
DHARMA UNDER INDIAN JURISPRUDENCE

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INTRODUCTION

Hindus used the word Dharma instead of the word law throughout the ancient times. Dharma, according to them, refers to one's moral and social duties as a moral being and as a member of society. The fundamental philosophy is centred on the significance of terrified law and the structure of Hindu law. Dharma's main goal is to control human behaviour in both cosmic and human contexts.

Jurisprudence is the study of the theory and philosophy of law as well as the knowledge of the law. From the social sciences, it is different. It is challenging to define jurisprudence since different philosophers have varied ideas about what it means. Evolution and Dharma in Early India. Dharma, a Sanskrit term derived from the root "dhr," is a notion that deals with duty, religion, and the unbreakable quality of a thing or orders, i.e., the righteous conduct of a righteous man. Dharma literally means "something which sustains or upholds" in English. The Greek word 'ethos' and the concept of dharma are semantically similar. Dharma is the Indian interpretation of natural law, as it was seen by Indians in ancient culture, although their perception was quite far-fetched and was commended by many prominent figures, such as Max Mulle.

Contrary to popular belief, dharma does not refer to or support any one religion; rather, it refers to a comprehensive set of principles and beliefs that includes, among other things, religious obligations and rights. When we discuss religious obligations or rights in this context, it does not favour one religion over another but rather covers all of them. Dharma is "founded on the revelation which is conducive to the welfare of the society, ordained by the great Vedas," according to Jaimini. Dharma, which ruled people's lives in ancient times, was primarily based on the Vedas and contains numerous indices, including Sruti, Smriti, and moral laws (sadachar). According to Duguit, the only right that a man can have is the right to do his duty. His theory of social solidarity holds that even the sovereign or the state does not stand in any special position or privilege and that its existence is only justified insofar as it performs its duty. Dharma was a duty-based legal system. This stands in stark contrast to the current legal

system, which focuses more on rights than obligations. This study will demonstrate the strong connection between Dharma and the contemporary legal order.

MEANING OF DHARMA

Dharma is generally accepted to have been derived and supersede from the vedic concept of Rita, which literally meant, 'the straight line'. Rita refers to the Law of Nature, it signifies moral laws, and based on righteousness. When something is Rita it simply meant that thing is true, right and nothing more. Dharma evolved side by side of Rita but eventually took over it as the old concept of Rita was not able to cope and solve the issue emerging with increasing social complexities. Dharma signifies Natural law.

Dharma is defined as "that which sustains and ensures progress and welfare of all in this world and eternal bliss in the other world," according to Justice M. Rama Jois[4]. The Dharma is declared in the form of a directive. The definition of dharma is a topic that is discussed in Mahabhartha. According to Madhavacharya, "Defining Dharma is really difficult. Dharma has been defined as something which contributes to the improvement of living things. Dharma is therefore unquestionably that which guarantees the welfare of living things. The wise rishis have declared that drama is what endures. Everything that is just, moral, and right is dharma. Dharma seeks the wellbeing of the state, especially its citizens.

HISTORIC BACKGROUND OF DHARMA

Dharma is a concept derived from Rita, which is a Vedic term for a straight line. The Law of Nature is also mentioned in the Rita. In Sanskrit, the word "dharma" implies to uphold, maintain, or bear. Dharma is based on the legal system, which states that every person has a responsibility to other people in the community and has a right to exist. Karma, which defined people's Dharma in ancient times, was a prevalent belief. Thus, Yudhistir from the Mahabharata is also known as Dharma Raj. It is an idea that contributes to the improvement of all living things. As a result, that which guarantees the wellbeing of living things is known as the Dharma. Legal, social, religious, moral, and other conceptual distinctions that are important to people seem to be less difficult to understand than confusing since it seems to cut across all of them. It conveys the highest praise, which is righteousness, justice, goodness, and purpose rather than chance.

Dharma makes an effort to provide an example of the ideas and methods that were influential in the political, legal, literary, and ethical framework that ties life together, according to its

historical relevance. The Ramcharitmanas's religious principles are mentioned. The Atharva Veda uses the phrase "Prithivim Dharmana Dhritam" to denote Dharma, implying that it upholds this world. Additionally, Dharma is Santana, which possesses values that transcend time and space and is immovable. Hindu law is drawn from Dharma, which is its source. The smritis law serves as its fundamental structure. It also declares the Dharma's rules.

NATURE AND SCOPE OF DHARMA

The word "Dharma" is first used in reference to the universe's foundation in the Rig Veda, during the Vedic period, and it is believed that God created life using Dharmic principles. Therefore, according to Hinduism, moksha is the eternal Dharma for people. The idea of Dharma has recently been improved and moralised by the Upanishads. In Hindu legal codes like Manusmriti, it also has a juridical sense that explains citizens' legal obligations. Manusmriti covers topics including marriage, succession, administration, economy, and civil and criminal law. Upholding the Dharma is a king's primary duty. With the advancement of the concepts of law and justice, their significance and application have grown. All social, legal, political, and spiritual rights have their ultimate origin in divinity.

ORIGIN OF DHARMA

Dharma derives from the Vedas, which are Sruti (heard knowledge) and are the most important source of information for humans. Sruti is the narration of what ancient priests heard, and the Vedas contain Sruti on every subject imaginable, from the military to politics to everyday life. Other sources include Smriti, which is the Vedic interpretation, and the dharmastras, which were articulated by four sages known as Smritikars. They are:

- Manu
- Yagnavalkaya
- Brihaspati
- Narada

The Puranas, which number eighteen, are the other source and provide information on the creation of gods, the dynasties of sages and monarchs, as well as a full explanation of yugas. Each source follows in the other's footsteps, and none is more authoritative than the others.

One verse from the Brihadaranyaka Upnishad, "punyo vai punyena Karmana bhavati, Papah Papeneti," which means "everyone becomes good by good deeds and bad by bad deeds," or

"everyone reaps what he sows" and "what's good is defined by Dharma," can be used to illustrate the idea that caused people to adhere to the Dharma.

FUNCTIONING OF DHARMA

Dharma is sanatana, meaning it has values that transcend time and place and are therefore eternal. Since the beginning of time, we have been aware of the Dharma. Religion and dharma are two different things, yet they are frequently used interchangeably because of this. In A.S. Narayana Deekshitulu v. State Of Andhra Pradesh & Ors, Justice J. Hansaria distinguished the aforementioned by quoting from Swami Rama's book "A Call to Humanity" with the following words:

"Religion is enriched by visionary methodology and theology, whereas dharma blooms in the realm of direct experience. Religion contributes to the changing phases of a culture; dharma enhances the beauty of spirituality. Religion may inspire one to build a fragile, mortal home for God; dharma helps one to recognize the immortal shrine in the heart."

The King was not above Dharma; he was ruled by it, and if he wasn't, then the Dharmashastrakara gave the people the right to revolt against such an unjust, capricious, and unrighteous ruler or government. This is a straightforward demonstration of Dharma's superiority. In addition to recognising individual rights like the right to private property, personal riches, etc., which were constrained by the law for the benefit of society as a whole, the treaties of Manu, Kautilya, and others contain several rights and obligations of the king and the general public.

INDIAN JURISPRUDENCE

The word Jurisprudence is derived from the Latin word 'jurisprudentia' which splits into two that is Juris whose literal meaning is the law and prudentia whose literal meaning is skill or knowledge so the word Jurisprudence means the knowledge of the law and its significance. The Roman civilization is known as the bedrock of all human civilizations which also has explained the meaning and the nature of law. The Father of Jurisprudence is thought to be Jeremy Bentham. He was the first to examine the legislation in detail. The Father of English Jurisprudence is Sir Austin.

By supplying the norms and standards of interpretation, jurisprudence provides guidelines to the judges and the lawyers in determining the genuine meaning of the laws issued by the

legislature. Jurisprudence is a field of study that covers topics like the nature of law, the legal system, legal institutions, etc. It highlights key legal concepts and fundamental legal principles.

Salmond's definition of jurisprudence states that it is a collection of rules that courts follow while dispensing justice. also referred to as positive law science or philosophy. Salmond clarifies Law is investigated by jurisprudence, while legal theory aims to comprehend the law on a theoretical level.

Roscoe Pound defines Jurisprudence as the law to mean principles that public tribunals recognize and enforce.

Austin defines it as Law is the command of sovereign and their non-obedience leads to the imposition of sanctions.

Keeton defines it as the study and systematic arrangement of the general principles of law.

EVOLUTION OF JURISPRUDENCE

Roman culture is where the concept of jurisprudence, which describes the nature and purpose of law, was born. It was restricted to the idea of law, morals, and justice, which were later also mixed together. Slowly, as the Roman Empire crumbled, the concept of jurisprudence vanished and secularism began to take hold. The evolution of the state and the essence of law were once the subject of numerous hypotheses put forth by thinkers including Hugo Grotius, John Locke, Rousseau, and Blackstone. Additionally, the concepts of social welfare and collectivism developed. The concept of positive law and a positivistic approach were required, and the law's boundaries and application were set.

PURPOSE OF LAW AND THE CONCEPT OF JURISPRUDENCE

Providing justice for its residents is the state's primary duty. Each state has the capacity to administer justice in accordance with its own legal framework. Even in ancient times, a ruler's primary responsibility was to ensure that their subjects were treated fairly. In order for a judgement to be just, unbiased, fair, and right, it must represent something that is just and right.

According to contemporary legal doctrine, justice entails the application of ideas like equality and liberty. It also includes the acceptance and application of laws passed by the Parliament, which serves as the legislative branch. And the Supreme Court of India, in particular, performs

the function in the judicial system. Justice then refers to the courts' acknowledgment, implementation, and enforcement of the law.

DECLINE OF DHARMA AND ADVENT OF POSITIVE LAW

Dharma (Hinduism) began to lose its gloss and roots with the introduction of Muslim control, which was followed by British rule. Dharma was replaced by koranic teachings when under Muslim authority, but many practises persisted, therefore it mostly stayed unaltered. But as British rule spread, their ignorance of Indian laws had a disastrous impact on the concept of dharma because they discovered that there were no laws in place to govern the populace. To address this, they either imported western law, or natural law, with the tenets of equality, justice, and morality, or they imposed western laws through codification in areas where neither Hindu nor Muslim natural law, teachings, or customs provided a legal framework. However, people's civil liberties and rights were restricted. Indians were arbitrarily and brutally subjugated in all areas of life, including politics, society, and the economy. The rights and liberties that the Indians had previously under the Law of Dharma were defended by them. Gandhiji said during his illustrious champaran trial that he broke the law not out of disrespect for British law, but rather "in obedience to higher law of our being-the vice of conscience," by which he meant Dharma.

IMPORTANCE OF JURISPRUDENCE

1. The goal of jurisprudence is to study and analyse the law and related concepts in order to help people grasp the complexities of the legal system.
2. It is helpful in the real world for resolving legal issues. It aids the legal expert in honing their legal acumen as they analyse the legal ideas of the legal situation. Other social sciences like sociology, political science, ethics, etc. have connections to jurisprudence. As a result, conducting jurisprudence research encourages social interaction.
3. Because it aids in the effective formulation and application of legal principles, jurisprudence is referred to as the grammar of law.
4. It emphasises the significance of putting current social demands ahead of concepts when addressing legal issues.
5. It has a number of essential legal principles that make it easier for its use to be successful in resolving legal issues.

INDIAN PERSPECTIVE

One of the oldest legal systems in existence, the Hindu legal system is founded on the idea and philosophy of Dharma. It incorporates the idea of Nyaya, often known as justice, which is the universal law. Hindus have a belief system called as "Dharmashastras" that dates back to ancient times and ensures that humans coexist peacefully with the rest of the cosmos.

The following are some of the most significant laws:-

1. MANU SMRITI:

It consists of an organised collection of Dharmashastra regulations that address every area of the law. Manusmriti is written in straightforward language, which gives it additional authority.

2. NARADA SMRITI:

It consists of both procedural and substantive laws. Procedural laws specify how a crime is committed, whereas substantive laws specify the crime's offence and punishment.

3. ARTHASASHTRA:

It consists of Hindu political agreements. The common law system is the foundation of the contemporary Indian legal system. India is a secular nation as well. As a result, the old Hindu legal system is no longer applicable in the contemporary setting.

A COMPARISON

In contrast to modern law, which is based on justifications and does have religious components, dharma denotes the regularity of an order that is universally acknowledged and contains religion, obligation, and inseparability from a quality or an order. Dharma is a notion based on obligations, yet current legal systems prioritise rights over obligations. The current system does not acknowledge moral or ethical principles and instead of conduct or motive, it instead concentrates on the deed and the consequences. Dharma in itself encompassed morality, ethics, and virtuous behaviour of a man.

The law is founded on logic and binds through the use of legal sanctions imposed by courts (humans), whereas dharma assumes the supernatural and binds people together through a shared fear of the same supernatural. Modern law consists only of rights, legal obligations, etc. And not with moral behaviour, making it special in character while Dharma is universal and

pervasive. The law is founded on rationality and assumes that man has an idea of "what ought to be." It has been discovered that the welfare state idea, which characterises modern states, has Dharmic origins. There is abundant evidence that the Dharma and the Rigveda served as the inspiration for human rights and fundamental liberties.

CONCLUSION

Dharma and law, as seen above, may appear to be at odds, although they both share the same philosophical foundation. In general, law is an unbroken component of Dharma, and together, they make up a unified, cohesive whole. On the one hand, dharma is thought to be religious, however this is not the case, and the Honourable Supreme Court has confirmed this in several instances as mentioned in the previous sections. Our behaviour, morality, and laws have been and continue to be in part guided by dharma. On the surface, there may appear to be no connection between the two, yet a closer look reveals that they are both parts of an interconnected whole. One of the various sources of contemporary law is "Dharma," which is reshaping society. So, 'dharma' can be considered to be. As a result, it may be claimed that "dharma" and "law" are intertwined and closely related. Dharma has demonstrated its enduring nature by withstanding the test of time.

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