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COMPARATIVE ANALYSIS OF ANCIENT INDIAN DHARMA AND MORDERN CONSTITUTIONAL LAW

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Introduction

Dharma as such is a complex topic and there is no simple way to understand it. But there is an attempt made in the forthcoming Topic to explain the same. In Indian Subcontinent there are many stories mentioning “Dharma-sankat”, even so, the same is very common in various North-Indian everyday conversation. The term if broken down means

Dharma – What is right

Sankat – Problem

i.e., There are two situations, which are both righteous paths, but now it is to be chosen which path is righter.

The Blog tries to compare, how much of imprint of Ancient Dharma of Indian Subcontinent can be seen on The Constitution of India, drafted by the founding fathers.

Ancient Indian Dharma

The word Dharma as such does not have a single word translation in English, or rather in any European language¹. The word Dharma as such complex to understand, basically means what a person needs to do, i.e., the acts of someone in accordance with the will of the Universe. The Vedic language says, that the acts should be in accordance with “*Rta*”². The Oxford Dictionary of World Religions suggest *Rta* as the order and custom that

¹ https://en.wikipedia.org/wiki/Dharma#cite_ref:-0_8-0

² <https://en.wikipedia.org/wiki/%E1%B9%9AAta>

makes life and Universe possible, which if summarized, leaves us with Rights, Duties, laws conduct, virtue and Right way of living, religious and moral duties³.

The concept of Dharma can easily be found in the texts of all the religions originated in the Indian subcontinent. In Buddhism Dharma refers to the Truth, and practicing Dharma as practicing truth i.e., Buddha⁴. In Jainism Dharma refers to simply as teachings of Jinās⁵, so that adharma is its opposite⁶. In Sikhism Dharma refers to path of righteousness, proper religious practices, and performing one's own moral duties⁷.

In Hinduism or Sanatan, the four *Puruṣārtha* mentions Dharma as one of the *Puruṣārth*⁸. In Hinduism, Dharma is the religious and moral law governing individual conduct and is one of the four ends of life - In addition to the Dharma that applies to everyone (*Sadharana Dharma*)- consisting of truthfulness, non-injury, and generosity, among other virtues, there is also a specific dharma (*Svadharmā*) to be followed according to one's class, status, and station in life. Dharma constitutes the matter of the *Dharma-sutras* and *Dharma-shastras*⁹.

Brief about Indian Constitution

Indian Constitution is the *Rule of law* that prevails on the land of Bharat or India, governing all authorities, rights and duties of persons, actions of the state and its authorities and individuals, justice on the land, finance and economics etc. It is the basic and most essential document which administers most of the activities in the Indian state.

It is one of the lengthiest and bulkiest in the world and came into being after extensive research and debates. The debates were of such nature that they are still used for understanding and interpreting the provisions of the Constitution and hence are useful in the process of creating precedents.

The Constitution of India guarantees, citizens of India Justice, Equality, Fraternity and Liberty. The provisions Article 14, 19 and 21 of the Constitution of India forms “the Golden Triangle”, which are of prime importance and breathe vitality in the concept of the *Rule Of Law*.

Relation between Dharma and Constitution of India

There can be seen some or little relationship between Dharma and Constitution of India at the core and fundamentals. When we study the Constitution of India, it starts with preamble, which interprets to as - it is by the authority of Constitution that, the people living in the country of India enjoy what has been granted by the Constitution. Its authority grants the layman Rights, imposes duties on individual and state etc.

³ https://en.wikipedia.org/wiki/Dharma#cite_ref-15

⁴ <https://www.encyclopedia.com/philosophy-and-religion/eastern-religions/hinduism/dharma#1>

⁵ **Jina** (Skt., ‘spiritual victor’). In the Indian religious tradition, a title given to great teachers and ascetics, and in Jainism a synonym for the twenty-four tīrthaṅkaras; <https://www.encyclopedia.com/people/history/historians-miscellaneous-biographies/mahavira-indian-ascetic#10101Jina>

⁶ <https://www.encyclopedia.com/philosophy-and-religion/eastern-religions/hinduism/dharma#1>

⁷ https://en.wikipedia.org/wiki/Dharma#cite_ref-15

⁸ literally refers to objectives of men or person in a lifetime; <https://en.wikipedia.org/wiki/Puru%E1%B9%A3%C4%81rtha>

⁹ <https://www.britannica.com/topic/dharma-religious-concept>

The Dharma on the other hand, not as such codified anywhere and scattered in nature, imposes more like duties on everybody. It talks about duties to be followed by everybody properly, so that rights granted by universe are not infringed.

The rights that the constitution grants are not there in the sources mentioning dharma, to such extent as mentioned in Constitution. Dharma takes approach that is self-oriented, that everybody should perform their duties well so that, the rights of other person does not get infringed and that rights are provided by the universe itself and humans are in no position to determine rights of someone (which includes animals and plants as well). Dharma takes a moral approach to the rights and duties of the individuals and state. The Constitution as such fixes the debate and specifies everybody their tasks and liberty and deter being supervising authorities.

Observation

It can be observed that Dharma as such had much more freedom, as one was told what one has to do, and deter was a moral duty or obligation to God (or fear of God). But the constitution goes a step further and defines everything, provides everything, specifying that all authority should arise from it and it only.