capability of Jurisprudence

Still, India's democratic and Judicial System is being inspired and taken from Western jurisprudence. At present Contemporary Jurisprudence has been developing by Indian origin, mostly emphasised and focused on Indian Democratic. Social, Political and Judiciary needs. It seems to be an advance in comparison to Western Jurisprudence. Therefore, it may be more suitable for India in comparison to Western Jurisprudence to complete India's Democratic and Judiciary requirements.

(B) The proposed Democratic System in Contemporary Jurisprudence

The Democratic System Shall be changed as Elected persons shall be formed by the Govt. and

our council president shall perform the role of Opposition in Parliament or Legislative assembly let's take an example, suppose the group of farmers, Workers, Technicians, Entrepreneurs, Students, etc are being part of Republic of State, Every Group in this class has been called as Society, in Contemporary Jurisprudence the representation of such groups to be mandatory before Parliament and play the opposition of Parliament, where such groups demand to resolve their problems and Govt shall be liable for solutions of problems,

The Degree of Democracy shall be enhanced due to the present structure of Parliament and the legislative assembly shall be changed, the role of politicians shall be changed at the level of Parliament/Legislative assembly. The election shall be dependent, on how much politicians are capable of benefitting the State, the role of opposition shall be shifted toward representatives of Society (as representatives of Students, workers, industrialists, etc.) to counter the Government's decisions. they shall be constitutionally empowered to fight for development policies, and Govt shall be bound for the implementation of Development policies as per their election manifesto. In that case, only capable persons may file their nomination for election, most probably the capitalist funding shall be blacklisted in the election, or the role of black money shall be ended in the election process.

(C) The Proposed Judiciary System in Contemporary Jurisprudence

The judiciary system is part of the State, but has completely refused to consider the present Judiciary as an independent body, the above Statement holds some validity, which cannot be completely denied up to initio. For Societal presentation, a new Officer as Chartered law officer has been introduced being considered an independent officer in the form of a Societal representative. On this incident, Deepak Sharma has also proposed centralized trial proceedings called J.I.T (Just in Trial) proceedings. Just in Trial (J.I.T.) is claimed to be the world's first centralized trial system, J.I.T. It is claimed to be 25 times faster and 20 times more transparent than the current bar-bench trial proceedings system. (The complete Details of JIT are still not available in the public domain therefore more exploration is not possible).

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