

LEGAL IDEAS AND INSTITUTIONS OF MANU

The Manusmṛti stands at the top of the Smṛti literature, unrivalled and unsurpassed by any sister work. It received a reverence which was second only to that which was accorded to the Vedas. It has always been a work of universal authority. It also became the chief authority in Hindu jurisprudence. It has served as a veritable store-house of information for the social, cultural, political and religious life of the people. It contains the very essence of the later Hinduism. So its study helps in the proper understanding of Indian culture.

It is necessary to make it clear that the laws propounded by the great sage in the Manusmṛti still have relevance when obviously a sort of chaos and disorder has paralysed the present society. There can be no denial of the fact that the survival of the planet earth is threatened due to man's deleterious activities. The need of the hour is that the perennial Indian culture enshrined in our ancient treatises be studied and the relevant truths should be taken in practice.

The Manusmṛti is also a treatise on criminal and civil laws. Sarkar remarks, "Manu and Yajñavalkya are undoubtedly the two most eminent jurists of ancient India. Each of them contributed in his own way to the development of Hindu law by elaboration, systematization and elucidation. The laws of Manu give us some insight into the mode of administration of justice

The laws of Manu give a detailed description of political life of the period. The political topics like the elements of the state, king and the kingship, his duties and functions, the royal Purohita, the ministers, officials, envoys, spies, state economy, art of war, army, weapons are profusely treated by Manu. The Kṣatriyas were destined to become kings and rule over the earth. The welfare of the state also depended upon the judicious application of Danda. He was also responsible for law, order and justice. For this he established and prescribed law courts and delivered justice to his people. He punished those judges who out of greed gave wrong judgement and thus maligned the name of the king. The accused were given enough opportunity to defend themselves. While delivering the judgement a judge took into consideration the status, the family, the time, the place and motive of the crime. Civil and criminal cases were decided on merits. Witnesses were examined and cross-examined by the juries. Various punishments like capital, corporal were given for heinous crimes. Fines and penances were also levied for various offences.

The titles of law betray an early stage of civilization at which they were framed to represent the entirety of the civil and criminal laws. The lending of money on interest, hiring out of a useful chattel, deposit of an article for safe custody, sale of property without ownership, remuneration for work done by several jointly, recovery of money or goods given for that which is not rendered wages when the work is not done, non-fulfilment of the agreement, rescission of contract of sale after transfer of subject, disputes between herdsmen and cattle owner, confusion of boundaries, assault, defamation, robbery, violence, adultery and unchastity, the relation between husband and wife, inheritance, gambling, all taken in narrowest sense, covered every cause of dispute and every form of crime. And for each form of crime laws are provided. After a sophisticated court procedure the culprit was punished. This all shows that at the final delivery of the law, the society had passed from the condition of which the pastoral village is the type, to that of agricultural community in which town life with its industries and vices, had begun its course of growth

The Hindu law has been modified and supplemented in certain respects by the Acts of Legislature." According to another view, the School of Hindu Law originated either with Sakhas or Recensional texts) of the Vedas or according to the later view the Several Digests such as Dāyabhāga, they recited the customs and usages which they found in vogue around them. As far as the civil laws are concerned, the authority of the several commentators varied in different parts of our country. With all the respect that is paid to Manu.

The concepts of crime and punishment in India, it would be appropriate to say that law contained in texts cannot be of any use to the unguided millions of the people seeking justice for their disputes (in modern terms disposal of 'cases'). Only the unselfish, just and unbiased jurists can find remedies for the wrongs done to persons by persons of egoistic and selfish proclivities. This kind of law of Torts is suitable to human beings in general. The Divine law of the Veda or the Transcendental law of the Smrtis or the law modified and the law supplemented by custom, legislation and judicial decisions cannot have macroscopic effect until and unless principles of justice, equity and good conscience are not practised by each and every individual.