

The legitimacy of tradition: Mimamsa's theory of interpretation and customs within the Vedic Legal Order in Ancient India

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Abstract

The Vedic age of Hindu civilization (1500BC-800BC) is an era which some European scholars declared to be that of different culture and religion. While some Hindu scholars claim that their civilization is much older and extend as far as 6000 year back [1]. The chronological contradiction is not important rather it is more significant to understand the Vedic methods of resolving the textual conflict which was well explained in the different texts of Dharma (Law). This article is an attempt to understand the logic of accepting the Vedas as the superior authority of Dharma and the methods and test for deciding the validity of its uses that were used by contemporary societies and produced various Mimamsa literature, which are helpful for understanding the rupture and continuity of the customs. This article also outlines four foundational rules of interpretation derived from ancient Indian Sanskrit Mimamsa theory. These principles provide a hierarchical framework for understanding texts: Shrutis prioritizes explicit, grammatically complete meaning; Linga resolves ambiguity through contextual or technical reference; Vakya mandates the grammatical connection of disjointed sentences to ensure clarity; and Prakarna requires reading incomplete clauses in conjunction with related passages to achieve a cohesive understanding of the subject matter and classification of interpretation of law in Ancient India in order to legitimise the customs and tradition in Indian Society.

Keywords: Mimamsa, Smriti, Shrutis, Legitimacy, customs, Tradition

Introduction

The Hindu jurisprudence or the legal system is embedded in Dharma as explained in the Vedas, Smriti, Purana and other Sanskrit texts were considered as the law in ecclesiastical matters as well as in the field of forensic law, the adoption of the art of Mimamsa (interpretation) became the most important tool to understand the real meaning and contradiction in the provisions of those authoritative texts. The development of *Mimamsa* was used for the purpose of evolving the principle governing the interpretation of religious injunctions express in short and cryptic sentences. The detailed understanding of Vedic text and its various interpretation gave scope to the jurists to contribute to the further development of law, to suit the changing need of society, which took the shape of the interpretation of the law by very eminent jurists. By the process of interpretation, well-accepted customs and uses were woven into the legal system and thereby satisfied the requirement of changes called for, to suit according to the changing culture of the society over the period of transition from Vedic to later Vedic period which was the natural requirement for the development of the society.

There is no special chapter pertaining to law or provision dealing with law directly. Then we must understand that why were the Vedas considered as sources of Dharma? As many ancient scholar argued that, it is difficult to learn law from the later of the Vedas only, but by following the indications available therein, it can easily be ascertained.

ये वदन्तीह सत्यानि प्राणत्यागेऽप्युपस्थिते ।
प्रमाणभूता भूतानां दुर्गाण्यतितरन्ति ते ॥ [2]

Those who speak the truth in this world, even when they are about to give up their lives, are the proofs of beings, and they cross over difficulties.

सत्यहीना वृथा पूजा सत्यहीनो वृथा जपः ।
सत्यहीनं तपो व्यर्थमूषरे वपनं यथा ॥

Just as sowing seeds in desolate land is useless, so too are worship, chanting, and penance without truth.

However, the truth was varied in different texts, particularly in case of custom and tradition of ancient society.

For example-

1. The law regulating the fair means of acquisition and disposal of the property could be traced to *Ishavasyopanisad*, which declared that entire wealth is the creation of God therefore one should only aspire for a small property as necessary.
2. Rigveda X. 85 is a hymn relating to the marriage ritual from which the law governing marriage has emanated [3].

The Vedas are regarded as primary and inviolable sources of *Dharma* and as they declared basis Vidhi and Nishedha. It was also declared that it was not permissible to incorporate and evolve a legal provision contrary to such basis injunctions and that in case of conflict between Vedas and other sources, the former prevail and later should be set aside [4].

However, as very rightly observe by Apastamba- the Vedas cannot be considered as text proper to the eminent legal system. The principle laid down to the effect that in case of conflict between the Smritis and Shrutis the later would prevail, means that no provision in the Smriti which contravened a positive or negative injunction laid down in the Veda would be valid. But if you look at the present interpretation of the Vedic literature from practical point of legal history, the relevant part of Dharmasutras and Smritis are real legal literature comparable to modern legal and civil law. In this regards Sarvadhikari states that –

"It is true that according to the Hindu, the fountain head of Dharma or Law is the Veda or revelation, but there are no special chapters in Vedas treating of law. In sutras alone we find continuous treatises devoted to this subject and we must look to the aphorism, therefore, for the origin of the Hindu jurisprudence" [5].

Therefore we cannot understand the ancient judicial system without the deeper understanding of all the text Vedas, Smritis, Shruti, Dharmasutras which cover the every aspect of life and everyday activity of human being. It is also surprising to know that there was well established rule of interpretation of legal text as an important branch of jurisprudence. The principle of interpretation help in understanding the correct meaning (words, sentences, phrase) of provision of law.

Deciphering the Text: A Step-by-Step Interpretive Framework

The history of interpretation has been neglected by medieval writer and even by recent social scientists. The deeper explanation of interpretation of ancient texts deserve better space in narrative of law. In England, there are many writings on interpretation of law deal with the interpretation of statute law, as explained by Sir Fortunatus Dwaris in nineteenth century, and work of American Jurist, Sedgwick and Henry Hardcastle are the leading on the subject of interpretation [6].

Statutory interpretation generally covers two areas: the rules for decoding the actual language used in an act, and the principles used to determine the legislative intent regarding secondary details that the law implies but doesn't explicitly state.

The two fundamental inquiries arise in the study of ancient Indian jurisprudence that is the first, the interpretation of the writer's intent within specific passages; and second, the determination of whether such passages impose an obligatory, quasi-obligatory, or non-binding legal duty.

Mr. Maxwell's idea of literal construction argues-

"The first and most elementary rule of construction, is that it is to be assume that words and phrases are used in their technical meaning if they have acquire one, and in their popular meaning if they have not, and that the phrases and sentences are to be construct accordingly to the rule of grammar; and from this presumption it is not allowed to depart where the language admit of no other meaning, unless adequate grounds are found, either in history of cause of the enactment or in the context or in the consequences which would result form the literal interpretation, for concluding that the interpretation does not give the real intension of legislature" [7].

Maxwell's framework for interpreting statutes identifies four key methods based on Literal Meaning which explain the language of a law should be understood in its natural and ordinary sense unless there is a clear reason to amend or qualify that meaning and also based on Popular vs. Technical Usage that is typically interpreted based on their common, everyday meaning, except when they have an established technical meaning understood by experts in that specific field. However, he also suggest to use the Contextual Deviation methods in which jurist can move away from a literal reading if historical background, the reason for the law's creation, the surrounding context, or the resulting consequences provide a strong justification for doing so.

According to Mimansa's theory of interpretation, following four methods were suggested by different philosophers. Which was based on first, Shruti that is if a sentence is grammatically complete and its meaning is perfectly clear, it should be accepted as is without further interpretation; second Linga that is If a word has multiple meanings or its literal sense doesn't fit the context, its specific meaning must be determined by looking at the surrounding text or related topics; third Vakya that is when the relationship between words or sentences is unclear, they should be logically combined using the rules of grammar to create a coherent statement and fourth, that is Prakarna which says- If a sentence or clause doesn't make sense on its own, even if the grammar is correct, it must be read in connection with other relevant passages to understand its full purpose.

Mr. Colebrooke argued while he give interpretation of Hindu Law and explained the Mimansa Aphorism, "The logic of Mimansa is the logic of law- the rule of interpretation of civil and religious ordinances. Each cases is examined and determined upon general principle; and from the cases decided, the principle may be collected. A well order arrangement of them would constitute the philosophy of law, and this is the truth, what has been attempted in Mimansa" [8].

Echoes of Tradition: Navigating Custom and Codification in Hindu Jurisprudence

Early Indian tradition was also govern by the different oral tradition as there was no written law, which consider as first stage of Hindu Law. This stage shows that writing was unknown, is clearly shown by the terms in Shruti as well as in the Smritis. One must need to ask a question then what was the different between these two Shruti and Smritis in real sense?

The essence of Shruti was captured in a fixed linguistic structure, comprised of verses intended for oral recitation and song. The rule of Siksha explain the methods and manner of recitation based on mechanical process and practices.

In the case of Smritis, communication centered on the essence of the material, encompassing both factual information and intellectual concepts. "The one represent the revealed law which admitted of no change, the other floating traditions of customs and practices, which naturally influenced the conduct of the society" [9].

The former possessed inherent superiority over the latter; consequently, in instances of overlap, the revealed law superseded the unrevealed. The second phase was marked by the introduction of literacy. The oral tradition of the *Shrutis* was transcribed into the written Vedas for the purpose of *Swadhayay* (study). During third stage, the growth of Vedic and Smritis literature necessitated their codification. Scholar still debate whether the Dharma Shastras served as binding legal codes or merely as academic reflexion of philosophers social perspectives.

Law text in Ancient India does not means only Vedas. According to Hindu system of jurisprudence, the Vedas are primarily revealed text, unlike Smritis. This distinguished Shruti Vidhi as direct revealed law and Smritis Vidhis as indirect. Due to this relationship, the Mimansa principle of interpretation govern both spiritual and temporal legal issues in Ancient India.

Jaimini's classification of Vedic texts and text of revealed law into five categories [10]. These five primary

classifications are; the obligatory Vidhis and Nishedhs, followed by non-obligatory Arthvadas and Namdheyas and fifth category was Mantras, consist of specialized text.

The Mimamsa adopt a new definition which is 'a vidhis is that which put one in a position which ordinary he is not apt to get into'. The definition of Nishedha Vidhis is somewhat reverse of that of Vidhis. That is Vidhis is *aprupta prapaka*. That which puts one in a position which he is not ordinarily apt to get into. Nishedha is against *raga prapta*, that is a 'prohibition of what one is apt to do by the impulse of some particular passion' ^[11]. Within Mimamsa literature, *Vidhis* are further classified by the nature of the *Chodna*. Though generally defined as an injunction for a specific deed, a *Chodna* may occasionally dictate a fundamental principle independent of any specific application. The mimamsa process of establishing principle of interpretation is called *Adhikarana*.

The Mimamsa School adopts a unique definition of Vidhi: "that which places an individual in a position they would not ordinarily attain." Conversely, a Nishedha (prohibition) is essentially the reverse. While a Vidhi is *apurva prapaka*—providing something not otherwise obtainable—a Nishedha acts against *raga prapta*, prohibiting actions one might otherwise perform out of impulse or passion.

Mimamsa writers further classify Vidhis as *Chodna* (commands). While typically understood as an injunction to perform a specific act, a *Chodna* can also establish a general principle without referencing a specific deed. The Mimamsa process for establishing these interpretive principles is known as *Adhikarana*, which consists of five steps as described in the following sutra by Kumarila Bhatta. 'the text under consideration, the doubt concerning it, the first side or answer and the conclusion, all these constitute a *Adhikarna* ^[12]' Colebrooke identified five important elements within *Adhikarna*: first, the subject matter; second, the specific doubt it raises; third, the opposing or preliminary arguments; fourth the final conclusion and fifth its overall relevancy.

There is no objection to this purpose of interpretation. It allows for a thorough examination of conflicting perspectives, which ultimately ensures that the final conclusion is both clearer and more robust. The process of determining the meaning of Vedic texts by the Mimamsa is centred on the *Adhikarana*, a comprehensive thematic analysis that arrives at a final decision by considering both sides of an argument. As explained by Kumarila, an *Adhikarana* is formed by the text, the doubt, the opening argument, the counter-reply, and the resolution. Sabara used a very similar technique, focusing on a multi-stage resolution to bring about a clear meaning of textual dispute ^[13].

K. L. Sarkar on the importance of three debt formula (*Devruna*, *Rishiruna*, *Pitaruna*) on the basis of modern interpretation of legal text relating to the duties and rights of the Hindus, the principal must always be kept in view, and it should be presumed that all text are more or less intended to promote these three classes of duties. The three presumption can be concluded as first securing the spiritual welfare, second -encouraging learning skill and third maintaining the family institution and traditions ^[14].

In his analysis of succession, Jimutavahana of the Dayabhaga School resolved inconsistencies among various *Shrutis* texts by applying a presumption in the favour of spiritual benefit (*pinda*). Recognizing that ancient

jurists often failed to reach a definitive consensus on conflicting legal mandates. He also established a structured framework of interpretative rules to guide future practitioners in resolving textual contradictions. Test for deciding the validity of the Custom and Uses.

Manu outlines a framework for verifying the validity and continuity of customs, asserting that the "conscious satisfaction" (*Atmatusti*) of those learned in the Vedas serves as the ultimate litmus test. However, Kumarila critiques this by subjecting *Atmatusti* to further scrutiny. He points out a circularity in the definition: if the "well-informed" are defined by their sound actions (*Sadachara*), and sound actions are defined by the well-informed, the argument remains unresolved. Consequently, Kumarila concludes that internal satisfaction alone cannot be an infallible test.

तथाऽऽचारात्मतुष्ट्यादिधर्मैर्धर्ममयात्मनाम् ।
वेदोक्तमिति निश्चित्य ग्राह्य धर्मबुभुत्सुभिः । इति ॥ ^[15]

"In order that a uses be valid it must be such that not only there must be absence of improper motives but also the desire for heavenly bliss should be its basis and true believer in the Vedas is likely to observe it as a matter of duty" ^[16].

These traditional tests were clearly established to reinforce the authority of *Smriti* and *Vedic* mandates. Fundamentally, this mirrors a core tenet of modern jurisprudence: while actions taken by a lawful authority are presumed valid, that presumption is rebutted if the act contravenes statutory law or is tainted by *mala fides* (bad faith).

The literary references of the evolution of testing the validity of customs in Hindu law, moving from subjective satisfaction to objective legal standards can be found writing of Kumarila's criticism he argued that *Atmatusti* is circular and insufficient. He questioned who qualifies as "well-informed," noting that defining them by their "sound actions" while defining "sound actions" by those who are "well-informed" creates a logical loop. Various writings of ancient Sanskrit texts reflect as the mirror of modern legal principles. Just as an administrative order is presumed valid unless it contravenes a statute or is made with *malafide* (bad) motives, ancient customs were invalidated if they lacked a proper spiritual basis or were born from improper intentions.

Custom and Modern Law

Validity and continuity of customs is widely debated issues among the world jurisprudence. Ancient Sanskrit texts throw a deeper light on the issues of contradiction and changes nature of customs. According to Indian classical thought Dharam, Vyavahara, Charita and Nripagya (King's edicts) are said to the four legs of law and they are authoritative in the succeeding order. Charita is said to be what is practised by virtuous men. Manu says "one should abandon what was once Dharma if it ends in unhappiness or it has become hateful to people ^[17]". Yajanvalkya also remarks "what was once allowed to be Dharma should not be practised if people come to hate it and it does not lead to heaven" ^[18].

Narada assert the primacy of customary law over written *Shastra*, nothing that observe uses take precedence in case of conflict ^[19]. Kumarila says that if there is contradiction between what is laid down in Veda and *Smriti* and the custom, then the authority of the usage is lost. But this may

be theoretically correct but one finds numerous examples where usages opposed to Smriti texts were in vogue from ancient times. Brihaspati asserts that the long-standing traditions of every nation, caste, and family must be strictly maintained; any failure to do so risks inciting civil unrest, alienating the public from their leaders, and ultimately depleting both the military and the state treasury of any empire^[20].

Legal custom is a specialized rule that exists outside general law, gaining its authority through prolonged usage in a particular area or group. For a custom to be valid, it must meet the criteria of being ancient, consistent, and reasonable. Crucially, it cannot violate morality, and norms of the nation. It is also reflected in modern law of Hindu Marriage Act 1952, wherein section 3 defines the customs as follows:-

"the expression 'custom' or 'usage' signify the rule which, having been continuously and uniformly observed for a long time, has obtained the force of the law among family; provided that the rule is certain and not unreasonable or opposed to public policy; and provided further that in case of rule applicable only to a family it is not discontinued by the family."

The Supreme Court in *Gokal Chand v. Parvin Kumar* established five key principles for how a custom (traditional practice) is legally recognized: first, one cannot assume a person follows a custom. The person claiming a custom exists must prove both that it applies to them and that the custom itself is valid, second, a custom gets its legal power from long-term use. However, Indian law is more flexible than English law; one need not have to prove it has existed since "time immemorial." Third, a custom can be proven by the testimony of family or tribe members who would naturally know about it and follow it without dispute. Fourth, Customs can be local (specific to an area) or tribal/community-based (like those followed by the Jats in Punjab). Fifth, Frequency of Proof is not required for broad territorial or community custom. It also supported by Halsbury^[21] and in the Madras High Court judgment on *Rajathi vs Selliah*^[22] on 29 January 1966 cases.

Conclusion

Ancient legal scholars followed clear protocols for resolving textual conflicts and prioritizing legal sources. Jaimini, in particular, developed interpretive rules designed to reveal the authentic meaning of legal provisions. In antiquity, India viewed its law (Dharma) as having a sacred origin, similar to the perspectives of ancient Greece; however, it was fundamentally rooted in custom. Consequently, it should not be dismissed as merely a tool for institutionalizing the private interests of the Brahman and Kshatriya classes and other jurists who were engaged in interpretation of ancient legal texts.

The legitimacy of tradition was not merely a matter of blind adherence but was rooted in erudite framework of beliefs and practices. These traditions gained their authority by accepting and recognizing the established validity of customs that had stood the test of time. Rather than being static, these customs were continuously filtered through critical inquiry, ensuring they remained relevant and structured. Mimamsa theory of interpretation, provided a rigorous analytical method for understanding sacred texts and social norms have been applied by ancient philosophers to ensure the validity of customs. The rupture and continuity

was decided on the basis of logical discourse rather than just accepting a popular practices and historical habits. Consequently, the interplay between ancient practices and Mimamsa's critical lens created a tradition that was both authoritative and legitimate as per the accepted norms.

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