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Justice Rama Jois: Revival of Indian Jurisprudence

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Abstract

Justice Mandagadde Rama Jois was a judge, advocate, politician, author, and historian. He used to associate himself with the Bharatiya Janata Party. He emphasised the importance of education that everyone in the country, irrespective of their gender, sex, race, colour, religion, caste, etc, shall be provided with. He emphasised imparting the knowledge of Sanskrit and texts of ancient India, as many ideas or systems which we consider modern or contemporary today already existed in ancient Indian civilisation.

He viewed that under the influence of the Western world and British rule, we have forgotten the age-old theories that were so developed that they still exist. He believed in consonance between Dharma and the Constitution.

This paper has tried to explain what Dharma was, according to Justice Rama Jois. He has laid very much emphasis on ancient texts and literature like the Manusmriti and the Gita and with the help of these ancient texts, he has also tried to explain the six impulses of a human namely - kama, krodha, moha, lobha, mada, and matsarya, which are the 6 enemies of a human being and needs to be controlled for a happy and prosperous life. If any human fails to control any of them because of his selfish motive, then he commits a crime that is against society, and he fails to live a life of satisfaction. The concept of Trivarga will also be dealt with, the doctrine that tries to strike an equilibrium between the wants of an individual and the wants of society.

This paper will also deal with his opinion on ancient Indian administration as penned in 'Seeds of Modern Public Law in Ancient Indian Jurisprudence', where he has talked about the similarities between the age-old Indian administration and the modern system of administration. We will conduct an in-depth study of Justice Rama Jois's ideas and beliefs, examining how he applies ancient Indian jurisprudence to contemporary contexts.

Keywords: *Artha, Constitution, Dharma, Trivarga*

1. Justice Rama Jois

1.1 Personal Life

Justice Rama Jois, born on 27 July 1931, was an Indian judge and a politician. He served as a member of the Rajya Sabha and was the governor of Jharkhand and Bihar. He also served as the Chief Justice of the Punjab and Haryana High Court. Besides that, he was also a senior advocate in the Supreme Court of India. He was born and brought up in Karnataka and completed his education there only. He was an author and historian, and he has written on prominent subjects such as service law, Habeas Corpus Law, and constitutional law. His most well-known book is Legal and Constitutional History of India. His other prominent books are Seeds of Modern Public Law in Ancient Indian Jurisprudence, Historic Legal Battle, and Dharma - The Global Ethic.

During the Emergency (India) 1975-77, enforced by Indira Gandhi, he was detained and held in the Bengaluru Central Prison. He was held up alongside A B Vajpayee, L K Advani, Madhu Dandavate, and so forth in Bengaluru jail. He is associated with the Bharatiya Janata Party in Karnataka. He surrendered the post of Judge of the Karnataka High Court, protesting foul play, as he was ignored for a posting as an Arbiter for the Supreme Court of India. Rama Jois died from a heart attack on 16 February 2021 at 7:30 AM in his home in Rajajinagar, Bengaluru, India. His last rituals were held at a Hindu graveyard in Chamarajpet, Bengaluru, India.

1.2 His Views on Indian Jurisprudence

He was of the view that the commitment of legitimate specialists in India remained overlooked for a long time, and the legal framework in the nation adhered to Roman law for long after India's independence. According to him, "Even the syllabus in law colleges did not have a written text on the Indian legal and constitutional history till 1988....the rich contribution made to the dispensation of justice provided in the *Vedas*, religious texts, '*Arthashastra*' of Kautalya and '*Mitakshara* by Vijnaneshwara remained under the shadow of The Roman law was introduced in the legal system by the British" (Kulkarni A, 2016). He himself did not know about Mitakshara and its author, how he penned down the great book which became the basis of Hindu law, until he started researching a book on the topic of Indian legal and constitutional history in the seventies.

Justice Rama Jois was also the judge who pleaded before the Supreme Court of India that education should be made a fundamental right in the state, even though initially the constitution did not guarantee any such right as fundamental; by quoting several religious quotes and texts, he was able to convince the five-judge bench to make the right to education a fundamental right (Kulkarni A, 2016).

2. His Concept of Dharma

Justice Rama Jois believed that *Dharma* is the most substantial and valuable contribution to humanity by Bharata Varsha, our beloved Motherland. Because of its antiquity, usefulness, and universality, the mere utterance of that phrase awakens the consciousness of a person in this country. All of our current difficulties are a direct result of ignoring '*Dharma*' under the influence of a materialistic philosophy, in the mistaken notion that it alone will bring happiness and ensure the welfare of the people. Now it is apparent that human issues expand as our hunger and desire for material prosperity and pleasure multiply, and that the answer to all the social, economic, and political problems that the globe and our nation are experiencing, particularly the collapse of our moral structure, is *Dharma* alone. '*Dharma*' cannot be substituted. This is the unchangeable truth. This can be realised if we understand the real meaning of '*Dharma*'. It has a wide assortment of implications. A couple of them would empower us to comprehend the scope of that articulation. For example, the word '*Dharma*' is utilized to mean Justice (*Nyaya*), common decency in a given situation, moral upsides of life, devout commitments of people, the upright direction in each circle of action, being useful to other living creatures, giving foundation to people needing it or to a public reason or aid to the penniless, normal characteristics or attributes or properties of living creatures and things, obligation and law as additional constitutional law.

2.1 Origin of Dharma

Dharma was formed as the answer to the timeless issues of standing up to the human race, beginning from the normal human senses.

अकामस्य क्रयिा कचदिृश्यते नेह कर्हचित् ।
यद्यद्धि कुरुते कटिद्चित् तत्तत्कामस्य चेष्टतिम् ।।

No act of man is free from desire; whatever a man does is the result of the impulse of desire (Jois R., 1997).

In the above verse, dissecting human intuition, Manu states that the power behind each activity of a person is his craving (*kama*). The natural craving of man was viewed as the longing to have happiness regarding abundance, i.e., material delight (*artha*), as well as enthusiastic and sexual satisfaction. *Artha* is clarified by Vatsayana as indicating material abundance like gold, cows, and corn, including schooling or information (intellectual property) important to procure riches. The wellspring of all insidious activities of individuals was followed by the longing for material delight, which thus led to irreconcilable circumstances among people. Further, it was tracked down that the desire (*kama*) of individuals could likewise be affected by different driving forces intrinsic in people, like anger (*krodha*), passion (*moha*), greed (*lobha*), infatuation (*mada*), and enmity (*matsarya*). These six normal motivations were considered as six interior enemies of man (*arishadvarga*), which, if permitted to act uncontrolled, could induce him to engage in detestable contemplations in the psyche for satisfying his childish longings and, for that reason, cause injury to other people. Manu, on this premise, clarified the reasons for all affable and criminal wounds incurred by the activity of one against the other.

2.2 Concept of Evil

Justice Rama Jois has based his reliance on Manu while discussing the origin of three sinful mental actions that

cause civil or criminal injury to another individual or a group (Jois R., 1997). They are-

i. Coveting the property of others
ii. Thinking about what is undesirable
iii. Adherence to evil doctrines

They further give rise to some form of evil verbal actions or wicked bodily actions.

2.2.1 *Evil Verbal Actions*

i. Speaking an untruth;
ii. Attacking another in abusive or strong language
iii. Carrying tales against another person; and
iv. Talking ill of others.

2.2.2 *Wicked Bodily Actions*

i. Taking what is not given;
ii. Injuring living beings; and
iii. Illegitimate intercourse with another man's wife

If one is educated and trained to impose self-discipline, then one will be able to control one's impulses, actions, body, and mind, and one will be successful in living a happy and satisfied life.

Rama Jois was of the view that increasing technology and scientific developments are also increasing the scope for crimes and atrocities in society, and the reason for this is that human beings are not taught to have self-control over their ulterior motives, and they only think about their selfish needs, even if it harms society.

3. His Message

Each individual ought to, by consistent effort, direct his brain, discourse, and activity so he doesn't incur any physical or mental injury or any financial misfortune or harm to others. It involves normal information that, in everyday life, because of voracity also being activated at least one of the six foes intrinsic in man, in particular *Kama* (love/desire), *Krodha* (anger), *Lobha* (greed), *Moha* (Passion), *Mada* (Infatuation) and *Matsarya* (enmity), a man indulges in wrongs. People are not able to control their bodily actions, mind, and impulses and indulge in selfish acts which are harmful to others' lives and well-being. They try to hide their misdoings from other people, and even if they become successful in that, their *Atma* always knows their actions, and deep inside, they know what they truly are. The crime may vary from being a thief to being a murderer, but their *Atma* knows that even if they try to act as a pure person, they have once committed an offence.

He explains that there is nothing wrong with desire, but the way chosen to fulfil that desire must be good and genuine, to not harm anyone intentionally or unintentionally.

The solution to the problems that pose a threat to society is for whoever it is feasible to forfeit their just for the government assistance of humankind or the human society worried to do as such, and for all others to carry on their profession, daily life, exchange or business in such a way as to deliver administration to Society taking just sensible compensation or benefit. Nobody should injure others to satisfy their narrow-minded or selfish cravings. One ought not to exploit the wretchedness of other individuals for ill-conceived gains. This is the '*Dharma*' of each person. This was developed to battle the six adversaries (*Arishadvarga*) that are inborn in each person. It is a preventive measure.

4. The Concept of Trivarga

The Teaching of *Trivarga*, involving "*Dharma, Artha* and *Kama*", is the general gist of the Bharatiya Theory of life (Jois R., 1997). planned to strike a sensible balance between the interests of the individual and the public interest, which implies the interests of any remaining people who comprise the general public or the Country concerned and incorporates all humankind. It pronounces the Incomparability of *Dharma* over *Artha*'s (pleasure) want for material delight and *Kama*'s (each kind of want, like the craving for wealth and joy). It is a significant and never-ending arrangement for all the issues of all people forever to come, regardless of whether their having a place or not with any religion.

The propounders of *Dharma* liked that the satisfaction of the wants of human creatures was fundamental, yet they believed that unless the desires were controlled by law, they would achieve unwanted outcomes. Accordingly, all the propounders of *Dharma* were consistent that for the presence of an efficient society and the harmony and joy of everyone, the desire (*kama*) for material delight, and pleasure (*Artha*) ought to continuously adjust to *Dharma* (Code of Righteous Conduct) and conform to it.

The combination of *Dharma, Artha*, and *Kama*, which leads to welfare and joy, with an abrogating rule that desire (*kama*) and material pleasure (*artha*) ought to be dismissed if they conflict with *Dharma*, is called *Trivarga* (Jois R., 1997). There can be no more excellent standard or theory than *Trivarga*, for the welfare of the individual and society. It finds some kind of harmony between the interests of the individual and society. The teaching implied that *Dharma* should control the longing (*kama*) just as the method for the procurement of abundance and determining delight (*Artha*). *Dharma* accordingly recommended the principles of right direction, recognition of which was viewed as essential for the social welfare of the individual and society.

Every action that goes against the *Dharma* is known as '*Adharma*', and such actions are considered harmful for the individuals living in the society and society in itself.

5. Values of Life-Based on Dharma

In light of '*Dharma*' and the regulation of *Trivarga*, certain essential values of life were advanced and steadily supported since the commencement of Bharat. These qualities were planned to guarantee the great satisfaction of all, in this land as well as in the whole world. This culture comprises our rich legacy and abundance, which is more significant than all the material abundance of the world. Further, it is this culture that has set up solidarity in variety, and it is this social bond that has welded individuals of this land into a country (Jois R., 1997). However, different factors like language, religion or normal desires, and so on, might establish a reason for the arrangement of or bringing into reality a country, the most fundamental of them are:-

i. A typical domain in which individuals concerned have made their home, and the presence of an obedient connection between the domain and individuals, and
ii. Common values of life are advanced and cherished by individuals.

Individuals and the domain that is their homeland together comprise the body of a Nation, though the values of life developed by individuals comprise its spirit. Both together comprise "National Life". Assuming that one of the two vanishes, the Country kicks the bucket, for the Body without the spirit is a body, and the spirit without a body is a Phantom. Common values of life, i.e., culture advanced by individuals living in a particular region, establish public essentialness as well as a public character. Insofar as they are safeguarded, the country makes do. Whenever annihilated, the Country fades away.

This aspect is highlighted by Swami Vivekananda, the harbinger of our national renaissance: *If any nation attempts to throw off its National vitality, the direction which has become its own through the transmission of centuries, that Nation dies, if it succeeds in the attempt* (Jois R., 1997).

The best satisfaction for individuals of Bharath has been that, however endeavours were made and are being made, by some intentionally, and by others out of obliviousness or potentially under the Western impact, to annihilate every one of our qualities developed from antiquated occasions which are the premise of our patriotism, they have not been effective in annihilating our National essentially and values. Our Patriotism has withstood both political and social assaults on it for quite some time, as it is solidly founded on respectable qualities which are the very lifeblood of our kin.

6. His Book

Justice Rama Jois was of the view that the English rule and the important presentation of English Law cleared out the existing native administration of law from India's thinking. Old India honestly had an exceptionally progressive overall set of laws, which is equivalent to any of the most modern and developed overall sets of laws in the world. Tragically, not many examinations have endeavoured to investigate the hypotheses of old Indian statutes. Disregarding the education of the Sanskrit, non-attendance of an extraordinary part of the law in the old framework, absence of confidence, and scorn for the ancient framework, even among our legal advisers, each of these added to the tragic reality of forgotten ancient Indian laws.

In his book '*Seeds of Modern Public Law in Ancient Indian Jurisprudence*', he tried to extract the presence of modern law in the age of Indian laws and rules. According to him, the current idea of a social welfare state was acknowledged as the directing standard

for the administration of the state in ancient India when *Dharma* was the Hindu way of thinking and the guiding principle of the society. A harmonious delusion of *Dharma, Artha*, and *Kama* brings social welfare and joy. But *Artha* and *Kama*, when they go against *Dharma*, ought to be rejected. The object of *Rajadharma* should be the fulfilment of the doctrine of *Trivarga* and, accordingly, the welfare of individuals as a whole. The idea of '*Dharma*' is the common law of general conduct, and being supreme is similar to today's Constitution, which is meant to be abided by. However, in any case, *Dharma*, being the eternal law, can't be modified by any means. Additionally, the doctrine of separation of powers isn't unconventional in advanced settings. The old Indian framework used to follow this concept. Even though the king was supreme, he had to follow *Dharma* in all situations, and there was a crystal-clear separation of power between the judicial officers and the king.

The contemporary idea of the social welfare state and the requirement for social control through the instrumentality of the state arose solely after the Industrial Revolution. Yet, it is fascinating to note that the requirement for social control was perceived and given an impact hundreds of years ago in India. Workers' welfare measures like minimum wage rate, paid leaves, brief instalment of wages, tips, and rewards were explicitly managed under this framework. Even standards relating to the assurance of shoppers had been seen in the Indian old laws.

It also discusses the authoritative setup and framework of the administration of justice in ancient India. The administration of justice was the moral obligation of the king. The most noteworthy court was simply the one managed by the king himself. The subordinate courts were either set up by the king or by the people. In all cases, the king enjoyed the power to engage the appeals. The old Indian framework likewise accommodated a detailed procedure for taking proofs and hearing cases. These frameworks were refined and grown, actually, like the contemporary ones. One more fascinating component of the old framework was the arrangement for the appointment of lawyers - Niyogi - who were held responsible for unfortunate behaviour and even carelessness. Freedom of the judiciary was so beyond all doubt ensured and taken into consideration.

7. Conclusion

According to Judge Rama Jois, Bharata Varsha, our beloved Motherland, has made the biggest and most precious contribution to humanity via *Dharma*. Because of its antiquity, utility, and universality, the very utterance of that term awakens the consciousness of an individual in this nation, and all unhappiness and crimes that occur in the state are the result of our forgetting our *Dharma*. By *Dharma*, he does not only mean law, but it also includes one's moral conduct, duty towards other beings, and righteous actions.

Through all his works on dharma and his book 'Seeds of Modern Public Law in Ancient Indian Jurisprudence,' he has tried to coin down the fact that if we start looking back on our ancient culture and the system of society then we will be able to cut out that the administration which we consider to be modern and given to us by the west, used to already exist in the ancient Indian society and for that to happen Indians need to give special emphasis on teaching and gaining knowledge about our ancient texts and literature which are majorly in Sanskrit.

Tragically, the influence of the West has led us to forget our past and its golden system of administration, but better late than never. This study may help the next generation to address the current defects that are present in the modern system of administration and will aid them in governing their governments smoothly and more efficiently.

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