

## ROLE OF DHARMA IN INDIAN CONSTITUTION WITH SPECIAL EMPHASIS ON ARTICLE 51A

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### ABSTRACT

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

This exploration delves into the profound reflection of dharma within the Indian Constitution and its reverberations through the contemporary judicial framework. The underlying hypothesis contends that the incorporation of dharma into the Constitution has wielded a substantial impact on India's moral and ethical paradigms, amplifying social unity, nationalism, and diverse cultural dimensions. A focal point of this analysis rests on the shoulders of Article 51A of the Indian Constitution.

The author undertakes a nuanced quest to dissect and distinguish the realms of religion and dharma. This endeavor extends to elucidate how dharma transcends the confines of religious dogma, emerging as a universal principle. With an expanded perspective, the paper embarks on an intellectual voyage, traversing the corridors where ancient wisdom converges with modern governance, underpinning India's societal ethos and jurisprudence.

### LITERATURE REVIEW

Dharma is Sanatana, meaning it possesses values that transcend time and place and are thus everlasting. Since the beginning of time, we have practised the Dharma. The King was not above Dharma; he was ruled by it, and if he wasn't, then the Dharmashastrakara gave the people the right to revolt against such an unfair, capricious, and unrighteous ruler or government. This is a straightforward demonstration of Dharma's superiority.

While dharma and law may appear to be in opposition, their underlying ideologies are the same. Dharma has been directing and varying the human condition, incorporating laws in a variety of elements. Dharma is one of the various origins of contemporary law.<sup>1</sup>

The term Dharma is being misused in the past 1500-2000 years in India now. The word 'Dharma' simply means the nature of law and it define one's nature. This term never belonged to any particular religion. For example: when we ask what is the nature of fire? the answer will be to burn and cause heat, so the dharma of fire becomes o burn and cause heat. Therefore, Dharma does not belong to a particular religion. At the time of independence, when the Constitution of India was prepared by the Indian government, they stated that the constitution of India will be Dharma-nirpeksh which means non-dharmic. Which does not stand that true today, any government cannot be non-dharmic as the government gives importance to the conduct of the state. The constitution should have stated that it will be non-sectarian.

Later, when the constitution was being translated into Hindi, this error was rectified however, the leaders today as well use non-dharmic and non-sectarian interchangeably.<sup>2</sup> The Hindu laws which came into existence after the independence are very aspects of how law was governed in India before the imposters ruled in India and imposed their law. These few laws are a very small part of the law which existed back then which had perfect and detailed procedure. Such laws were mainly governed by the concept of Dharma. There is no equivalent term to dharma today in English language. The achievement of Ancient India lies in the same lines as Biology, Physics, Spirituality, Mathematics, Environmental Science, Architecture etc. as in Law. During Vedic period, the life and law was governed by the foundation of Dharma. With the passage of time, the need to prepare a proper code of conduct was felt and the Smritis were introduced. The greatness and perfection of law in Smritis cannot be compared to laws existed or existing. For instance, adjudication is the primary activity in all legal systems, and the judgement is the result of the adjudication. To the best of my knowledge, neither the procedural nor the substantive laws, particularly those that are in effect in India, have any exact description of a judgement.

<sup>1</sup> Shantanu Rathore, *Dharma and Law*, ACADEMIKE, June 21,2023, 1:38p.m., <https://www.lawctopus.com/>

<sup>2</sup> Vipassana Research Institute, <https://www.vridhamma.org/> (last visited on JUNE 21,2023)

Sage Vyasa described the judgement in the following stanza of his Dharmakosa:

*“Purvothare kriyapadam*

*Pramanam tat pareekshanam*

*Nigadam smriti vakyancha*

*Yada sabhyam Vinischite*

*Jayapatrabhilekhaet”*

Which means, the judgement should contain the following:

- a) purva, (purva paksha e. plaintiff),
- b) uttare (uttarapaksha i.e. the statement),
- c) kriyapadam (issues),
- d) pramanam (evidence),
- e) tatparikshanam (its analysis),
- f) nigadam (argument of an advocate),
- g) smriti vakya (relevant provisions of law),
- h) sabhaya vinischitam (opinion of the judges),
- i) Jayapatraha (Royal seal)

Therefore, one can say that Law, even today is a branch of the wide concept Dharma<sup>1</sup>

## **INTRODUCTION**

The word ‘DHARMA’ is derived from the word Sanskrit word which means “Dhri”, which mean to support. One’s duty towards the society that it keeps moving forward is known as ones Dharma. The broad ambit of ‘right way of living’ or ‘proper conduct’. The true meaning of Dharma in Hinduism implies to one’s duty towards the society and the power which uploads the whole universe. Today, in the modern world Hindu law is nothing but a subset of dharma. We can say that the dharma is the soul of an individual as one cannot survive without it and without it, the society and mankind will collapse.

The provided text discusses the concept of Dharma in the context of law, justice, and religion in India. It emphasizes the close relationship between Dharma, law, and the judicial system in India, highlighting how Dharma is considered the foundation stone of modern law. The text also explores the relationship between religion and Dharma, stating that while religion is a subset of Dharma, they are not the same. It mentions the role of religion in framing laws and preserving law and order in a secular country like India. Focusing on Dharma's principles can help address these issues and promote social harmony and justice.<sup>2</sup>

## **HYPOTHESIS**

The author believes that the constitution of India and the concept of dharma are closely related.

## **RESEARCH OBJECTIVE**

Author seeks to clear up any ambiguity What this means is that since dharma is solely a Hindu idea, it only applies to Hindus. This assertion is untrue since it is a broadly relevant concept.

## **UNDERSTANDING ARTICLE 51A OF THE INDIAN CONSTITUTION**

Article 51A was inserted in the Constitution in the forty-second amendment act, 1976. This article talks about the fundamental duties of a citizen of India. This article gives a set of moral duties and responsibilities that citizens are expected to fulfil in order to make a harmonious society to live in.

*“51A. Fundamental duties It shall be the duty of every citizen of India*

*(a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem;*

*(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;*

*(c) to uphold and protect the sovereignty, unity and integrity of India;*

<sup>1</sup> Justice L. Narasimha Reddy, *Law is a branch of Dharma*, INDIA FOUNDATION, (June 21, 2023, 2:53 p.m.), <https://indiafoundation.in/>

<sup>2</sup> Ankush Talwar & Kamaksshee Khajuria, *DHARMA AS LAW AND JUSTICE: INCREASING RELIGIOUS CRIMES IN INDIA*

*(d) to defend the country and render national service when called upon to do so;*

*(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;*

*(f) to value and preserve the rich heritage of our composite culture;*

*(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;*

*(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;*

*(i) to safeguard public property and to abjure violence;*

*(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.”<sup>1</sup>*

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.

### **HOW ARTICLE 51A ALIGNS WITH THE CONCEPT OF DHARMA**

The notion of Dharma, a central idea in Indian philosophy that includes moral responsibility, morality, and ethical requirements, demonstrates a substantial agreement with Article 51A of the Indian Constitution, which lists Fundamental Duties for people. The spirit of Dharma is reflected in Article 51A in the following ways:

1. Upholding Constitutional Values (Clause a): The need to uphold the Constitution's values and respect its institutions and ideals is analogous to Dharma's focus on adhering to accepted customs and moral standards. This obligation emphasises the significance of upholding the values inherent in the Constitution, much as Dharma calls for moral behaviour.<sup>2</sup>
2. Upholding High Principles (Clause B): The obligation to sustain the principles that drove the nation's battle for freedom harmonises with Dharma's promotion of moral excellence. This obligation encourages people to uphold moral standards that advance the common good, much like the Dharma's emphasis on moral goals.<sup>3</sup>
3. Preserving India's Sovereignty and Unity (Clause c): Dharma's injunction to protect the interests of the larger society is mirrored in the duty to maintain India's sovereignty, unity, and integrity. This duty's emphasis on preserving the country's unity resonates with Dharma's emphasis on communal wellbeing.<sup>4</sup>
4. National Service and Defence (Clause d): Dharma's idea of selfless service and sacrifice for the greater good is consistent with the duty to protect the nation and do national service. Dharma encourages people to carry out their social obligations, and one such obligation emphasises civic engagement.<sup>5</sup>
5. Fostering Harmony (Clause e): Fostering harmony and a spirit of brotherhood that transcends differences is a responsibility that is in line with Dharma's teachings on empathy and social responsibility. This obligation emphasises the value of harmony and respect among all communities, much as the Dharma asks for compassion for all.<sup>6</sup>
6. Valuing Cultural history (Clause f): Dharma's respect for customs, cultural variety, and universal principles is reflected in the need to cherish and conserve India's rich cultural history. Dharma supports this obligation by encouraging the obedient adherence of cultural customs.<sup>7</sup>
7. Stewardship of the environment (clause g) The obligation to preserve and improve the natural environment is consistent with the Dharma's precept of good environmental stewardship. This obligation echoes Dharma's plea for peaceful cohabitation with nature.<sup>8</sup>
8. Fostering a Scientific Temperament (Clause h): The obligation to promote humanism, a spirit of inquiry, and a scientific temper are in line with the Dharma's emphasis on pursuing knowledge and wisdom. This obligation is a reflection of the Dharma, which promotes a lifelong search for truth.<sup>9</sup>
9. Protecting Public Property (Clause I): Dharma emphasises non-violence (Ahimsa) and moral behaviour, which is reflected in the obligation to protect public property and abstain from violence. Dharma supports sensible resource management and harmonious cohabitation, which is in line with this obligation.<sup>1</sup>

<sup>1</sup> INDIA CONST. art. 51A

<sup>2</sup> INDIA CONST. art. 51A., cl 1

<sup>3</sup> INDIA CONST. art. 51A., cl 2

<sup>4</sup> INDIA CONST. art. 51A., cl 3

<sup>5</sup> INDIA CONST. art. 51A., cl 4

<sup>6</sup> INDIA CONST. art. 51A., cl 5

<sup>7</sup> INDIA CONST. art. 51A., cl 6

<sup>8</sup> INDIA CONST. art. 51A., cl 7

<sup>9</sup> INDIA CONST. art. 51A., cl 8

10. Pursuing Excellence: (Clause j) The requirement to strive for excellence in one's individual and group endeavours is a reflection of the Dharma's injunction to always better oneself and carry out duties to the best of one's ability.<sup>2</sup>

Article 51A essentially encapsulates the ideals of Dharma by emphasising moral obligations, societal harmony, charity, and the pursuit of the greater good. It urges people to adopt principles that are inspired by the Dharma and incorporate them into their daily lives in order to support a moral and accountable society.

It is clear that ideals derived from the Dharma are still relevant in contemporary India. These principles still have a tremendous impact on how people behave, how society functions, and how governments operate. Citizens continue to be led towards equity and inclusion by the compassion, social harmony, and ethical responsibility that are inherent in Dharma. Modern concerns like environmental preservation and sustainable development, as well as initiatives to foster unity and solve societal obstacles like corruption and cultural divides, all find application in these ideals. As India develops, the impact of Dharma-inspired principles strengthens the nation's ethical basis and directs it towards a future that is more equitable and balanced.

### **IMPACT OF DHARMA ORIENTED CITIZENSHIP**

Dharma-oriented citizenship brings about a range of constructive outcomes in the context of India, stemming from its emphasis on ethical principles and communal responsibility. Citizens who adopt Dharma-inspired values contribute to the creation of a more harmonious and conscientious society.

Firstly, Dharma-oriented citizenship fosters a heightened sense of moral consciousness among individuals. By internalizing values such as compassion, honesty, and integrity, citizens become more attuned to making ethical decisions in their personal and professional lives. This ethical grounding contributes to an environment of trust and integrity, which are vital for the progress of any nation.

Secondly, Dharma-oriented citizens tend to be actively engaged in community service and social welfare activities. The principle of selfless service (Seva) ingrained in Dharma encourages citizens to contribute their time and resources towards uplifting the less fortunate. This results in the establishment of a strong social support system that helps address various societal challenges, ultimately leading to a more equitable society.

Furthermore, Dharma-oriented citizenship plays a significant role in promoting cultural preservation and diversity. Citizens who value and respect different cultural traditions are more likely to actively participate in cultural events, festivals, and heritage conservation efforts. This not only strengthens the country's cultural identity but also fosters a sense of unity and mutual understanding among diverse communities.

Dharma-oriented citizens also contribute to the nation's environmental sustainability. The inherent reverence for nature in Dharma leads individuals to adopt eco-friendly practices and support conservation initiatives. By making conscious choices to protect the environment, these citizens contribute to a healthier and more sustainable future for India.

Additionally, Dharma-oriented citizenship has a positive impact on governance and civic participation. Citizens who uphold Dharma-inspired principles are more likely to hold public officials accountable and actively engage in civic activities. This increased involvement enhances the effectiveness of democratic processes and ensures that the voice of the people is heard.

In conclusion, Dharma-oriented citizenship generates a range of positive effects in India, including heightened ethical awareness, community service, cultural preservation, environmental sustainability, and improved civic engagement. As citizens embody Dharma-inspired values in their daily lives, they contribute to the overall betterment of society and the nation as a whole.

### **CONCLUSION**

Yato dharma tato jaya – These are the words that are stamped on the Indian Supreme Court's front door. "Where there is Dharma, there will be victory," is how it is translated. The idea of dharma, which was established even before the events of the Mahabharata, is upheld by the ultimate court of justice.

The concept of Dharma holds timeless significance in India, representing enduring values that transcend temporal and geographical boundaries. Throughout history, Dharma has guided societal conduct and governance, with its principles grounding both individuals and rulers. Notably, rulers were expected to adhere to Dharma, and failure to do so could lead to justified revolt. This highlights the supremacy of Dharma in ensuring fairness and righteousness.

While Dharma and legal systems might seem disparate, they share fundamental ideologies. Dharma has historically shaped human behavior and influenced legal aspects. Its influence extends to contemporary legal frameworks, with Dharma acting as a foundational source of modern law. However, over time, the term "Dharma" has been misconstrued, becoming associated solely with religion. Yet, Dharma transcends religious boundaries, signifying the nature of law and individual characteristics.

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. Dharma's influence is particularly notable in the duty to uphold constitutional ideals, promote harmony, and safeguard the environment.

<sup>1</sup> INDIA CONST. art. 51A., cl 9

<sup>2</sup> INDIA CONST. art. 51A., cl 10

This reflects the enduring relevance of Dharma-inspired values in guiding citizens towards moral conduct and societal well-being.

Despite its deep-rooted significance, Dharma has been misunderstood and its universal essence limited by religious connotations. The Constitution's original intent to be non-dharmic has been misinterpreted as non-sectarian, highlighting the need for accurate interpretation and representation of Dharma's true nature.

The legal system's historical foundation in Dharma is exemplified by Hindu laws post-independence, which mirror Dharma's influence on earlier legal systems. Dharma's comprehensive and detailed approach to law is reflected in these laws, emphasizing justice and procedural correctness. This further underscores Dharma's enduring impact on India's legal landscape.

In conclusion, Dharma remains a guiding force in India's evolution, shaping ethical behavior, legal systems, and governance. Its principles continue to hold relevance in modern society, contributing to the nation's progress towards equity and balance. As Dharma-inspired values persist, they facilitate a harmonious, just, and conscientious society, driving India towards a future marked by ethical strength and inclusivity.

**Hence the hypothesis has been proved.**

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