
RELEVANCE OF DUTY IN REFERENCE TO DHARMA: A JURISPRUDENTIAL PERSPECTIVE

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ABSTRACT

The concept of a "Sense of Duty" ingrained within the subconscious recesses of human minds is a fundamental aspect of human behaviour. This innate urge to fulfil responsibilities and obligations is intricately woven into the tapestry of cultures across the globe, often personified as "Dharma." While some might immediately associate Dharma with religious doctrines, its essence transcends narrow religious boundaries and embodies the broader meaning of duty itself. Dharma, essentially, represents a moral compass that guides individuals to fulfil their duties not just towards their families, communities, or nations, but also towards their rulers or leaders. It exemplifies a universally acknowledged principle of abiding by obligations for the greater good of society. These obligations assume diverse forms: duties towards the divine, respect for parents, reverence for educators, and most significantly, empathy and consideration for fellow human beings. Dharma extends to encompass the rule of law, known as "Rajya-Dharma." This establishes that even rulers and leaders are bound by a duty to serve their subjects and uphold justice and order, rather than wield power arbitrarily. Here, the ruler becomes a custodian of the land's governance, reinforcing the idea that governance is not an entitlement, but a responsibility. Intrinsic to the practice of Dharma is morality. Ethical conduct and principles form its bedrock, as without these, Dharma loses its essence and becomes Adharma – actions that go against the natural order. Therefore, Dharma embodies a holistic sense of duty, interwoven with ethics and values, emphasising that the proper discharge of responsibilities, both small and great, forms the cornerstone of a harmonious and just society.

Introduction

Dharma, a fundamental concept in Hinduism, embodies principles that ensure the well-being and advancement of all in both the present world and the spiritual realm. This understanding emphasises that Dharma is not merely a philosophical concept but is actively upheld through actionable commands. Although a central tenet in Hinduism, Dharma is challenging to define succinctly. Some interpretations label it as "universal justice" or "natural law," yet its essence is better understood as fulfilling obligations according to one's role and life stage. Essentially, Dharma is a moral and ethical guide, considered among the most significant truths individuals seek to understand and practice during their lifetime.¹ It varies based on an individual's position in society, their familial and social roles, and the stage of life they are in. For example, a student's Dharma might involve learning diligently and respecting teachers, while a parent's Dharma might focus on raising children with values and care.²

Dharma as a Pious Obligation

The obligations which are Pious in nature are considered to be pure without any internal spiritual interference or blockage. A pure obligation is towards an entity which one individual may regard important in his life or moreover it is a part of his sub conscience nature. These obligations find their origin in the fundamental value of "Gratitude," suggesting that every individual holds a responsibility to acknowledge and reciprocate the benefits received from various sources, including the very gift of existence.³ There are four such obligations which we shall discuss in this paper.

Devaruna: Obligation towards the Creator

The first pious obligation, Devaruna, pertains to the duty towards the divine creator. It entails the worship of God in diverse forms and the performance of rituals and sacrifices (Yajna). Notably, no specific name of God or exclusive mode of worship is mandated. The emphasis lies on an individual's expression of gratitude for being granted human existence, endowed with physical, intellectual capabilities, and the natural environment. This open-ended approach

¹ DHARMA, The Global Ethic, Justice M. RAMA JOIS, Universal Books, 1996.

² <https://factsanddetails.com/world/cat55/sub388/entry-5630.html>

³ See supra note 3

led to the emergence of myriad forms of worship, reflecting the creativity of individuals and promoting a sense of spiritual connection.

Pitru-runa: Reverence for Parents

The second obligation, Pitru-runa, is directed towards an individual's parents. The Vedas advocate treating parents with the reverence accorded to deities. This stems from the recognition that parents are not only the source of birth but also the nurturers, caregivers, and providers of education. This concept transcends theological beliefs, positioning parents as a tangible manifestation of the divine's nurturing presence. The value of gratitude once again underscores this obligation, as children are indebted to their parents for their formative years and guidance.

The Delhi High Court, May of 2023, in the case of Smt. Ritu Manoj Prithaini v. Shri. Manoj Dharamdas Prithaini⁴, held that looking after old aged parents is a moral duty of a man.

Rishiruna: Duty towards Teachers

The third obligation, Rishiruna, pertains to the duty towards teachers. It is anchored in the principle that knowledge acquisition and dissemination are vital. This obligation underscores the significance of education and the pursuit of knowledge. Unlike material possessions, knowledge cannot be gained through shortcuts or dishonest means. Instead, it requires diligent effort, focus, and devotion. By emphasising the importance of education, this obligation ensures that individuals are equipped to fulfil their other pious obligations effectively.

In the case of Mohini Jain v. State of Karnataka⁵, the supreme court has recognise education as a pious obligation of the society. It said “ We hold that every citizen has a 'right to education' under the Constitution. The State is under an obligation to established educational institutions to enable the citizens to enjoy the said right. Even the state-owned or state-recognised educational institutions the State may discharge its obligation. To fulfil its obligation under the constitution the state may grant recognition to the private educational institutions.

he provided statement emphasises the fundamental right to education guaranteed to every citizen under the Constitution. It highlights the role of the State in ensuring that this right is

⁴ 2023 Latest Caselaw 1130 Del

⁵ 1992 AIR 1858, 1992 SCR (3) 658

upheld by establishing educational institutions. The statement further discusses the different approaches through which the State can fulfil its obligation to provide education to its citizens.

- **Right to Education and State Responsibility:-** The statement asserts that the Constitution grants every citizen the right to education. This signifies that access to education is not merely a privilege but a fundamental entitlement for all individuals within the country. This right is upheld by the State, which holds the responsibility to ensure that citizens can exercise this right effectively.
- **Establishment of Educational Institutions:-** To fulfil its responsibility, the State is obligated to establish educational institutions. These institutions serve as the platforms through which citizens can access quality education. By setting up schools, colleges, universities, and other educational centres, the State creates avenues for citizens to receive formal education.
- **State-owned and State-recognised Institutions:-** The statement acknowledges that the State has flexibility in discharging its obligation. It can establish and run its own educational institutions, which are directly operated and managed by the government. Alternatively, the State can recognise and grant approval to privately-run educational institutions. These institutions, though not directly owned by the State, are officially recognised by the government and are considered agents for fulfilling the right to education.
- **Private Institutions and State Recognition:-** The statement delves into the concept of state recognition for private educational institutions. When a private institution seeks recognition from the State, it is essentially entering into a partnership or agreement with the government. This recognition signifies that the institution meets certain standards set by the government and is deemed suitable for imparting education. By granting recognition, the State accepts these institutions as partners in fulfilling its constitutional duty to provide education.
- **State as an Enabler:-** The statement implies that when the State grants recognition to private educational institutions, it empowers them to contribute to the fulfilment of the citizens' right to education. By endorsing these institutions, the State expands its educational capacity and allows citizens to access education from a variety of sources. This approach recognises the potential of both public and private entities in collectively addressing the educational needs of the population.

Manavaruna: Service to Humanity

The inclusion of the fourth obligation, Manavaruna, is a notable addition by Vyasa, signifying a comprehensive sense of duty towards humanity. This obligation encompasses a vast array of societal responsibilities, covering diverse areas of human endeavour. Serving society through various welfare initiatives, projects, and institutions is seen as an integral component of this obligation. This pious duty reflects the idea that "Service to Humanity is Service to Divinity," underscoring the inseparable connection between human welfare and spiritual fulfilment.

Dharma is Duty

Dharma is often characterised as one's duty, requires a more nuanced elucidation to capture its true essence. Dharma is more accurately portrayed as a code of conduct and way of being that facilitates spiritual advancement. Rooted in the beliefs of Hinduism, dharma is regarded as a cardinal guide and foundational principle governing all facets of existence. Within the framework of dharma, several distinct categories emerge, each bearing specific significance.

Sanatana Dharma:- The Eternal Law

At its core, Sanatana Dharma, also referred to as the Eternal Law, encompasses the innate laws governing both nature and the Divine. This eternal law is akin to the unwavering principles that steer the cosmos. It underscores the interconnectedness of all life forms and emphasises the imperative of treating nature and fellow beings with profound reverence and respect.

Sāmānya Dharma:- Universal Laws of Conduct

Sāmānya Dharma is a crucial facet of dharma that encompasses universal laws governing all forms and functions of life. It transcends specific roles and responsibilities and encompasses a spectrum of virtues and principles that guide ethical conduct. Included in this category are values such as contentment, forgiveness, self-restraint, non-stealing, purity, control of senses, discrimination between right and wrong, spiritual knowledge, truthfulness, and the absence of anger. Many of these values have been meticulously codified as ethical guidelines within various sacred texts. These guidelines are often referred to as "yamas" (disciplines) and "niyamas" (restraints), collectively constituting a comprehensive roadmap for virtuous living.

Vishesha Dharma:- Duties in Different Contexts

Vishesha Dharma, or special duties, constitutes another layer of dharma, diving into the intricacies of various social, contextual, and individual responsibilities. It delves into different dimensions, including social laws that define an individual's obligations within their nation, society, community, and family. Additionally, this category encompasses laws aligned with different life stages, dictating age-appropriate responsibilities that evolve as one matures from childhood to old age. Lastly, personal law or dharma emerges as an individually tailored application of these principles. This personalized application takes into account an individual's accumulated past actions (karma), intelligence, aptitudes, tendencies, physical attributes, and community dynamics.

A profound aspect of dharma rests in its role in defining an individual's essential nature. This analogy can be likened to the inherent qualities of substances like sugar's sweetness or fire's heat. In the same vein, an individual's essential nature is seen as divinity or goodness, and, therefore, their duty is to consistently align their actions with this innate nature. This alignment signifies the optimal fulfillment of dharma and the harmonious integration of individual conduct with the inherent goodness that resides within.⁶

Duty and Morality

Moral values are essentially guiding principles that prompt us to take action, to fulfill our responsibilities. For instance, let's take the example of 'Ahimsa,' which means non-violence. This is a moral value, and in practical terms, it means refraining from causing harm to others. Instead, it encourages helping others and contributing positively to the well-being of society. These actions are essentially duties that we are expected to perform.

Therefore, when we discuss 'Ahimsa,' we indirectly refer to these duties. These two dimensions are deeply connected to the welfare of both individuals and society. These two aspects are also closely linked to morality. For instance, an action that goes against moral principles and harms human society is not endorsed by any religion. All religions share a common goal of promoting the welfare and prosperity of human society. This well-being and prosperity can only be achieved when every member of society adheres to moral principles. In this context, these two meanings of 'dharma' (moral duty) reflect morality. The term 'dharma' can be understood as

⁶ Hindu American Foundation, https://www.hinduamerican.org/wp-content/uploads/2019/12/Dharma2.0_1.pdf

these intertwined meanings. Furthermore, if an action contradicts moral principles and undermines the well-being of human society, it is not in line with any religious teachings. It's crucial to note that all religions strive for the betterment of human society. This improvement occurs when each individual in society is committed to upholding moral principles. In light of this, it can be concluded that morality is synonymous with 'dharma' since genuine well-being arises from acting morally.⁷

If the primary focus of all religions is the cultivation of morality, then rituals and religious practices become secondary concerns. This shift in focus can help reduce conflicts between individuals based on religious differences. Ultimately, when the aim of all religions centres around the achievement of morality, clashes among people on religious grounds are less likely to occur.

Indian Constitution on Dharma

The central premise of the Dharma Shastras was to establish a framework for the ruler's conduct that prioritised the welfare and well-being of the subjects, ensuring social harmony, justice, and ethical governance. It was believed that a king who adhered to these principles would establish a Dharma Rajya, which translates to a "rule of law" or a kingdom governed by principles of justice, righteousness, and moral integrity. The concept of a Dharma Rajya reflected the idea that a ruler who governed based on moral principles and upheld the rule of law would foster an environment of trust, stability, and prosperity. If a king violated these principles outlined in the Dharma Shastras, they were deemed unfit to rule, as their actions would go against the very foundation of just governance.⁸

In historical societies, the perception of a king's legitimacy and the respect he garnered from his subjects were intricately tied to his adherence to a set of moral and legal principles known as Dharma. Dharma encompassed the moral duties, ethical responsibilities, and proper conduct that a ruler was expected to follow in order to maintain a just and harmonious governance. The concept of Dharma was not a flexible or changeable set of rules; it was a universal and unalterable framework that guided the king's actions and decisions. For a king to earn the respect and allegiance of his people, it was imperative that his actions were aligned with

⁷ Ranjit Kumar Burman, *Dharma as a Moral Value*, 2017, University of North Bengal Raja Rammohapur, Darjeeling, 88.

⁸ R.C Majumdar "Ancient In ia", P.154-15

Dharma. This alignment meant that he had to rule with justice, fairness, and integrity, considering the well-being of his subjects above personal interests. The essence of this idea was that the rules of Dharma were not subject to the whims and fancies of the king. They were fixed principles that ensured that the exercise of political power remained within the boundaries of moral righteousness.⁹

The concept of the "Rule of Law" in modern times draws its inspiration from this historical understanding of Dharma. In contemporary governance, the Rule of Law signifies a system where the government, including the highest authorities, operates within the confines of established laws and regulations. No one, regardless of their position, is above the law, and the law itself is not subject to arbitrary changes or personal preferences. Dr. S. Radhakrishnan's quote underscores the essence of this principle. By referring to Dharma as the "king of kings," he highlights its supreme authority and universal relevance. Dharma transcends the ruler and the ruled, serving as a sovereign framework that guides the conduct of all. This aligns with the idea that Dharma is the true source of sovereignty and legitimacy. When the ruler and the ruled are bound by the same principles of Dharma, a just and stable society can flourish.¹⁰

Therefore if we analyse the Indian Constitution and the its relevance to the concept of Dharma.

1. In India, Indian Constitution is the most supreme law of the land. No other law shall prevail over the Indian Constitution. Article 13 clarifies that any laws in place before the Constitution, inconsistent with Fundamental Rights, become void to that extent. If post-Constitution laws clash with Fundamental Rights, they are declared void as well. However, the framers overlooked that Dharma, an Indian concept, implies rule of law and is not solely Western. It implies that both the king and citizens adhere to it. Dharma governs the nation, not the ruler. Dharma closely parallels the modern-day concept of the rule of law, where all state authorities are subordinate to the law. This adherence ensures societal well-being, as it did during the Dharma era. Rule of law also outlines citizens' duties and obligations, which were inherent in Dharma.
2. India's preamble mentions that India is a secular country, which entails to the fact that "Sarva Dharm Sambhav". India as a country doesn't profess, propagate or practise religion

⁹ Leepakshi Rajpal and Mayank Vats, Dharma and the Indian Constitution, Christ University Law Journal, 5, 2 (2016), 69.

¹⁰ Quoted in 'the framing of India's Constitution' by Shiv Rao Vol II P.11-18.

of its own. Moreover it allows anyone to propagate, practice and profess their own religion. Dharma and religion are distinct. Dharma thrives on direct experience and enhances spirituality. Religion is more theological and contributes to culture. Dharma, like the rule of law, emphasises equitable treatment and upholding human rights.

3. Part III of the Constitution, comprising Fundamental Rights, stems from the concept of Dharma. These rights are inherent from birth and ensure equality without discrimination. Ensuring societal harmony and equal treatment to everyone is the essence of Dharma.¹¹ *Maneka Gandhi v. Union of India*¹² Article 21 guarantees the right to life and personal liberty, with a broader interpretation by the Indian judiciary. Though we don't have a right to die¹³, it encompasses the right to dignified life¹⁴, livelihood¹⁵, and free legal aid.¹⁶ It was inspired by Dharma's focus on human rights. In *A.S. Narayana Deekshitulu v. State of Andhra Pradesh and Ors.*¹⁷ Justice J. Hansard mentions that theology and methodology blooms in the dharma and direct experience. Cultural phases, beauty of spirituality contributes to religion.

Jurisprudence of Dharma and Duty

The ancient Indian concept of law and governance, as laid down in the smritis, provides us with valuable insights into the principles that should guide rulers and political authorities. These principles have relevance even today for various kinds of political leaders and officials who hold governmental power. The smritis emphasised a code of conduct that rulers, including kings, should diligently follow. This code, in fact, applies universally to all those in positions of political authority. Law, according to these smritis, was seen as a potent tool essential for safeguarding individual rights and freedoms. If an individual's rights were infringed upon by another, the injured party had the right to seek protection through the law with the help of the ruler, regardless of the wrongdoer's influence or power. The ruler's authority to enforce the law and punish offenders was seen as the force behind the law, compelling everyone to obey it.

¹¹ Satoshi Taniguchi, *The Essence of Dharma*, 2018. 14, march 2018.
<https://www.clubstreetpost.com/2018/03/the-essence-of-dharma/>

¹² AIR 1978 SC 597

¹³ *Gian Kaur v. State of Punjab*, AIR 1967 SC 1257

¹⁴ *Union of India v. Bhanudas*, AIR 1978 SC 1027.

¹⁵ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

¹⁶ *Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1369

¹⁷ 1996 AIR 1765, JT 1996 (3) 482.

This ancient understanding of law closely aligns with modern legal theories. The Upanishads, one of the oldest texts, define law as a commanding order enforced by a superior power or sovereign. This commanding order is upheld through the use of coercion, referred to as the "sanction." According to legal scholar Austin, law consists of general commands issued by the State, backed by its physical power if necessary. This definition underscores the significance of a political superior declaring the law and having the state's machinery to enforce it. In this context, the king's power was crucial as the instrument of enforcement. The Dharmasastras highlighted the interdependence of the law and the ruler's authority. The king's power stemmed from his adherence to the law, and the efficacy of the law depended on how well the king carried out its enforcement. This reciprocal relationship emphasised that the king must abide by the law to earn the respect of his people.

The primary duty of a king, according to Rajadharma, was to govern in accordance with the law. This ensured that the law remained supreme and regulated human actions within its boundaries. The enforcement of Dharma was the king's responsibility, and the concept of Dharma was considered higher and binding even on the sovereign ruler himself. This meant that kings held a position of authority within the framework of Dharma, the ultimate authority. A crucial principle upheld by the Dharmasastras was that the rules of Dharma were unalterable according to the ruler's whims. It was essential that political power be exercised in alignment with Dharma. This principle, applicable to any system of government, serves as a safeguard against abuse of power, selfish motives, and arbitrary decision-making.

Dharma in a Philosophical Sense

Dharma, holds the notion that actions cannot be rigidly labeled as universally right or wrong, irrespective of the circumstances surrounding them. Rather, the morality of an action is contingent upon the specific context in which it occurs. For instance, the act of lying is not inherently classified as categorically wrong. Instead, its moral evaluation hinges upon the circumstances at hand.

While lying might be considered ethically inappropriate when employed to evade punishment, the same act may be justified if it serves to protect state secrets, safeguard the harmony of the nation, or even save someone's life. Fundamentally, actions that contribute to the continuity of harmony are deemed dharmic, whereas those causing disharmony are not in alignment with dharma. A prominent Hindu scripture, the Bhagavad Gita, nestled within the epic Mahabharata,

offers invaluable insights into dharma and its application in complex situations. Within the narrative, Arjuna, a valiant prince and warrior, faces a moral quandary regarding the righteousness of participating in a war wherein his own family and revered mentors stand on the opposing side. In this ethical dilemma, Krishna, a central figure in Hinduism, provides Arjuna with profound guidance on the concept of dharma.

Krishna illustrates to Arjuna that the act of fighting in the war, though seemingly against the principle of ahimsa (non-violence), is justified due to the larger context and the necessity to establish peace and harmony for the citizens across India. Despite the general principle of avoiding harm, Krishna demonstrates that in certain situations, such as protecting the welfare of the kingdom and its people, taking up arms is not only justifiable but also aligns with one's dharma. This perspective highlights the nuanced nature of dharma, which often necessitates considering multiple factors and priorities when evaluating the rightness or wrongness of an action. The Bhagavad Gita, therefore, serves as a guiding light for individuals facing intricate moral dilemmas, particularly when the answers are not starkly black or white. It assists in unraveling the complexities of dharma and aids individuals in comprehending their ethical responsibilities within challenging circumstances. This pivotal text emphasises the importance of assessing each situation holistically, considering the greater good and overall harmony, rather than adhering to rigid ethical classifications.

In the case of Arjuna, the prince's dharma, as determined by his role and position, encompasses the duty to wield his skills and courageously engage in battle. His participation is not a mere endorsement of violence, but rather a strategic effort to ensure a just and secure environment for all citizens. This portrayal underscores that dharma extends beyond simplistic definitions of right and wrong, demanding a deeper consideration of the consequences and implications of one's actions on the broader context.¹⁸

Conclusion

The philosophy of dharma can be said to have moved its boundaries beyond the scope of Hinduism. Despite of mainly aligning with the one's duty or obligation in a traditional sense moral principles of the same can't be said to be ignored. It encompasses duties, responsibilities, and actions that are in harmony with one's inherent nature, societal roles, and moral values.

¹⁸ Hindu American Foundation, https://www.hinduamerican.org/wp-content/uploads/2019/12/Dharma2.0_1.pdf

The layers of dharma, from universal principles to individualised duties, provide a comprehensive framework for virtuous living. Throughout history and across cultures, the essence of dharma finds resonance in the pursuit of justice, the rule of law, and the betterment of society. It underscores the importance of aligning individual actions with moral principles and the greater good. In modern times, the concept of dharma has relevance in the realms of governance, law, and ethical decision-making. It encourages leaders to rule justly, prioritising the welfare of their subjects and upholding the principles of fairness and equity. Therefore dharma ever evolving phenomenon while keeping true to the traditional roots of the same.