

LAW AND LIFE

By

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Law is not human invention. It is evolved out of facts. It has to deal with human conduct as its subject-matter. Human behaviour in ordered society is influenced by human values. While administering law it is to be tempered with justice, equity and good conscience.

Jurisprudence though adopted in scientific method in treatment of its subject, its progress is not possible unless united with the matter. It must be reconciled with humanities. Law must develop by keeping in touch with both life and logic. As Fichte understood, law itself is only hypothetical validity *i.e.*, law for freedom and law is thus postulate of an ordered human society. Law for the Plato is the way to the discovery of reality *i.e.*, law, a search for reality. Jurisprudence as a prodigal daughter must now return to her parental home.

Law must be conducive to self realisation. Law is the instrument of social regulation. Weights and Measures Act, Consumer Protection Act, 1986 *etc.* *Roscoe Pound* regards that civilization is the end of law.

Always the dichotomy between ideal and actual, the hiatus between them is the normal rule, for the enforcement of law by the State is necessary and co-operation by the people and naturally the philosophy of law steps-in for its realisation. Better philosophy of action, individual and social is needed. Lok Sangraha or social uplift and welfare through selfless activism even after self realisation is essential. The spirit of individualism pervades the Hindu Philosophy of life, ethics, religion and law. When we view philosophy of law and religion which is nothing but realisation ultimately, they move and blend together in their *ultima thule*.

The Vedic Rishis did not consider man thus apart from society or as a whole in himself. Law must perfectly be within the ken and application of human comprehension.

**“TAT SHREYRUPA MATYA
SRUJATA DHARMA”:**

(This creation of law helped the complete realisation of the end). All are equal before law. There was nothing higher than law. Bruhadaranyokopanishad proclaims that “Law is the King of Kings for more powerful and rigid than they. Nothing can be mightier than law by whose aid as by that of the highest monarch even the weak may prevail over the strong”.

Law to reach its end in rendering social, economic and political justice and natural justice too like the traveller must be ready for the marrow. It must not be static but should be dynamic. It must be flexible. Change of law is essential to suit the needs of the society. Its precepts and technic differ from time to time. For example, Prohibition Act and Sarada Act failed. In recognition of human rights like Muslim Divorced Women Protection Act, 1986, Lok Adalat and Legal Aid to the poor and Juvenile Justice Act, 1986 and the Consumer Protection Act, 1986 and the Arbitration and Conciliation Act, 1996 are made.

Law, therefore, is said to be a trinity — History, Philosophy and Reality. Dharma is very soul of law, the principle which upholds and sustains human society.

**“ DHARMO EVA HATO HANTI !
DHARMO RAKSHATI
RAKSHITAH !”
DHARMAM CHARA !
SATYAM VADA !**

That secret of law is in the bosom of God.

The concept of law connotes pure righteousness or Dharma, the gem of a word in the Hindu Jurisprudence. Taitriya Samhita has gone to the extent of remarking that Dharma sustains the universe, thereby highlights the importance of Dharma.

Pragmate Kautilya in Artha Sastra says—

“Therefore the King should not allow his subjects to swerve from or frail in their Dharma, for whoever holds fast by Dharma, will be happy in this World and the next”.

Ancient Hindu Juris-theologians thought that righteousness or Dharma should be the basis of the validity of all laws for all times to come. Right of life is guaranteed under Article 21 which includes within the ambit the right to live with basic human rights. Sarve Janah Sukino Bhavantu.

As *Pandit Nehru* said — “Law must run closely to the rule of life.” Thread of Rule of Law must be woven in the fabric of any law to a given instance to public or private. The twin aim of the Rule of Law is peace and security. Law must play a dynamic role. It must act as an instrument in social engineering. Socio-Economic justice is a composite concept through Rule of Law. *Gajendragadker*, C.J., then opined that law

is a dynamic instrument of bringing about the new social order enlivened by equality flowering into freedom. Judicial redress must be the rule of the day. Public interest litigation thus is essentially a co-operative or collaborative effort. “To reach Justice to the door-step, to the needy and poor and weaker sections” is the slogan of the day. Law envelopes mankind and enjoins righteous conduct. Attainment of justice ‘the great standing policy of Civil Society’ is a motto of law. Though *Cicero* says that we are slaves of the law that we may be free, viewing law and philosophy, one can say whoever realises his ideal thereby surpasses it. Not the strength but the permanence of superior sensibilities is the mark of the superior man.

Kharma stricken - mankind (root of Karma is ego) should emancipate to attain the Truth, realisation of life.

So we may conclude that there is dawn of reason raising upon man, on the subject of law that has not appeared before. The sentiments of justice and humanity must be moulded to realise the just appreciation of the ends law and life.

Law and life thus are moulded together to gain their ends *i.e.*, justice and realisation of life.

OM TAT SAT

GOADING THE STATE TO CONFORM TO INTERNATIONAL LAW

By

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India is a founder member of UNO and a signatory to Human Rights Instruments. International covenants and instruments are beacon lights showing the path of justice and humanity to the Nations. International covenant on civil and political rights 1966 entered into force from 23rd March, 1976. On 27th March, 1978 the then President of India Sri *Neelam Sanjiva Reddy* signed

and acceded to the aforesaid covenant. Thus the Republic of India ratified this covenant and thereby accepted the values propounded in that covenant. Hence India is duty bound to bring its national policies and procedures in line with this covenant as required under International Law and Treaty. It may be borne in mind that the actual realisation of human rights by the people