



Conceptualization of Law And Justice In Ancient India

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Abstract

The ancient Indian system of social living was organized on the concept of quiet presence in light of Dharma (virtuous) standards. They had distinct information of law and judicial system. They loved a chain of command of courts such as Kula, Shreni, Gana, Adhikrita and Sasitha. A portion of the remote Legal advisers and students of history particularly the Europeans contend that there was no 'manage of law' in ancient India and that the ancient Indian progress was primitive and can't be considered as a human progress.

They lecture that there was no evident created judicial system existed in ancient India. Be that as it may, the abnormal state of non military personnel life accomplished by the ancient Indians, their improvement and the riches produced which pulled in the West couldn't be accomplished without an exceedingly powerful question settling system. To answer this relational words an investigation of the ancient Indian system of question settling instrument must be led in an unprejudiced way.

Keywords: - Dharma, Smiritis, Surtis, Kula, Shreni, Rajdharmas, Tarka, Justice, Ancient

INTRODUCTION

India had appreciated an unmistakable legitimate history well before the soonest Vedic ages going back to the Neolithic age (7000 BC to 3300 BC). There existed a Common and Criminal arbitration process and it proceeded through the Bronze Age to the Indus Valley Human progress. The confirmation can be followed from the

ancient writings - The Vedas, Smrithis, Upanishads and Arthashastra. One of the remarkable components of the Ancient Indian Law was that it was Mainstream in nature in view of Dharma Guideline (Characteristic Justice). The Indian masses around then was acclimated to the thought of living under the law and

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had court systems to manage Common and Criminal cases. In this manner 'India has the most seasoned legal on the planet. No other judicial system has a more ancient or magnified family' as said by Justice S. S. Dhavan.

The ancient Indian legitimate system says in regards to 18 principle titles of law as conceived in Manu Smrithi. These titles of law were non-reimbursement of obligation, store, organization business, resumption of blessing, offer of an article by one other than its proprietor, non-installment of wages, break of agreement, obligations of spouse and husband, parcel of the legacy, contrition after deal or buy, question between the ace and the guardian (of steers), limit debate, mishandle, excessively serious exacting of disciplines, burglary, brutality, infidelity, betting and creature wagering.

According to the procedural law under the lawful system of ancient Indian culture, a reason for activity emerges when a man, being bothered as it were in spite of the standards of Smrithi and use, stops a dissension. The judicial procedures generally involve four sections, to be specific protestation, answer, proof and judgment. Answers can most likely be of four sorts, and these are confirmation,

dissent, an exceptional supplication, identifying with a previous judgment. Three sorts of proofs are specified in particular report, ownership and witness.

Smrithis in Ancient India focused on the requirement for a viable judicial system to complete the Justice as indicated by Dharma and it underscored that the essential obligation of the Ruler was the administration of justice. Lord was in charge of the rule of law and to secure the general population and rebuffing the miscreant.

In his work The Indian Judicial System a Chronicled Overview Mr. Justice S. S. Dhavan gives an unmistakable picture on the system of Legal that had existed in the before times.

"The ancient India had the most elevated standard of any country of days of yore as respects the capacity, learning, uprightness, fairness, and autonomy of the legal, and these standards have not been outperformed till today ; that the Indian legal comprised of a chain of importance of judges with the Court of the Main Justice (Praadvivaka) at the top, each higher Court being contributed with the ability to survey the choice of the Courts underneath ; that debate were chosen basically in agreement with similar standards of normal justice

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which oversee the judicial handle in the present day State today; that in criminal trials the denounced couldn't be rebuffed unless his blame was demonstrated by law ;that in common cases the trial comprised of four phases like any cutting edge trial – complaint, answer, hearing and announcement ; that such tenets as *res judicata* (*prang nyaya*) were well known to Indian statute ; that all trials, common or, then again criminal, were heard by a seat of a few judges and seldom by a judge sitting separately ; that the announcements of all courts aside from the Lord were subject to offer or survey as per settled standards ; that the key obligation of the Court was to do justice "without support or dread".

TYPES OF COURTS

The courts are evaluated according to their chain of command into six as given by Katyayana Smrithi. They are:

1. *Kula (Family Gatherings)* - A gathering of elderly instructed people in the family to determine the debate inside the family or gathering of groups of same birthplace.
2. *Shreni (Chambers of exchange or profession)* - A get together of elderly and learned people who are acknowledged as unprejudiced

among a gathering of brokers, experts and specialty men to arbitrate the debate.

3. *Gana (Gathering of a town)* - This was an expansive get together of seniors in the town or grama who are acknowledged by the general population of the zone as educated, fair-minded and having uprightness.
4. *Adhikrita (Court named by the Ruler)* - These are the courts approved by the Ruler for conveying the justice in which people who are knowledgeable in the Sutras and Smrithis are designated as judges. This kind of courts was of different sorts as indicated by their locale. They are (i) *Pratishtitha* which was set up at a specific town or town. (ii) *Apratishtitha* was a portable court which will amass in a specific place to attempt a particular case as rung on by the Ruler. (iii) *Mudrita* was a more elevated amount court which was approved to utilize the illustrious seal.
5. *Sasita (Rulers Court)* – It was the most astounding court of law in the Kingdom. It was managed by the Ruler himself. There was a boss Justice called *Pradvivaka* and a

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gathering of Judges called Sabhyas to help and help the Ruler.

6. *Nripa (Ruler himself)* – The Lord was the Incomparable specialist in the arbitration legitimate process and he was guided by the standards of Dharma, which he couldn't supersede.

COURTS AND THEIR AUTHORITY

Kula, Shreni and Gana could trial all the common and criminal question aside from for an offense of brutality (Sahasa). The cases including savagery are to be attempted by the Adhikrita a court selected by the Ruler. Corporal disciplines are to be chosen by the Sasita (Lords Court) however to be concluded by the Lord himself.

A choice rendered by the Kula can be looked into by the Shreni and a choice by Shreni can be checked on by the Gana. In like manner the choice of a Gana can be looked into by the Adhikrita courts.

The Law Commission in its Fourteenth Report had stated: "However ancient journalists have delineated a pecking order of courts as having existed in remote past, the correct structure that got can't be learned with any definiteness; yet later works of scholars like Narada, Brihaspathi and others appear to recommend that general

courts more likely than not existed on a significant scale." Along these lines the chain of command of courts was considered to be existed in the ancient India with specific components of definitive stepping stool of audit control over the courts beneath.

MAGISTRATE OF THE COURTS

The ancient writings give points of interest on the way of determination and the capability of Judges. Yajanvalkya charges: "The Sovereign ought to select as assessors of his Court people who are knowledgeable in the writing of the law, honest, and by temperament equipped for finish fairness amongst companion and foe."

The Rajadharm encourages the Lord to name Judges with specific qualities. They are:

The judge ought to be a man who was:-

- (i) Knowledgeable in Vyavahara (laws controlling judicial procedures) and Dharma (law on all points),
- (ii) A Bahushrutha (significant researcher),
- (iii) A Pramananjana (knowledgeable in the law of confirmation),

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- (iv) A Nyayasasthrevilambinah (law standing) and
- (v) Has completely concentrated the Vedas and Tarka (rationale) ought to be delegated to bear on the administration of justice.

Katyayana gives some more criteria on the nature of a Judge and they are " a Lord ought to choose a man as a judge one who is not remorseless, who is sweet tempered, kind, sharp and vivacious however not greedy'. The old writings say that the judges must be fair-minded, free and brave.

The high and respectable part of magistrate in the administration of justice was set down in the Smrithis and Sastras. The abnormal state of fearlessness and freedom on their part, regardless of the possibility that their choices are against the desires of the Lord, are of extraordinary esteem and a wellspring of motivation to us. This guideline of independency of legal was moreover authoritative on the Ruler as the matchless quality of Dharma was all-powerful and law got its endorse from the confidence of the general population and the Ruler in Dharma and was in congruity with the definition 'Law is the Lord of Rulers'. In this manner it can be seen that the Smrithis

had set out a reasonable and firm establishment for a viable free judiciary.

Each Smritis accentuates the incomparable significance of judicial honesty. Shukra-nitisara says: "The magistrate named by the ruler ought to be well versed in system, shrewd, of good character and temperament, delicate in discourse, fair to companion or adversary, honest, learned in law, dynamic (not sluggish), free from outrage, free from avarice, or sick yearning (for individual pick up), and honest." Vishnu says: "The state ought to take the whole property of a judge who was degenerate. Judicial unfortunate behavior included chatting with disputants in private amid the pendency of a trial. Brihaspati says: "A judge or boss justice (Praadvivaka) who secretly chats with a gathering before the case has been chosen (anirnite), was to be rebuffed like a degenerate judge.

LEGAL OFFICER

The concept of legal officer showing up for the gatherings and helping the court was connected in the ancient circumstances. Such a man knowledgeable in law and was designated by a gathering to suit was known as a Niyogi (Lawyer). The Niyogi was qualified for get charges and Sukra

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Neetisara states that 'the individual approved to speak to a gathering in court was qualified for get his compensation to the degree of 1/16th, 1/20th, 1/40th, 1/80th, or 1/160th of the suit assert and the compensation ought to be contrarily corresponding to the suit claim.

PROCEDURE OF THE COURT

The courts in ancient circumstances chipped away at well laid procedural system. In the event that anyone was harmed by others he can record a Pratijna (plaint) before the court. Vadin was the Offended party and Prati Vadin was the Litigant. Dharma Kosa gives the nature of the plaint as it ought to be brief in words, rich in substance, unambiguous free from irrelevant certainties, without dishonorable contentions, exact and not self conflicting and it ought to have a important petition set out against the defendant. The Litigant had to advance his contentions in an Uttara (composed proclamation) which ought to be comparable to the plaint. At the point when a plaint was recorded there was an arrangement for forcing a limitation by Asedha a between time directive.

Court charges were likewise pertinent as the judgment account holder was at risk to pay 5% of the suit sum and the offended party was to pay an equivalent The

trial was done according to Dharma sastras and in a manner ensuring the faith and confidence of the litigants and the public in the judiciary. Burden of proof was cast on the person alleges the offence. The parties can produce the witness and in the absence summons to the witness was ordered by the Judge.

Jayapatra (document of victory) was the judgment and it was called so as one party was to win the case. The Jayapatra should contain:-

- i.** A brief statement of the plaint and the written statement;
- ii.** Evidence adduced by the parties;
- iii.** Framing and discussion on the issue;
- iv.** Consideration of arguments by the parties;
- v.** Application of law;
- vi.** The separate opinion of the judges;
- vii.** Final decision; and
- viii.** The seal of the court. While delivering the judgment the judge should act according to justice equity and good conscience.

Regarding the Criminal justice The King or his officers has to take cognize of the offence on their own motion or on a complaint from anybody. The offences were classified as :-

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- i. Aparadhas – small offences;
- ii. Pathakas – more grievous offences and
- iii. Chalas – offences against the government and public.

The Mahabharata says 'punishment protects Dharma, Artha and Kama'. Dhanda Neeti is well accepted in Sastras and it was considered to be important that without the King and his power to punish the criminal's human beings would have always been tormented by fear, insecurity and threat to life and property. It is difficult to find people who are always pure in all aspects and a deterrent is always needed to correct the wrong doer. The punishments were classified in to:-

- i. Vagdanda – admonition;
- ii. Dhigdanda – censure;
- iii. Dhanadanda – fine;
- iv. Angaccheda – mutilation;
- v. Vadhadanda – Death penalty.

CONCLUSION

The ancient justice of Indians was of an eye opener for the present day law producers and the overall population. The outsider decide that India saw for a considerable length of time had crushed the ethnic, social and social arousing that India had in the far off past. The all around

created Lawful frame work and the Legal immovably bound on the Dharma standard and the devout nature of the Indian individuals adhering on to administer of law has empowered India to lead the Principal Upheaval ever, the Rural Unrest. The Indian sub mainland was rich in assets and riches that pulled in the outside trespassers were history. For a civilization to obtain this advancement, needs a social system of peace living which thusly require a right and debasement free law and request system and a dynamic legal? The ancient judicial system set around the awesome soothsayers of India has every one of the prerequisites for a steady and workable legal as can be seen from the above discourse and it was coordinating indeed, even with the present day system.

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