



LAW, MORALITY AND CRIME IN INDIAN LEGAL SCENARIO

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ABSTRACT

A social arrangement inside a certain political boundaries, linked together by a similar history and a cluster of traditions, lends colour to the fundamental moral principles of the state or the community in which it exists. Societies' foundations, which include everything from their historical and anthropological beginnings to its present social, economic, and political drivers, are what determine how they work. There are also a number of heterogeneous groups representing a diverse range of cultural identities, beliefs, and lifestyles, which are further subdivided on the basis of their economic standing on the social ladder, which is an attribute of the equitable distribution of power, resources, and other factors. These various layers of differential aspects, which are further influenced by contemporary economic structures and the implementation of policies aimed at the upliftment of the masses as a whole, further add to the overall picture of a heterogeneous society such as India, by adding multiple tints to the overall picture of the country.

KEYWORDS: Law, Mortality, Crime, Legal System

INTRODUCTION:

While the Indian state is currently shifting to a neoliberal economic model, which was generally viewed as a welfare state during its early years following independence, the subtle shift in the markets has had a significant influence on the intricate web of social relationships. The growing middle class has been a significant element in the nation's fast economic growth, as has the infusion of substantial sums by state treasuries for economic development. They have, however, manifested themselves differently in the social landscape, as it has been argued that the various communities have been motivated by the desire to acquire as much economic power as possible, while the upper echelons of the economic hierarchy have reaped the greatest benefit from the same. As Abdul Shaban correctly points out in his article titled "Ghettoization, Crime, and Punishment in Mumbai," these socioeconomic manipulations and divisions have facilitated the bourgeoisie group's hidden interests in the majority of cases; the resulting crevices and resulting conflicts have been generated by exploiting the sentiments of the weaker sections through the creation of false community loyalties¹. In light of these similar processes, the author proceeds to examine the ideology behind the concept of crime, contrasting it with the society's values as seen through the prism of social institutions and cultural groupings.

According to Mr. Abdul Shaban, crime is a societal construct. He asserts that criminal conduct is the result of social, political, and economic reinforcement caused by an unequal distribution of power and wealth among the masses². It initially induces people to perform illegal activities owing to a scarcity of resources, and then attempts to confine those same individuals through the enforcement of criminal legislation. Thus, Mr. Shaban asserts, it is not a reflection of customs and social norms, but rather a collection of laws established by the "state" in the interests of the ruling elite and the majority. It has been sufficiently demonstrated that heterogeneous societies are frequently oppressive and pervasive toward minorities, owing primarily to factors such as inequality, poverty, and hegemonic practises; consequently, the crime rate in such social bubbles is higher and more prevalent on all fronts. Connecting the same concept to the economic scale, the capitalist method of production encourages accumulation and usurpation, which results in lower spectrum conduct, which is sometimes referred to as crime.

Continuing the discussion of crime in light of social norms and legal standards established by the state against the backdrop of social stratification, scholars assert that the gradual development of capitalism fuels social and communal violence, further pushing the lower economic groups into a proletariat lifestyle, where any effort to accumulate more resources is now classified as crime³. For example, the Textile Mill workers' strike in the 1980s exemplifies the proletariat's demand for a right to just and equitable justice by pushing for a better standard of living through pay increases⁴. In response, the state, in collaboration with the mill's owners, labelled the act a criminal and thereafter screened personnel based on their compliance with the 'border' of work environment norms and adherence to the bourgeoisie's or state's basic principles. From a macro viewpoint, this act resulted in widespread unemployment, poverty, and the demise of the proletariat's desire for a better living, therefore widening the chasm between the "Have and the Have-nots."

The preceding essay presents a picture of the diverse range of morals, beliefs, and fundamental principles held by distinct ethnic groups that make up the Indian social setup's eclectic blend. It discusses how different groups see the bat-

tle for existence and manifestations of capitalist tendencies, and how the majority's ideas and core values (which necessarily comprise a sizable portion of the bourgeoisie) provide the groundwork for the law and order of the nation. Further, this codified or sanctioned law is ingrained in the collective consciousness, with the goal of establishing a standard concept of crime, morals, and social norms to be obeyed in a varied society like ours. While it may be argued that it is extremely detrimental to the varied collection of ideas and beliefs held by the people and transmitted to succeeding generations, it can also be regarded as a tool for efficient administration and a common basis for law and order to be obeyed by the general population.

THROUGH THE LENS OF JURISPRUDENCE:

The explanation above provides us with a good understanding of how social currents are regulated by the economic status and political stability of the country, and how this reflects into social norms, which in turn dictate the ideals of law and order even more explicitly. When looking at the above topic from the standpoint of jurisprudence, the first and most notable proposal that comes to mind is the infamous Hart and Fuller Debate on Law and Morality, which was held in the United States in 1958.

At the outset, it is critical to establish a connection between the fundamental ideas of the preceding discussion and the philosophical underpinnings of the debate on Law and Morality. The importance of noting is that Law and Morality are regarded to be abstract concepts that, when combined with other variables, function as navigators for societal prosperity. In contrast to Law, which can be thought of as a collection of legal rights and obligations protected by the ruling state, Morality may be thought of as an arbitrary scale that effectively balances the social rights and wrongs, while also serving as a guide for human behaviour in general. While both morality and law strive to regulate the interior conscience as well as external conduct, law is a tool that simply establishes limits for external behaviour and governs from a macro viewpoint, whereas morality tries to govern both the internal conscience and external behaviour. Going back to the beginning of the discussion, anyone who disobeys the law may face legal consequences. The question that comes to the forefront is: What is the basis of the law? What is the relationship between it and morals? In the attempt to find answers to these fundamental concerns, the argument between HLA Hart and Lon Luvois Fuller comes to the foreground of discussion.

LAW AND MORALITY – THE DEBATE:

As a result of the dispute between law and morality, we have arrived at the foundations of Naturalist and Positivist Legal Theories, respectively. He begins by asserting that there is no required connection between law and morality; nevertheless, he recognises that there is a possible crossover between the two and emphasises the fact that they are two distinct philosophies which can co-exist parallel to one another⁶. It is Hart's strong view that a clear distinction should be established between what law should be and what law ought to be that is the most notable aspect of his philosophy. Yet another point of view on the subject is that the law is untouched by the countless moral critiques that have been levelled at it over the years. Hart advanced the argument that authorities should concentrate solely on what the law says, rather than what they should say, and he felt that adherence to a specific moral norm is not a precondition for the existence of a legal system⁷. Positive law, on the other hand, is characterised by favouring the literal interpretation of legislation rather than a subjective interpretation of the same, as well as giving equal attention (if not more) to surrounding facts and situ-

ations while arguing for people's rights.

With a shift in focus to Natural Law and a presentation of Fuller's point of view on the battlefield, Natural Law, as the name implies, elevates concepts of morality above all else. From Fuller's perspective, law was regarded as a necessary tool for creating social order by controlling human conduct through the passage of legislation⁸. Moral principles, he maintained, served as the foundation for the whole judicial system, as well as for administrative orders; thus, each and every legislation, order, rule, or regulation should be subjected to a morality test before being enforced on the general public. Fuller outlined eight criteria for every legislation, which were as follows: rules, published, prospective, intelligent, not contradictory (synchronised), practically practicable to comply with, reasonably stable over time, and should be obeyed by authorities at all times⁹. Moreover, Fuller divided morality into two subcategories, which were – Morality of Aspiration, which consisted of a desired norm of human conduct that promotes his or her personal interest; and Moral of Duty, which described the standards people should follow in order to ensure effective administration and an overall smooth functioning of the society; he vehemently rejected the positivism approach to law, believing that imposed rules and adherence to laws was not the solution to the problem of injustice.

The ideology of criminalising acts is examined from the perspectives of law and morality, leading us to the conclusion that Indian criminal law is a hybrid model of positivist and naturalist ideas, as defined by the Constitution. While there are examples of laws and policies that are based on deeply held moral principles and are intended to promote the holistic development of society, there are also laws and policies that are not even remotely associated with any moral principles and are still in use in administrative procedures. Both methods coexist in Indian criminal law, which serves as the essential foundation of the country's criminal law.

CONCLUSION:

At this point, we conclude that the Indian legal landscape is a highly diversified, dynamic, and vegetal environment that operates on several levels, emphasising distinct concerns at each level. To comprehend the preceding discussion from an Indian Jurisdictional perspective, there are foundational frameworks such as the Fundamental Rights, Fundamental Duties, and, most importantly, the Preamble – the heart of the Indian Constitution – whose principles are derived from Natural Law and thus operate solely on moral grounds. For example, the Preamble serves as the cornerstone for fundamental ideals that are ostensibly followed and represented in all legislation approved by parliament. However, certain pieces of legislation (such as the Citizenship Amendment Act) directly contradict moral principles and operate in parallel with them; the act not only directly contradicted the foundational bedrock of the Indian Legislative System, but has also been declared unconstitutional on a variety of other grounds. To return to the government's recent actions in light of the law and morality discussion, it is critical to recall an insightful remark by Steven Shavell: - Impartiality in the execution of a rule is a moral norm that is required in any legal system¹⁰. While it is true that equal treatment before the law is a necessary component of a successful administration and legal system, it must also be noted that an equitable allocation of resources is another critical component of an efficient legal system (as elucidated under the various schemes under the Aatma Nirbhar Program). Nonetheless, returning to the discussion of criminality in the context of law and morality, the preceding debates, remarks, and analysis all point to the conclusion that the process of declaring an act a crime, particularly in such a diverse and varied social setting as India's, will inevitably invite debates and moots from multiple schools of thought, thereby transforming it into a constantly evolving process. From an economic standpoint, it does demonstrate that the rules are in sync with the majority communities in the countries; however, it must be noted that the ruling authorities have made sufficient efforts to ensure an equitable distribution of powers and resources in order to bring the masses together. Thus, it may be asserted that the administrative and legal environment within the jurisdiction of the Indian Courts is a continuously evolving patchwork of laws and regulations derived from both Natural and Positivist Legal Theories.

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