

‘Religion, Law & Justice: a study with reference to Dharma system in India’

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Abstract: This article enunciates the concept of justice as propounded in Indian scriptures, based on a review of ancient texts like the Ramayana, Mahabharata, Upanishads, Manu smriti, the Upanishads, and the Ramayana, and Kautilya's Artha shastra. Justice in Indian philosophy is deeply interwoven with the principles of Dharma, or righteousness, which is essential for maintaining universal cosmic and social order. Though it bears some similarities with philosophy prevalent in the West, distinct and vital features place it on a different level. After defining Justice and Dharma and their inter-relationship, the article examines specific verses from some important Indian texts focusing on the tenets of protection of righteousness, moral duty, truth and delivery of justice. The article is significant because it demonstrates that these ancient principles continue to hold relevance in contemporary Indian society.

Keywords: Indology, Dharma, justice, Indian scriptures, Dharma shastras, Manu, Kautilya, Ramayan, Mahabharat, Bhagvad Gita, Upanishads

1. Introduction

In Indian philosophical and legal thought, dharma and justice are intricately linked. Dharma, encompassing duty, morality, and righteousness, provides the ethical framework within which justice operates, ensuring fairness and upholding social order. Ancient Indian texts like the Dharma Shastras and Arthashastra emphasize the inseparable relationship between law, morality, and the sovereign's duty to uphold justice (Rajadharma). Dharma is not merely a religious concept but a comprehensive system of right conduct that applies to all aspects of life, including social, political, and legal realms. It provides the moral compass for ensuring that individuals fulfill their duties and responsibilities in a way that benefits society as a whole.

Justice, in this context, is not simply about legal proceedings but about upholding Dharma by ensuring that individuals are treated fairly and that their rights and duties are recognized and respected. This includes the duty of rulers to protect their subjects and uphold justice, as seen in the concept of Rajadharma. In ancient Indian society, the legal system was deeply intertwined with Dharma. Rulers were expected to uphold Dharma to ensure that justice was served and that the social order was maintained. The principles of Dharma, including righteousness, truth, and social order, continue to hold relevance in contemporary Indian society and have influenced the modern legal system. The Indian Constitution, while not explicitly using the term "Dharma," reflects many of its core values through provisions for fundamental rights and a focus on social justice.

Ancient Indian texts like the Ramayana, Mahabharata, and Manu Smriti illustrate how Dharma was used to guide rulers, citizens, and the legal system in ensuring justice and social harmony. The concept of Rajadharma, for instance, highlighted the ruler's responsibility to uphold dharma and protect the welfare of their subjects. In Buddhist teachings, the Eightfold Path, which emphasizes right view, thought, speech, conduct, livelihood, effort, mindfulness, and concentration, can be seen as a practical application of Dharma, guiding individuals toward ethical behavior and a life of peace and happiness.

Indian philosophical tradition is on a different pedestal from other philosophies as it is not limited to legalistic definitions often found in other philosophies and it is not restricted to the only the administration of law as generally known globally, but also

embodies the broader ethical and spiritual responsibilities of the rulers as well as the individuals. This article aims to explore the wisdom of Indian scriptures, including the epics Mahabharata and Ramayana, the sacred Srimad Bhagavatam, the philosophically oriented Upanishads, besides Manu Smriti and Kautilya's Artha Shastra which deal with duties, rights, laws, conduct and virtues. These scriptures, with their profound insights, have played a significant role in shaping the concept of justice in Indian philosophy, which is closely linked to the fulfillment of one's duties (Dharma).

2. Definitions of Dharma and Justice

Dharma is the basis of the highest ideal of human life that aims for the welfare and upliftment of the people and society. As said by the Hon'ble Supreme Court, "Dharma is that which upholds, nourishes and stabilizes the society, maintains the social order and secures the general well-being and progress of mankind".¹

The word 'Dharma' has derived its roots from the Sanskrit term '*dhri*', which means "to bear, or to support". Generally, one's natural and inherent duty or functions towards the people and society is referred to as one's Dharma. Broadly, it signifies the 'right way of living' or 'proper conduct' which must be followed and performed by every person during their course of life. Spiritually, it is believed that the values of Dharma are eternal, which is not bound by space or time, therefore due to this, it is regarded as 'the ultimate way of higher truths'. According to Manu, "Dharma is a good of a man consist in harmonious coordination" while Buddha regarded it as the 'cosmic law' which establishes peace and order in the society.² In Hinduism, the true meaning of Dharma implies duty, virtue, religion and power that upholds the whole universe. It is one of the four ends of life and it seeks to harmonize the relationship between *artha* and *kama* for the attainment of *moksha*. Many Hindu scholars believe that the ancient sources of law such as Vedas, Smritis or Usages, were the institutes of Dharma and therefore, the ultimate source of knowledge from which the Hindu Law has derived is nothing but the indices of Dharma itself.

So, we can say that the *Dharma* is the soul of an individual as one cannot sustain without it and thus if every person adheres to the principles of Dharma, then nature will become favourable to human happiness.³

Justice is a concept that civilizations and societies across the world strive for an ethical and equitable existence. In this context, it would be relevant to quote from Justinian's "Justice is the constant and perpetual will to render to everyone that to which he is entitled". So, it is accepted universally that the foundation of justice is to ensure rights to all individuals and also to make it accessible to them. This would mean the availability of appropriate authorities that can ensure the enforcement of rights. In Indian philosophy, the concept and tenets of justice are deeply enshrined in the ancient scriptures and other texts. However, a unique feature of this philosophy is that Justice is closely aligned with Dharma, which can be defined as righteousness or moral conduct.

3. How Dharma and Justice are intertwined in Indian philosophy

The interrelationship between Dharma and Justice in Indian philosophy can be understood. Both Dharma and Justice aim at maintaining social order and harmony. Dharma ensures that individuals perform their duties and responsibilities, while justice ensures that these duties are recognized and upheld in a fair and equitable manner. In traditional Indian society, the legal system was deeply intertwined with Dharma. Kings

¹ Nagendra Pavana RN, *Dharma - Perspectives from Ramayana*, CHINMAYA VISHWAVIDYAPEETH, <https://lms.cvv.ac.in/learning/course/info.php?id=248>.

² Ankita Sharma, *Dharma and the development of Jurisprudence*, RACOLB LEGAL (Aug. 26, 2016), <http://racolblegal.com/dharma-and-the-development-of-jurisprudence/>. [3] *Id.*

³ *What is the true meaning of Dharma (Righteousness)?*, HINDU JANAJAGRUTI SAMITI, <https://www.hindujagruti.org/hinduism/hindu-dharma/dharma>.

and rulers were expected to uphold Dharma to ensure justice was served, as seen in the concept of Rajadharma (the duty of kings or rulers).

In essence, Dharma provides the ethical and moral framework within which justice operates, ensuring that the principles of fairness, equity, and righteousness are upheld in society. The principles of justice are derived from the broader concept of Dharma. For justice to be served, it must be in alignment with Dharma, which dictates what is morally right and appropriate in a given context. Dharma provides the guiding principles for what constitutes just behavior. It helps in determining the ethical and moral standards by which justice is measured.⁴

4. Types of Dharma

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

1. Samanyadharma (Morality, qualities of the soul) – this type of dharma include mercy, truth, control over the mind, purity, offerings, control over the senses, non-violence, pilgrimage, compassion, honesty, absence of any greed and no one can criticize any of the above.

2. Varnadharma (Dharma of a class)- this type of dharma is applicable to the four classes of people which is Brahman (Priest), Kshatriya (Warrior), Vaishya (Businessman), and Shudra (labourer).

3. Ashramdharma (Dharma according to stages of life) – this type of dharma is limited to a certain stage of life and it also include four type of ashrams which is Brahmacharyashram, Gruhashthashram, Vanaprasthashram and Sanyasasashram.

4. Gunadharma (Dharma according to the qualities) – this type of dharma tell duty to be performed by the person who is holding a particular position or role. for example, the duty of king is to nurture his subjects. The impute of five cosmic elements are also called Gunadharma.

5. Svadharma – this type of dharma tells to practice it own duties, rights which each and every people is being provided with. It is unique dharma because every person has born out of his/her own traits, nature and capacities which is known as swabhav. For example – the swadharma of the fish is to live in water but milk is better than water, if any fish will insist to live in milk will die.

6. Sanatana Dharma - this type of dharma is used by Hindus to refer to Hinduism. In sanatana dharma the term Hinduism is denoted as 'eternal' or set of duties and responsibilities that is prescribed to every individual irrespective of class, creed, caste or sect.

5. Dharma as Justice and Law

Dharma is regarded as the spiritual knowledge that manifests moral laws of nature, which are based on the principle of righteousness. Although, no appropriate terminology is existing today which is equivalent to the meaning of the word 'Dharma', however, it is sometimes regarded as the 'Natural Law' in a jurisprudential sense due to a similar meaning, aim and dogma behind the two. In the context of law and justice, Dharma can also be referred to as 'the knowledge of the Existence' because all the knowledge ultimately leads towards the truth. Both the concepts of law and justice are established on the principle of 'moral righteousness' which signifies different aspects concerning ethics, religion, etc.⁵ Dharma as justice and law can be viewed as the right observance of truth in the conduct of human life and behaviour. It is also a vital source of law that has

⁴ *Reflections on Justice and Dharma (Righteousness) in ancient Indian texts*, Ratan Kaul, *International Journal of Humanities and Education Research* 2024; 6(2): 80-83

⁵ Bibhu Kaibalya Manik, *Dharma as Law and Justice*, SLIDESHARE (Nov. 20, 2016), <https://www.slideshare.net/BibhuKaibalyaManik/dharma-as-law-and-justice>.

got its validity from various customs, traditions and religious laws and therefore, many scholars even regard it as the basis of Indian Jurisprudence.

In India, Dharma initially began to develop as law with the help of Fundamental Rights, when the evolution of the Supreme Court took place in the post-independence era. It is evident from the words inscribed on the emblem of the Supreme Court of India, which says 'Yato Dharma Tato Jaya' meaning thereby, where there is Dharma, there is victory. So, we can say that the concept of Dharma is closely related to law. Also, the principles of Dharma have been highlighted by the Supreme Court for interpreting numerous cases time-to-time. In "Narayana Deekshitulu v. State of Andhra Pradesh", Raj Dharma was compared with Constitutional Laws and an attempt was made to clear the definition of Dharma using different verses. The Supreme Court has also interpreted Article 21 (i.e., the Right to life) several times in the light of Dharma and has expanded its scope to cover all the basic human rights which a person may need to live a dignified life.

Further, Dharma is also referred to as Justice because it is the interpretation of Right, Truth and existence, which ultimately implies 'knowledge and righteousness'. In ancient India, Law as Dharma required right elucidation of the prescriptions of Law, and that is when Dharma as Justice was considered as the "observance of truth".⁶

So, it can be concluded that Dharma is the foundation stone of modern law and judicial system in India and thus, signifies a very close relationship with law and justice.

India has a recorded legal history starting from the Vedic ages and some sort of civil law system may have been in place during the Bronze Age and the Indus Valley civilization. Law as a matter of religious prescriptions and philosophical discourse has an memorable history in India. Emanating from the Vedas, the Upanishads and other religious texts, it was a fertile field enriched by practitioners from different Hindu philosophical schools and later by Jains and Buddhists. Secular law in India varied widely from region to region and from ruler to ruler. Court systems for civil and criminal matters were essential features of many ruling dynasties of ancient India. Notably excellent secular court systems existed under the Mauryas (321-185 BCE) and the Mughals (16th – 19th centuries) with the latter giving way to the current common law system.⁷

Religion was the primary source of law before arrival of Britishers and other Europeans and two significant religion based legal systems were in existence.

1. Traditional Sources of Indian Law

a) Hindu Law:

Hindu Law is mainly a law governing the Hindus. It is based on immemorial custom, and secular law which was called Dharma⁸. Ancient sources are Shruti, Smritis, Commentaries and digests, Sadachara or Custom and Doctrine of factum valet.

• Shruti:

The Shrutis are regarded as of divine origin from Vedas. Shruti literally means "What was heard" by the sages in a revelation by God which include the four Vedas (by sage Vyas) namely Rig, Yajur, Sama and Atharva Vedas, the six vedangas and the Upanishads. The period of Vedas is estimated to be 4000-1000 B.C. The Vedas are revelations of the Almighty. These Vedas contained practically no law; they dealt with

⁶ Dr R.N. Sharma, *The ideal of Dharma or Justice in Indian Culture*, <https://internet.bhu.ac.in/law/blj2006-072008->

⁷ Brief History of law in India, Bar Council of India, barcouncilofindia.org

⁸ Dharma- the eternal and inherent nature of reality, regarded in Hinduism as a cosmic law underlying right behaviour and social order, Oxford Dictionary.

different forms of marriage, adoption, partition and the exclusion of women from inheritance.

- **Smritis:**

It means “What was remembered”. These are what were recorded by the sages in their own words of what they had heard from God. The smritis are classified as Primary Smritis and Dharmashastras which constitute important sources of law. Among the Smritis, the Narada Smritis and the Manu Smriti are very important. All these Smritis deal with the civil and criminal law, the laws of marriage and the rules of procedural law. The Manu smriti deals with 18 titles relating to civil and criminal law, marriage, and procedural law.

- **Commentaries and Digests:**

Since the Smritis did not agree with each other, they gave rise to commentaries which are otherwise called 'Nibandhas'. They were written during the period between 700 A.D. to 1700 A.D. The Yagnavalkya smriti is commented upon by Vigneshwara which has later become the 'Mitakshara School of Hindu Law'. The entire Mitakshara, along with the text of the Yagnavalkya smriti is approximately 492 closely printed pages.⁹ The same Smriti was also commented by Jimutuvahana which later became the 'Dayabhaga School of Hindu law'.

- **Mitakshara School**

The Mitakshara School exists throughout India except in the State of Bengal and Assam. The Yagnavalkya Smriti was commented on by **Vigneshwara** under the title Mitakshara. The followers of Mitakshara are grouped together under the Mitakshara School. The school is followed throughout India except Bengal state. There are four Sub-Schools under the Mitakshara School:¹⁰

- i. Dravida School: (Madras School): It exists in South India. In the case of adoption by a widow it has a peculiar custom that the consent of the sapindas was necessary for a valid adoption. ('Sapindas' - blood relation)
- ii. Maharashtra School: (Bombay School): It exists in Bombay (Mumbai). The Bombay school has got an entire work of religious and Civil laws.
- iii. Banaras School: It exists in Orissa and Bihar. This is a modified Mitakshara School.
- iv. Mithila School: It exists in Uttar Pradesh near the Jamuna river areas.

Apart from the above schools, there are four more schools which are now existent today. They are Vyavakara, Mayukha, Nimaya and Sindhu Schools.

- **Dayabhaga School**

It exists in Bengal and Assam only. The Yagnavalkya smriti is commented on by **Jimutuvahana** under the title Dayabhaga. It has no sub-school. it differs from Mitakshara School in many respects. Dayabhaga School is based on the code of Yagnavalkya commented by Jimutuvahana.

- **Customs:**

Custom can simply be explained as those long-established practices or unwritten rules which have acquired binding or obligatory character. Custom is a rule of action uniformly and continuously followed by the bulk of the people for a long time. Custom is recognised as an important source of all civil laws.¹¹ According to 'Manu', the King

⁹Kane, P. V., History of Dharmaśāstra, (Poona: Bhandarkar Oriental Research Institute, 1975), Volume I, Part II, 604.

¹⁰Schools of Hindu Law, Hindu Law, by law faculty.in, 2021.

¹¹(1960) 62 BOMLR 574

must inquire into the particular laws of custom of traders. Custom should not oppose public policy and law, and must not be immoral.¹²

- **Dharmasutras**

The Dharmasutras dealt with duties of men in their various relations and in course of time they began to be accepted by members of all the groups. They are the sources which were divided into 'purva' and 'apara' sutras. The sutras bear the names of their authors or the names of the school which they belonged to.

Even the principles of justice, equity and good conscience were existent even during ancient days.¹³

- **Modern Sources of Hindu Law-**

It includes

- Judicial Decisions
- Principles of Justice, Equity of Good Conscience
- Legislation
- Juristic Work etc

After this discussion we can observe that, the Hindu law has been evolved as the way of life and with the advent of Vedic Shastras and Manu's Scripts the Hindu law has been played a very vital role in formulation of modern laws.¹⁴ It not only governs the Hindus but also governs major part of Jain, Buddhist and Sikhs.¹⁵ The Hindu law also lead to the formulation of personal laws for different Religious groups in India.

- b) Muslim Law:**

One of the major legal systems developed during the Middle Ages was Islamic law and jurisprudence, now the third most common legal system after the civil law and common law systems.¹⁶ Justice Gamal MoursiBadr, has observed, Islamic law is like common law in that it "is not a written law" based entirely on the Quran but that the "provisions of Islamic law are to be sought first and foremost in the teachings of the authoritative jurists" (Ulema), hence Islamic law may "be called a lawyer's law if common law is a judge's law." This was particularly the case for the Maliki school of Islamic law active in North Africa, Islamic Spain and the Emirate of Sicily.¹⁷ Main Sources of Mohammeden Law are-

- **Quran-** Muslim law is founded upon Al-Quran which is believed by the Musalmans to have existed from eternity, subsisting in very essence of god.¹⁸
- **Sunnat-**It denotes some kind of precedent and the body of traditional social and legal custom and practice of the Islamic community.
- **Hadith-**The term *hadith* refers to reports of statements or actions of Muhammad.
- **Ijma-** It was equally binding on the people to act on a principle which had been established by agreement among highly qualified legal scholars of any generations.
- **Qiyas-** This is a last primary source of Muslim law. Qiyas means reasoning by analogy from above four sources. In Qiyas rules are deduced by the exercise of reason.

¹²Shiromani v. I. Hemkumar, AIR 1968 SC 1299

¹³ By Mr. Justice S. S. Dhavan, Judicial System in Ancient India

¹⁴P Bilimoria (2011), The Idea of Hindu Law, Journal of the Oriental Society of Australia, Volume 43, pages 103-130

¹⁵ See-The Hindu Marriage Act, 1955

¹⁶Badr, Gamal Moursi (Spring 1978), "Islamic Law: Its Relation to Other Legal Systems", The American Journal of Comparative Law, 26

¹⁷st-thomas-tradition-the-Indian-sojourn-in-foreign, nasrani.net

¹⁸ Mohammedan Law By Aqil Ahmad, 25th Edition 2013

6. Religion as Cause of Communal Violence

Religious crimes are referred to those acts of violence which are often conducted by the followers of a particular religion against the followers of the other religions.[12] Today, we can see that how often these religious crimes occur in India, despite such a close relationship between Religion and Dharma. Although, various legislations have been enacted intermittently to deal with such crimes, yet no desirable output is achieved so far. Therefore, it has become a major concern today which needs to be addressed strictly.

Some of these common yet heinous religious crimes in India are as follows:-

- **Terrorism** - When terrorism is used as a tool for achieving religious goals, it is known as “Religious terrorism”. Today many terrorist organisations such as Al-Qaeda, ISIS, etc., practice this type of terrorism to spread their religion and establish dominance all over the world and for this, they use fear, force and violence as a means to influence a large number of people to support their cause in the name of religion.

- **Riots** - “Communal or Religious riots are referred to the clashes between two or more religious groups which occur due to clashing ideologies and interests.” India has a long history of religious riots occurring in the past like the 1969 Gujarat Riots, the Anti-Sikh Riots in 1984, etc., resulting in the death of hundreds of people every year. Thus, it can be said that the true essence of Dharma is lost in the name of religion today.

- **Religious Conversions** - Forcefully converting someone’s religion has become a major and common religious crime in India. Although, Article 25 of the Constitution ensures the ‘Right to freedom of religion’ to all the citizens of India, yet forceful conversion of religion takes place in many states like Kerala, Assam, Odisha, etc., by the dominant religious groups. These groups not only force but also manipulate people to convert their religion either by coercion, fraud or by abusing their right to freedom of religion.

- **Political misuse of Religion** - Since religion is a very sensitive topic in India, politicians often use it as a tool for political gains by targeting the religious sentiments of communities. Thus, such a deceitful act is also a religious crime in the eyes of law. The Supreme Court while addressing the Hindutva Judgment, also stated that “if a political leader or his/her agents uses a religious speech for gaining votes during campaigning, then his/her act will be considered as corrupt and election of that candidate can be quashed.”¹⁹

- **Unethical Journalism** - Though unethical journalism is not a religious crime, however, it may act as a means to spread these crimes. Displaying National issues or information through media is an effective and faster mode to spread awareness. But presenting views in a distorted manner may create agonies among the communities, which could eventually lead to an increased rate of religious crimes in India. In 2016, one such instance took place in West Bengal, where a deity of Durga was destroyed by a mob which became a religious issue but the media was blind about it.

7. Role of dharma in Indian constitution

In Indian philosophy and culture, the concept of dharma unfolds as a rich and multidimensional tapestry. It emerges as the universal moral compass, intricately weaving the tapestry of responsibilities binding individuals and civilizations. Central to Hinduism, dharma boasts a profound historical influence on Indian society. Remarkably, this essence resonates even within the modern secular Indian Constitution.

¹⁹ Supreme Court clamps down on religious speeches in poll campaigns, DNA (Oct. 20, 2016, 07:55 AM),

Despite its secular nature, the Constitution diligently recognizes dharma as a guiding principle for both individuals and society, epitomizing a harmonious coexistence.²⁰

The Indian Constitution's Article 51A reflects the intentions of its drafters to produce a responsible and engaged society that contributes positively in the advancement and development of the country. It symbolises the notion that citizenship entails more than simply rights; it also entails engagement in social issues and dedication to the good of the country. It implies that whomever is relevant to this subject matter is an example in our country. The Indian Constitution's inclusion of Article 51A reflects an intention to instill responsible and engaged citizenship. The alignment between Dharma and Article 51A is evident in the emphasis on values, ethics, and societal harmony.

8. Conclusion

Dharma and law, as seen above, may seem interesting, yet their underlying principles are the same. Law is a component of Dharma without conflict everywhere, and laws constitute a single incorporated whole. On the one hand, dharma is thought to be rigorous; nevertheless, this is not the case, and the equivalent has frequently been confirmed by the Hon'ble Supreme Court as set out in the regions above. At varying degrees, Dharma has directed and continues to direct our actions, morals, and laws. On the surface, there may appear to be no relationship between the two, yet upon closer inspection, both are interconnected and work as a cohesive whole. One of the many sources of modern law is "Dharma" which is influencing society. Thus, one might say that 'dharma' and law are firmly related and joined. Dharma by finishing the assessment of time has shown its unceasing person.

²⁰ Role Of Dharma In Indian Constitution With Special Emphasis On Article 51a, Telwina Singh