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The Role of Sanatan Dharma in Indian Jurisprudence

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Abstract: ***The article to aims to be written in the introductory approach and it intends the end of brief surveys of the Indian Jurisprudential theory. It seeks an oriental call form the development of the Hindu legal institution an examine the school of Natural Jurisprudence in comparison to the natural law. The article specifically focuses on the analysis of ancient Hindu thought to the common school of Jurisprudential issue the once which deal with the administration of the state ; the law and the rule of law and the Punishment and the Procedure***

I. INTRODUCTION

In various religions across the nation, including Hinduism, Buddhism, Jainism, Sikhism, and others, the concept of dharma is significant and desirable. Many Vedic religions use the concept of dharma, and as the world changes over time, its significance and appropriateness grow. The diversity in the ideologies of the nation and the wealth of ideas in Indian law make it an affluent and opulent body of the legal system. Indian law is recognized by a variety of rigorous laws, traditions, and conventions. Given that Hindus make up the vast majority of the population in India, Dharma has a significant influence on how the country's legal system is established. In the past, Hindus substituted the word “law” from the word “dharma”. Dharma was once thought of as a person's moral and social responsibility towards the community, both as an individual and as a member. Dharma's main goal is to control human conduct in both cosmic and human contexts. Jurisprudence is the study of the theory, foundations, and philosophy of law, as well as how laws are interpreted and applied. Natural law, legal positivism, legal realism, and other schools of thought are among those that are included in this large and intricate field. Philosophers and legal experts have argued about the definition and application of jurisprudence throughout history, which has produced a variety of, occasionally opposing, viewpoints on the issue. While some contend that jurisprudence is a subfield of philosophy, others view it as a separate field that belongs to the social sciences. Although there are a variety of viewpoints, it is generally accepted that jurisprudence is concerned with the essence of law, its history, its connection to morality and justice, and its function in society.

II. JURISPRUDENCE

The goal of Jurisprudence is to focus equally on theory and its practical approach towards the society. It speaks to the core values that support the highest form of law. All legal studies, in general, are built on the study of jurisprudence. In this paper, the author has taken the account of the fundamental components of a specific branch of legal jurisprudence. The Romans were the first people to study law. The word "Jurisprudence" is derived from the Latin word "jurisprudential," which can be contemplated or can be connoted as "Understanding of Law" or "Skill of Law." The Latin word "Juris" denotes "law," but the Latin word "prudential" denotes "knowledge, science, or skill." Jurisprudence, then, is the study of law and how it should be applied. Here, the term "jurisprudence" refers to the entire corpus of fundamental general legal principles that serve as the foundation for actual legal standards. As a result, it does not refer to the study of laws or to particular branches of the law; such consumer, criminal, tort, or property law, but rather to the fundamental ideas that underpinned the creation of those branches of the law.

III. DEFINITION OF JURISPRUDENCE

Several well-known jurists have defined the term “jurisprudence”. Bentham, Ulpian, Austin, Salmond, Keeton, H.L.A Hart, and Julius Stone are a few examples of such jurists. Jeremy Bentham is one of the most well-known lawyers and is credited with creating jurisprudence. Identifying the activities that have been performed in the context of internal administration is how Bentham defined jurisprudence. "Jurisprudence" in this sense refers to a collection of philosophical ideas or mental structures used to interpret the law. Jurisprudence, according to the Roman jurist Ulpian, is the study of good and evil about gods and humankind. Austin, who is now acknowledged as the Father of English Jurisprudence, was a well-known legal expert. Who was the first attorney to connect law to science. He considered jurisprudence to be the philosophy of positive law.

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According to Salmond, jurisprudence is the study of the fundamentals of civil law. The norms that are upheld by courts while they carry out justice are referred to as civil law. He provided two definitions of jurisprudence. As follows: 1) Broad Sense 2) Particular Sense Strict positivism was in contrast to H.L.A. Hart's legal philosophy. By fusing morality and the law, he viewed jurisprudence as a science of law with a far larger perspective. Julius Stone defined jurisprudence as the extraversion of the lawyer. In light of contemporary advancements in non-legal fields, it is the lawyer's assessment of legal concepts, theories, and methods.

IV. SCOPE OF JURISPRUDENCE

Conflicting perspectives exist regarding the precise limits of the body of jurisprudence that the law encompasses because of different authorities giving the law different interpretations and presumptions. There is uncertainty when jurisprudence is broadened to include moral and spiritual considerations. Austin's capacity to distinguish is demonstrated by the fact that he used the term "law" solely to refer to the body of regulations established and enforced by the sovereign or highest law-making power inside the realm, separating it from morality and theology. Since jurisprudence cannot handle ethical or religious issues, it is only able to analyse the ideas of positive laws.

V. MEANING OF SANTANA DHARMA

Dharma is Presumed that its seed has been shown through the vedic concept of the Rita which is a Vedic term that means "the straight line," was the source of Dharma and that it ultimately replaced it. Rita makes reference to the Law of Nature, which is founded on justice and denotes moral laws. Rita just refers to anything being truthful, correct, and nothing more. Rita developed alongside Dharma, but eventually Dharma overtook Rita since the original Rita concept was unable to handle and address the problems that were becoming more and more complicated due to societal changes. Dharma represents natural law..

According to Justice M. Rama Jois, dharma is what secures everyone's advancement, welfare, and happiness in this world as well as their eternal happiness in the afterlife. The Dharma is declared in the form of a directive. The definition of dharma is a topic that is discussed in Mahabhartha. According to Madhavacharya ;Defining Dharma is really difficult. According to one explanation, dharma is something which contributes to the improvement of living things. Dharma is therefore unquestionably that which guarantees the wellbeing of living things. The wise rishis have said that drama is what endures.

In contrast to other schools of law, Hindu law has always placed a greater emphasis on duties than rights since Dharma, in all of its manifestations, has established the primary duties of every person and has always been a guiding principle. To further demonstrate it, consider that a farmer's Dharma is to give food, but a professor's Dharma is to impart temporary knowledge to their pupils.

Another significant aspect of Dharma is how much it resembles the natural law schools of law since ancient Indian law held the belief that God had given humans rights. Therefore, divinity is the exclusive source of all social, legal, political, and spiritual rights.

Dharma, in a manner, has many facets and includes laws and norms that cover a variety of topics. As was already established, Manusmriti covers topics like marriage, succession, administration, economy, and civil-criminal law.

VI. ORIGIN OF DHARMA

The Vedas are Sruti (heard information), and they are where Dharma first appeared. The Vedas are the most significant source of knowledge for humanity, and Sruti is a depiction of what the ancient ministers said. They include depictions of any topic that may be relevant, including military, governmental, and ordinary life. Its many origins include Smriti, which is the Vedic interpretation, and the four sages known as Smriti Kars who upheld the dharma sastras.

As follows

1) Yagnavalkaya
2) Manu
3) Narada
4) Brihaspati

The Puranas, which have eighteen chapters and information on God's creation, his line of ancestors, wise men, and monarchs, as well as a thorough explanation of each yuga, are the second important source. None of the sources moves more quickly than the others; they are all going at about the same rate.

One of phrase extracted from the Brihadaranyaka Upanishad, "punyo vai punyena Karmana bhavati, Papah Papeneti," which translates to "everyone turns out to be acceptable by acceptable deeds and terrible by awful deeds," can be used to sum up the notion that motivated people to follow the Dharma: "each one gets what he really asks for and what's benefit is characterized by Dharma."

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The term "dharma" means to support, maintain, or bear in Sanskrit. Dharma is founded on the legal system, which holds that each individual has a duty to his or her fellow citizens and a legal right to live. There was a widespread concept that people's Dharma was defined by their karma in ancient times. As a result, Dharma Raj is another name for Yudhistir from the Mahabharata. It is a concept that advances the welfare of all living creatures. The Dharma is therefore that which ensures the welfare of all living beings. Since it appears to cut over every conceptual divide that matters to people—legal, social, religious, moral—it seems to be less challenging to comprehend than confounding. It denotes the ultimate praise, which is justice, kindness, and purpose above chance.

VII. TYPES OF DHARMA

There are various types of dharma some of them are listed below: -

1) Samanyadharma (Morality, qualities of the soul) – this type of dharma include mercy, truth, control over the mind, purity , offerings, control over the senses , non-violence, pilgrimage , compassion, honesty, absence of any greed and no one can criticize any of the above .
2) Varnadharma (Dharma of a class)- this type of dharma is applicable to the four classes of people which is Brahman (Priest), Kshatriya (Warrior), Vaishya (Businessman), and Shudra (labourer).
3) Ashramdharma (Dharma according to stages of life) – this type of dharma is limited to a certain stage of life and it also include four type of ashrams which is Brahmacharyashram, Gruhasthashram,Vanaprasthashram and Sanyasasashram.
4) Gunadharma (Dharma according to the qualities) – this type of dharma tell duty to be performed by the person who is holding a particular position or role . for example, the duty of king is to nurture his subjects. The impute of five cosmic elements are also called Gunadharma
5) Svadharma – this type of dharma tells to practice it own duties, rights which each and every people is being provided with. It is unique dharma because every person has born out of his/her own traits , nature and capacities which is known as swabhav. For example – the swadharma of the fish is to live in water but milk is better than water, if any fish will insist to live in milk will die.
6) Sanatana Dharma - this type of dharma is used by Hindus to refer to Hinduism. In sanatan dharma the term Hinduism is denoted as 'eternal' or set of duties and responsibilities that is prescribed to every individual irrespective of class, creed, caste or sect.

VIII. NATURE OF DHARMA

In the Rig Veda, written during the Vedic era, the term "Dharma" is first used to describe the principles upon which the cosmos universe is built, and it is held that God created life in accordance with these principles. Moksha is hence the eternal Dharma for people, according to Hinduism. The Upanishads have lately enhanced and moralized the concept of Dharma. It also has a juridical meaning that explains citizens' legal responsibilities in Hindu law books like Manusmriti. Marriage, succession, management, the economics, and civil and criminal law are all covered in Manusmriti. The first responsibility of a king is to uphold the Dharma. The importance and scope of law and justice have increased along with the notions' development. In contrast to other legal systems, Hindu law emphasizes duties more so than rights. This is accurate since the Dharma, in all its manifestations, lays forth what each person's ultimate duties towards the society are. Depending on the individual, these commitments may take a variety of shapes, but they are always the same. For instance, a king's Dharma is to enforce religious law, but a farmer's Dharma is to support his or her family. Another feature of Dharma is how much it mimics natural law-based schools of jurisprudence. This is due to the old Indian legal doctrine that rights were granted to individuals by God. Therefore, all social, legal, political, and spiritual rights ultimately derive from divinity. Although the concept of dharma is ultimately highly religious, it contains many other aspects. It contains laws and regulations that cover a variety of subjects. For instance, texts like Manusmriti address issues like marriage, succession, civil and criminal law, administration, the economics, and religion. In contrast to other legal systems, Hindu law emphasizes duties more than rights. This is because Dharma encourages everyone to have a distinct duty in all of its complexities

IX. INDIAN PERSPECTIVE ON DHARMA AND THE ROLE OF JURISPRUDENCE

The Hindu legal system, one of the oldest in existence, is based on the notion and concept of Dharma. It includes the notion of Nyaya, often known as justice, which is the fundamental principle of all laws. The ancient Hindu concept of dharma, also known as the "Dharmashastras," ensures that people live in harmony with the rest of the cosmos.
Some of the important Code of law are as follows:-

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1) Manu Smriti: Manu Smriti is a systematic compilation of Dharmashastra norms that addresses all legal disciplines. Manusmriti is written in straightforward language, which gives it additional authority.
2) Narada Smriti: It consists of both substantive and procedural laws, according to Narada Smriti. Procedural laws specify how a crime is committed, whereas substantive laws specify the crime's offence and punishment.
3) Arthashastra: The Arthashastra is a collection of Hindu political pacts. The common law system is the foundation of the contemporary Indian legal system. India is a secular nation as well. As a result, the old Hindu legal system is no longer applicable in the contemporary setting.

X. A COMPARISON OF DHARMA AND MODERN LAW

Despite the fact that modern regulation is founded on reasons and includes inflexible ideas, dharma indicates the routineness of generally recognized order; it also incorporates religion and duty and cannot be separated from a quality or an order. Although Dharma is an obligation-based philosophy, rights now take precedence over responsibilities in the legal system. The existing paradigm does not acknowledge morally upright behavior, and instead of being direct or goal-oriented, it now places emphasis on outcomes and proof. Ethics, morality, and a high standard of conduct for a man were all parts of dharmaThe dharma assumes a strong and binds by the dread of a like extraordinary (human), but the law rely on sensitivity and is bound by the legal consents issued by courts.Law now refers to concepts like rights, moral responsibilities, and other things. Dharma is all-encompassing and unavoidable in addition to being particular in nature and lacking exceptional leadership. The law is based on common sense and really assumes what man "should be."The Dharma was found to be the inspiration for the contemporary nation state, which supports its citizens. It is very obvious that the Dharma and the Rigveda both advocate human rights and fundamental rights.

A. Purpose Of Law

The main responsibility of the state is to ensure justice for its citizens. The ability to administer justice in line with each state's unique legal system belongs to each state. A ruler's main duty, even in ancient times, was to make sure that their subjects were treated fairly.A judgment must represent something just and right in order to be just, objective, fair, and correct.Justice, in accordance with modern legal thought, comprises the application of concepts like equality and liberty. Additionally, it involves approving and carrying out legislation approved by the legislative branch, represented by the Parliament. And the Indian Supreme Court, in particular, carries out this duty for the legal system.Justice is therefore defined as the recognition, application, and enforcement of the law by the courts..

B. Indian Courts and the Concept of Raj Dharma

We have discovered evidence in an inscription from the Ashoka Empire, where he instructed all of his judicial officers to be impartial and follow the Dharmashastras. In India, we find a section of legal codes dating back to the first century BCE, which by the sixth century had developed themselves in the form of legal procedure known as "Vyavahara." Manu Smriti claims that there are 18 categories of ancient Hindu law that are analogous to modern laws. These categories include adultery, non-repayment of debt, deposit, partnership business, resumed gifts, non-payment of wages, duties of husband and wife, breach of contract, gambling, and theft. (Rajander 2013)

One of the initial text which talks about how the conflict solves is Apastamba (third C. BCE), which talk about the character essential for being a judge, it states, “men who are elder, wise, and having vast knowledge of shastra who possessed unwavering faith towards their duties” should follow this noble profession of justice. In ancient India; we have 6 courts with different jurisdictions. They are Kula (Family Council), Shreni (Council of trade or profession), Gana (Assembly of a village), Adhikrita (Court appointed by the King), Sasita (King Court), & Nripa (The King). Kaula helps to solve the family disputes, with the help of elderly family members, in Shreni, to solve the matter of trade dispute we have the mechanism to get the person who knows the profession, who accepts to be impartial and adjudicate the matter. Gana is the trend which we follow in the 21st century also, it is like a gram panchayat which resolves the dispute of the village. The Adhikrita is authorised by the sovereign, these courts solving disputes sometime Pratishtha, Apartishtitha, and Mudrita When we counter with an ancient idea of state how to govern a state, we see two courses of action.

The first is Kautilya magna opus Arthshastra, which talks about the “rule with the inductive investigation of the phenomena of the state”.

The second is an approach found in Dharma-sastra, which is the tradition of ‘Rajdharma’ (the law for Kings), which gave a comprehensive detail, how to establish a law-based society, by using hymns from Vedas. (McClish Mark 2018)

In addition to Rajadharma, Manu and Visnu Smriti place a strong emphasis on internal administration, the appointment of spies, ministers, and counsels, settling the land, law and order, judges, foreign relations, the battlefield, famines, and other issues that fall under the purview of the king. However, we also observe some forms of discrimination in society. According to Gautama Smirti, "King has no authority to adjudicate matters between Bhramanas, he should be righteous in deed and speech, he should be well-trained (abhivinta) in the Triple Veda (tray) and Investigation (nvkik).". He must be moral, have his senses under control (jitendriya), and have virtuous policies and helpers. Manu included Ksatriyadharma as a subgroup or subtopic of Rajadharma when he emphasized Rajadharma. "When the Kings fight with each other in battles with all their strength, seeking to kill each other and refusing to turn back, they go to heaven," wrote Manu. This is also a way for the monarch to demonstrate the authority of their deity over other deities.

C. Decline Of Dharma And Advent Of Positive Law

Dharma (Hinduism) started to lose its lustre and roots with the arrival of Muslim rule, which was followed by British rule. During the Muslim era, dharma was supplanted with koranic instructions, but many practices endured, thus it remained essentially pure. The notion of Dharma, however, was gravely harmed by the entrance of British standards and their misunderstanding of Indian rules, since they learned that there were no regulations in place to regulate individuals. They either imported western law, or more accurately, normal law with the principles of balance, equity, and a strong inner voice, to address the issue, or they codified western law to impose it in places where neither Hindu nor Muslim natural law, teachings, or customs had established a legal system.In any case, people's social equality and liberty were taken away.. Indians were mistreated harshly, and their ideas were repressed in every aspect of life, including politics, society, and the economy. Retaliation was used against the freedoms and privileges that Indians had when living under the rigorous rule of the Law of Dharma. Gandhiji said in his well-known Champaran speech that he broke the law out of loyalty to a higher law of our being—the bad habit of heart—by which he suggested Dharma—rather than out of contempt for British law.

D. Post-Independence Era

The Constitution of India was written with this in mind since the fight for independence was a fight for the fundamental freedoms and rights that every person should have. As it became clear that the traditional way of living needed to give way to a practical view on life, Hindu law (Dharma) began to be codified in accordance with these changes in outlook and lifestyle. By way of the fundamental rights, the concepts of natural law (Dharma) were incorporated into the constitution. Dharma was codified Dharma, as we all know, was a right-based legal system, while the present one is based on duties These rights, of course, do not exist in a vacuum; they are subject to limitations. Some of the essential rights are equality rights, freedom of movement, and most importantly, the right to life. However, there are many examples from international history as well as our own that demonstrate the abuse of power, such as the Nazi regime under Hitler or the infamous Emergency imposed by Indira Gandhi, and the events that followed are sufficient to call into question the basic principles upon which our constitution was established.

On what is known as "the black day of Indian legal history," the judiciary rendered a judgments in the Habeas Corpus case, severely undermining public confidence in the system. In this ruling, personal liberties and fundamental rights were arbitrarily taken away, and the Honorable Supreme Court justified it in an unjust judgement for its own benefit. However, faults were quickly begun to be repaired. The famous I.C. Golaknath case established the fundamental rights as absolute, and later, the Supreme Court articulated the doctrine of basic structure in the His Highness Keshvananda Bharti case. However, law cannot be static, so it must be absolute; otherwise, it becomes nebulous and useless.. The doctrine thus founded can be said to have following features:

1) Supremacy of the Constitution;
2) Republican and Democratic form of Government;
3) Secular character of the Constitution;
4) Separation of powers between the legislature, executive and the judiciary, and
5) Federal character of the Constitution.

XI. CONCLUSION

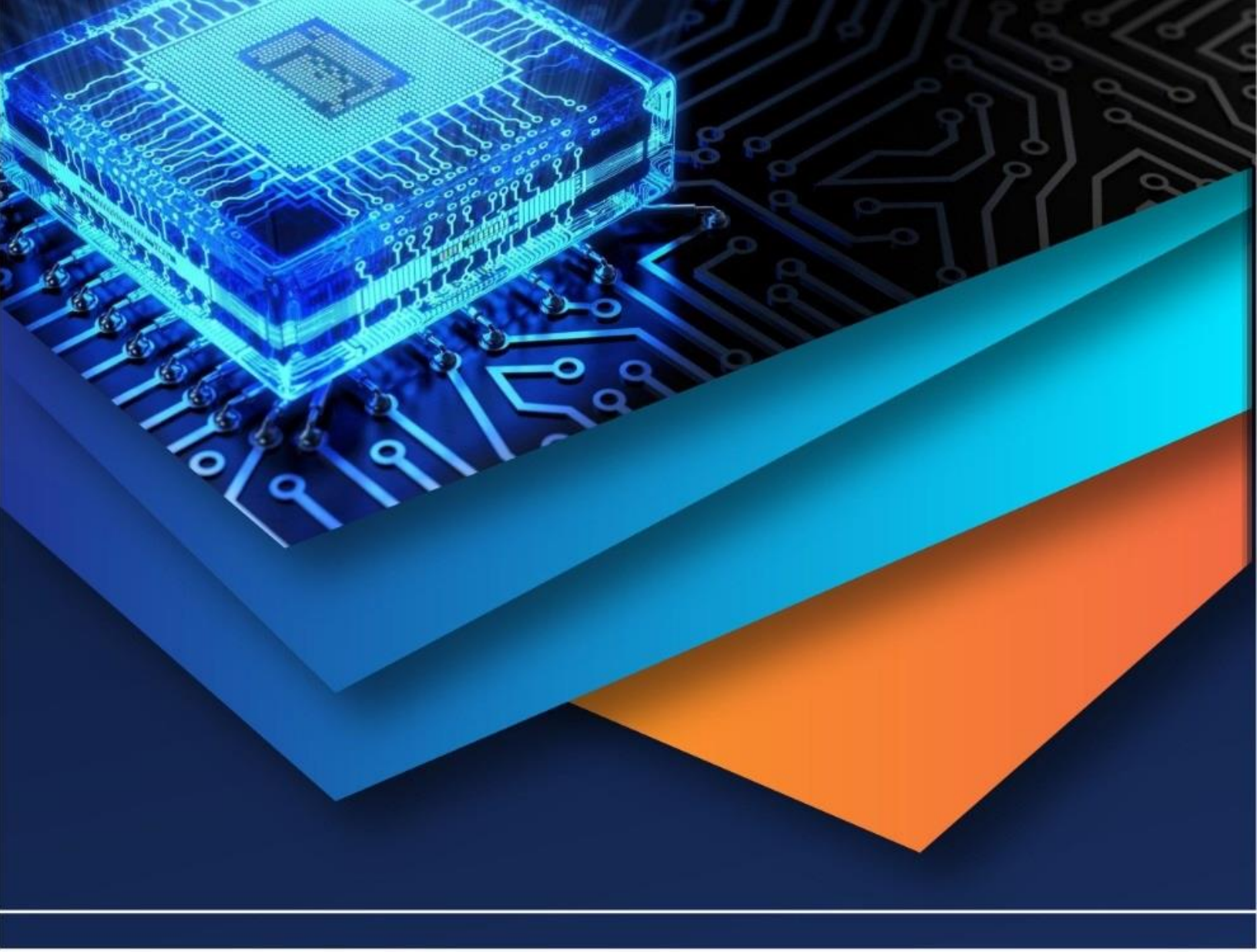
Dharma and law have the same fundamental ideas, despite their seeming differences, as was previously said. Without exception, law is a part of the Dharma, and all laws are a part of the same integrated totality. On the one hand, dharma is perceived as being strict; nevertheless, this is not the truth, and the honorable Supreme Court has repeatedly verified the equivalent as stated in the areas above. Dharma has guided and still guides our deeds, morals, and laws to varied degrees.

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On the surface, there could seem to be no connection between the two, but upon closer examination, it becomes clear that they are both connected and function as one cohesive unit. On the surface, there may appear to be no relationship between the two, yet upon closer inspection, both are interconnected and work as a cohesive whole. One of the many sources of modern law is "Dharma," which is influencing society. Thus, one might say that ‘dharma’ and law are firmly related and joined. Dharma by finishing the assessment of time has shown its unceasing person.

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