

CONCEPT OF DHARMA- SCHOOLS OF JURISPRUDENCE [BASED ON THOMAS AQUINAS CONCEPT OF NATURAL LAW]

***KRATIKA PACHOURI**

ABSTRACT

Dharma is regarded as the ideal way of life for people. It deals with a man's righteous behaviors, his duties, and his relationship with faith. It reveals India's ultimate goal in promoting social welfare and is the closest thing the country has to natural rights and ethos. All that is just, straightforward, and moral is included. It is an age-old idea that derives from the Vedas. In this essay, the idea of dharma is examined in relation to the development of natural justice and how it was incorporated into Indian laws after independence. A significant Dharma statute is "Sarva Dharma Sam Bhavana. "That is also the transcending thread that runs across some Supreme Court rulings," the author said. Was this just a coincidence. With this extraordinarily important question in mind, the relationship between Dharma as well as the Indian Constitution is examined. The argument of the paper is that the Constitution is constrained by Dharmic principles and not merely by those of western cultures, which the Constitution's framers failed to consider. Dharma, in accordance with conventional wisdom, is fundamental to all religions and is not just a component of the Hindu way of life. Dharma and theology are two distinct concepts that are frequently confused to be one and the same. The core of the paper lies in the way that law and dharma are emphatically interlaced and its absolutely impossible the two can be isolated.

I. INTRODUCTION

“Dharma is regarded to be the most noteworthy perfect of human life. It manages the prudent lead of man, his obligations and his relationship with religion. It is the nearest what India needs to normal law and ethos, and discovers its definitive point in the government assistance of society. It incorporates whatever is correct, just and moral. It begins from the Vedas and is a days of yore idea. This paper investigations the decay of dharma with the appearance of positive law and how it discovered its way in enactments in India post-freedom.”

*BA.LLB (HONS.), BENNETT UNIVERSITY (TIMES OF INDIA GROUP)

The advancement of Dharma in ancient India. Dharma is a Sanskrit term derived from the root "dhr" and in its strictest sense refers to "that which supports or maintains," as in the high-minded leadership of an honest man. Dharma also deals with duty, religion, and the inseparable essence of a thing or request. Similar in meaning to the Greek term "ethos," dharma. Dharma is the Indian interpretation of natural law as perceived by Indians in pre-modern culture, but their perception of it was wildly improbable and is admired by many rising stars like Max Muller.

Contrary to popular belief, dharma neither refers to nor supports any religion; rather, it is a comprehensive set of laws and principles that reminds each individual of their precise duties, rights, and obligations. When we discuss severe rights or obligations in this context, it does not favor one religion over another but rather portrays it for all of them. Dharma may be "formed on the revelation which is beneficial for the government support of the public at large, appointed by the magnificent Vedas," as Jaimini claimed. Dharma has several records, including Sruti, Smriti, and good rules (sadachar), and they depict the lives of people in the distant past. It is basically based on the Vedas. According to Duguit, "The main right which any man can have is the option to carry out his responsibility, his hypothesis of Social Solidarity expresses that even the sovereign or the state doesn't remain in any uncommon position or benefit and its reality is advocated just insofar as it satisfies its duty," which is in direct contrast to Dharma, which was an obligation-based legal framework where each individual owed an obligation towards other individuals from the general public In this investigation project, we will discover the close relationship between Dharma and the contemporary legal system.

i. OBJECTIVE OF THE RESEARCH:

1. To know the concept of Dharma
2. To analyze whether it is related to natural law in jurisprudence.

ii. RESEARCH QUESTION:

Is Natural Law in any way related to Dharma in Jurisprudence?

iii. RESEARCH HYPOTHESIS:

The idea of Dharma, which was formed in the ancient Indian Hindu tradition and used in Hindu jurisprudence in mediaeval India, bears some similarities to Thomas Aquinas' perception of Natural Law.

iv. **RESEARCH METHODOLOGY:**

This project's research approach is doctrinal in nature, and the sources used are secondary sources. For the most part, reference materials have been used to compile facts and figures on the subject. Furthermore, mentioned are articles, journals, and websites.

v. **LITERATURE REVIEW:**

1. ***The Book of Dharma: Making Enlightened Choices, by Simon Haas:***

Ancient Indian texts speak of "knowledge for kings, kept by kings". The Dharma Book shows Simon Haas's journey to India and his "digging" of the Dharma Code, a powerful system for making smart decisions and manifesting our full potential. Haas was an apprentice to an elderly practicing teacher in the Bhakti tradition for sixteen years and learned from him the system previously used by kings and queens to effect personal transformation in his life and to rule wisely.

2. ***Jurisprudence and Legal Theory, by P.S. Atchuthen Pillai:*** This comprehensive book covers every aspect of current jurisprudence as well as the numerous and varied speculations of the great ancient and modern jurists. It also covers the entire programme of jurisprudence and legal principle of the various Indian universities. The chapter on precedents in the jurisprudence section has undergone a thorough revision to include contemporary doctrines such as prospective annulment, etc. a significant contribution to the field's literature.

3. ***Jurisprudence and Legal Theory, by V. D. Mahajan***

This edition benefits from the timely reevaluation of the materials and their strict relevance to the subject. Without a doubt, this book will be useful as an immediate reference for law students and practitioners alike. In general, the book is worth studying to fully understand the subject, and therefore deserves a legitimate place in the law library. '

4. ***Philosophy of Law: A Very Short Introduction, by Raymond Wacks***

Raymond Wacks' "Very Brief Introductory" They present the greatest current thinking on fundamental concerns and challenges on hundreds of serious matters, from philosophy to Freud, from quantum theory to Islam, and are expertly written for newcomers. Raymond Wacks investigates the idea of law and its function in our lives, illuminating the fascinating and difficult structure of judicial philosophy with precision and zeal. He addresses the fundamental issues underlying legal theory, which have long intrigued both lawyers and philosophers as well as everyone who has ever pondered

how law relates to justice, morality, and democracy, drawing on influential writers from both the classical and modern worlds.

5. *The Roots of Hindu Jurisprudence Sources of Dharma and Interpretations of Mimamsa and Dharmashastra, by Domenico Francavilla*

The sources of dharma, one of the key ideas in Hindu law, are examined in depth, creatively, and thoroughly in this book. The major ideas of Hindu legal theory are also introduced in the book. There is a concept of the sources of dharma that underpins the writings of authors of several books of Sanskrit legal literature, such as the dharma shastra, commentary, and nibandhs, as well as interpretation of dharma-related topics. The authority foundations of various sources and the issues that develop in the case of disagreement must be thoroughly examined in order to comprehend the theory. It concludes by examining more general legal questions.

II. MEANING OF DHARMA

Dharma is commonly acknowledged to have been gotten and supplant from the Vedic idea of Rita, which actually signified, 'the straight line'. Rita alludes to the Law of Nature, it connotes moral laws, and dependent on honorableness. When something is Rita it essentially implied that thing is valid, right and that's it. Dharma developed one next to the other of Rita however in the end took over it as the old idea of Rita couldn't adapt and fathom the issue rising with expanding social complexities. Dharma implies Natural law.

Dharma, as has been said by Justice M. Rama Jois is, "Dharma is what supports and guarantees progress and government assistance of all in this world and interminable euphoria in the other world. The Dharma is proclaimed as order". Mahabharata additionally contains a conversation on the issue of characterizing dharma. Dharma in expressions of Madhav Acharya is, "It is generally hard to characterize Dharma. Dharma has been disclosed to be what helps the upliftment of living creatures. Consequently, that which guarantees government assistance (of living creatures) is doubtlessly Dharma. The educated rishis have pronounced what continues is Dhrama." Dharma is whatever is correct, just and moral. Dharma focuses on the government assistance of state and for the most part, its kin.¹

¹ (Docs.manupatra.in, 2020) <<http://docs.manupatra.in/newsline/articles/Upload/50B727EC-6404-4C35-BB26-F6169BF31862.pdf>>

III. DHARMA IN RELATION TO NATURAL LAW

The Vedas are considered as the 'main wellspring of dharma'. Dharma establishes the establishments of all issues on the planet. Everything in this world is established on dharma and it is thusly, thought to be 'preeminent'. Commandants of dharma like nature's laws, concede to no interfering. It has been underscored that the individuals who practice political force must wear the hand glove of dharma and 'standards of dharma administers each circle of action including administration of the nation. The obligation of the lord was unmistakably characterized in Dharma Sastras and for infringement, the ruler gets dim to manage and Dharma Rajya signifies 'rule of law'. Lord regarded by the individuals just in the event that he acted by law (dharma). Rules of dharma not alterable as indicated by impulse and extravagant of the ruler and it were basic that the activity of political force must be in similarity.²

The Vedas are considered as the 'primary wellspring of dharma'. Dharma comprises the establishments of all issues on the planet. Everything in this world is established on dharma and it is along these lines, considered 'incomparable'. Commandants of dharma like nature's laws, concede to no interfering. It has been underscored that the individuals who practice political force must wear the hand glove of dharma and 'standards of dharma administers each circle of movement including administration of the nation. The obligation of the ruler was unmistakably characterized in Dharma Sastras and for infringement, the lord gets dim to govern and Dharma Rajya signifies 'rule of law'. Ruler regarded by the individuals just in the event that he acted by law (dharma). Rules of dharma not alterable as indicated by impulse and extravagant of the lord and it were fundamental that the activity of political force must be in congruity with dharma-a basic part of administration. This is what is implied by 'rule of law' in the current day setting. As per Dr. S. Radhakrishnan: "Dharma honesty is the lord of rulers. It is the leader of both the individuals and the ruler represents law and profound quality and no state can be without law and morality. Dharma is correct activity; dharma or ethicalness is congruity with Dharma duals who ensure it and the individuals who pulverize it get decimated and the whole idea of rule of law is consolidated in Dharma."³

² Vasyuta G, 'JURISPRUDENCE (LEGAL THEORY): A FRESH APPROACH TO LEGAL THEORY' (2014)
6 Law and modern states

³ 'DHARMA AND THE DEVELOPMENT OF JURISPRUDENCE | RACOLB LEGAL' (RACOLB LEGAL, 2020) <<http://racolblegal.com/dharma-and-the-development-of-jurisprudence/>>

As per K.M. Panikkar, the ruler's crowning ritual function is a diksha-giving his life to the reason (administration of the individuals). Backing to the lord relied upon ruler adjusting to dharma or equity. The primary legitimate code of Hindus reveres both way of thinking of life and of law with uncommon weight on profound quality, danda (discipline) and equity. Equity is a good state. Gandhiji watched: "My spirit won't be fulfilled inasmuch as it is a vulnerable observer of a single wrong." Friedmann watched: "The story of common law is the quest of humanity for supreme equity and of its disappointment". Legitimate equity i.e., as indicated by law has a few deficiencies and neglects to meet, what and equity in truth. The endeavors are required to be made to accept increasingly more good substance in the law and raise the degree of lawful equity to outright equity measures.⁴

All in all, it might be expressed that standard of law lays on the solid establishment of compelling requirement of laws. On the off chance that the laws are not adequately authorized, the standard of law separates. At the point when rule of law separates, majority rule government breakdown and when it happens the quintessence of 'free government vanishes and the administration stops to be a legislature of laws yet gets changed over into 'rule of men'. That would be the finish of popular government, freedom and opportunity and the arrangement of government becomes autocracy and turns into a motor of persecution.⁵

The amount of literature specifically written on Thomas Aquinas' view of natural law and Hindu jurisprudence's perception of the concept of Dharma in their legal systems is sufficient. Yet, comparing the enormous diversity of literature is the riskiest course of action. The writer relied on distinct scholarly publications that dealt with each field because there is a serious paucity of material that compares Aquinas' Natural Law and Dharma using a technique of six. The Classical Law of India, a book written by Robert Lingat in 1965, is a crucial resource for researchers to have a deeper understanding of the breadth of Dharma in Hindu Jurisprudence. Lingat, a French prisoner who spent a brief period of time in India, carried out an excellent study on examining the nature of Dharma and its implementation in Hindu society. In order to highlight the breadth and influence of Dharma on Indian thinking, he begins by surveying the literature on it. The reader is given a clear understanding of Dharma in Indian law by Lingat in the first real bankruptcy of his work. This picture also serves the clear function of discussing the issue of Dhrama's interpretation in the Dharma

⁴ Vasyuta G, 'JURISPRUDENCE (LEGAL THEORY): A FRESH APPROACH TO LEGAL THEORY' (2014)
6 Law and modern states

⁵ (Docs.manupatra.in, 2020) <<http://docs.manupatra.in/newslines/articles/Upload/50B727EC-6404-4C35-BB26-F6169BF31862.pdf>>

shastra and how such interpretations came to be used in practice One of the shortcomings of this work is that the writer did not pay enough attention to the knowledge of "Dharma" in terms of the typical western legality of natural regulation. Instead, he focuses mostly on the technical application of Hindu law. Every other captivating picture by Rama Jois from 1996 has left a thorough analysis of the traditional idea of Dharma as a universal shape. It is an intriguing fact that the author no longer makes an effort to emphasize the divine aspect of Dharma, which has permeated human hearts since ancient India. Particularly Rama Jois has chosen useful examples from ancient Hindu legal books like "Manus Smriti" and portrays a pure image of Dharma as a standard in his work. Rama Jois' work describes the origins of Raja Dharma, Raja Neethi, and other Hindu metaphysical concepts; however, Rama Jois' attempt to explain how these concepts fit into the ancient Indian legal system seems to be somewhat underwhelming, and the author does not appear to have contrasted Dharma with organic criminal philosophy. Nonetheless, in its common version, Rama Jois' literature does a fantastic job of expressing the conceptual assessment of Dharma to its audience.

Similarly establishes Aquinas' theological viewpoints in his Summa Theologian interpretation of herbal law. The purpose of the essay is to present the well-known opinion that some criminal law professors had of Aquinas and another supporter of the theory of natural law. He contends that a person's moral code or set of laws do not make him righteous; rather, it practically flows from his thoughts. Additionally, he noted that Thomistic ethical standards were born out of ontological ethics rather than being based on the notions of herbal prisons. It is a sheer exaggeration to believe that Thomas Aquinas' moral philosophy is completely governed by natural regulation, according to Bouke, who writes this in his paper.

IV. ON THOMAS AQUINAS

The principal assignment of much philosophy of law, or jurisprudence, has been thought to be that of imparting a definition, or widespread explication, of law. Because herbal law theorists needed to provide a definition that included each natural and human regulation, they were evidently led to offer a normative definition of regulation. This changed into so because the herbal regulation changed into understood to be basically normative. Natural law does not merely order the arena, but orders it properly. Likewise, human regulation, which directs the conduct of people, does now not merely are seeking to direct conduct, however to direct it aright. What is unique to the natural regulation position is the insistence

that the course provided with the aid of law must be toward ends which are rationally defensible or objectively right; law ought to direct behavior in the direction of the commonplace appropriate. It is that this requirement, that all genuine law targets at what is sincerely appropriate, no longer just for the ruler however additionally for the ruled, that units natural regulation principle aside from others. In quick, natural law theorists believe that law, as law, should intention at morally right ends.⁶

The moral philosophy of St. Thomas Aquinas (1225–1274), which combines Christian theology and Aristotelian eudaimonism, at least purportedly from different lineages. On the other hand, Aquinas follows Aristotle in challenging whether an act is good or evil based on whether it advances or obstructs our right human end—the telos or ultimate goal that drives all human movement. Eudaimonia, or happiness, is that telos, where "happiness" is interpreted as totality, perfection, or right-being. To be happy, however, requires a variety of intellectual and ethical attributes that help us to comprehend what happiness is and motivate us to pursue it in a dependable manner.⁷

On the other hand, Aquinas thought that humans would never experience complete or lasting bliss in this life. He believes that beatitude, or the miraculous union with God, is the source of all bliss. Such a goal is well beyond what we can accomplish using only our normal human abilities. Because of this, we need God to change our nature—to elevate or "deify" it—in order for us to be able to partake in divine bliss. We no longer simply want the virtues. Additionally, Aquinas thinks that Adam, our initial figure, gave us a tendency to sin. Our essence is nevertheless diminished by the stain of sin, even though it hasn't completely corrupted us, as shown by the fact that our wills remain at odds with one another. Thus, we require God's assistance in order to restore the best aspects of our nature and bring about our accordance with his desire.⁸

This essay first examines Aquinas's conceptions of metaethics. These perspectives offer an incredible backdrop for his original synthesis of Christian doctrine and Aristotelian philosophy. His meta-moral beliefs also offer a very ideal foundation for understanding other aspects of his ethical philosophy, such as the nature of human activity, virtue, natural

⁶ 'DHARMA AND THE DEVELOPMENT OF JURISPRUDENCE | RACOLB LEGAL' (RACOLB LEGAL, 2020) <<http://racolblegal.com/dharma-and-the-development-of-jurisprudence/>>

⁷ Vasyuta G, 'JURISPRUDENCE (LEGAL THEORY): A FRESH APPROACH TO LEGAL THEORY' (2014) 6 Law and modern states

⁸ (Docs.manupatra.in, 2020) <<http://docs.manupatra.in/newsline/articles/Upload/50B727EC-6404-4C35-BB26-F6169BF31862.pdf>>

law, and people's ultimate fate. Modern ethical philosophers often treat these issues separately from one another, but Aquinas's response to them is still relevant today. These are remedied by Aquinas, who provides a reviving, all-encompassing picture of the moral ways of life. Several topics are covered in this article in a way that highlights how they are related.⁹

Aquinas is frequently referred to as a proponent of natural regulation theory. His ethical concept includes a significant portion of natural law, although it is still the subject of considerable controversy and misinformation. Of course, this is not the appropriate forum to decide on divergent readings of Aquinas's ideas. Yet, contemporary philosophers have emphasized that too many exegetes misinterpret Aquinas's perspective by considering it separately from his metaethics and virtue theory (see for example MacIntyre, 1990: 133-one hundred thirty-five; Hibbs, 2001: ninety four).

What exactly is natural law? We can try to answer this question by taking into account both the definition of the word "regulatory" and the date the law was passed. A regulation, in Aquinas's opinion, is "a rule or measuring of human conduct, whereby someone is prompted to act or is prohibited from behaving." He describes a rule as a "dictate of realistic reason coming from a ruler" in other places. Hence, at this very modern stage, a law is a principle that directs and limits human conduct. So, whether or not an action complies with or abides by the relevant regulation will determine whether or not it is right. Here, it's important to remember that Aquinas believed that a human action is either good or horrible depending on whether it serves a goal. In other words, our ability to evaluate human behavior depends on our motives. Aquinas believes that the laws that regulate how people move are an expression of reason itself (ST IaIIae ninety.1).¹⁰

We can now deal with the fundamentals of the law. All law, in Aquinas' opinion, ultimately derives from what he refers to as the everlasting law (ST IaIIae 93.3). God's providential arranging of all created all things to their appropriate cessation is referred to as the "everlasting law." We participate in that divine law because God endows us with the capacity to choose what is good and the ability to foster it. It is the rational creature's involvement in the everlasting law, according to Aquinas, that is known as the natural law.

⁹ (Docs.manupatra.in, 2020) <<http://docs.manupatra.in/newsline/articles/Upload/50B727EC-6404-4C35-BB26-F6169BF31862.pdf>>

¹⁰'DHARMA AND THE DEVELOPMENT OF JURISPRUDENCE | RACOLB LEGAL' (RACOLB LEGAL, 2020) <<http://racolblegal.com/dharma-and-the-development-of-jurisprudence/>>

According to this perspective, natural regulation is merely an expansion of the eternal regulation. God grants us eternal enjoyment through it by instilling in every one of us a general knowledge of and propensity towards kindness. Keep in mind that the source of natural regulation isn't usually a third party. Furthermore, it is not a general deontic standard from which more precise precepts can be deduced. The natural law is a fundamental principle that is woven into the fabric of human being, according to Aquinas. As a result, it enlightens us and gives us a yearning for those products that enable the kind of flourishing that is naturally given to humans. This aspect also merits consideration.

Humans have an inbuilt addiction to reasoning in accordance with what Aquinas refers to as "initial ideas," according to him. Any research must start with fundamental truths. They include topics including the control of excluded centers and the non-contradiction concept. These ideas are demonstrable even if we did not learn about them through some prior examples.¹¹ These are not facts at which we arrive by employing argument or reasoning, to put the issue another way. These are the concepts that all thinking is based on. Yet even while we do not currently derive them from any previous body of knowledge, a few moment of meditation may reveal that they nonetheless provide the framework for comprehensible inquiry. Briefly said, human logic no longer establishes reality. Similar to the aforementioned ideas, the herbal law also has elements. All human actions, in Aquinas' view, are governed by a well-known precept or principle that is the cornerstone of and essential to all reasonable reasoning: accuracy is to be carried out and evil is to be avoided. This rule cannot be disregarded or disregarded by us. Instead, it's an illustration of how organisms like ourselves continue to think and act realistically.¹²

As we think about how we should behave, we do so by relying on a particular quality of a natural propensity to seek out (or avoid) those things (or evils) that advance (or prevent us from) our perfection as humans. The things we have a natural affinity towards are lifestyles, the procreation and education of children, knowledge, and a civilized social order. If additional things contribute to the development of our rational perfection will determine whether they serve as additional symbols of the natural law.

¹¹ (Docs.manupatra.in, 2020) <<http://docs.manupatra.in/newslines/articles/Upload/50B727EC-6404-4C35-BB26-F6169BF31862.pdf>>

¹² 'DHARMA AND THE DEVELOPMENT OF JURISPRUDENCE | RACOLB LEGAL' (RACOLB LEGAL, 2020) <<http://racolblegal.com/dharma-and-the-development-of-jurisprudence/>>

A warning is necessary. Even while we consciously choose products that help us achieve perfection, overzealous zeal, excessive concern, and self-obsession might cloud our perception of those products. For example, sexual fulfillment is a herbal good. But, overwhelming desire can taint our understanding of the proper place of sex in our life and push us to priorities temporary gratification over longer-lasting goals. In addition, self-safety is very important. Self-safety is also something we naturally gravitate towards. Nevertheless, irrational fear could prevent us from showing up for things that are more important than personal safety. A proper understanding of the components of human accomplishment can also be undermined by a poor upbringing and social prejudices. Whether or not we have the deemed required intellectual and moral virtues determines whether or not we'll be in a position to make judgements about what will contribute to our right achievement. Without those characteristics, our moral and intellectual shortcomings will prevent us from rational perfection and reaching our ultimate goal.¹³

V. CONCLUSION

As we have stated, St Thomas explains the importance of behavior in the world in terms of the two final aims or “ends” of human lifestyles. One cease is a natural, earthly cease, it includes the flourishing of body, mind, and soul in human community; and the opposite is supernatural, it includes posthumous participation inside the beatific imaginative and prescient. Thomist ethics are therefore best seemingly removable from systematic theology: they cannot function without as a minimum implicit reference to criteria that fall outdoor each unaided human purpose and the observable features of nature. So, there may be indeed an element of non-secular religion concerned in Thomist herbal regulation theory, however possibly two factors are worth elevating in this regard, at the least insofar as Catholicism overlaps with Thomism. Both points have been emphasized inside the paintings of Patrick Hannon. Firstly, the Catholic theological tradition has continually argued its normative or sizeable moral claims on grounds of “reason”— “even if a norm is stated to be part of revelation, it's also based totally on arguments which do no longer enchantment to a purely spiritual authority”. Secondly, the word “religion” is not certain to spiritual religion: it implies “a trusting or entrusting of ourselves to some vision of reality. It is essentially a motion of the spirit within the come across with truth.” Seen within the latter light mainly, the “faith” objection to St Thomas’s natural regulation concept is unconvincing when taken

¹³ <https://www.iep.utm.edu/aq-moral/>

in isolation, based totally always as it's miles on some other faith, whether or not theocratic or secular.

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