PRAGMATIC APPROACH TO LAW: A STUDY OF INDIAN EXPERIENCE

Dr. Manmeet Singh
Assistant Professor
Maharaja Agrasen School of Law, Maharaja Agrasen University, Baddi, Himachal Pradesh

Abstract:
The pragmatic approach to law emphasizes the practical application of legal principles to real-world situations rather than rigid adherence to abstract doctrines. This research explores the evolution and significance of pragmatism in the Indian legal system, focusing on how Indian courts, particularly the Supreme Court, have adopted a functional and result-oriented perspective in constitutional interpretation, public interest litigation, and social justice adjudication. The paper critically examines landmark judgments to trace how pragmatism has influenced judicial reasoning in balancing conflicting interests, accommodating social change, and fostering democratic values. It also evaluates the challenges posed by judicial overreach and inconsistency. Through a contextual analysis, the study highlights how pragmatism in Indian law has both enriched legal discourse and raised questions about predictability and judicial accountability.

Keywords: Pragmatic approach, Indian judiciary, judicial interpretation, social justice, legal realism, constitutional law, public interest litigation.

Introduction

Pragmatism is a philosophical tradition that began in the United States around 1870. Pragmatism rejects the idea that the function of thought is to describe, represent, or mirror reality.[1] Instead, pragmatists consider thought an instrument or tool for prediction, problem solving and action. Pragmatists contend that most philosophical topics—such as the nature of knowledge, language, concepts, meaning, belief, and science—are best viewed in terms of their practical uses and successes.[2]

Pragmatism is considered a process rather than a result, and the pragmatic approach attempts to validate all participatory variables in a solution to a moral problem. While those in line with Kant's categorical imperative see these problems in terms of their dualism, or "is/ought" problems, the pragmatists in line with the philosopher Kierkegaard discard this view altogether for one that reveals how issues and problems and components thereof are related to each other. In effect, there are no hierarchies involved in the pragmatic approach, nor categories in the development of the problem.[3]

[1]*William James (1909).* The Meaning of Truth. Retrieved *5 March* 2015.
[2]http://www.Pragmatism%20-%20Wikipedia,%20the%20free%20encyclopedia.html
[3]http://www.A%20Pragmatic%20Approach%20to%20Conflict%20Resolution_%20Benefits%20and%20Problems%20by%20Terri%20L.%20Kelly.html

Charles Sanders Peirce (and his pragmatic maxim) deserves much of the credit for pragmatism,[4] along with later twentieth-century contributors, William James and John Dewey.[5] Pragmatism enjoyed renewed attention after W. V. O. Quine and Wilfrid Sellars used a revised pragmatism to criticize logical positivism in the 1960s. Inspired by the work of Quine and Sellars, a brand of pragmatism known sometimes as neopragmatism gained influence through Richard Rorty, the most influential of the late twentieth-century pragmatists, along with Hilary Putnam and Robert Brandom. Contemporary pragmatism may be broadly divided into a strict analytic tradition and a "neo-classical" pragmatism (such as Susan Haack) that adheres to the work of Peirce, James, and Dewey.

The word *pragmatism* derives from Greek πρᾶγμα (*pragma*), "a thing, a fact", which comes from πράσσω (*prassō*), "to pass over, to practise, to achieve".[6] The word "Pragmatism" as a piece of technical terminology in philosophy refers to a specific set of associated philosophical views originating in the late twentieth century. However, the phrase is often confused with "pragmatism" in the context of politics (which refers to politics or diplomacy based primarily on practical considerations, rather than ideological notions) and with a non- technical use of "pragmatism" in ordinary contexts referring to dealing with matters in one's life realistically and in a way that is based on practical rather than abstract considerations.

Pragmatist or Pragmatism

The pragmatists are interested in the transformation of ethical character based on moral action on a holistic level. Pragmatism is considered a process rather than a result, and the pragmatic approach attempts to validate all participatory variables in a solution to a moral problem. While those in line with Kant's categorical imperative see these problems in terms of their dualism, or "is/ought" problems, the pragmatists in line with the philosopher Kierkegaard discard this view altogether for one that reveals how issues and problems and components thereof are related to each other. In effect, there are no hierarchies involved in the pragmatic approach, nor categories in the development of the problem. There is only the approach itself, holistically aimed. The task, then, is to find solutions that make the most sense in the simplest way possible. It is assumed that a solution can be found because everyone can reason and most do reason to get to the actions that they do, thus absolving all sides of the blame for a problem for the sake of reaching the solution. It is assumed that you can aim for the truth in a solution, but it is also assumed that an ultimate truth will never be reached, so that the ethic is centered in the aiming itself. In this view, each node of the relationship between components of this approach is regarded on equal basis with any other, and so in the process of reconciling these components a series of benefits and problems in the pragmatic approach can be speculated.[7]

Origin

Pragmatism as a philosophical movement began in the United States in the 1870s. Its direction was determined by The Metaphysical Club members Charles Sanders Peirce, William James, and Chauncey Wright, as well as John Dewey and George Herbert Mead.

The first use in print of the name *pragmatism* was in 1898 by James, who credited Peirce with coining the term during the early 1870s.[8] James

[4]Susan Haack*; Robert Edwin Lane (11 April 2006). Pragmatism, old & new: selected writings. Prometheus Books. pp. 18–67.* ISBN 978-1-59102-359-3.

[5]Biesta, G.J.J. &Burbules, N. (2003). Pragmatism and educational research. Lanham, MD: Rowman and Littlefield.

[6]Henry George Liddell, Robert Scott, A Greek-English Lexicon, on Perseus

[7]http://www.A%20Pragmatic%20Approach%20to%20Conflict%20Resolution_%20Benefits%20and%20Problems%20by%20Terri%20L.%20Kelly.html

[8]James, William (1898), "Philosophical Conceptions and Practical Results", delivered before the Philosophical Union of the University of California at Berkeley, August 26, 1898, and first printed in the University Chronicle 1, September 1898, pp. 287–310. Internet Archive Eprint on $_{p}$ 290;

regarded Peirce's 1877–8 "Illustrations of the Logic of Science" series (including "The Fixation of Belief", 1877 and especially "How to Make Our Ideas Clear", 1878) as the foundation of pragmatism.[9] Peirce in turn wrote in 1906[10] that Nicholas St. John Green had been instrumental by emphasizing the importance of applying Alexander Bain's definition of belief, which was "that upon which a man is prepared to act." Peirce wrote that "from this definition, pragmatism is scarce more than a corollary; so that I am disposed to think of him as the grandfather of pragmatism." John Shook has said, "*Chauncey Wright also deserves considerable credit, for as both Peirce and James recall, it was Wright who demanded a* phenomenalist *and* fallibilistempiricism *as an alternative to rationalistic speculation."*[11]

A Pragmatic Approach to Global Law

1. A Provocative Question

How should one think about global law? This is a provocative question because it presupposes an answer to another question, no less important than the first one: does global law even exist? Nothing is less certain. One may certainly speak about a globalization movement, which is not always all that global; one can deal with global finance and global economy, and bring up global issues, such as the struggle against global warming. But may one truly speak of a "global law", when law remains, at least on the surface and in official addresses, the prerogative of the State or, in the case of international law, of the States? Wouldn't it be wiser to talk about "the effects of globalization on the law" rather than to invoke a "global law"?

A provocative question also in the sense that it catalyses thought, reflection, inasmuch as by presupposing its object it allows one not only to consider – which is a prerequisite – the destructive effects of globalization on existing legal structures, both national and international, but also to discern and to conceptualise the new legal objects, often still unidentified or not properly identified, which emerge from transnational relations and the global society under construction.

These multiple and heterogeneous devices, that proliferate, often in anarchical ways, in the most globalized fields, challenge the understanding of lawyers by the extraordinary diversity of their origins, their shape or their effects and by the apparent randomness of their arrangement and their combinations. However, they account for the necessary horizon of the legal philosopher and of the legal theorist of the 21st century. We are compelled, and this is not the first time in our history, to rethink law at the scale of the whole world.

Methodological Issues

2. Field Studies and UNOs

The "Global Law" program is the central research program of the Perelman Centre for Legal Philosophy. The Centre was named after one of its founders, Chaïm Perelman, leader of the Brussels School of Jurisprudence[12], and has developed and applied his pragmatic approach to the current

I refer to Mr. Charles S. Peirce, with whose very existence as a philosopher I dare say many of you are unacquainted. He is one of the most original of contemporary thinkers; and the principle of practicalism or pragmatism, as he called it, when I first heard him enunciate it at Cambridge in the early [1870s] is the clue or compass by following which I find myself more and more confirmed in believing we may keep our feet upon the proper trail.

James credited Peirce again in 1906 lectures published in 1907 as Pragmatism: A New Name for Some Old Ways of Thinking, see Lecture 2, fourth paragraph.

[9]See James (1897), Will to Believe (which James dedicated to Peirce), see p. 124 and footnote via Google Books

[10]Peirce, C. S., "The Founding of Pragmatism", manuscript written 1906, published in The Hound & Horn: A Harvard Miscellany v. II, n. 3, April–June 1929, pp. 282–5, see 283–4, reprinted 1934 as "Historical Affinities and Genesis" in Collected Papers v. 5, paragraphs 11–13, see 12.

[11]Shook, John (undated), "The Metaphysical Club", the Pragmatism Cybrary.

[12] B. Frydman and M. Meyer (ed.), *Chaïm Perelman 1912-2012 : De la nouvelle rhétorique à la logiquejuridique*, Presses Universitaires de France, 2012, esp. B. Frydman, « Perelman et les juristes de l'Ecole de Bruxelles », pp. 229-246.

transformations of law induced by globalization. The Global Law Program started some fifteen years ago with the study of the consequences of globalization on law and governance, and progressively focused on the emergence of new forms of regulation in different sectors. Our pragmatic approach of legal phenomena has led us to study the consequences of globalization on law, not grounded in an existing theory, but rather by starting empirically from case studies and field observations. We conducted several field studies in areas particularly affected by globalization, such as the regulation of the Internet and of virtual worlds[13], the fight against climate change[14], but also corporate social responsibility[15], human rights transnational litigation[16], financial and accounting regulation, technical standards and indicators[17], as well as the European Union as a laboratory of global law.[18] In order to do that, we often started from specific cases (such as the Yahoo! case about the Internet, the Nike case about CSR, the Unocal-Total case about HR transnational litigation), which we studied in great depth, without limiting ourselves to a strict approach of positive law, but on the contrary by providing a 360-degree view on the case, and by taking into account data that are still too often considered irrelevant from a legal perspective: media reactions, strategies of actors, technical constraints, economical consequences, etc.

3. Conceptualizing Law without Legal system – The Micro – Legal approach

This pragmatic approach to global law implies some methodological choices. These choices must be explained for they have important consequences. Firstly, our study of global law is not a global study of law, at least not *a priori*. Economists usefully distinguish between two branches of their discipline, which also determine two points of view: macroeconomics and microeconomics. Such a distinction of level and of method also exists in other social sciences such as history and sociology. By analogy, we could also distinguish between a macro-legal and a micro-legal approach. The macro-legal approach gives priority to the study of the legal system of norms. The micro-legal approach determines how to decide cases and allocate rights. The concept of legal system, on the one hand, and the case method, on the other, are the two frames that history has given us to think about law. The case method was handed down to us by the Ancients, through Antiquity and the Middle Ages, while the concept of legal system was imposed by the Moderns, especially on the continent.[19] In continental Europe, the "legal system" was imposed in such a way that when we study law, we almost always give priority to the macro-legal approach, as if there were no other, at least no other scientifically valid approach. It is of course through this form that we consider national legal systems. Moreover, we have extrapolated this concept by applying it to supra-State levels. As

[13] B. Frydman and I. Rorive, « Regulating Internet Content Through Intermediaries in Europe and in the U.S.A. », *Zeitschrift für Rechtssoziologie*23 (2002), Heft 1, pp. 41-59. – B. Frydman, L. Hennebel and G. Lewkowicz, "Coregulation and the Rule of Law", in E. Brousseau, M. Marzouki., C. Meadel, (ed.), *Governance, Regulation and Powers on the Internet*, Cambridge University Press, 2012

[14] B. Frydman, « Coregulation : a Possible Model for Global Governance », *in* B. De Schutter and J. Pas eds., *About Globalisation, Views on the Trajectory of Mondialisation*, Brussels, VUB Brussels University Press, 2004, pp. 227-242.

[15] Th. Berns, P.F. Docquir, B. Frydman, L. Hennebel and G. Lewkowicz, *Responsabilités des entreprises et corégulation*, Bruylant, col. 'Penser le droit', 2007.

[16] B. Frydman and L. Hennebel, "Le contentieux transnational des droits de l'homme", *Revue Trimestrielle des droits de l'homme*, 2009, pp. 73-136.

[17] B. Frydman and A. Van Waeyenberge (ed.), *Gouverner par les normes : de Hume aux rankings et aux indicateurs*, Bruylant, col. 'Penser le droit', 2013 (forthcoming).

[18] D. Dogot and A. Van Waeyenberge, "L'Unioneuropéenne, laboratoire du droit global" in J.-Y. Cherot et B Frydman, *La science du droit dans la globalisation*, Bruylant, 2011, pp. 251-273. – A. Van Waeyenberge, *Les nouveaux instruments juridiques de la gouvernancecommunautaire*, 2013 (forthcoming).

[19] Concerning this question, I refer the reader to B. Frydman, *Le sens des lois. Histoire de l'interprétation et de la raison juridique*, Paris-Bruxelles, LGDJ-Bruylant, 3rd edition, 2011.

soon as 1963, the Court of Justice of the European Union asserted that "the Community constitutes a new legal order of international law."[20]

4. Methodological Nationalism

All the more so that the concept of legal system (or legal order) does not only have a logical aspect (an ordered and complete set of consistent rules), but also an important political aspect, whose relevance must be reassessed in a global perspective. The legal order is indeed very often understood and used as an instituted order established by an authority, better yet by a sovereign authority, typically a State. In this respect, the notion of "order" refers not only to a system, but also to a command imposed by the authority to its subjects under the treat of sanctions. Historically, the construction of a legal system and the assertion of a sovereign political order have been the two sides (knowledge and power) of the same royal coin.

The logical and political aspects of the legal order merge to form a simple and rather rigid equation: law = legal order = State. Thus for many philosophers, conceptualising global law (or "cosmopolitical law" to use another term) does not only imply thinking about a new world order, but also implies almost necessarily, even if aporetically, asking the question of the existence of a world State. Some, such as Hans Kelsen, regard the law and the State as synonyms and consider that there is no other law than the law created by the States, i.e. national legal orders and an international legal order, made up of the law that States create together.[21] We believe, for our part, that we must break off from this expression of what the German sociologist Ulrich Beck calls (well beyond law and legal thinking) the "methodological nationalism"[22], while other speak of "statocentrism."[23]

5. Ubi societasibi ius. –*The Law of the Global Civil Society*

We have thus got rid, quite expeditiously I am afraid, of the legal system and of legal sources in order to understand global law. But what should we replace them with? How should we characterise the global environment if not as a super-State nor as a legal system? If we refer to the prevailing tradition of modern political philosophy, we would be left to think of the global environment as a "state of nature". Here we are, back to Hobbes, who once described the international society of his times as a state of nature inhabited by Leviathans actually or potentially at war with one another.[24] No social contract links those Leviathans with one another. Hobbes thinks of the state of nature –to say it very briefly –as a lawless state where the right of each person knows no other limit than his power or the limit imposed by another's power. In Hobbes' state of nature, individuals are completely on their own and there is almost no society at all. However, some of his successors, especially in the jusnaturalist or liberal tradition, believed, as Locke did, that some kind of society might actually exist in the state of nature, in which individuals may claim and even enjoy natural rights, particularly the recognition of their property.[25] As the Romans said long ago :*ubi societasibi ius*. There is no human society without law (but there are human societies without a State). Moreover the great Hegel, who was neither liberal nor jusnaturalist and who thought of the State as the ultimate form of government, taught that a private law grounded in persons, ownership and contracts, necessarily precedes State's Law, logically if not

[20] CJEC 5 feb. 1963, van Gend & Loos (case 26/62). See also the classical and already critical paper of J. Combacau, « Le droit international :bric-à-bracousystème ? », in Le systèmejuridique, *Archives de Philosophie du Droit*, t. 31 (1986), pp. 85-105.

[21] H Kelsen, *Pure Theory of Law*, Berkeley, 1967.

[22] U. Beck, *Power in the Global Age,* Cambridge: Polity Press, 2005.

[23] G. Timsit, *Thèmes et systèmes de droit*, Paris, P.U.F., 1986, p. 34. - W.J. ACEVES, "Liberalism and International Legal Scholarship: The Pinochet Case and the Move Toward a Universal System of Transnational Law Litigation", 41 *Harv. Int'L.J.*, 129 (2000).

[24] Th. Hobbes, Leviathan or The Matter, Form and Power of a Common Wealth Ecclesiastical and Civil (1651).

[25] J. Locke, *Second Treatise of Government* (1690).

chronologically.[26] And one may observe the emergence of pre-political institutions, such as corporations and guilds, within this sphere of private law (civil and commercial law), before the emergence of public law.

6. Transnational human rights litigation[27]

Cases such as Yahoo! and Nike show that forum shopping is not only used by private actors – especially firms –to escape duties, taking advantage of the favorable conditions created by globalisation. Indeed, the same technique is used by other players, notably NGOs, to subject those same firms to rules from which, it seemed, it was possible to escape, under the traditional rules of international private and in particular the territoriality of police laws.

This opportunistic use of forum shopping for the purpose of implementing international standards of justice or to penalize the violation of fundamental rights is a very distinct hallmark of transnational human rights litigation. This type of litigation was highlighted in Europe with the Pinochet case. Pinochet was blocked in England at the request of Spanish and Belgian investigating judges, who were acting on the appeal of Chilean victims of the dictator, even though an amnesty law protected him in that country. That type of legal action is more and more frequently used to take proceedings against firms that are allegedly guilty of violations of human rights or of humanitarian law. For example, two large petrol companies –the French "Total" and the American "Unocal" –were successively confronted with proceedings in the US, in France and in Belgium. Those firms were charged for aiding and abetting crimes allegedly committed by the Burmese army (which was, on the other hand, immunised from proceedings on account of the absolute immunity of jurisdiction of States), as part of the exploitation of a gigantic gas field in Burma.[28] In that case, the NGOs representing the victims used every procedural means available, notably active and passive personal jurisdiction, but also awaking an old law of 1789 in the US (the Alien Tort Claim Act), or even the universal jurisdiction statute enacted in Belgium (who for a while thought it good to offer in this global context "judicial hospitality"[29] to the whole world, before having to back down, under the pressure of the US). The case was in part political. It aimed to denounce to the tribunal of public opinion the crimes of the Burmese regime and to blame the western gas companies for their shameful complicity. At the same time, the case aimed to get a court declaring Unocal or Total legally responsible for their behaviour to the victims. Although the case collapsed in Belgium after an epic battle that pitted the two highest courts of the country against each other, it resulted, in the US and in France, in a compromise allocating significant compensation to the victims.

A Pragmatic Approach to Legal Regulation

The *Legal Profession Act (2004)* (the Act) regulates the legal profession in Victoria, Australia. Regulation of the legal profession is integral to the promotion of appropriate standards of conduct and the protection of the interests of consumers of legal services.[30] In the current climate of rights-oriented consumerism, regulation must also continue to evolve to reflect the changing expectations of consumers and

[26] G.W.F. Hegel, *Elements of the Philosophy of Right* (1820).

[27] For a more complete discussion of the questions summarized in this paragraph and the precise references it contains, reference may be made to our article : B. Frydman et L. Hennebel, « Le contentieux transnational des droits de l'homme : une perspective stratégique », *Revue trimestrielle des droits de l'homme*, 2009, pp. 73-136.

[28] B. Frydman, « L'affaire Total et sesenjeux », *in Liber amicorum Paul Martens. L'humanisme dans la résolution des conflits. Utopieouréalité ?*, Larcier, 2007, pp. 301-321.

[29] B. Frydman, « L'hospitalitéjudiciaire » *in Justice et cosmopolitisme*, proceedings of the international conference of the Institut des Hautes Etudes sur la Justice, published on the website of the Institut des Hautes Etudes sur la Justice (www.ihej.org/ressources).

[30] *Legal Profession Act (2004)* (Vic).

culture in the legal profession.[31] It also needs the application of the kind of *practical wisdom* Aristotle and Barry Schwartz refer to that involves improvising to achieve the right aims.

There are many competing demands in the task of legal regulation. Lawyers expect regulation to be reasonable and sensible in light of what is required to maintain the high standards they expect of their own profession. Consumers of legal services expect from the profession a high level of trustworthiness and competent, valuable service, and they want their grievances redressed where they believe these standards have not been met. Society as a whole recognises the importance of the integrity of the legal profession, and expects the regulator to maintain the standards. Regulation of the profession is therefore a complex task; a living and dynamic activity.

2009: A Regulatory In Crisis

Towards the end of 2009, the Legal Services Commissioner (LSC) was a regulator in crisis. Since the commencement of the Act in December 2005, the LSC had been the body primarily responsible for handling complaints about the legal profession. The crisis at hand was focussed on this important task.

After receiving a number of complaints from lawyers and complainants and conducting follow up investigations, the Victorian Ombudsman conducted a review of the complaint handling processes and procedures of the LSC.[32] The review identified a number of systemic problems arising from the management of complaints, which included

- delay in investigating and finalising complaints,
- poor practice in dealing with minor service-related complaints,
- poor investigatory techniques, including failure to use investigation plans, poor evidence gathering, and failure to substantiate and verify lawyers' explanations,
- denial of procedural fairness to parties, through an opaque and poorly explained process; and
- inadequate documentation and explanation of decisions.

The Ombudsman expressed concern at the low number of substantive prosecutions of lawyers for serious misconduct, commenting that "The lack of results suggests that the current practices of the LSC are inadequate in order for it to fulfil its statutory obligations. The LSC is at risk (if the view is not already held) of being seen as a 'toothless tiger' by both the legal profession and complainants alike. The end result is that the legal profession is under regulated and consumer confidence in the legal profession undermined."[33]

The Ombudsman made several recommendations to the LSC for improving complaint handling processes and procedures to ensure that complaints and disputes were dealt with in a timely and effective manner.[34] Recommendations, which were subsequently implemented, included the thoughtful use of investigation plans; ensuring staff undertake relevant training; and considering more appropriate response to what were essentially not disciplinary matters but customer service complaints.

Pragmatism and Indian Experience

Ground Water Management

India is the largest groundwater user in the world, with an estimated usage of around 230 cubic kilometres per year, more than a quarter of the global total. With more than 60 percent of irrigated

[31]David Edmonds, Chair of the Legal Services Board UK, *Training the lawyers of the future – a regulator's view* (speech delivered at The Lord Upjohn Lecture 2010, Inner Temple, 19 November 2010).

[32] Ombudsman Victoria Annual Report 2009.

[33] Ombudsman Victoria Investigation Report into Legal Services Commissioner's Complaint Handling Processes (2008), p54

[34] Ombudsman Victoria Annual Report 2009, p, 23.

agriculture and 85 percent of drinking water supplies dependent on it, groundwater is a vital resource for rural areas in India. Reliance of urban and industrial waste supplies on groundwater is also becoming increasingly significant in India. Through the construction of millions of private wells, there has been a phenomenal growth in the exploitation of groundwater in the last five decades.[35]

A number of factors have encouraged the remarkable expansion of groundwater use:

- Poor service delivery from public water supply systems has prompted many farmers, and rural and urban households, to turn to their own private supply for irrigation and for drinking water.
- New pump technologies meant that even farmers and households with very modest incomes could afford to sink and operate their own tubewell.
- The flexibility and timeliness of groundwater supply presented an attractive alternative to the technically and institutionally less responsive provision of surface water through public systems.
- Government electricity subsidies have shielded farmers from the full cost of pumping, creating a modality of groundwater use that has proved very difficult to change.

This era of seemingly endless reliance on groundwater for both drinking water and irrigation purposes is now approaching its limit as an increasing number of aquifers reach unsustainable levels of exploitation, and a 2004 nationwide assessment found 29 percent of groundwater blocks to be in the semi-critical, critical, or overexploited categories, with the situation deteriorating rapidly.[36]

Overexploitation of groundwater and management approaches

"Overexploitation" of an aquifer is a term applied to a physically unsustainable situation in which the extraction of groundwater exceeds replenishment (recharge) within a given area over a given period of time. Such a situation is now occurring in many aquifers throughout India. While the definition of overexploitation may appear simple, the sheer complexity of physical, environmental, socioeconomic, and other factors related to groundwater abstraction makes it notoriously difficult to understand the nature of the problem and devise effective solutions. Given that proviso, some broad categories of interventions can be identified:

- **Demand-side measures,** which aim to reduce consumptive groundwater use, for example through an increase in water tariffs in urban settings, or reducing crop water requirements and non beneficial evapotranspiration from fields in agricultural settings
- **Conjunctive use,** where savings are made through better alignment of surface water and groundwater resources in a specific area
- **Groundwater recharge enhancement,** whereby physical structures are built toretain runoff and encourage infiltration togroundwater

The hard-rock and alluvial aquifers differ considerably in their physical and socioeconomic profiles, and require very different sets of management solutions, at both macro and micro levels.

Hard-rock terrains of rural peninsular India: Characteristics and management options

In a sustainable scenario, dry season depletion of these low-storage aquifers, mainly for irrigation, is

[35] Deep Wells and Prudence: Towards Pragmatic Action for Addressing Ground water Overexploitation in India, The World Bank, p ix

[36] ibid

adequate compensated by recharge during the monsoonal rains. However, a rapid growth in the number of borewells since 1980 has led to a steady decline in water tables, resulting in a large increase in the cost of pumping a given volume of water, from which farmers have largely been shielded by flat rate, subsidized electricity tariffs.

Groundwater recharge enhancement has been promoted as a means of aiding recovery of water tables. The largest potential for recharge exists in alluvial settings, where there is abundant excess runoff as well groundwater storage capacity required for recharge. Most of the country's overexploited groundwater blocks lie in hard-rock settings, where recharge can provide only limited relief, and may be best employed as a valuable adjunct to other measures, such as rainwater harvesting.

Indian Foreign Policy: A Pragmatic Makeover?

PRESIDENT OBAMA'S visit to New Delhi as guest of honour for the Republic Day celebrations on 26 January 2015 has been notable beyond its significant symbolism. It was marked by the issuing of a joint statement entitled the "India-US Joint Strategic Vision for the Asia-Pacific and Indian Ocean Region". That document was the focus of the Chinese media's coverage of the visit.

Among other things it spoke about the need to ensure "freedom of navigation and over flight … especially in the South China Sea". The inclusion of this issue in the document was a bold departure from India's past reticence to name names and take a stand on critical international issues.

Conclusion

The norms and surveillance apparatus that arise resemble legal instruments by the regulatory function they are assigned to and which they perform more or less effectively, but radically differ from those instruments by the forms and means used. Those norms and devices are still very little known and very poorly understood. There is no doubt that the work and research that I have attempted to summarize here are still in their early stages. For a long time, we will stay confined to feeling our way along the various field studies of global law before being able to understand its meaning and to control its mechanisms.

Nevertheless, these prolegomena are encouraging. Indeed, in this paper we have only managed to give a slight idea of the apparatus emerging in areas of all sorts. Yet their similarity allows some hope to find the common pattern to which those various instruments belong. One may start to discern the still vague prospect of an elementary theory of global law. That theory will not rest upon an exhaustive inventory of its sources, nor on the construction of a coherent and complete system of rules. Rather, it will rest on the description of a finite number of simple elements, the combination of which would enable us to account for the large number of seemingly anarchic, incoherent and arbitrary arrangements that reality confronts us with.

Bibliography

Pound, Roscoe, *An Introduction to the Philosophy of Law* (Yale University Press, 1922).

Holmes, Oliver Wendell Jr., *The Common Law* (Little, Brown and Company, 1881)

Hart, H. L. A., *The Concept of Law* (Clarendon Press, Oxford, 1961)

Dias, R. W. M., *Jurisprudence* (Aditya Books Pvt. Ltd., Indian Reprint, 1994)

Friedman, W., *Legal Theory* (Columbia University Press, 5th ed., 1967)

Krishnaswamy, Sudhir, Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine (Oxford University Press, 2009).

Baxi, Upendra, The Crisis of the Indian Legal System", Vol. 24 (2*), Indian Law Institute Journal* (1982)

Lakshminath, A., and Manikyam, K. Sita, "Pragmatic Legal Philosophy and Judicial Choices", *Bharati Law Review* (July-Sept., 2012)

Gangwal, Havya and Koolwa, Mahesh, "Pragmatic Analysis of the Legal Framework on Mergers and Acquisitions in India under the Companies Act, 2013", Volume XI, Issue 2, Russian Law Journal (2023)

Singh, Avtar, "Pragmatism in Indian Judicial Reasoning: A Socio-Legal Perspective", Vol. 40(1), *Journal of the Indian Law Institute* (1998)

Dhavan, Rajeev, "The Supreme Court of India and the Pragmatics of Justice", Vol. 63(2), *Modern Law Review* (2000)