

Law And Legal Institution in Ancient India (During Gupta Period)



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KEYWORDS	ABSTRACT
Indian Legal aspects, Legal Institution in ancient India, incarnation of justice	The king was considered to be the “incarnation of justice.” He administered justice. There was also a high official at the capital for justice, and the Supreme Court which tried important local cases and entertained appeals against the decisions of the lower courts. In certain case the village assembly alone sat for judgement and passed sentences. Capital punishment was unknown, mutation was the highest punishment for repeated rebellions. The laws were few and mild, and most of the crimes were punished only by fines. The people were virtuous, rich and prosperous; the cities were crowded. People have not to register their households or attend to any magistrates and their rules. Justice was often administration by the sovereign himself or a high official at the center or in the provinces. Judges at the headquarters of a district had apparently the assistance of the chief Seth’s and Kayast has of the locality, representatives of the commercial and official classes. In the Gupta age there were five kinds of courts- village councils (kulas), the corporations (semis), the jeans, a person appointed by the king and the king himself.

Every organised political community provides for the admiration of justice as one of its essential functions. This function is directly connected with the necessity of guaranteeing protection to the people. According to our Law-gives, the protection to the people and the punishment of the wicked constitute the most important duties of sovereign; in the absence of which there will be a complete disorganization of society. According to the Law-givers it was the kings sacred duty to punish the wrong- doers and if he flinched- form discharging it, he would go to hell. The king was the fountain-

source of justice and was required to devote every day a couple of hours to the administration of justice.

Hindu Law is a code of duties. The jurisprudence as dealt with in the Hindu Code appear “complete and exhaustive, and includes all branches of law suitable to the exigencies of Hindu society and actually prevalent therein.¹ Law, according to Hindu conception, “it that rule of conduct authoritatively imposed by the divine power as proper for man, as a being capable of eternal existence governing all his activities, public and private and affecting inseparably his spiritual and

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temporal interests.”² Every step in the life of a Hindu is guarded in the interests of the ultimate end. The Sanskrit word used for law is Dharma. It has a very wide connotation. It includes religious, moral, social and legal duties and can only be defined by its contents.³ Jaimini defines Dharma as “what is to be fulfilled as the object of a command is duly (Dharma).”⁴

The trial was mainly based upon the deposition of witnesses and its purpose was to ascertain the truth. The number of witnesses less than four but there may be more. Brihaspati says it may be nine, seven, five, four witnesses. But he also recommended two witnesses are more or sufficient if they are learned Bramanas. According to Vishnu Dharmasutra that no notice shall be taken of a single witness for deciding in the case. Only in case the justice of the deposition of a witness is perfectly established and certain before the judge, he may admit it. But one man alone may be a witness. In History of Dharmasatra, Kane says that the deposition of messenger, accountant, king or chief judge may be valid, even if he is the only witness. It is thus clear that in general no notice was taken of a single witness. A single witness could be accepted if he was an exceptionally reliable man, a regular performer of his religious duties, or his actions were pure or if he knew the Dharma and his truthfulness of an article.

The kings called ‘Prithivi,’ ‘Maharajadhiraja’ ‘Parama Bhattarka’ etc in the gupta age. Below the emperor was the feudatory called Nripa, Nirpati, Gupta etc. The local kingdom was called a Desa. For administrative purposes the emperor divided into provinces. Province called also ‘Bhukti.’ In the

Kumar Gupta I period Pundraravardhana Bhukti looms large in several inscriptions. It was governed by Governor. The title of a provincial Governor was ‘Uparika Maharaja’. The province was also divided into districts. Districts called ‘Vishayas’ and its head called ‘Vishayapati or District Magistrate.’ A District had its sub-division called ‘Vithis’. The head of Vithis is called Ayuktaka.

Some interesting details of local administration give in Damodarpr Copper Plates. The district headquarters were called ‘Adhithanas’ where were located the district offices and courts called ‘Adhikaranas.’ The District Magistrate was associated in his administration with an Advisory Council of non-officials representing the different interests of the locality viz.,

1. Nagara-Sreshthi (he was president of Town Corporation),
2. Sarthavaha (he is representative of the Guild of Merchants,
3. Prathama- Kulika (Chief of Guild of Artisans), and
4. Prathama- Kayastha (Chief of the Union of Writers or Scribes, Chief secretary).

The main sources of Hindu law and procedure are the smritis of Brihaspati, Narad, Katyayana, Vyasa and Parasara. The Narad Smriti is found in the complete form, while the rest have been compiled from the quotations in later works.⁵

The king's court was the highest in the state, and is called as sabha, dharmasthana and dharmadhikarana (the Hall of Justice).⁶ According to Katyayana the king should decide suits in association with learned Brahmanas, elders and ministers well-versed in state craft. He should do

so in the company of the Judge, the ministers, the Brahmanas, the Purohita and the assessors. The sabha consisted of ten limbs, some of which were the king, the Chief Judge, the assessors, the accountant, the scribe and the bailiff. The Chief Judge declared the law, the king awarded the punishment, the assessors examined the dispute, the scribe wrote the pleading, depictions and decisions, and the bailiff summoned the defendant, the witnesses and the assessors. The learned Brahmanas were entitled to state their view of the suit. Katyayana included learned Brahmanas as well as a few merchants in the court. The merchants were entitled to listen to causes in mercantile cases. The Smritis imposed moral, spiritual and legal sanctions for purity of the administration of justice. The sin for unjust decision is shared by the litigant, the witnesses, the assessors and the king.

There were five kinds of courts-village councils (the kulas), the corporations (srenis), the janas, a person appointed by the king and the king himself.⁷ Indians had great respect for the cows. Indian law provided that if any one killed a cow, he was to be put to death for it. There was a section in law which laid down that one who killed a cow was punished with death. According to Visnu Dharma Sutra⁸ cow killing was one of the mahapatakas, and one who was guilty of such crime was put to death. In Ancient India the king was considered the protector of cow and Brahmanas. The spiritual importance of cow generated a feeling among the Hindus that she is a Mata or Devi and should be protected by all means.

1. Land transactions of the times. Generally, lands were not to be sold under the rule called Apradakshaya Nivi indicating that the land was to be kept intact. The State granted land only on condition that its donor was to utilize its usufruct for a public purpose but must not sell it his own profit. The grant was sanctioned under a procedure. In this case the petitioner had to state in his petition that he agreed to the condition of sale, viz., According to Nividharma ensuring its gifts for a public purpose such as Agnihotra and Panchmahayajanas;
2. That the land was Khila aprada, aprahata, and not settled land;
3. That it was sold at the customary price. Lastly, the sale was sanctioned by a formal declaration that the rules not permitting it were waived.

It was the period of climax of Hindu jurisprudence. According to Narad, the legal business had four states- "receiving information from a person, then finding out under what title of law the information falls. the consideration of the pleadings of the parties and the evidence, and lastly the decision".

References

¹ C, Sarkar Sastry, Hindu Law, VIII Ed. Page 57.

² S. N. Sen, Essay on Hindu Jurisprudence, P. 12.

³ Kane, P. V., History of Dharmasastra, Vol- 1, P.1-3, Vol- 3, p.244.

⁴ Jaimini- 1, p. 1-2.

⁵ Ibid.

⁶ The Classical Age, Chapter XVII, p. 362-369. C, Sarkar Sastry, Hindu Law, VIII Ed. Page 57.

⁷ Jaimini- 1, p. 1-2.

⁸ S. N. Sen, Essay on Hindu Jurisprudence, P. 12.
