



Original Article

Human Duties as the Foundation of Human Rights: Learning Perspectives from Dharma and Justice in Indian Context

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Abstract

In the Indian context, it is believed that human rights have evolved from human duties. The present research paper investigates into the nuances of dharma and justice in Indian traditions tracing from ancient times to modern contexts. The concept of human rights has travelled a long voyage to get the legal and social recognition as we see them in the present day. Human beings have been subjected to numerous civil and criminal wrongs in the past, present and modern times. The people only think of protecting their own rights forgetting that the rights cannot be secured without fulfilling their duties. Justice is ensured against all the wrongs, unjustness, or unreasonable actions of one against another. When the wrongs, rights, dharma, or justice have been interpreted by the courts taking different factors and circumstances into consideration, the justice is said to be established. The paper also throws light on the recognition of rights and duties of human beings as well as of state or governing bodies in the establishment of dharma and justice. In the end, the paper discusses the various case laws reflecting the establishment of dharma and justice for the rightful beneficiaries.

Keywords: Human rights, Human duties, Legal order, Dharma, State, Justice, Judiciary.

Introduction

Justice is not about the law being applied but about being accessible to those who need it most as said by Amartya Sen. Human rights and human duties have evolved from the word 'Dharma.' The precise meaning of the word dharma is that which withstands or upholds. Dharma has been taken as an indefinable word which does not have an equivalent term in any other language. This has though been commonly used in the ancient Hindu holy and legal texts to imply different connotations according to the prevalent contexts. The English writers in their effort to give a precise suitable definition have stated that Dharma embraces religious, moral, social, and legal obligations and can only be well-defined by its contents. Bestowing to Hindu scriptures dharma signifies religious rights, static ideologies of rules of behaviour and the entire set of religious responsibilities. In contrast, human rights have the affirmation when people fulfil their duties towards the other human beings.

The word Justice signifies the superiority of being just, right or rational. It is opposite to what is unjust, wrong or irrational. The words just, right and rational are primarily moral features and hence justice is mainly a concept of morality. Law and morality are two societal gears which make fairness reachable to persons free from individual interventions and biases as is obvious from the scriptures of Shastras, Hebrew, Christian Bibles, Islamic in addition Buddhist and Hindu scriptures. Law and morality are reciprocally supportive instruments for promoting and encouraging impartiality and to establish dharma.

Relationship between Dharma and Justice

In Indian justice system, the word Dharma is frequently used for justice through various meanings that have been attached to the word Dharma. Justice is demanded and rendered with reference to dharma. As regards to dissimilarity between Dharma and Justice it is evident from the Dharma Shastras which contains the rules whose violation causes injustice. When the dharma is violated, we say that adharm or injustice has occurred or warranted. This dharma or justice which replaces adharm is the outcome of application of dharma as a body of rules, thus, dharma and justice do not mean the same thing. In the opinion of Mahatma Gandhi, the ancient Hindu law giver Manu has been considered as a great malefactor whose legal philosophy polluted the minds of social beings in regards to the position of women and harijans.

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They were ignored and not placed at equality and not treated with human dignity in the society particularly in Hinduism.

Mutual determination of Dharma and Justice

The ideal which underlines the consumption of justice and dharma is essentially the same so that they may be regarded as mutually interdependent correlatives. Both strive for the realisation of identical ideals. It may be said that legal justice is the effect or result produced by the application of the rules of dharma to a given facts and situation. This shows a clear distinction though interconnected, the correct logical way of comprehending them both is to regard the one as the determinant of another. This interrelation between dharma and Justice may be characterised as mutual determination. Analysis of dharma necessarily explains the idea of justice because when dharma is used in the sense of a body of rules for governing mutual relation of people, we say that it is meant for the administration of justice and when we analyse naturally it is with reference to dharma.

Dharma and Justice under Smritis of India

The Smriti's frequently make the use of the word dharma for a situation which must have been described more appropriately by the term justice or Nyaya. The practice of dharma is not derogatory because justice is the concretisation of the idea of dharma and therefore the practice of dharma is not unnatural, it refers in the direction of justice done in individual cases based on general norms supplied by dharma. In Smritis, dharma is both the source and measure of justice.

Justice as Universal Virtue and Result of Dharma

Manu stated that justice is a virtue and it should not be sacrificed. He compared justice as a bull and who sacrifices it as a Vrasal. So, justice should not be violated. Justice is a universal virtue because it follows one after death; yet it is also personal, as it illuminates and guides individual conduct. When Justice is pierced by injustice those responsible also become pierced and those responsible are themselves harmed reflecting the reciprocal nature of moral accountability. It means that Legal justice depends upon the application of rules of dharma which are applied by the judge or administrators of justice.

Justice is regarded as the fruit of dharma which is worked out by judges, otherwise it would not be possible to say that justice illuminates humanity. In Hindu legal philosophy dharma is not resolved in the universal concept of justice. A just decision is one which is based on Dharma and dharma is used as multifaceted concept in the various senses like positive law, secular law, moral duty, etc.

Justice or Dharma in Vedic Period

In Indian society, justice has been praised as the incarnation of God whose only task is to maintain justice, veracity and uprightness. The great sage Valmiki in Ramayana said, "In this universe truth alone is god, dharma lies in truth, truth is the root of all virtues, there is nothing greater than truth." All the 4 vedas i.e. Atharvada, Rigveda, SamVeda, and Yajurveda insist on the notion of equality and reverence for dignity of persons as is evident from Yajurveda - 'You are ours and we are yours.' Undertaking upright actions to another is right and doing injury to another is erroneous. Larger pressure was given on obligations of persons rather than in the management of fairness and justice. The behaviour of persons according to principles of Dharma is the performance of duty towards others in the interest of the community as well as society.

Justice in post Vedic period

Various lawgivers namely, Manu, Gautama, Narada, Yajnavalkya, Rajapati, Katyayana casted satisfactory light upon the quality and nature of Justice in early social system of Hinduism. The Embodiment of equality, righteousness, due respect for human dignity and non-exploitation of the deprived by the strong were quite indefinite. The restrictions of justice were based on strong observance of rules set by castes and their stringent application within the prearranged rules stood just and their abuse or contempt involved penalty or punishment.

Justice in the Manu Smriti

In the writings of Manu itself the distinction has been made between dharma as a body of rules and Justice as an end of dharma. Manu declared that the king should protect the people according to justice, that is 'Yathanayayen.' Punishment cannot be administered according to justice by one who has no conscience nor by a fool nor by one whose mind is unimproved nor by one addicted to sensual pleasures.

The worth of justice as a stricter law was against women and against Shudras. However, Manu provided a standard of good conduct for each caste that is Varna system which the judge has to implement and the king has to accomplish with confidence and impartiality. He declared "Justice being violated destroys; Justice being preserved preserves."

Justice according to Kautilya

Kautilya was contemporary to Aristotle. For him the protection of people, prosperity, and expansion of power is the purpose of state whereas Aristotle believes in ethical approach towards cultivation of virtue to uphold good life. Kautilya was a pragmatic and practical statesman who bring about Coup d etat to overthrow the Magadha Empire and established Maurya dynasty ruled which ruled India for about 137 years. In Arthashastra, Kautilya gave equal treatment to women and shudras along with men. It does not suffer from the information with which our Smriti suffered. Kautilya emphasised on the need of promoting dharma through the actions of the King as he is the ultimate protector and saviour. Kautilya believed when all sources (such as law, morality, custom) of dharma fail the King turn out to be the promulgator and binding authority as dharma. Kautilya acknowledged fourfold Varna system and frames them in terms of duties, social utility.

In ancient India, the attainment of Dharma, Artha and Kama that is maintenance of Justice, enjoyment of material possessions and pleasure of family were the central tenacities and the functions that encouraged a King's main purpose. Kautilya's concern is to maintain stability not enforcing rigid caste hierarchy but the protection of morality.

Doctrine of Matsya Nyaya

In Hindu texts, the pre-political condition of society is described as Matsya Nyaya, literally meaning “the law of the fish.” It shows a state of anarchy where larger fish devour smaller ones, symbolizing the dominance of the strong over the weak. This concept parallels Hobbes’ notion of the “state of nature,” a condition marked by chaos and insecurity in the absence of sovereign authority. Both ideas emphasize that without a ruling power, life descends into disorder, making the establishment of political authority essential for stability and protection. This doctrine emphasises the value or importance of a state. State is protector of certain moral values that are justice, pleasure, acceptance and harmony. Dharma was maintained by a king as an inevitable institution to protect one and all. Law, State and Justice were intertwined as the Vedic principle that acknowledges a just law is the true guardian and saviour of happiness in the society. The law remains vigilant at the same time as all the people are fast asleep; the prudent people thus look upon law as dharma or precise.

Reflections of Buddhism and Jainism

Lord Buddha taught the Eightfold Path as the essential foundation for a virtuous life and a just society. This path includes right view, right aspiration, right speech, right conduct, right livelihood, right effort, right mindfulness, and right contemplation. Central to Buddhist philosophy was the rejection of discernment grounded on caste, gender, religion, or occupation and the affirmation of equality. In Buddhism, the principle of equality stands as the cornerstone of its religious and philosophical view, shaping a vision of morality and social justice that was both radical and transformative.

The Great King Ashoka who propagated Buddhist morality in the administration of justice, gave a practical shape to the Lord Buddha’s message “cease to do wrong, learn to do good and cleanse your own heart.” Ashoka’s mission for equal and impartial justice is clear from his directives to his Governors in Kalinga Edict which reads; “All men are my children just as I seek the welfare and happiness of my own children in this world and the next, I seek the same things for all men.”

In Jainism, out of 24 Tirthankaras the Parsva and Mahavira are considered more pious who emphasised self-control and penance and guided the followers to perceive four principles namely ‘Satya’ that is truth; ‘Ahimsa’ that is non-violence; ‘Aparigraha’ that is no possession of material things and ‘Asteya’ i.e. not to take anything which is not given out of free will. Mahavira added one more principle that is Brahmacharya which means celibacy. There are three jewels of Jain Dharma Namely - right belief, right knowledge, and right action.

Justice and Dharma in Medieval Era

Medieval era in India is considered as the Muslim rule especially in the pre-Mughal period. The social culture and political system were worse which leaves strains on the lifestyle and way of life of the Hindus Dharma and Justice was erased for the Hindus. There was lack of human dignity, equality, social harmony, law, and justice. A notable shift occurred under the rule of Emperor Akbar who implemented a policy of tolerance and non-discrimination towards Hindus. His efforts ensured that no injustice would be caused within his kingdom. In this. We can see some impact of Matsya Nyaya where the king is the sole administrator of Justice for all.

Justice in British India

The impact of British rule on India’s political and legal system was profound and far-reaching. It introduced modern democratic institutions, representative assemblies, accountable governance, and the secularisation of the state alongside judicial independence. The doctrines of the rule of law and equality before the law further accelerated social and political transformation, ultimately culminating in India’s independence in 1947. Over the course of colonial rule, Indians came to understand that justice cannot exist without liberty, and liberty cannot endure without justice. Importantly, after independence, the rejection of British authority did not entail a rejection of the English legal principles and ideals—such as human liberty, equality, civil rights, and natural justice—that continued to shape India’s constitutional and democratic framework.

Dharma in Indian Constitution

After the formation of the Constitution of India in 1950 there is a mention of specific provision regarding the religion under articles 25-28 that is right to freedom of religion in part III. The Supreme Court of India has highlighted dharma, justice and religion broadly. Religion is a matter of faith with individual communities and it is not necessarily Atheistic. A religion has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive To Spiritual well-being but it will not be correct to say that religion is nothing else but a doctrine of belief. However, the entire part III of the Constitution of India may be considered as dharma of State to protect the fundamental rights of its citizens. The fundamental rights are justiciable in nature and can be enforced against the state in cases of violation of fundamental rights, thereby ensuring that justice is not abstract but actionable. Similarly, Part IV also reflects the dharma of state in terms of directive principles of state policies, the state must frame the policies that are needed for the welfare and betterment of its citizens and to ensure justice in social, economic, and political spheres. Further, Part IV-A enumerates fundamental duties of citizens which reminds them of their obligations towards their society, fellow citizens, and the nation. These duties caution citizens against anti-national and anti-social activities. They inspire citizens and promote a sense of discipline and commitment among them. The fundamental duties help the courts in examining and determining the constitutional validity of a law.

Dharma is the foundation of legal ordering in India

India being a secular state never discriminates people on the basis of religion or communities they follow. All religions have equal respect under the Constitution of India. A secular state is therefore neither a godless state nor an irreligious nor an anti-religious state. Justice will only be secured when there is no partiality and biases towards a particular religion. The Apex Court of India has delivered numerous decisions which clearly provide equal respect to every religion and community. Gandhi

quoted that the real meaning of secularism is served by Dharma Sambhav Meaning thereby equal treatment and respect for all religions.

Judicial Approach and Interpretation of Justice and Dharma

In *Ratansi Morarji v Administrator general of Madras, 1929*, a European woman converted to Hinduism through Shuddhi ceremony, adopted a Hindu name and married a Hindu man. The issue raised that whether a person of non-Hindu origin could convert to Hinduism and whether her marriage is valid under Hindu law. The court held that she was a Hindu with a reasoning that when a person of other faith is converted to Hinduism becomes Hindu and Hindu law will be applied. Similarly, in *Rani Bhagwan Kunwar v Bose 1903*, the court held that Hindu dharma is strict as well as flexible.

In the case of *Yogya Purus Dasji v Mool Das 1966*, the court held that It is very difficult to define Hindu Dharma but certainly it is a way of life.

In *Bijoy Emmanuel v State of Kerala 1984*, three children belonging to Jehovah's Witnesses of the Christian community were expelled from the school for refusing to sing the national anthem. The Apex Court held that no person can be compelled to send the national anthem if he has genuine conscientious religious objection.

In the case of *N Aditya v Travancore Devaswom board*, the Supreme Court has held that Brahmins do not have monopoly over performing pooja in a temple and said that a non-Brahmin can be appointed as a pujari if he is properly trained and well versed with rituals.

In the case of *Ghulam Kadar Ahmed Bhai Menon v Surat Municipal Corporation 1998*, the petitioners had challenged the validity of section 212 of the Bombay Provincial Municipal Corporation Act 1949. Under the Act the municipal corporation has ordered the demolition of some parts of the two mosques situated on the main road of Surat District in the state of Gujarat. The Gujarat High Court held that the right to religion guaranteed to citizens under articles 25 and 26 of the constitution does not prohibit the state to acquire any place or worship for public purpose.

In the case of *Church of God Full Gospel in India v KKRMC Welfare Association 2000*, the appellant is Church of God Full Gospel located at Madhavaram, Chennai. It had a prayer hall provided with musical instruments such as drums, set, triple Bango, guitar, etc. The respondent complained that noise pollution is caused due to use of musical instruments with loud speakers. The Supreme Court held that in the existence of the right to religious freedom under articles 25 and 26 no person can be allowed to create noise pollution or disrupt the peace of others. The custom of religious prayers using loudspeakers is not an essential element of any religion. It was held that a person's religious freedom is subject to public order morality and health.

The case of *Bhuri v State of Jammu and Kashmir 1997*, is also known as *Vaishno Devi Shrine case* in which the Jammu and Kashmir Mata Vaishno Devi shrine abolished the hereditary post of priest in the temple and made provisions for appointment of priests by the state. This act was challenged on the ground that it was violative of the petitioners' fundamental right to freedom of religion guaranteed under articles 25 and 26 of the constitution. The Supreme Court held that the service of the priest is a secular activity and that it may be regulated by the state under article 25(2) of the constitution. The court made a distinction between religious service and the person who performs service. The performance of religious service according to tenets, customs, and usages prevalent in a place of worship is an integral part of the religious faith and belief and it cannot be regulated by the state but the state has powers to regulate the appointment of the priest and can fix his emoluments.

In *Navtej Singh Johar v. Union of India, 2018*, the Supreme Court struck down colonial era provisions criminalising homosexuality as an unnatural offence. This ruling reinforces the idea that justice is the fruit of constitutional morality echoing the ancient principle of Raj dharma in which it is the duty of the ruler to uphold righteousness and safeguard the vulnerable.

Conclusion

The voyage of dharma and justice in ancient Indian philosophy to present constitutional framework of rule of law reflects a profound continuity where justice is always the fruit of dharma. Deciphering the different sets of dharma and justice system in India, it is concluded that present Indian legal system is completely governed by rule of law and constitution is the living embodiment of dharma, harmonizing law, morality, and justice in the contemporary governance. Nevertheless, there are instances in modern times which are crucial challenges to judiciary and constitutional morality. The learnings of dharma, justice and morality from the philosophies of ancient India to modern India are still relevant to ensure the human rights of people. Rights do not exist in isolation; they are sustained by the responsibilities people uphold toward one another and society. The human duties shall always remain the foundation and cornerstones of preserving the human rights of all.

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