



NEXUS BETWEEN LAW AND MORALITY IN INDIAN LEGAL SCENARIO

Dr. Binalben Sanjaykumar Patel

I/C Principal, Law College, Himatnagar, Gujarat, India.

ABSTRACT

The author of this article investigates whether law has a role in moral problems and traces the relationship between law and morality throughout history. The prevalent view of the relationship between law and morality is that the law exists to promote morality, to preserve the conditions necessary for living a moral life, and subsequently to enable men to live sober and productive lives. The average person views law as systematised justice, and justice as a somewhat muddled collection of moral ideals. The researcher attempts to demonstrate the relationship between law and morality in the present situation through this article. To arrive at the conclusion, i.e. to establish a connection between the two, the researcher would like to begin by providing a quick review of these two issues in the introduction, followed by an explanation of the nexus between them. Law is impacted by and founded on religion and morality, and thus there is a need for interaction between the legal system and our society's moral capacity. The researcher would conduct a critical analysis of the public's perceptions of each of these phrases.

KEYWORDS: Law, Morality, India, Legal System.

INTRODUCTION:

There are many methods to define law, but the two most common ones are natural law and legal positivism. Laws are lawful when they are in accordance with a higher authority over man; this can be God (according to Aquinas) or even a common morality held by society (Lon fuller).

It doesn't matter if we like these laws or not, as long as they are made with the appropriate procedure, where legal positivism holds that a law can only be valid if it is made by the right method for the state making the law (for example, laws passed by parliament) (Austin).

Morality, on the other hand, is a set of criteria we've established for deciding what's ethically proper or bad, rather than a rule given by the law itself. Law and morality are intertwined, but only one must be obeyed.

It's important to ask if the law must represent morality, even if we can see instances in which the law does so and instances in which it doesn't. Laws are designed to keep society running smoothly.

However, the efficiency of the legislation is not always determined by how fair it is. But Modern legal positivist approach regards it as outdated and negative, so I found that today Law can be identified without reference to morality except where law accepts the moral criteria for creating it. Morality has been incorporated into Indian Constitution Part III and Part IV and also supports it.

As a result, what morality means to one person may be quite different from what it means to another. Conflicting views and differing morality make it difficult to develop legislation, but morality cannot always be the driving force behind every statute. If anything is unlawful, it's because it's immoral, and the reverse is true as well. This establishes a distinction between the two situations.

RELATIONSHIP BETWEEN LAW AND MORALITY:

Nevertheless, law and morality these names were once synonymous, but in the present era, both terms have significant independent meanings within their respective fields. Law is a set of rules and regulations that control human behaviour.

It comprises of sovereign-imposed positive and negative directions. As it is coercive in nature, everybody who falls under its jurisdiction is obligated to follow these sets of regulations. There are two approaches to trace the relationship between law and morality:

The previous premise was Morality as the foundation of law.

The current view is "Morality as the foundation of law," in which law respects the morality that inspired it.

Morality is a broad term that encompasses laws regulating human behaviour and occasionally one's personal beliefs on a subject or activity that should not be enforced on others because they are unenforceable. Earlier law was entirely moral and value-based. When the state was established, the society chose the rules and values that were most essential to it and backed them up with its own sanction. These standards were referred to as law.

The norms established for the individual's benefit that were not consistently followed by the state are referred to as morals. However, while law and morality share the same institution, they have diverged over time. Numerous principles apply to both law and morality, such as robbery, murder, stealing, and decoity, which are all activities that violate both law and morals.

However, one cannot assert that morality serve as the foundation for legal standards. While it is true that most law is moral in nature, law and morality can be stated separately in the current world. There are numerous activities that are immoral but not necessarily criminal, such as cheating on a friend or spouse, breaking agreements (for some groups of people), and activities that are unlawful but not necessarily immoral, such as underage drinking and abortion (for certain sets of people). Consider the question of live-in partnerships, which is already morally prohibited.

In my opinion, when two significant individuals decide to live together with their free permission, the issue of moral standards breach arises. There is no violation of moral standards, and the law does not intervene. Other concerns such as prostitution and homosexuality are in contradiction with morality and legislation; thus, morality cannot be legislated, as it is determined by the individual's wants unless in certain instances.

The objective of law is not to render the laws of the land useless, but to preserve the country's law and order. If someone fails these minimum criteria, punishment is the appropriate response. As a result, morality has gained legitimacy, but this does not mean that all legal standards are moral in nature. Certain legal rules are not morally justified. Several instances include vicarious liability and the absolute liability principle.

DISTINCTION BETWEEN LAW AND MORALITY:

There is a distinct distinction between law and morality in contemporary times. According to Roscoe Pound, when it comes to the application of moral and legal principles, it is said that moral principles are of individual and relative application; they must be implemented in light of the situation and the individuals involved, whereas legal rules are of general and absolute application.

The morality of a person is determined by his or her own free will or conscience. An act that is moral for one person may be immoral for another, and morals have the ability to shape the character of a person. One of the most striking examples can be seen in the marriage customs of Hindus and Muslims.

One marriage is considered sacrosanct by Hindus, but bigamy is regarded as a sin by Muslims, who are permitted to marry up to four women at the same time under their religion. As a result, law maintains conformity with the code of behavioural law, which is necessary because it cannot entirely ignore the ethical and moral components of human behaviour. It is unlikely that any legislation will survive in contemporary India if they do not meet the highest standards of ethical conduct and conduct themselves accordingly. For example, India is a highly sensitive country in terms of ethics, with riots breaking out even for the most insignificant of reasons.

CRITICAL ANALYSIS:

Today, the law frequently disregards moral principles in its decision-making. Law is more concerned with evidences and facts than with morals. Author

believes that in former times, morality served as the sole foundation for law, and that it currently serves as one of the foundations for incorporating law.

If a person already believes in a particular act and the state subsequently passes a law making it binding, the law will become morally defensible for that person because he was already a supporter of that action, but it will be more difficult for those who acknowledge it only after it became binding. It may be inconvenient for those individuals, but they will be required to observe the regulations.

Such a condition should be eliminated from society, as it conflates law and morality, which are in fact distinct. According to some experts, nothing is legal unless it satisfies a moral test.

Researcher disagree with this argument because it is not required for every law to be moral; each legislation has its own set of advantages and disadvantages, and even if a law has a favourable effect on society, it does not need to pass the morality test except in exceptional cases.

CONCLUSION:

Finally, the researcher would like to state that law and morality are distinct. Today, in enacting legislation, legislators must consider additional factors relating to societal needs that are useful to society in some way. The fact, on the other hand, is that the culture of producing legislation based on morality still exists, but only in locations where the law directly recognises the moral grounds for its creation and nowhere else.

In its strict meaning, morality is no longer a backbone of legislation. It can only be stated while concluding that the extent of moral standard enforcement varies from situation to instance. The law cannot use a hard rigid formula to police morality, and the degree to which moral values are enforced varies depending on the case and circumstances.

If the consequence of morality is detrimental to society, such morality should not be legislated. Valentine's Day is one of the best instances; it is considered immoral in Indian society, as seen by Shiv Sena's actions; such behaviours should not be mandated in any situation. The new India must be reflected in the law of the country or statutes, and this is already happening, as seen by the legalisation of homosexuality and the legalisation of euthanasia, among other things. Furthermore, because morals vary from person to person, the constraints put on obscenity laws must be applied liberally.

To make beneficial changes in people's lives, every system of law must be established, and it must not be limited to morals, as this will have negative consequences for many. Morality has been incorporated into law in the form of justice, good faith, equity, and conscience, and legislators must be cautious when incorporating law because an act or stipulation cannot be inserted into statutes that is completely against the morals of the society, but in the court of law, when it comes to technicalities, morals frequently vanish.

Furthermore, when morality and public notion are the same, law and morality can be similar; nevertheless, when morality and public notion are engaged, law and morality cannot be similar. When seen in terms of each and every individual, public opinion and morality cannot be the same.

Morals have taken precedence over law in the modern era because, ultimately, law is a last resort in which people live with fear in their minds and follow the law as a result. However, if you intend to obey something because of morals, you will do so with your own wish and will, which is preferable to living in fear.

The law establishes some norms and regulations based on an individual's relationship with the state and with each other, but the fact is that it does not take into account the wishes and desires of each and every individual in the state. Every individual has their own set of morals that they wish to be guided by.

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