**LAW AND HUMAN RIGHTS IN ANCIENT INDIA: AN OVERVIEW**

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According to Collins English Dictionary the Law is a system of rules that a society or Government develops in order to deal with crime, business agreements and social relationship. Was there a rule of law in ancient India? Yes it had a unique legal history which stretched back to the Neolithic era (7000 BC to 3300 BC). It was before the early Vedic ages. There were civil and criminal adjudication protocol to follow that spanned from the Bronze age to the Indus valley civilization. We can prove it by reading the ancient literature i.e the Vedas Smritis, Upanishads etc. By reading these the reader will discover that Indian jurisprudence was found on the rule of law. The king himself was subject to the law. The king’s right to govern was subject to the fulfillment of duties and if he failed to do the duties, his kingship was forfeited\(^{(1)}\). The case of Ananthapindika\(^{(1)}\) v jeta reported in the vinaya-pitaka\(^{(2)}\) is a shining illustration of this principle. According to it a Prince and a citizen submitted their cases before the law court and the court decided against the Prince. The Prince accepted the decision. In the Mauryan Empire Kautilya describes the duties of a king in the Arthashastra thus: “In the happiness of his subjects lies the king’s happiness; in their welfare his welfare, whatever pleases him he shall not consider as good, but whether please his people he shall consider as good”\(^{(3)}\). The principle which we find in the slokas of Kautilya was actually based on a very ancient tradition which was already established in the age of Ramayana. Rama, the king of Ayodhya, was forced to banish his queen Sita whom he loved and whom he trusted completely. But his subjects disapproved Sita because she had to leave a year in the house of a abductor. Rama approved the will of his subjects though it broke his heart. We can find it in the Mahabharata also. A common fisherman refused to marry his daughter with the king of Hastinapur unless he accepted the condition that his daughter’s son would succeed to the throne. The king of Hastinapur could not compel an ordinary subject to give his daughter for marriage without accepting his terms; Thus it is proved that kings in ancient India could not do whatever they liked. They had the right to do what was lawful and beneficial for the subjects.

A remarkable aspect of ancient India law was its secular nature and it was founded on Dharma Principle (Natural Justice). According to Dharma “Law is the king of kings”\(^{(3)}\). At that time people lived under the rule of law.

\(^{(1)}\) Ananthapindika was one of the Buddha’s principal disciples.

\(^{(2)}\) Vinaya- Pitaka is the first of the three divisions of the Tripitaka.

**Types of Ancient Indian Courts:**

According to Brihaspati Smiriti\(^{(4)}\), there were six categories based on their rank\(^{(4)}\).

i) The Kula: Senior members of the family educated other members of the family how to handle conflicts inside the family.

ii) The Shreni: Senior, knowledgeable, unbiased people among a group of traders, professionals or craftsmen arbitrated conflicts.

iii) The Gana: Senior, Trustworthy, knowledgeable, unbiased villagers handle the conflict of a region.

iv) Adhikrita: These are all the courts which were recognized by the king to serve justice.

v) Sastita: This was the kingdom’s highest court of law. The king himself presided over it. To serve and support the king there was a Chief Justice named Pradvi vakta and a group of judges named Sabhays.

vi) Nripa: The king was the supreme authority in the legal system. He was governed by the Dharma Principle.

So we can see the hierarchical system of courts were existed in the distant past.

The qualifications prescribed for judge was very high. According to Katayana\(^{(4)}\), “A judge should be austere and restrained, impartial in temperament, steadfast, God-fearing, assiduous in his duties, free from anger, leading a righteous life, and of good family”\(^{(5)}\). The strictest precautions were taken to ensure the impartiality of the judges. A trial occurred in open place and it was forbidden to the judges to talk with the parties. Another safeguard of the judicial integrity was that suits could not be heard by a single judge, even if he was the king. A Judge was punished if he committed any dishonesty. According to Brihaspati, “ A judge should be Banished from the realm if he takes bribes and thereby perpetuates injustice and betrays the confidence reposed in him by a trusting people”.

\(^{(3)}\) Brihaspati Smiriti is one of the legal literature of ancient India.

\(^{(4)}\) Katayana was a Sanskrit grammarian and Vedic priest.

The most remarkable feature of ancient judicial system was the institution of Sabhasada or councilors who acted as assessors or adviser of the king. These assessors expressed their opinion without fear. They even warned the king if the king did any violation of law to solve a dispute.

In criminal trials the question of innocence or guilt of the accused was decided by the judge or the jurors but the quantum of punishment was left to the king \(^{(6)}\). The punishment where divided into several categories:

i) Vagdanda: reprimand
These systems of substantive law were recognized by the court - the Dharma- Shastra, the Artha- Shastra and custom which was called Sadachara*5 or Charita.

In ancient India we also find the law about the collection of taxes and import duties.

The real test of any judicial system is to discover the truth. In ancient India it stood high under this test. All the foreign travelers from Megasthenes in the third century BC to Huen-Tsiang in the seventh century AD testified that truthfulness was practiced by Indians in their worldly relations. Megasthenes wrote “Truth they hold in high esteem”(7). Fahien and Huan Tsiang also observed the same. Indians practiced the virtue of truthfulness for thousand years and it became tradition and we find the tradition in the field of law. In this respect we can quote the opinion of John W. Spellman - ‘In some respects the judicial system of ancient India was theoretically in advance of our own today’. (8)

*5: Sadachara means right conduct.

**Human Rights in Ancient India:**

In ancient India we do not find the word-’Human Right’ but the content of Human Rights was included in ancient educational pattern. Ancient Indians stressed the value of moral education in human life. The individual in ancient India existed as a citizen of a state and he had both rights and obligations. These rights and duties have been expressed in terms of duties (Dharma) - duties to one self, to one’s family, to the society and to the world. There are many references in Vedas which throw light on the existence of human rights in ancient India. The Vedas proclaim Liberty of body (Tan), dwelling house (Skridhi) and life ( Jibase). The legal rights were first formulated by Manu.*6 But he also added a number of economic rights. (9) In 1367 BC Bahamani and Vijayanagar kings made an agreement for the treatment of prisoners of war(10). Human rights always occupied an important role in ancient India because Indians always believed one concept- “Vashudhaiva- kutumbakam”.

In the past Vedic period Buddhism and Jainism focussed on the rights of the lower class people. Life was more human and liberal in the post Vedic Era. After Buddha, Emperor Ashoka protected and secure the human rights- particularly the right to equality, fraternity, liberty and happiness. Ashoka made provisions for securing basic freedoms.

The theories and evidences show that the ancient Indians were aware about the concept of human rights and those rights were related to the duties. Rights and duties were inter-related in Indian culture and society which were seen through customs and rituals.(11)

*6: Manu is the legendary author of an important Sanskrit Law Code, the Manu-smriti (Laws of Manu).

**Bibliography**

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