

‘RTA’ AND ‘DHARMA’, THE ANCIENT INDIAN CONCEPT OF LAW AND JUSTICE

INTRODUCTION

Hinduism is the dominant religion, and consists of much diverse tradition. It includes Shaivism, Vaishnavism and Shaktism among numerous other traditions, and a wide spectrum of laws and prescriptions of “daily morality” based on Karma, Dharma, and societal norms. Hinduism is a categorisation of distinct intellectual or philosophical points of view, rather than a rigid, common set of belief. Hinduism has been called the “oldest religion” in the world, and some practitioners refer to it as `sanatana Dharma`, “the eternal law” or the “eternal way” beyond human origins. It prescribes the “eternal” duties, such as honesty, mercy, purity, self-restraint, among others.

The Vedic period (approx.1750-500 BCE) was the period in Indian history during which the Vedas, the oldest scriptures of Hinduism, were composed during the early part of the Vedic period, the Indo-Aryans settled into northern India, bringing with them their specific religious traditions. The associate culture was initially a tribal, pastoral society centered in the northwestern parts of the Indian subcontinent; it spread after 1200 BCE to the Ganges plain, as it was shaped by increasing settle agriculture, a hierarchy of four social classes, and the emergence of monarchial, state-level polities.

The Vedas (knowledge) are a large body of texts originating in ancient India. Composed in Vedic Sanskrit, the texts constitute the oldest layer of Sanskrit literature and the oldest scriptures of Hinduism.¹ The class of “Vedic texts” is aggregated around the four types, of which three are related to the performance of yajna (sacrifice) in historical Vedic religion:

1. The Rig-Veda, containing hymns to be recited by the hotr, or presiding priest;

¹ Sanujit Ghose (2011). "Religious Developments in Ancient India" in *Ancient History Encyclopedia*

2. The Yajurveda, containing formulas to be recited by the adhvaryu or officiating priest;
3. The Samaveda, containing formulas to be sung by the udgatr, or priest that chants;
4. The Atharvaveda, a collection of spells and incantations, apotropaic charms and speculative hymns.

RTA

Rta is derived from the Sanskrit words means, "to go, move, rise, tend upwards", and the derivation noun rtam is defined as "fixed or settled order, rule, divine law or truth."

Rta appears most frequently as representing abstract concepts such as "law", "commandment", "order", "sacrifice", "truth", and "regularity", Rta is also frequently used in reference to various Vedic deities. Thus, Brahaspati is referred to as possessing a powerful bow with "Rta as its string" and as one prepared to "mount the chariot of Rta"; Agni is described as one who is "desirous of Rta", one who is "Rta-minded" and as he who "spread Heaven and earth by Rta", the Maruts are referred to as "rejoicing in the house of Rta" and as "knower's of Rta"; Ushas is described as having been "placed at the root of Rta"; Varuna is praised as "having the form of Rta" and along with Mitra-Varuna, as "destroying the foes by Rta" and as "professing Rta by Rta". Epithets such as "born of Rta" and "protector of Rta" are frequently applied to numerous divinities, as well as to the sacrificial fire and the sacrifice itself.

The ancient Indian seers recognized a cosmic order which served as the foundation of their ethics and values. They called it Rta, Macdonell, an eminent historian, has described as: "highest flight of Rig Vedic thought."² Originally Rta was a concept pertaining to the physical universe, denoting the law of nature operative in the movement of the planets, the success in the night and day, and the rotation of the seasons. As the principle of order in the universe, it provided all of the natural

² Macdonell, A. A., *A History of Sanskrit Literature*.

phenomena with symmetry and aesthetic form. The beauty and uniformity of heaven and earth were looked upon as proceedings of unalterable observance of cosmic law. Gradually the cosmic sense of Rta as Natural Law developed into the social sense of Rta as moral law. The nature of this development was crucial for the status of morality. It meant that virtue was given the same basic position in the social world.³ The ideas of Rta as Moral Law become a salient feature of Vedic thought. So great was its influence that in later time its principles were conserved through the characteristic Hindu concepts of dharma and the law of karma. The hymns not only present with a universal standard of morality represented by Rta, but also lay down certain duties as religious, consisting of prayers and sacrifice to the gods.

DHARMA

Dharma is a concept of central importance in Indian philosophy and religion. It has multiple meaning in Hinduism, Buddhism, and Jainism. It is difficult provide a single concise definition for dharma, as the word has long and varied history, Yama, the lord of death, is also known as Dharma, since he works within the laws of karma and morality, regulated by divine principles. Lord Rama, an avatar of Vishnu. The eldest pandava, Yudhistira was referred to as Dharma Raj Owing to his steadfastness to Truth & Dharma

In ancient Vedic tradition, the Dharma was decided by the holy Kings or Dharma Raja. Dharma rajas include Manu, Rama, Yudhistira, and Buddha. Sometimes specific things are used as Buddha-Dharma and Jaina-Dharma to distinguish them from Hindu Dharma. For many Buddhist, the Dharma most often means the body of teachings expounded by the Buddha. The word is also used in Buddhist phenomenology as a term roughly equivalent to phenomenon, a basic unit of existence or experience. Dharma may be used to refer to rules of the operation of the mind or universe in a metaphysical system or to rules of behavior in an ethical system. In modern Indian languages, such as Hindi, dharma can also mean simply "religion." For example, a Muslim is a person who follows the dharma of Islam.

³ Cromwell Crawford, *S. The Evolution of Hindu Ethical Ideals*

In Hindu philosophy, justice, social harmony, and happiness are gained when people live according to dharma. The Dharmashastra is a record of these guidelines and rules. The available evidence suggests India once had a large collection of dharma related literature (sutras, shastras); four of the sutras survive and these are now referred to as Dharma sutras.⁴ Along with laws of Manu in Dharmasutras, exist parallel and different collection of laws, such as the laws of Narada and other ancient scholars. These Dharmasutras include instruction on education of the young, their rites of passage, customs, religious rites and rituals, marital rights and obligations, death and ancestral rites, laws and administration of justice, crimes, punishments, rules and types of evidence, duties of a king, as well as morality.

In the mantras its meaning is extended to include not only the rhythm, regularity and uniformities of nature and natural order but also moral order based on natural justice Gods are called- Guardian of Rta and practiced of Rta- who reward the good and punished the wicked, sacrifices rites, Rita becomes identical with object with Yagna or sacrifice. Sacrificial rites are performed with the object of prosperity and happiness here and thereafter. Rita and Yagna imply that each action carries its own reward and Dharma means Right activity or duty, activities which promotes virtual and includes man to live in harmony and peace with the world.

ANCIENT LEGAL CONCEPT

The ancient Indian tradition conceived a legal order based on the dharma dating the time of 100CE. Rta and Dharma stands for righteousness and includes not merely religious duties but comprises virtues, ethics and philosophy in explaining social problems, practice and directions. It denotes the Indian ideology that includes righteousness of thought, world and action, law of being, law of nature, individual duty, legal duty, social and moral duty, justice, civil law, code of conduct, practice, harmony with nature and living beings and the way of life, among other things. Dharma also means to secure `Abhyudaya` i.e. the welfare of the people, as it represents rights,

⁴ Patrick Olivelle (1999), *The Dharmasutras: The law codes of ancient India*, Oxford University Press

privileges and obligations of individuals. Thus the object of law was to promote the welfare of man both individually and collectively.

Dharma therefore also been compared with modern public law, as the duty of the state is to ensure the welfare and happiness of all people. Thus the Vedic way of life encompassed a reverence for natural resources necessary to be preserved, protected and used in a sustainable manner for human sustenance and humanity's existence. It is very difficult to provide a single line definition for the word. Dharma is conceived as the course of action which if followed by any person would lead both physical and spiritual gain in this world and the next and the failure to follow which would result in "Adharma" or a spiritual fall and therefore a person was obligated to follow the norms of Dharma. Dharma is therefore an ideal which is to be followed for physical and spiritual benefit of each person and every society through its entire life cycle under various circumstances.

Dharma is however not the only reason for the living of one's life and for the actions one undertakes. Dharma itself is one of the angles of Dharma-Artha-Kama triangle which guides one's life. Dharma stands for the ideal, while Artha for that which is profitable and Karma for that which is pleasurable. Even Manu accepts that man seldom acts on account of Dharma alone, and that there is great debate which course should be given primacy in the deciding what is the correct course of action. Needless to say Swayambhu Manu says Dharma is supreme, whereas Chanakya Kautilya says Artha, and Rishi Vatsayana says all three are equal in almost cases.

THE ROLE OF "DANDA" IN DHARMA

"Danda" is the methodology whereby a sovereign inculcates Dharma in his subject and assist them in the path of Dharma by exercise their self control. Danda means that is pure force to be used to keep persons on the path of Dharma through a method of assisted self control. In other words it assists the sovereign to discharge his Dharma to keep his subjects on the path of Dharma. Danda if applied properly protects the sovereign and if applied unjustly turns against him.

The life of a person in Dharmic society is divided into four stages, the first is the "Brahmacharya" (approximately the student), the second is the "Grihasta"

(approximately the householder), the third is the “Vanaprastha” (approximately the forest dweller) and the fourth is the “Sanyas” (approximately the world renouncer). The Dharma of a person in every stage is different and what is the Dharma for one is not the Dharma for the other.

Rta and dharma, the Indian constitution and Indian law today.

The Indian law and the Indian constitution is in itself a peculiar continuation of the strange world of Anglo-Hindu law that is of trying to make sense in a “modern” western way of the very ancient Dharmic society. The Indian Constitution tries to address the problems of caste through westernized system of economic reservation not realizing that it would in effect entrench the system further. The Indian Constitution attempts to establish a “secular” state yet, defines “Hindus” in the fundamental rights. Though the Indian fundamental rights chapter is western in its formulations, the Supreme Court of India is being more often made to take choices which are decidedly Dharmic without terming it as such in order to solve Indian problems.

Here are a few examples

The first is the expansion of the right to legal remedy, by first making it is fundamental right and then a basic structure of the Constitution

The second is the expansion of the right to life from the restricted and limited right in the Constitution in order to do complete justice to every person, which is the hallmark of the “Rule of Law” and much like Dharmic justice which sees life beyond the merely physical existence.

The third example is the evolution of the Indian conception of “Sarva Dharma Samabhava” as “Equal Treatment of all Religions” different from the anti-God westernized secularism.

Lastly, in India, the judiciary is much respected and is uniquely powerful. Some say it is the most powerful judiciary in the world. It can only happen in a country where the culture holds the interpreters of laws to be even higher than the formulators of laws and those that execute them. Dharma in India still reigns supreme.