

Niastra as a Source of Law

Puja Chauhan Bindusar

Abstract: *The Nyāya, one of six darsanas of Indian Philosophy is said to be one of the main sources of India Judiciary. The Nyāya philosophy has put forward a clear and straight path for logical study which on the other hand paved way for the strength of arguments and also to establish the arguments. There are a lot of differences in the system of governance and also in the legal system in the modern period when compared with the ancient period. This paper gives an insight into the relationship between the Nyāya system and the legal system of India. In the ancient period, governance was done by the sovereign power that is the monarchy but in the modern age it the policy of democracy. Likewise in the legal system also there is a glaring difference, for eg, in the ancient period the source of law was restricted only to religious texts like the smṛiti where as in the modern period, there are common laws and statutory laws.*

Keywords: Nyāya Philosophy, Jurisprudence, Comparison between Ancient and Modern Systems of Law, Nyāyasastra and Justice.

1. Introduction

Nyāya is a school of Indian philosophy that is primarily concerned with the nature of knowledge and logic. While it is not a legal system in and of itself, it has significantly influenced the development of legal systems in India, particularly in jurisprudence.

In ancient India, the Nyāya school of philosophy provided a framework for the development of legal systems, particularly through the formulation of rules of evidence and the methods of reasoning used in legal disputes. Scholars of Nyāya philosophy developed a sophisticated logic system that helped establish the validity of legal arguments and evidence in court.

The Nyāya system of reasoning is still used in contemporary Indian legal systems, particularly in the field of arbitration. In addition, many principles of Nyāya, such as the idea of objective truth and the need for clear evidence in legal disputes, continue to influence Indian legal thinking today.

Overall, while Nyāya is not a legal system in its own right, its ideas and principles have played an important role in the development of legal systems in India, and continue to be relevant in modern times.

The shastras can be equated to the modern-day constitution which forms the foundation of the present-day legal system in India. These texts which are a source of law, these texts which lay down the legal system are the major difference between the ancient and modern legal systems in India. The ancient text affect jurisprudence (the theory or philosophy of law) – it determines what is considered right or wrong (the logic behind it), who will have the burden of proof in different matters, how the texts can be interpreted to better understand the law/logic and apply in the situation at hand. The jurisprudence in the modern Indian legal system is highly influenced by the western Jurisprudence (which often does not fit well with the Indian customs, traditions, beliefs etc.)

The concept of dharma signifies the certain order by which society must function. The modern equivalent for the same would be the concept of law.

Key differences in the ancient and modern-day systems

The earlier systems were mostly led by monarchy whereas today India stands to be one of the largest democracies of the world. Similarly, the sources of law were the smritis and other shastras whereas today's constitution has lent itself from various other countries along with significant sections of ancient Hindu and Islamic law systems. In monarchy where the king served as the ultimate judge, in today's systems the court judges at various levels stand to be the authority and the president holds the supreme power to decide.

There were different criteria for segregation of courts (types of courts demarcated by Bṛhaspati and Yājñyavalkya). In the present-day system the head of the government and the chief justice are two separate positions which may influence each other but do not have arbitrary control over each other. The segregation is done both at the geographical level (district, state, national) as well as the matter in question (civil, criminal, family, arbitration, company etc.). The segregation of courts does not change with the change in government or judges. Although, the system can be altered by a specific process to better suit the needs of the changing society or for the purpose of improving the effectiveness.

As the king had his group of *mantrīs* or advisors, today's judges also have advisors (*amicus curiae*)¹. The '*śabhā*' system of the past is to be understood clearly which gave way to the modern-day courts of law.

Comparison between the ancient and modern legal system

Here are some more points of comparison between the ancient and modern legal systems in India:

Source of Law: In ancient India, the legal system was based on religious texts and customs, such as the Manusmṛiti, Yājñavalkya-smṛiti and so on which provided a framework for resolving disputes. In contrast, the modern legal system in India is based on a combination of common law, statutory law, and constitutional law.

Judiciary: In ancient India, the judiciary was made up of a council of elders, known as the panchayat, who were responsible for resolving disputes. In the modern legal system, there are separate courts at the district, state, and national levels, with judges appointed by the government.

Criminal Law: In ancient India, criminal offenses were punishable by fines, banishment, or corporal punishment, depending on the severity of the crime. In the modern legal system, criminal offenses are categorized into different degrees of severity, with corresponding punishments that are prescribed by law.

Civil Law: In ancient India, civil disputes were resolved by the panchayat through a process of negotiation and mediation. In the modern legal system, civil disputes are resolved through the court system, with judges making decisions based on the evidence presented by the parties involved. Negotiation, conciliation and mediation still serve as important methods in resolving civil disputes.

Women's Rights: In ancient India, women had limited legal rights and were subject to strict rules regarding their behaviour and conduct. In the modern legal system, laws have been enacted to protect the women's rights and provide for their welfare in the light of equality.

It is evident while the ancient legal system in India had some similarities with the modern legal system, there are significant differences in terms of sources of law, the judiciary, criminal and civil law, and women's rights. The modern legal system in India has evolved to reflect the changing needs of society and is based on principles of justice, equality, and human rights.

Nyāyaśāstra & Justice

Today the term *nyāya* is used in the sense of justice but earlier it was used in the sense of reasoning and logic.

The concept of justice is limited to the protection of the rights of individuals and maintaining harmony in society where as Nyāya is more of a tool than a concept that can be used by experts in other fields like literature, grammar, philosophy, and other fields of knowledge. In the ancient texts, the art of debate and reasoning are clearly laid down with each minute detail elaborately explained. Although these concepts exist in the modern legal system as well but more reliance is placed on learning through practice as no modern text lays the minute details as clearly in comparison with the ancient texts.

The *pañcāvayavas*^{2,3}, *pratijñā*⁴ (Development of proposition), *hetu*⁵ (establishing the proposition through reasoning), *udāharaṇa*⁶ (homogenous or affirmative examples to support the proposition), *upanaya*⁷, (establishment of the validity of the proposition), *nigamana*⁸ (deductive/inductive statement – confirming the stated proposition) can be considered as the process of seeking justice in today's legal system. These five Avayavavyakya is a must for establishing one's Siddhāntas and also for making others understand it. All things and objects are detailed based on these statements but with a slight difference from what is stated by Gautama. Philosophers differ on their opinion on the subject of these statements. The Nyāyasastra stands firm on the importance of these five statements The *nirṇaya*⁹ of the Nyāyaśāstra is what looks like the final verdict or the conclusion of a case in the court-room. *Siddhānta* and *nirṇaya* present the results in such a manner that some useful new addition could be made to the existing

body of knowledge. The framework of Nyāya provides us with a generic structure which is clearly the foundation of the process of a modern-day courtroom. However, the individual components of the Nyāya framework might warrant detailed explanation when studied in the context of modern-day justice system.

For instance, the legal maxim '*a verbis legis non est recedendum*'¹⁰ looks like a resultant of the understanding of the four types of *siddhānta*¹¹ according to Nyāya i.e., *sarvatantra-siddhānta*¹² (A doctrine common to all philosophies), *pratitantra-siddhānta*¹³ (A doctrine peculiar to only one philosophy), *adhikaraṇa-siddhānta*¹⁴ (A doctrine resting on implication), *abhyupagama-siddhānta*¹⁵ (A doctrine based on hypothesis) where the maxim states the court/judge must not change the words of a statute. If the language of a statute is not clear then the words have to be construed in the light of legislative scheme, objects, purpose, or the ultimate effect.

A similar concept is seen in stating *siddhānta* where the later interpretations can be varied but the established tenet is acceptable by both the parties/sides in a debate/discussion.

The question of the utility of most things in the world is related to their specific country, time, state of the person etc. Indian philosophy is the result of years of deliberation. Apart from philosophies, other branches of Indian knowledge are also mostly the result of continuous penance of our forefathers and Nyāya philosophy is no exception to this. Yes, it is definitely that in different stages of development of this philosophy, new dimensions were added to its utility. Therefore, the question of the utility of Nyāya is somewhat different as compared to other philosophies.

2. Conclusion

In ancient India, logic was nothing but Nyāya of Nyāyasastra. The Nyāya with its five Avayavas establishes the Siddhānta. In the Nyāyasastra, there is always a contradictory Siddhānta for every Siddhānta proposed. Some of these Siddhāntas will be accepted and some others will be rejected. The Nyāyasastra gives a platform or teaches one to complete his Siddhānta by pointing out the means to reach it and besides it also helps or teaches one to establish his Siddhānta. The great teacher or sage Gautama gives a detailed explanation or teaches the means to come up with a Siddhānta and also details the instruments for arguing. The Siddhānta of Atma in Nyāyasastra is said to be different from the body. The rebirth is an unforeseen activity. The activity of the unforeseen results is the mortality of Buddhi, the materiality of senses and so on. This is established logically by the Anumāna Pramāṇa. Thus the Nyāyasastra of the great sage Gautama is a handbook which helps one to reach the field of establishing his Siddhāntas and how to prove his findings.

Nyāya is a school of Indian philosophy which is not a legal system in itself but has influenced present legal systems in India. While similarities exist between the ancient and modern legal system in India some significant differences can also be found in the source of law and the structure of the legal system. The modern legal system in India has

evolved to reflect the changing needs of society, and is based on principles of justice, equality, and human rights.

In some form or the other all Indian philosophies have declared liberation as the ultimate goal of human life and Gautama has also clearly propounded the same thing in his Nyāya-Sūtras. Therefore, from the traditional Indian point of view, the aim of knowing Nyāya-Śāstra is to attain moksha. For without knowledge there is no moksha, and there can be no comprehensive knowledge of any fact without adopting the process of Nyāya-Śāstra.

Footnotes

- 1) <https://www.indianbarassociation.org/comparative-study-of-amicus-curiae/>
- 2) प्रतिज्ञाहेतूदाहरणोपनयनिगमनान्यवयवाः॥१-१-३२॥
- 3) साध्यनिर्देशःप्रतिज्ञा॥न्या.सू.११३३॥
- 4) उदाहरणसाधर्म्यात्साध्यसाधनहेतुः॥१-१-३४॥
- 5) साध्यसाधर्म्यात्तद्धर्मभावीदृष्टान्तउदाहरणम्॥न्या.सू.११३६॥
- 6) उदाहरणापेक्षस्तथेत्युपसंहारो नतथेति वासाध्यस्योपनयः॥१-१-३८॥
- 7) हेत्वपदेशात्प्रतिज्ञायाःपुनर्वचननिगमनम्॥न्या.सू.११३९॥
- 8) विमृश्यपक्षप्रतिपक्षाभ्यामर्थावधारणनिर्णयः॥१-१-३२॥
- 9) <https://bnblegal.com/a-verbis-legis-non-est-recedendum/>
- 10) तन्नाधिकरणाभ्युपगमसंस्थितिःसिद्धान्तः॥१-१-२६॥
- 11) सर्वतन्नाविरुद्धस्तन्नेऽधिकृतोऽर्थःसर्वतन्त्रसिद्धान्तः॥१-१-२८॥
- 12) समानतन्त्रासिद्धःपरतन्त्रसिद्धःप्रतितन्त्रसिद्धान्तः॥१-१-२९॥
- 13) यत्सिद्धावन्यप्रकरणसिद्धिःसोऽधिकरणसिद्धान्तः॥१-१-३०॥
- 14) अपरीक्षिताभ्युपगमात्तद्विशेषपरीक्षणमभ्युपगमसिद्धान्तः॥१-१-३१॥

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