



A STUDY ON INTEGRATION OF INDIAN KNOWLEDGE SYSTEM WITH ANCIENT LEGAL THOUGHTS AND MODERN CURRICULUM OF LAW

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ABSTRACT

India is a country with rich heritage and culture with its own knowledge system. Justice delivery and legal knowledge are also an integral part of Indian Knowledge System (IKS). Inclusive and equitable legal system has been developed through IKS and it has enhanced the research and policy making system in the country. Traditional knowledge can be integrated through legal curriculum which will be resulted in inclusive and holistic approach of learning of law. The concept of Dharma, justice, customs and traditions are engrossed in jurisprudence and traditional knowledge, healthcare, human intelligence and inventions are protected through the law of Intellectual Property Rights. Dispute resolution system, judicial decisions, case studies, analysis and experiential learning utilize IKS to develop innovative approach in a particular sector.

Keywords: Indian Knowledge System, Legal thoughts, Curriculum, Traditional knowledge, Jurisprudence, Intellectual property.

INTRODUCTION

Indian Knowledge System (IKS) is body of knowledge developed and practiced from the past through various disciplines like science, art, literature, yoga, medicines, law, astrology, philosophy, mathematics and many more. Once the Philosopher Socrates rightly stated that, Knowledge is virtue and whatever is not knowledge is sin. In ancient India, the knowledge imparted through Gurukul system has brought into modern knowledge system imparted through educational institutions. Indian knowledge system has integrated to present education system with glorious history, logical precision, empirical testing of facts and comprehensive study with furnished rationality. Legal education and curriculum of law has gained magnificent inspiration from the past legal knowledge and thoughts.

AIMS AND OBJECTIVES

The aims and objectives of the study are as follows:

- To study Indian Knowledge System with Indian Legal System
- To understand the impact of IKS on curriculum of law
- To analyze the inferences of IKS on Legal practice and judicial decisions

METHODOLOGY AND MATERIALS

Methodology used by the researcher to write this research paper is doctrinal in nature and journals, case studies, precedents, case laws, books, articles from magazines and journals etc. are used to pursue the research work.



Significance of Indian Knowledge System in Legal Education

The Indian Knowledge System formulates and shapes most of the areas of knowledge in present era. Legal system is also not an exception to it. Law is interconnected with most of the disciplines and legal education; pedagogy and curriculum mainly focused on the light of past glory of knowledge and studies. Subjects like Jurisprudence, Intellectual Property Rights, Environment Law, Hindu Law etc. are mainly drawn their spirit and texts from the ancient Indian Knowledge based on Dharmashastras, Vedas, Upanishads and literature of Manu, Yajnavalkya, Parashara and the thinkers like Kautilya, Bhana Bhatta, Vijnaneshwara, Jimuthavahana etc. of medieval period. The principles and policies of the Constitution of India also inculcates the values of ancient Indian thoughts. Even though the Constitution of India has many sources, Indian Knowledge System has its own impact on present legal education and curriculum.

The concept of knowledge is very much connected and has nexus with library. The past Indian legacy is also narrated through knowledge sharing centers like Nalanda University-locates in present State of Bihar, University of Takshashila that focused mainly on various disciplines such as medicine, law, military science etc. and also Vikramashila that had rich repositories of Buddhist texts.

In Indian legal system, there is influence of colonial rule still the personal laws deep rooted into traditions, culture, customs and philosophical thoughts of ancient India. Hindu personal laws are mostly governed by the concept of Dharma and the matters like family, marriage, inheritance, etc. mainly based on societal harmony. The Hindu system of marriage, family, succession etc. are the contemporary legal structures that are shaped in ancient Indian Knowledge System. The Indian Constitution focuses on secularism in its preamble, but the source of it can be traced to ancient Indian thoughts like the spirit of 'Sarva Dharma Samabhava'.

International law also narrated in ancient scriptures and Kautilya provided for details on

foreign policies, alliances, war and peace making. The Indian concept of 'Vasudaiva Kutumbakam' is nothing but harmony and peace to achieve in international level. The laws of India and customs gave prominence to traditional Indian knowledge and popular knowledge. IKS has significance in modern education policy and curriculum, and learning environment is developed with culturally sensitive learning approach in present era. The similar context is identified even in the process of legal learning.

Jurisprudence and Ancient Indian Knowledge

Jurisprudence is nothing but the skill or knowledge of law with the combination of two words 'juris' and 'prudentia'. The legal knowledge on various aspect is studied in different dimensions under this subject. Whatever taught under jurisprudence has brought its theme and text from the ancient Indian Knowledge. Natural Law, justice, concept of Dharma, humanity, righteousness are the prime concern under jurisprudence that are found in Sanskrit and spiritual texts of ancient India. Indian knowledge of ancient times encompasses not only the legal principles, also teaches ethical frameworks and governance systems that are rooted in sacred texts of olden times. Customs and traditions are even now having significance not only in the society but also in the legal system. Custom that are well established and valid are considered as law and they play a major role in judicial decisions and law-making process. Valid customs that are followed from time immemorial without any discontinuity can be considered as law. Clear proof of usage will outweigh the written text of law is decided in the case of Collector of Madhura v. Mootoo Ramalinga.

Manu smriti and Yajnavalkya Smritis were considered as authoritative literatures on law during ancient era and they are relevant even today in articulating legal procedures to be followed and rules conduct for present generation. Manu Smriti also focuses on legally binding contracts, civil and moral codes.

Dharmashastras being a prominent work of ancient times is recognized as ancient legal treatises that guides human beings on a right path and



promotes legal spirit. Jurisprudence has political and moral values that are drawn from the past and considered as repository of moral and legal values in modern legal education system.

In ancient Indian philosophy Nyaya-the principles of justice, Danda-punitive legal enforcement and Artha-the economic governance was given with prominent place. In jurisprudence, students of law must study the theories of punishment and penal sanctions. Such curriculum has brought its root from Indian Knowledge System. To focus in particular, Kautilya's Arthashastra is a very knowledgeable piece of literature has put foundation and remarkable impact on art of governance, statesmanship and penal laws. It was an administrative manual contained legal discourse. Ideas of Justice, social welfare, duties of king, Raja dharma and legal order etc. are guided properly through his literature. King is expected to conduct the process of court system to deliver justice in an impartial manner. Law and order must be maintained by the king through his administration. Kautilya also advocated for proportionality of punishment for the offences committed. Based on severity of offence, punishment used to be given. Danda-punishment was considered as main weapon to maintain social order, security and Dharma. Even though there were other margas like Saama, Daana and Bedha, Danda was one of the last resorts to bring back the decorum of the society.

At present if we look into the Constitution of India, the sacred law of the land, also focuses on double jeopardy and methods of punishment based on offences. Justice and fairness with equality is upheld by the Constitution. Kautilya has propounded Ashtanga theory which contains seven elements of State required for good administration and the present State system finds its root in Saptanga theory of State. theory Even Manusmriti, one of the prominent ancient Indian pieces of knowledge has methods of offences and theories of punishment as well.

Intellectual Property Law and Indian Traditional Knowledge

Indian Knowledge System focuses even on

various intellectual properties and traditional knowledge developed in ancient India. In the modern era, inventions made by human beings that has utility, novelty and required inventive steps are considered as patentable properties. The inventor will be provided with patent right and protection to such inventions. In olden days, inventions were used by the public and no specific rights are recognized and no monopoly was granted. It doesn't mean that intellectual property was not recognized. It was recognized and musicians, dancers, singers, persons expert with various instruments were honored and recognized in ancient India.

Traditional knowledge on plants, medicines and other things were there in ancient India. For example, utility of Turmeric, Neem, are under patent protection in modern world and but used by Indians from time immemorial. The US company was granted with patent for turmeric for its quality of wound healing and India opposed it because, it was considered as traditional knowledge of Indians. Its medicinal value is a traditional Indian knowledge and Ayurvedic texts clearly mentioned about the quality of turmeric confirmed by the Council of Scientific and Industrial Research. One more significant matter is about granting of patent to the US and Japanese companies for neem product as it is used as anti-fungal medicine. From the centuries together, Indians were using neem as pesticide and traditional medicine. It was a part of Indian traditional knowledge and foreign countries tried to exploit our traditional knowledge through biopiracy is a true tragedy. Basmati rice was grown in India and used by Indians since many years still patent was granted the US and economic benefit is granted to them because of the ignorance of people who used to grow it in India.

Environment, Sustainable Development and Ancient Legal Thoughts

Human beings are born on this earth and it is considered as mother earth can satisfy the wants of us and not the greed. This was well established in ancient knowledge system of India. Man should maintain harmony with nature and natural resources must be utilized for our needs and should maintain them for future generation



was the prime principle and similar concept is formulated under the environmental law in the form of sustainable development. Agni, Varuna, Vaayu, Jala were considered as Gods and Goddesses in Dharmasastras and puranas. In Indian Knowledge System, valuable insights are provided for the protection of environment and spiritual significance were granted to both biotic and abiotic things. Trees were worshipped like peepal tree, tulsi plant etc. and such tradition is continued in modern days too. There is wild life protection Act, forest conservation legislation along with pollution control legislations at present are the mirror to past knowledge on environment protection. Animals and birds were considered as vehicles of Gods and Goddesses and protecting them was considered as prime importance. Pollution free environment and afforestation was supported through Vedic literature are the integrated part of present law on environment.

Hindu Law and Ancient Indian Knowledge

Integrating traditional knowledge into present legal curriculum helps to revive Indian traditional culture and heritage and that is best suitable to Indian system. Law that is followed through practices in daily life like marriage, succession, partition, property rights etc. are governed by Hindu Law and the ancient literature like Dayabhaga of Jeemuthavahana, Mithakshara of Vijñaneshwara

mainly throws a light on it. Not only the Shruthis, Smritis and Dharmasastras, are the sources of Hindu law, Mithakshara and Dayabhaga also played an important role in contributing for the development of Hindu Law. The practices followed during marriage like saptapadi, paanigrahana, etc were present in ancient Hindu marriage system and even now they are having core significance in Hindu Law. The concept of family tree also mentioned in ancient literature and based on family tree even now the rites are conducted and kinship is decided.

CONCLUSION

Integration of ancient Indian Knowledge into modern education system promotes tremendous change in the present legal study. Under the Ministry of Education, the Government of India has brought IKS Division with a vision to mainstream IKS for the contemporary world. With the introduction of IKS in curriculum students are mainly focused on past legacy of India and its rich cultural heritage and ethos. Traditional knowledge, medicine, astrology, and yogic sciences etc. are brought to limelight with the introduction of IKS into present education system. Upholding the culture, tradition, ancient knowledge etc. are the Fundamental Duties of the Indian citizens under the Constitution, the sacred law of the land. So, it is the need of the hour to look back the legacy of IKS and to incorporate such values in our present and future endeavors.

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