



The Concept of Vyavahāra in Yājñavalkyasmṛti

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Abstract

Law or Vyavahāra is the mirror of society. The reflection will be clear if the society is law abiding it is based on the principles of behavior which are very essential for a deteriorated society. In the past, the laws set by the Smṛti governed the society. In that sense the Smṛtis are the reflections of the ancient society. The Smṛti period can be said the golden age of Hindu law as it was a period of reformation. During the post-smṛti period, the laws put in forth in were taken for a critical study so as to decide whether any changes or modifications are to be brought with. It would be proper to mention here that Vyavahāra as a category gained much importance in the course of dharma. Vyavahāra is a part of Rājadharmā. The course of action of Vyavahāra is based on practical experiences. The dharma directs to unseen fruits to be enjoyed in after life. The results of Vyavahāra are to be acquired in this very life. Practically Vyavahāra has an important place in life since it creates bonds and frees up to a level. Vyavahāras especially those dealt with in court are capable of changing even the destiny of a human-being.

The culture of a society is said reflected in the law system. It is not possible to assume the ancient law system. Mainly, on the Manusmṛti and Yājñavalkyasmṛti the basic legal principles controlling the society at that time are depicted. In the present Indian system, there are separate civil and criminal procedure codes. But in ancient India, there might have been a common code, since no irregularities or hatred from any quarter are seen reported in any of the treatises.

Keywords: Vyavahāra, smṛti, Manusmṛti, dharmasūtras, sabha, PRĀDVIVĀKA, AMĀTYA, GAṆAKA



Introduction

Law or Vyavahāra is the mirror of society. The reflection will be clear if the society is law abiding it is based on the principles of behavior which are very essential for a deteriorated society. In the past, the laws set by the Smṛti governed the society. In that sense the Smṛtis are the reflections of the ancient society.

The Smṛti period can be said the golden age of Hindu law as it was a period of reformation. During the post-smṛti period, the laws put in forth in were taken for a critical study so as to decide whether any changes or modifications are to be brought with. It would be proper to mention here that Vyavahāra as a category gained much importance in the course of dharma. Vyavahāra is a part of Rājadharmā. The course of action of Vyavahāra is based on practical experiences. The dharma directs to unseen fruits to be enjoyed in after life. The results of Vyavahāra are to be acquired in this very life. Practically Vyavahāra has an important place in life since it creates bonds and frees up to a level. Vyavahāras especially those dealt with in court are capable of changing even the destiny of a human-being.

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Yājñavalkyasmṛti

The Yājñavalkyasmṛti is a sacred Hindu book. It has very importance in the Indian Hindu law. This smṛti is written in the most classical Anuṣṭubh meter. It is more systematic than Manusmṛti. The well-known commentary named Mitākṣara was written by Vijñāneśvara. These books which comprise law and rules of conduct claim an origin from dharmasāstras. An aggregate of dharmasūtras are subsumed in Vedāṅgakalpasūtra. This smṛti also reveals the religious, political, social and cultural life of the people at that time. Having asked people to abide to law it also gives hints to them how they will be benefited personally by living a good citizen. This is more modern and contains legal rules.

Yājñavalkya Smṛti has so many commentaries. Among them one compiled by Vijñāneswara namely Mitākṣara is regarded in high esteem. Mitākṣara - law which is considered the earlier form of the Hindu code bill emerged from this. After Manusmṛti, Yājñavalkya Smṛti which took its place was treated in high esteem. The verses are written using the meter, Anuṣṭubh.



During the British reign, the Hindu law was furnished based on the Smṛti of Yājñavalkya. A commentary named Dāyabhāga became popular in Bengal, and the commentary called Mitākṣara caught the attention of the learned in other parts of India. Compared with other Smṛti treatises this one stands foremost owing to its explicit nature in explaining every aspect of dharma.

Vyavahāra

In the ancient society, the king had the suzerain power to decide and to resolve the disputes besides him other tribunals also worked. Therefore, the determinations of the king and other judicial tribunals supplied a main source of law as the decisions served as conventions for future pronouncement on the similar facts and situations. As already stated there existed a regular hierarch in court in ancient India which discharged the functions to decide disputes. Therefore, in course of time judicial decisions served as a guide to the courts to resolve the disputes accordingly in future controversies of the like nature. About these decisions Bacon rightly said. Judicial decisions are the anchors of the law as the law is the anchors of the state. In the ancient judicial system, great care was taken of the correctness of the law propounded by the tribunal as it was ultimately the king, the keeper of conscience and his administration which was adversely resulted by a guilt determination. In course of time original texts, śṛuti and smṛti were to be looked for advice only when there was no decided case or usual practice the point. Only in such cases the courts considered the question open and looked for guidance in original texts.

Causes of Vyavahāra

Yājñavalkya puts down that if some people raise a complaint against a person who is really innocent he can approach the king for justice which in turn will become a subject of a judicial proceeding.

स्मृत्याचारव्यपेतेन मार्गेणाधर्षितः परैः ।

आवेदयति चेद्राज्ञे व्यवहार पदं हि तत् ॥ ¹

If not there is a complaint, there is no legal action. A complaint may be of two kinds, śamkābhiyoga (based on doubt) and tattvābhiyoga (based on truth). After finding a complaint against one as a thief, misled by his doubtful movements, if comes to be known that he is innocent, the complaint raised will come under the former. A Thief when caught red-handed, the complaint against him is of latter type. Manusmṛti (VII.4.7) speaks of eighteen types of vyavahāra. Of there the first is 1.Ṛṇadān (recovery of debts), 2.Nikṣepa (deposit of property with another), 3.Asvāmi-vikraya (sale by a non-owner), 4.Sambhuya-samuthāna (partnership



business) 5. Dattasyānapākarma (resumption of gift) 6. Vetanādāna (non-payment of wages) 7. Saṁvid-vyatikrama (breach of contract) 8. Kraya-vikrayanusaya (dispute arising from repentance on purchase or sale) 9. Svāmipāla-vivāda (dispute between owner and keeper) 10. Simāvivāda (dispute on boundary) 11. Vāk-pāruṣya (abuse) 12. Daṇḍa-pāruṣya (too severe punishment) 13. Steya (theft) 14. Sāhasa (act of violence) 15. Stri-samgrahaṇa (having acquaintance with the wife of somebody else) 16. Stri-pumsadharma (duties of husband and wife) 17. Vibhāga (partition of inherited property) 18. Dyūta-samāhvaya (calling for gambling)

Structure of Vyavahāra

1. Sabha or Court (Hall of Justice)

Brhaspati says that the king should construct a separate building in his fort, with water facilities. There should be on the eastern side of it he should arrange the court room, facing the east corner possessed of all the essential characteristics of sabha. In Kātyayana's words the sabha is dharmādhikaraṇa (the abode of justice). It is a place truth dwells, where and falsehood is driven away. As for Manu, the king desirous of investigating judicial proceedings should enter the sabha, being well-mannered and wearing a dress suitable to the situation, along with the ministers and Brāhmins who are well versed in state policies look in to the cases of the litigants.

Yājñavalkya remarks the king being free from anger and avarice, should investigate judicial proceedings along with Brahmins who are well-versed in dharmaśāstras. Kātyayana says that the word 'nṛpa' means one despite his caste and religion, is able to protect the subjects.

The king who looks into the judicial proceedings together with the judge, the councillors, the brāhmins, the family priest and the sabhyas (members of assembly) reaches heaven after death on account of his dharma (virtues). In this passage the word Brahmin indicates one who is not appointed, but eligible to enter the court as a birth, while sabhyas are those who are appointed. Nārada also reveals the same opinion.

2. Prādvivāka (Judge)

He, who in a controversy asks questions and also cross-questions and who is the first to speak in a sweet manner, is therefore known as prādvivāka.

3. Amātya (Councillor)

The king should appoint as amātya a person of the regenerate classes, who knows all the śāstra's, who is not avaricious, who utters what is just, who is a



Brahmin, who is wise and to whom the office comes hereditarily. In this passage the word dvija is used again for the purpose of including a kṣatriya or a Vaiśya in the absence of a Brāhmin. Where, there is no learned Brahmin should appoint a kṣatriya or a Vaisya who is proficient in dharmasāstra.

4. Gaṇaka and Lekhaka (Accountant and Scribe)

The king should appoint as gaṇaka and lekhaka two persons, who are well versed in the principles of grammar and lexicography, who are proficient in reckoning who are pure and who are acquainted with various alphabets. Yājñalkya says that a king who cannot, owing to pressure of work, look into the cases should appoint a Brāhmin learned in all dharmasāstras. Bṛhaspati declares the duties of the king and the presiding judge. The presiding judge should advise the king as on whom he should lay a finger on. The accountant is to count the money and the scribe is to write a good hand the legal proceedings. The king should sit facing the east, the north, while the accountant should face the west and the scribe the south.

Yājñavalkya speaks of determining agencies other than the royal court. In matters of judicial proceeding men belonging to superior race, should be appointed by the king.

Traditionally, there were generally eighteen vyvahāra padas or titles of law or matters of dispute are put down in Manusmṛti. In vyvahārādhyāya has twenty five prakaraṇas. There are:-

Sādhāraṇa vyvahāramāṭṛkā (Law in regulations in general), Asādhāraṇa vyvahāramāṭṛka (Exceptional Regulations), Ṛṇadāna (Laws Relating to Loans), Upanidhi (Laws relating to Deposit), Sākṣi (The laws of Evidence), Lekhya (Laws Relating to Written Document), Divya (Daivi or Divine Tests), Dāyavibhāga (Divisions of Property), Simāvivāda (Laws Relating to Disputes about Boundaries), Svāmipālavivāda (Laws Relating to Disputes among the Keepers), Asvāmivikraya (Laws Relating to Sale of Articles), Dattāpradānika (Laws Relating to Gift and its Acceptance), Krithānuśaya (Laws Relating to Returning a thing Purchased to the Seller), Abhyupethyāśuśruṣa (Laws Relating to the Breach of Contract) Samvidevyatikrama (Laws Relating to the Breach of Established Usage), Vedanādāna (Laws Relating to Non-Payment of Wages), Dyūthasamāhvaya (Laws Relating to Gambling and Betting with Living Creatures), Vākpāruṣya (Laws Relating to the Abuse Words and Defamation), Daṇḍapāruṣya (Laws Relating to Assault and Violence), Sāhasa (Laws Relating to Robbery) Vikriyāsampradāna (Laws Relating to Non-Delivery of Article Sold), Sambhūyasamudhāna (Laws Relating to Joint



Stock Companies, Steya(Laws Relating to Theft), Strīsamgrahaṇa (Laws Relating to Adultery and Seduction), Prakirṇa (Miscellaneous Rules)

Conclusions

Yājñavalkya Smṛti bears the almost importance, since it is the law of the majority of the Hindus. The Mitākṣara is the most reliable commentary on this treatise. It has, in effect, superseded the code of Manu; not only Manu, but it has superseded all the earlier treatises and in several aspects it acts as a superincumbent on other codes. It became the accepted code or law of the whole Āryans not only on account of its collective materials, but also for its forwarding liberal juridical norms.

This treatise of Yājñavalkya is a science of morals. The readers will see it arranged in three divisions, including chapters on politeness, on good quality and on atonement for the offences committed. It also includes in instate Hindu law code Mitākṣara too, where in laws governing the enjoyment of rights on property in Hindu Undivided family have been noted. In a way, these laws make one aware of the good qualities which are essential to become a good citizen. Thus, Yājñavalkyasmṛti serves as a master key to upon the doors of justice so as to enhance the thought of human beings gradually growled from the stage of Homo-sapiens to this modern civilized one.

Though the laws depicted such treatises have only. Contingent pursuance in human life, it is necessary for anyone to study these once prevailed laws to lead a successful like. This unmatched book of the sage, Yajnavalkya, undoubtedly serves the purpose of a guide even in this modern era due to its depiction of unquestioned laws useful for the whole mankind.

Notes

1. M.N.Dutt, op.cit, Yāj.S, ll.5, vol.II, p-6

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