

Avoidable litigations burden the Courts

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“Law of the land and Common man” is a loaded topic. With powerfully active news channels and social media, and with an overwhelmingly persuasive RTI regulation in place, access to information is a super highway today. A great majority of common men today is reasonably well informed about current affairs with a level of depth that previously did not exist. The resultant scenario is, indeed, a game changer in the big picture of our everyday life.

Some of the recent high profile court cases in India have left the common man with a feeling that the Law is not for them, but is only for those “high and mighty, well connected people”. This may not be, of course, an entirely true statement every time and in every case. We do have high quality judges and high quality judgements, even while we have several cases to demonstrate that the opposite is also, perhaps, true. Unfortunately enough, however, the general impression that the common men carry today is one that reflects this negative connotation.

The Problem.

We must not, nevertheless, forget that this negative vote is not due to the doubtful

quality of the judges or judgements alone. India’s judicial backlogs are exceptionally high. A recent statistic of backlogs in Indian courts indicated that 31 million cases were pending just twenty months ago. (See the tables below).

Cases Pending with Supreme Court as of 1 Dec 2014	64,919
Cases Pending with High Courts as of the end of 2013	4,456,232
Cases Pending with Lower Courts as of the end of 2013	26,000,000 (23% of these are Criminal Cases, balance are Civil Cases)

Source: Report filed by PTI on Dec 19, 2014

Low population of judges results in delaying the delivery of justice. It is often said that “justice delayed is justice denied”. Bombay High Court’s former judge Justice Suresh Hosbet was recently quoted in

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the media as saying the following: “Law Commission recommended that there should be at least 200 judges for every 10 lakh population, but today this figure staggers at around 16.8 judges per million of population.’ Hence, recruiting the judges is the first and foremost step to start with, to deliver quick justice and the age of retirement for judges also needs to be increased.” This statistics of judges population compare unfavourably against an average of 50 judges per one million population in developed countries and 35-40 in some other developing countries. Scrapping the long archaic vacation periods of courts would also help immensely in speeding up the delivery of justice.

The above are merely some of the structural reasons for a burning issue. However, there is a deeper fundamental aspect to the issue of ever increasing number of litigations. Where does the need for litigations emerge from? Why are litigations on the increase today? They originate invariably from the minds of the litigants and their attunement (or lack of it) to the ethics of correct living. It is indeed true that many litigations are unavoidable even in the light of ethics. But many litigations are indeed avoidable, if we adopt to the rules of ethical living.

Divorce Rates

Divorce, for example, was a subject once attached with great social stigma. This has become rampant in recent years. Married couples, regardless of the length of their marriage, do not hesitate to walk away from their marriages for varied reasons. Earlier, there were very few cases of divorce and

the main causes were adultery and domestic violence. In most cases, the women continued with their broken marriage for the sake of fear, kids and money. But, nowadays, wedded couples do not hesitate to call off their marriages. The rising trend is seen not only in the metropolises, but also in the semi-urban and smaller cities, including the rural areas.

A recent report in Hindustan Times stated: “This is an unusual trend in a country where the divorce rate was just 1 in 1,000 ten years ago, and is still a relatively low 13 per 1,000 – as compared to the US average of 500 per 1,000. While India has no central or even state-wise registry of divorce data, family court officials say the number of divorce applications has doubled and even tripled in cities such as Mumbai, Delhi, Bengaluru, Kolkata and Lucknow over the past five years”

The author of this article is personally aware of a litigation arising out of marital disharmony where a young daughter did not hesitate to give false witness statement to prosecute her father in the court of law! Reason? The father suggested her to cool down at least for a day or two and review the issues, before taking a decision on separation. Events that followed this conversation between the father and daughter eventually landed the entire family in the courtroom! Impatience, egotism and arrogance rule human minds today. Consequently, wisdom takes a backseat, giving rise to an increase in litigations.

Solutions in Introspection

All actions originate from our thoughts.

If it is so, we can certainly reduce the number of cases plaguing our courts today, if we can take some control of our thoughts and allow wisdom to guide our affairs in our everyday life. It is time we look into the working of our own minds and develop the art of introspection and conscious observations of our own thoughts and behaviors. The onus of imparting the art of self-observation to the younger generation is that of the parents and teachers, for which the parents and teachers need to be aware of this potential solution themselves.

At times we describe our own actions or that of others as “thoughtless” actions. We also use adjectival expressions such as “instant” action, “immediate” action so on and so forth. How “thoughtless” our actions can be? Are actions really “thoughtless?” Let us pause here for a moment and ask some critical questions.

Mechanism of thought Processes

Who is really in charge of your decisions in life? Who controls your experiences in life? Where are your thoughts and behaviours originating from? In short, who is truly in charge of your life and your experiences in life?

We believe we are fully awake during the time we are not sleeping and our conscious mind is totally engaged in conscious activities like thinking, analyzing, doing, etc.

Do you know that the thoughts that we think are NOT “our” conscious thoughts, per se? We usually identify ourselves with our conscious mind and that is why we refer to the thoughts that occur in our mind as “my”

thoughts or “I” think.

Scientific discoveries have, however, proven that our thoughts are “supplied” to us. They are not produced by our conscious mind. They are, in one sense, bubbling up from the depths of our subconscious mind and our conscious mind is only capturing these thoughts and boastfully owning it up by saying “my thoughts” or “I think”.

Benjamin Libet (1916 - 2007) was a neurophysiologist, who made far reaching contributions to our understanding on how the human mind is thinking its thoughts. His findings were widely accepted and equally debated too. In 2004, he published his book “Mind Time”, summarizing his views.

Through experimental evidence Benjamin Libet established that our brain activities start some 500 milliseconds before we initiate a physical action triggered by a conscious decision. (1 second = 1000 milliseconds. Meaning, if I stop typing this and get up from the chair to go to the kitchen to take a bar of chocolate, a “readiness potential” is first formed in my brain some 550 milliseconds before the actual time I got up from the chair. Some 200 milliseconds before I get up from my chair, my conscious mind “decides” to eat chocolate. Actually, 350 milliseconds before this desire is captured by my poor conscious mind, my brain has already decided and initiated the process to execute the desired action. “We” are not even aware that the decision is already taken. We feel everything is happening instantaneously and remain under the illusion that we have decided and acted on our decision.

(to be continued)

