RELEVANCE OF VALUE JUDGMENT IN LAW

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ABSTRACT
The present paper undertakes an analysis of the role value judgments have played and continue to do in our legal system. For this, the article first is a survey of the concept of "value judgments" and therefore, deals with the theoretical understanding of values and their applications through the course of the development of the law. The attendant issues of subjectivity and the positivist outlook on the same is discussed in the same manner, a survey of the development of perspectives with time. The different approaches taken by jurists such as Dworkin have been discussed. The author then studies the take of the Indian Supreme Court and International Law on value judgments and the role they play in formulating law. The author concludes that value judgments may be attuned to the changing requirements of a legal system provided they are reached in a sound manner. This would be a happy arrangement, unless the value judgment which is deemed to be needed is not amenable to change as a part of its nature. However, the author’s point, that criticism of value judgments without the context being studied is vague, is undoubtedly taken well.

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I. INTRODUCTION

"The Judge is under a duty, within the limits of his power of innovation, to maintain a relation between law and morals, between the percepts of jurisprudence and those of reason and good conscience."1

- Justice Cardozo

The purpose of this paper is to analyze the concept of a value judgment and its significance in laws. In general, the term value judgment is defined as an expression of an attitude or outlook towards something. Most of the judgments are often not value judgments although they appear to be, just because they contain words like 'good', 'should', or 'must'. Such judgments are often regarded as value judgments; nevertheless they are sometimes at best pseudo value judgments.2 According to Georg Spielthenner3, for moral research, a clear perception of value judgments is vital for at least three reasons. First, ethical judgments are a certain kind of value judgments. Therefore, a clear concept of a moral judgment cannot be understood, unless one understands what a value judgment is. Secondly, 'a well-founded normative ethics', so as to justify the judgments about what things, acts, or qualities are good or bad, right or wrong. Thirdly, the 'applied ethics', wherein, it is essential for the application of general normative theories. Values are so inextricably woven into our language, thought and behavior patterns that they have fascinated philosophers for millennia, yet they have proved so 'quick-silvery' and complex that, despite their decisive role in human motivation, we remain desperately ignorant of the laws that govern them.4 Policy makers and scholar have been equally troubled by how much importance they should place on the role of values and attitudes in the modernization process. The real problem is to analyze and sort out the values that motivate administrative, social and individual behavior of administrators at various levels of administration. Values differ from individual to individual, group to group and community to community.5

Many philosophers, especially the positivists, are of the view that value judgments express 'what is' instead of 'what should be' in guiding social decisions.

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3 George Spielthenner, What is Value Judgment, 16 Sorites 82-92 (2005).
5 Supra note 4, at 104.
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Different societies have different value judgments. Therefore, the value judgments included in the social welfare function have no meaning except when related to a specified society. A related meaning of value judgment is an expedient evaluation based upon limited information at hand, an evaluation undertaken because a decision must be made on short notice and are determined by the current political and social environments, past social experiences and institutional constraints. To understand the correct meaning of value judgment, one needs to understand the meaning of value.

II. MEANING OF THE CONCEPT OF ‘VALUE’

Robin Williams, in his attempt to clarify the concept of values states as follows:

“Values as empirical elements in human behaviour certainly arise out of human experience.”

John C. Harsanyi states that value is subjective in nature because value exists only in the presence of and for a subject. This view is like the views of most psychologists and decision scientists. Thus, he starts from the definition of utility in terms of personal preference. He had a specific conception of objectivity, based on which all values, except the exchange value of money, and is considered subjective. Those values that look objective are said to be pseudo-objective.

The concept of value and its qualities are extensively explained in the paper “Value Theory: Toward Conceptual Clarification”. It is stated that individual’s and society’s value system are interdependent systems of interaction. Both are determinative of behaviour, just as both are concurrently shaped by the actions of their ‘carriers’ and members. Chief among the environmental stimuli initiating the individual’s actions are the admonitory and modeling behaviour of ‘significant

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others'. And each act, in turn, affects the culture of which it forms a part. Beliefs about the 'real' and about the 'good' are twin aspects of the personal character or value system, while the knowledge and normative systems interact at the cultural level. The two levels of systems are interpenetrating and continually shaping one another in their parallel evolution.

The following were explicitly provided as characteristics of value:

- Values as norms wherein prevailing recognition of values with normative rules had been conferred
- Values as cultural ideals wherein it was stated that values vary from attitudes in that they surpass accurate situations and have to do with universal modes of conduct (instrumental values) and end states of reality (terminal values)
- Values as estimation of action wherein the statement of Landes is important. In a 1967 study, he measures what he considers to be values by having respondents rank fifty behavioral items on a ten-point scale from "least to most worst".
- Values as objects - In defining values as objects Turner considered values as objects to the degree that they are shared and in the public domain. Perry's claim that a theory of value must refer to the emergence of interests focusing on objects is fairly representative of this point of view.
- Values as value orientations - The term 'value orientation' seems to have gained more rapidly in popularity than has the concept, and is now often confusingly interchanged with 'attitude'
- Values as behaviour probabilities - Franz Adler claims that in order for values to qualify as concepts of social science they must be defined in terms of

11 Supra note 10, at 178.
16 Rainer C. Baum, Values and Democracy in Imperial Germany, 38 SOCIOLOGICAL INQUIRY 179-96 (1968).
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behaviour. He sees them as learned components of personalities identifiable only as probabilities that a particular behaviour will occur in a variety of circumstances.

- Values as generalized attitudes—According to Rokeach values (like attitudes) are predispositions to act, they differ from attitudes in their transcendence of specific objects and situations

Critical legal studies by Fitapatrick and Hunt emphasize that there is no universal concept of justice or fairness. The social welfare function is subjective to a society and the changes in social environment, such as technological progresses and interest group activities, affect social preferences and change social value judgments. Lobbying activities are used to influence social preferences; the activities of judges and juries are attempting to recover the social preferences Public administrators necessarily make value judgments in order to promote equity in the provision of public services, within the interpreted intent of the legislation.

III. VALUE JUDGMENT

The dictionary meaning of value judgment is 'a personal estimate of merit in a particular respect' or 'an assessment that reveals more about the values of the person making the assessment than about the reality of what is assessed'.

No discipline or combination of disciplines can provide a value-free basis for prescribing a constitution or any set of rules. Value jurisprudence dwells in the minds of legal theorists for many years. The past century brought up many changes, including the change in notion, changing the understanding of law 'as rules' into a concept of law 'as values'.

'Ius scriptum' indeed constitutes an intrinsic part of any legal system, yet it

20 Supra note 14.
21 The Chambers Dictionary (10th edn.).
23 Latinterm for "written law". Ius scriptum was the body of statute laws made by the legislature.
is not self-sufficient. Written law lacunae, controversies and ambiguities cannot be confronted solely in the context of written norms, for law encompasses the values and principles that have emerged from the broader social context and provide for the coherence of the legal order. Apart from giving a foundation for norm creation, and ever more importantly, the value approach is an indispensable instrument for reaching just judicial decision-making in individual cases. Namely, judges increasingly use the flexibility of law to maximize the possibility of reaching just decisions in concrete cases.24

Justice Cardozo stated that there are three types of conflicts that come before the courts for adjudication.25 They are as follows:-

- Where the rule of law is clear and its application to facts is equally clear.
- Where the rule of law is clear and the sole question is about its application.
- Where neither the rule of law nor its application is clear.

However, according to Cardozo, it is the third situation which is serious business for judges where a value judgment could be given which has the potential of having the effect of advancement or retardation of development of law.

In a seminar held in 2008, Wall Art Museum, Beijing,26 the forum summed up the discussion on value judgment in the following way:-

- Value is statistical in nature, because the subject may be a group of people, all members of society, or even all human beings in the world, and the value of any object for the members of any group of people varies from member to member.
- The statistical nature of value can be derived not only from the dimension of subject, but also from the dimensions of object and judge because the object, instead of a single particular one, may be the abstract concept of a class of objects, and the judge, instead of a certain person, may be of statistical nature in one, two, or three dimensions namely, the dimensions of object, subject, and the judge.

26 Value judgments and Orientation of Young Critics, Seminar by Young Critics' Forum.
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- Incorporation of utility theory is essential, since value is an integral part of it and makes utility the starting point of utilitarian general theory value.

- There is no compulsion to use the traditional and conventional classification of value into intrinsic and instrumental. The classification of the members of a set into subsets is arbitrary, so that any classification is all right, as long as it classifies the whole set into disjoint subsets and covers all members.

- Fifthly, since utilitarianism is consequential and teleological, one should take a decision-theoretic approach to the study of actions in life. Therefore, non-moral actions are guided by rationality and prudence, while moral actions are guided by rationality, prudence and morality as well.

IV. CRITICISMS

Primarily, some of those who object may be concerned about the personal biases and agendas of administrators making the value judgments and their concern that self-interest might interfere with the promotion of social equity. Some philosophers are of the opinion that the average street-level bureaucrat regularly faces demands and pressures from multiple directions and often has the opportunity to substitute his or her self-interest for the public interest.\(^\text{27}\)

Some are of the view that the idea of public servants making value judgments is to promote their equality and equitable access to public services is appalling to those small-minded people. In addition, many conservatives and other people do not support the distribution of welfare services to the poor, instead thinking that the poor just need to pull themselves up by their boot straps. They may view the value judgments of public administrators as preventing the poor from making it on their own, or they may feel that the poor should not receive public services they do not pay for.\(^\text{28}\)

Those more familiar with private bureaucracies than public bureaucracies may be offended by the lack of the ethic of neutrality when considering the scenario of public administrators making value judgments of any kind. The ethic of neutrality does not allow for the exercise of independent moral judgment in policy implementation, beyond what is needed after determining the intent of the legislators and elected officials.\(^\text{29}\)

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\(^{29}\) Supra note 28.
V. Value Judgments and the Schools of Jurisprudence

One finds philosophers who took the enquiry concerning the nature of law to be an attempt to define the meaning of the word ‘law’. Traditionally those who adopted the linguistic approach concentrated on the word ‘law’. However, it encountered the overwhelming problem that word is used in a multiplicity of non-legal contexts. We have laws of nature and scientific laws, laws of God and thought, of logic and of language, etc. Clearly the explanation of ‘law’ has to account for its use in all these contexts and equally clearly any explanation which is so wide and general can be of very little use to legal philosophers.30 Only one assumption can be the explanation of ‘law’ hope to provide the answer to the legal philosopher’s inquiry into the nature of law. That assumption is that the use of ‘law’ in all its contexts but one is analogical or metaphorical or in some other way parasitical on its core meaning as displayed in its use in one type of context and that that core meaning is the one the legal philosopher has at the centre of his enquiry. Unfortunately, the assumption is mistaken. Its implausibility is best seen by examining the most thorough and systemic attempt to provide an analysis of ‘law’ based on this assumption, that proposed by John Austin.31

According to Hans Kelsen a judgment that an actual behavior is such as it ought to be or ought not to be according to a valid norm is a value judgment.32 As stated in this generality, his position cannot be accepted in its implications for the legal process. Not all acts by which a judge subsumes the facts as found by him under a formal or informal source of law are evaluative in character. Where the judge uses analytical reasoning, the scope of judicial axiology33 is either minimal or greatly reduced. Where dialectical reasoning is employed by a court, the range of evaluation of the contemplated result in terms of its righteousness or justice may be very wide but nonetheless subject to limitations imposed by the nature of the social system. The evaluative factor is excluded from judicial decision-making when a norm that is unambiguous in its core meaning is clearly applicable to the facts of the case. Thus, where a premeditated homicide has been proved beyond a reasonable doubt by uncontested evidence, the conclusion that the defendant has

31 John Austin, The Philosophy of Positive Law, 1 Lectures On Jurisprudence (1869).
33 The term axiology is derived from the Greek word axios (valuable) and designates the sphere of evaluative, as distinguished from logical or descriptive, assertions.
committed murder does not call for the making of value judgment. Its conclusion in that event is reached by the logical method of syllogistic deduction. Even in the area of creative determination of the law, judicial discretion is usually restricted by the general nature of the social system. As pointed out in the preceding section, value patterns of the culture tend to form hedges and moats which bar the free roaming of judicial valuation. For example, in a liberal society recognizing a far-reaching freedom of contract, it would be difficult for a court to invalidate an agreement (in the absence of a positive prohibition) on the ground of repugnancy to public policy and justice, unless a strong case can be made out to show that basic notions of collective morality were violated by the agreement, or that the integrity of social fabric would be jeopardized by its enforcement. Only rarely are value judgments pronounced by judges autonomous in the sense that they are independent of the mores, fundamental premises and social ideals of the time and place. The movement as a whole, therefore, is far too complex to admit of generalizations without careful and extensive qualifications. Only one problem can, and must, be selected because it has a specific bearing on the destruction of science, that is, the attempt at making political science (and the social sciences in general) 'objective' through a methodologically rigorous exclusion of all 'value-judgments'.

In order to arrive at clarity about the issue, it must first of all be realized that the terms 'value-judgment' and 'value-free' science were not part of the philosophical vocabulary before the second half of the nineteenth century. The notion of a value-judgment according to Werturteil is meaningless in itself; it gains its meaning from a situation in which it is opposed to judgments concerning facts. This situation was created through the positivistic conceit that only propositions concerning facts of the phenomenal world were 'objective,' while judgments concerning the right order of soul and society were 'subjective.' Only propositions of the first type

34 It is possible, however, that an element of appraisal was present in the fact-finding process if it was necessary for the court to form an opinion about the trustworthiness of a witness.

35 It might be said that these barriers to unrestrained law making by judges are a part of institutional "is" of society, as opposed to Kelsen's view that the normative system dwells in the realm of the "ought".

36 For example, a court in society dedicated to the idea of freedom might take the position that a voluntary agreement to serve as another's slave is incompatible with fundamental values of the society.

37 COOPER, Barry & Vögelin, Eric Vögelin and the foundations of modern political science, 285.

could be considered 'scientific', while propositions of the second type expressed personal preferences and decisions, incapable of critical verification and therefore devoid of objective validity.  

Cass R. Sunstein in his book “Conflicting values in law” states that as follows:-

“What I want to do is explore two claims and say something about their implication for law. The first claim is that we value things in different ways; that is to say, we value things not only in terms of intensity, but in qualitatively distinct ways. It is not simply the case that some things are valued more; it is also the case that some things are valued more; it is also the case that some things are valued differently from others. That is my first claim; about different modes of valuation. The second claim is that human goods are not commensurable. This is to say that there is no available metric along which we can align the various goods that are important to us, and that effort to come up with a metric, like utility or dollars, while nominally designed to aid human reasoning, actually makes human reasoning worse that what it is when it is working well. So the first claim has to do with diverse modes of valuation; the second has to do with incommensurability.”

According to J.S. Mill, nothing is more curious than the absence of recognition in any of his writings of the existence of conscience, as a thing distinct from philanthropy, from affection for God or man, and from self-interest in this world or in the next. Nor is it only the moral part of man’s nature, that he overlooks; he but faintly recognizes, as a fact in human nature, the pursuit of any other ideal end for its own sake.

Vittorio Villa is of the opinion that the legal positivism has a much broader scope than what is currently assumed, because it includes all the conceptions that presuppose a certain concept of positive law, a concept according to which:

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41 Supra at 1662.
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i. Law is always and integrally an human product;

ii. This product is radically contingent, in the sense that its connection with morals, which could even be considered as "necessary" for certain legal systems - this is the case of our current western legal systems.

Therefore Villa regards the values that are always context-bound, that is, values which can never be objectively justified. From this point of view, there is a mutually exclusive opposition between legal naturalism and legal positivism (opposition which amounts to an opposition between ethical objectivism and ethical relativism): both could be defined putting the sign of negation before the opposite one (positivist or naturalist).

It is important to remark that, according to this definition, even legal realism (and Dworkin's theory) is a form of positivism explains in 'Legal Theory and Value Judgment' that there is a sort of dichotomical opposition between two kinds of discourses referring to positive law: the first one is "descriptive" in character, because its aim is informative: it tries, as a matter of fact, to give either theoretical explanations of certain general features of positive law (from the point of view of legal theory), or semantical reconstructions of some specific part of a given legal system (from the point of view of legal dogmatics); the second one is 'evaluative' in character, because it expresses, albeit in different ways, some sort of -ethical, political, ideological, etc.- attitudes or commitments on the given object.

This opposition is by no means a necessary feature of legal positivism; but, anyway, if it is accepted, then a more specific methodological thesis can be derived from it: that one according to which it is at least possible, if not highly recommended, for legal theorists and jurists, to produce purely descriptive discourses on positive law, that is discourses in which every kind of value-judgments or -political, ethical, etc.- commitments is radically excluded. This thesis can -and is in fact- be held by positivist independently of the different ways in which these descriptive discourses could be qualified (for instance, as scientific discourses, in a strong or in a weak sense etc.).

Dean Roscoe Pound in his theory of social engineering concerned himself more with the effects and impacts of law in the society, and the contemporary

45 Supra note 45, at 450.
needs of the society to have a meaningful rule of law. He argued for greater importance to the creative role of judiciary in response to the arising needs of modern democratic societies.

VI. SUPREME COURT ON VALUE JUDGMENT

The Constitution can have no meaning if not embedded in a shared practice of interpretation, and what legitimates a particular act of interpretation is the form or grammar of the argument that it rests upon. The Supreme Court of India has progressively adopted a futuristic task and delivered a number of value judgments. It has pronounced a glut of judgments inculcating social, moral, constitutional, religious and human right values into the legal system and thereby introduced a number of doctrines and principles. E.g. the concept of PIL.

In Shankari Prasad v. Union of India Supreme Court refused to put any restrictions on the amending (i.e. constituent) power of the parliament under Article 368, and held that it includes power to amend any law under Article 13 and also the constitution itself. In Golak Nath v. State of Punjab, the majority (4:1) held that part III of the constitution of India is not amendable under the constituent powers of the parliament, apprehending that the dilution or curtailment of the Fundamental Rights would result into a totalitarian regime in the country.

Also in several cases, Supreme Court has relied on Human Rights jurisprudence in interpreting Right to life and liberty of individual. Olga Tellis v. Bombay Municipal Corporation, Gaurav Jain v. Union of India, P.U.D.R. v Police Commissioner the Supreme Court widened the meaning of Right to Life as incorporated in Article 21 of Indian Constitution and thereby gave significance to human values.

It is with a notion that new Judgments are not ought to be given on the basis of values as understood decades ago, but they are to be identified in a very up to date sense and should be inculcated in the judicial process to serve suitably the

47 Bruce Ackerman, The Living Constitution, 120 HARVARD LAW REVIEW 1737 (2007).
48 Shankari Prasad v. Union of India, AIR 1951 SC 458 [Supreme Court of India].
49 Golaknath v. State of Punjab, AIR 1967 SC 1643 [Supreme Court of India].
50 Olga Tellis v. Bombay Municipal Corporation, AIR1986 SC 180 [Supreme Court of India].
51 Gaurav Jain v. Union of India, AIR 1990 SC 292 [Supreme Court of India].
real societal needs and then only a judgment could qualify to be termed as a value judgment.

There are various cases wherein Supreme Court laid emphasis on value judgment also.

In the case *U.P. State Road Transport v. Mohd. Ismail* it was held as follows:
"....the discretion should not be exercised according to caprice and ritual. The discretion should be exercised reasonably and rationally. It should be exercised faithfully and impartially. There should be proper value judgment with fairness and equity."

In *State Bank of India v. M.R. Ganesh Babu* it was held as follows:
“One cannot deny that often the difference is a matter of degree and that there is an element of value judgment by those who are charged with the administration in fixing the scales of pay and other conditions of service. So long as such value judgment is made bona fide, reasonably on an intelligible criterion which has a rational nexus with the object of differentiation, such differentiation will not amount to discrimination. The principle is not always easy to apply as there are inherent difficulties in comparing and evaluating the work done by different persons in different organizations, or even in the same organization. Differentiation in pay scales of persons holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid differentiation. The judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities concerned which, if arrived at bona fide, reasonably and rationally, was not open to interference by the court."

In the other case in *Federation of All India Customs v. Union of India* on 5 May, 1988 while deciding whether equal pay for equal work is a concomitant of Article 14 of the Constitution, it was again held that there should be a reasonable

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55 Ibid. §17.
56 Federation of All India Customs v. Union of India, (1988) 3 SCR 998 [Supreme Court of India].
intelligible criteria having a lucid equilibrium with the object of differentiation, such differentiation will not amount to discrimination.

The judgments laid down by the Apex Court in terms of value judgments have its own tribulations. The notion of the subjective views of certain judgments being specially privileged may grate against the democratic sensibilities of contemporary society. Stated simply, the dilemma of subjectivity in value judgment is the problem of defending one's evaluation of a theatrical performance as being anything more than a matter of personal opinion. Evaluative assertions appear often to be statements about the objective nature of a performance; but on closer examination, they invariably turn out to be manifestations of the critic's subjective responses to the performance. As such, the validity of these assertions becomes questionable, and their status as important components of the critical process becomes highly problematic. Appreciating the findings of Northrop Frye, let me quote "Value-judgments are subjective in the sense that they can be indirectly but not directly communicated. When they are fashionable or generally accepted, they look objective, but that is all. The demonstrable value-judgment is the donkey's carrot of literary criticism, and every new critical fashion... has been accompanied by a belief that criticism has finally devised a definitive technique for separating the excellent from the less excellent. But this always turns out to be an illusion of the history of taste.""  

VII. INTERNATIONAL LAWS ON VALUE JUDGMENT

Under international law, an expression can only be legitimately deemed defamatory when it relates to a false fact that lowers somebody's reputation. The dissemination of true information or of an opinion should never lead to a guilty verdict under defamation laws. The European Court of Human Rights has noted that:

"... [A] careful distinction must be made between facts and value-judgments. The existence of facts can be demonstrated, whereas the truth of value-judgments is not susceptible of proof. As regards value judgments this requirement [to prove their truth] is impossible of fulfillment and it infringes freedom of opinion itself."  

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Judges traditionally have tried to keep away from making judgments of aesthetic value in the variety of context where such issues occur, such as copyright, customs law, and obscenity. In justifying his refusal to evaluate the quality of the 2 Live Crew parody, Justice Souter quotes from a 1903 opinion by Justice Oliver Wendell Holmes:

"....It would be a dangerous undertaking for persons trained only to the law to constitute themselves final judges of the worth of (a work), outside of the narrowest and most obvious limits. At the one extreme some works of genius would be sure to miss appreciation. Their very novelty would make them repulsive until the public had learned the new language in which their author spoke..."

In addition to Holmes' oft-cited rationale, another explanation for this judicial reluctance is the pervasive view among judges and others in the legal community that judgments of aesthetic value are "subjective" and thus presumably impossible for courts to determine according to objective standards for judicial reasoning.

Justice Souter, in the Pretty Woman decision, does slip in a small but telling reference to the low or at least modest aesthetic value of the parody. He says in passing that "we might not assign a high rank to the periodic element here." Justice Souter does not in this passage expressly say that aesthetic evaluations are necessarily subjective. Indeed, the word 'subjective' never appears in this decision. But the construction of these sentences suggests that he equates a determination of aesthetic value with an exercise of taste. Taste, in everyday language as well as the language of the aesthetician, suggests subjectivity. The reluctance of judges to make aesthetic evaluations would be understood as a belief that it would be inappropriate to impose personal standards of taste in a judicial forum. Even if a judge believed objective aesthetic judgments were possible, the difficulty of supporting such judgments also might lead them to decline to do so in their judicial capacity.

60 Miller v. California, 413 U.S. 15 (1973) [US Supreme Court]. The U.S. Supreme Court upheld laws prohibiting obscene, exempting works of "serious artistic value".
VIII. CONCLUSION

Harry W. Jones said,\(^{64}\)

"Law is not a form of art for art's sake; its ends in view are social, nothing more or nothing less than the establishment and maintenance of a social environment in which the quality of human life can be spirited, improving and unimpaired".

Value judgment could be assumed as an important instrument through which law can be adapted and modified to meet the rapid changing new challenges of future. When the scientific results are measured objectively, they are held also cautiously, with the understanding that, more careful evidence or wider experience might change matters. Further, a scientific view is a value judgment based upon rigorous evaluation and wide consensus. With this example in mind, characterizing a view as a value judgment is vague without description of the context surrounding it.

A value system is more a matter of perception for the policy making levels and does not affect the day-to-day operational levels in an organization. Initially traditional values may be an impediment to the behavioral change, but if the incentives for the latter are strong, behavior does change and value changes often.\(^{65}\) The conflict between the old and the new value systems poses a real challenge to the administrators and bureaucrats because the two have not been integrated or synthesized.\(^{66}\) Once we make out that moral learning is an option for us, we can distinguish a broader range of ways of dealing with moral conflicts than was canvass in the last section. There, moral conflicts were described in a way that assumed that the set of moral considerations, among which conflicts were arising, was to be taken as fixed. In a nutshell, it can be said that value judgments are the need of the hour since they are specifically resorted to meet certain extraordinary circumstances. To keep up with the ever changing societal patterns law needs to be as vibrant as the society. Since we all know about the limitations and time constraints of the legislature and only legal rules and principles provided in a very objective manner cannot be made fit to each and every case, and it is there we need to make more subjective principles which may fit objectively to a given situation. Thus the role of judiciary and value-judgments cannot be undervalued.


\(^{65}\) *Supra* note 4.

\(^{66}\) *Supra* note 4, at 111.
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Of course, rating critical evaluations on the basis of characteristics possessed by the critics making those evaluations is not really a solution to the problem of subjectivity in criticism. It is more like an admission of defeat. Subjectivity is inescapable; therefore, rather than trying to avoid subjectivity, we try to identify the most suitable subject. In practical terms, the best we can do is, first, to choose carefully which critical voices we pay attention to and, second, for those of us who are educators, to bend our efforts toward raising the level of critical responsiveness in future theatre audiences.

To conclude with, the extracts of speech given by Smt. Indira Gandhi is striking to be highlighted:67

"The search for values has to be a continuous process, accompanied by a constant endeavor to lead lives approximating to those values. Value merely perceived is value-less. It must be lived."

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