



MAULIK ADHIKARO KA MAHAPATHA –JOURNEY OF FUNDAMENTAL RIGHTS

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Fundamental rights are the most important element of any just and ordered society. The more the number of fundamental rights the citizens are granted, the more the happiness quotient of that country increases thereby increasing the efficiency of any society.

But unfortunately, the recent happenings in our country clearly shows us how these Nobel rights can be misused by some people to the extent that it starts hampering with the development of our country and makes us question, do we really deserve such rights?

Nonetheless, the conduct of some anti- social elements should not take away the sanctity of fundamental rights. Whenever there is any discussion about fundamental rights there is always a mention of United States since it is always said that we have borrowed it from them. But strangely there is an amazing fact that fundamental rights which will have embodied in our Indian constitution, its origin can be traced to Indian culture and traditions. It was in India where the roots of the basic human rights were planted whose fruits were later enjoyed by all the societies in the world.

Mythology and Fundamental rights and duties

Our Indian culture and traditions are full of great mythological and divine stories that give us an idea of how an ideal society should be. There are many stories which lay down solid roots and evidence that just rights and duties were the foundation of our Indian society from time immemorial. There are two

most important and popular myths that give us a strong idea and they are The Ramayana and The Mahabharat.

Ram who included all in his kingdom

Ramayana clearly depict the law and order which are considered to be ideal and are to be followed in order to have Ram Rajya at the present times. It is no mystery that story of Ramayana shows what the fundamental rights that was available to subjects and it was the duty of the king i.e. Lord Ram to provide it to all his subjects without any discrimination.

Some of the stories that show us how fundamental rights exists even in our mythology which are considered to be older than our universe.

During the period of Ram Rajya **there was equality before law and equal protection of law.** The king Lord Ram used to treat everyone with equality and there was no discrimination of any kind. Even the story of Shabri where she despite being of a lower strata offers berries to Lord Ram and the king despite being of higher caste and strata eats those berries without any hesitation. **This story tells us that our culture was not abode to cruel and inhuman practice of untouchability and everyone** was treated equally and without any discrimination.

The most shocking and upsetting fact is that it took us almost 70 plus years to accept the LGBTQ community but in our Ramayana, they were already accepted as part of the society from a very long time. The story goes on as follows, when the residents of Ayodhya heard of the news that Lord Ram decided to go to exile, the residents followed them. Ram prayed and said, "men and women of Ayodhya, if you truly love me please return to Ayodhya." The people obeyed him. When



Lord Ram returned after 14 years, he was surprised to see a few people still on the banks of the river. He asked them “What are you doing here?” The people said 14 years ago you said men and women, but we are neither men nor women, we were not given any instructions. On hearing their story, Ram was moved to tears and he hugged each one of them and returned to Ayodhya with them thus giving a clear message that Ayodhya belongs to all.

Even when Lord Ram killed Ravana because he disregarded the dignity of goddess Sita and other women were the evidence that **protecting the dignity of women** was the utmost duty of the state and the society.

Even the story where goddess Sita decides to go after people of Ayodhya disregards and questions her purity, it shows us that people's opinion was considered to be supreme and there was freedom of speech and expression where people even were allowed to point out or disregard the rulers.

Mahabharat and fundamental rights

The entire story of Mahabharat depicts how protecting the dignity of a woman was a fundamental duty not only of the state but also of the entire society and was a right which every woman had. And when such right was violated the result was catastrophic and massive destruction.

Also, Mahabharat shows how women had right to choose their spouse when we see they were given the right to choose their bridegroom in a swayamvar. The best example is when Draupadi choose Arjuna and rejected Karna. Similarly when Subhadra choose Arjun and rejected Duryodhan and the best example is when princess Uruvi choose the low caste Karna as her husband and rejected Arjuna.

Also, there was no discrimination and even LGBTQ community were treated equally and were given the highest position in the arm and Shikandi is the best example of it.

Ashramas of Vedic life

Ashramas are the stages of life which provide training and are ideal for realising the ideal of our life. There are four ashramas in all: Brahmacharya (student life), Garhasthya (family life), Vanaprastha (retired life), and Sannyasa (life of renunciation). The first two provides the training and environment for the Pravrtti Marg and the last two for the Nivrtti Marg of development.

The first ashram that is Brihaspati tells us that there was right to education to all children which we have now after so many years accorded importance in our constitution under article 21a.

Second is Grihastha ashram where he was allowed to choose any profession of his choice and was allowed and given the right to get married and start a family.

Third was Vanaprastha ashram where he could live a retired life. It was his right to live his retired life with dignity and it was his right to be maintained by his children in his old age.

Last is Sanyas ashram where it was his right to freely propagate and practice his religion without any interference.

Thus, the ashrams whose origin can be traced in our mythology and was followed throughout the history of India and is still followed to some extent in India. Even the present time shows us how ashrams gave us some rights, which we have incorporated even today in our practice.

Ancient India

The origin of the idea of the human rights which have become fundamental in almost



all civilized society can be traced back to 4000 years. Though many western thinkers are not inclined towards this idea of development of human rights in Bharat, but there are strong evidences that Bharat has incorporated basic human rights, which now have been given the status of fundamental rights which cannot be denied to any person were already existing and was very common in practice among subjects and rulers.

There are various sources of Hindu law like puranas, smritis, shrutis which lay down the rights and duties of a person in a society. The main canonical and sacred texts of Hinduism which can be quoted as one of the earliest documents that mentions about fundamental rights are the four Vedas – Rigved, Samved, Yajurved and Atharvaved.

The main reason for treating the four Vedas as supreme and the very first torch bearer of human rights is that they are treated to be divine words written and spoken by God themselves. People at that time used to follow the theory of natural law or divine law which were the rights that came from Vedas. These were rights that were given by God themselves and therefore, they cannot be denied to any person. The sovereign was not the king who does as he pleases. It was the Divine force who made laws comprising of rights and duties of people whose traces can be found even in our Bhartiya Samvidhan and these laws are so eternal that they will remain in force forever for the time being till the existence of mankind and after the end of mankind will only pass on to other world where mankind will begin but will never get vanish since it is impossible to erase the divine law of Vedas, which are eternal.

Rigved and fundamental rights

Rigved is one of the four vedas, which is regarded by many learned scholars as to be the roots of the many human rights which exist today in our constitution.

There are different theories about origin and development of Rights, for example positive law traces the origin of human rights from the laws made by the sovereign. On the other hand natural law says that it is embedded in the very nature of human beings. Similarly, there are religious theories which look at Human rights from moral perspective. Such morals which are the very foundation of human rights can be found in many Hindu texts and scriptures, one being the Rig Veda.

‘Amritasya Putrah Vayam’

(We all are begotten of the immortal)

Svetasvatara Upanishad

“Every individual soul is potentially divine” says Swami Vivekananda. This is how Hinduism looks at the mankind. From the above shloka it is clear that Hinduism does not look at a man merely as a material being but accords a divinity to all individuals by saying that all are the children of the immortal. It endows them with intrinsic dignity. Today this right to live with human dignity is found in Article 21 of Indian constitution.

Rig Veda also mentions about *purush* (primal man) from whose body the four *varnas* of society were created. From his mouth came Brahmins, Kshatriyas from his arms, and vaishyas from his thighs and shudras from his feet. This leads to the formation of *Varna* system in Indian society. It must be noted that Varna system was introduced only for the purpose of division of labour in the dynamic society. It was later misinterpreted by certain class of people, for their own benefit, to be discriminatory.



**“Ajyesthaaso Akanisthaasa Yete
Sam Bhraataro Vaavrudhuh
Soubhagaya”** (No one is superior or inferior;
all are brothers; all should strive for the
interest of all and progress collectively)

- Rig Veda,

Mandala-5, Sukta-60

Hindu text recognised the fundamental right of equality by stating that no one is superior of inferior thus placing all individuals on equal footing. Even in ancient days when there was monarch system in Indian society, Raja was considered as father of his subjects and any person irrespective of his caste or financial status could approach the king or Raja. This was a common practice in Ram Rajya and many other kingdoms.

This right of equality is today contained in Art.14 of our Indian Constitution which states that “The state shall not deny to any person equality before law and equal protection of law within the territory of India”

Rig Veda further speaks about three rights of civil nature

Tan (body)

Skridhi (dwelling place)

Jibhasi (life)

i.e. right to personal liberty, right to shelter and right to life as we know them today.

THE CONCEPT OF DHARMA

Dharma is a fundamental concept which was deep rooted in ancient Indian society. It is considered as the highest ideal of life. In ancient society dharma governed all the important religious, civil and other actions of men in society.

Though there is no specific and exact translation if the word dharma in any of the western language yet it can be said to have been derived from a Sanskrit term ‘dhr’ meaning root. In

this sense it means something that upholds supports and nourishes.

Dharma is “Sanatana’ that which is eternal. It differs from religion in contradiction to the common belief. It is derived from vedas, smritis and was purported to form a peaceful society.

Medieval India and fundamental rights

Medieval India saw some rulers who were protector of fundamental rights and some rulers who denied even basic human rights to their subjects. There were rulers like Babur, Aurangzeb and other rulers who denied their subjects any rights especially the Hindu subjects. There was no freedom of speech and expression at all. They were not given any justice when there was any dispute amongst Hindu and a Muslim subject.

Most importantly during the Mughal times there was massive conversion of many Hindus to Muslims. As under their rule Hindu were forced to pay **jijiya tax** to practice their religion. As a result it is very evident there was no right of religion, expression or rule of law.

But still we cannot negate the very fact that there were some great rulers who were protector of fundamental rights amidst all this tyrannical and cruel rulers. And they were Akbar who abolished paying of religion tax **jijiya**. He also had panel of experts which consisted of Hindus to aid and advise him.

Also, there were rulers like Maharana Pratap in whose kingdom rule of law existed. He treated everyone with equality. He did not discriminate amongst his subjects on the basis of caste and status. There is a famous story of Maharani Pratap where he fought his war with “Bhil” who were schedule tribes. He not only stayed with the Bhils but treated them fairly and with utmost respect. Thus



laying down the foundation of what we have today i.e. article 14 and article 15.

Then there were also rulers like Great Shivaji who treated people equally and inducted both Muslims and Hindus in his army thus establishing equality in his region.

Pre independence and fundamental rights

During British rule, we saw the grossest form of violation of fundamental rights. The basic rights like freedom of speech and expression, freedom to form association and unions, freedom to education, freedom to religion as denied in this period.

It would be a fallacy to say that some fundamental rights are taken from British rule since none were taken as Britishers failed to provide even basic human rights to Indians.

Fundamental duties – how it have only deteriorated

Duties

Dharma was the fundamental and core value or ideal in the ancient jurisprudence. All the actions of kings and subjects were guided by this highest ideal. One of the remarkable features of this Hindu jurisprudence guided by Dharma was that it laid more emphasis on duties than on the rights. Duty was the only passport to any right or claim.

The Gita also asks the person who perform his duty according to dharma, which is the highest law and according to his position in the society. In ancient India when one speaks of his right, he ordinarily meant duties which others had to perform for him.

Thus, in ancient or Vedic period a person became entitled to right only after performance of duties. In fact, it must be noted that there is no appropriate word for anything called right. The closest word to the term 'right' was adhikar used by Manu but

the word Adhikar does not mean right in Sanskrit. Adhikari in Sanskrit means the one who is fit or capable for any particular task.

In ancient India both rights and duties were closely connected and interwoven in sharp contrast to the present time where only the former is enforceable. This gap between both the two can be remedied by revival of the eternal concept of Dharma.

Today scenario unfortunately shows us how the status of fundamental duties has only deteriorated in our country. The current scenario is really upsetting and disgusting. It is shocking how the advocates of fundamental rights are the only ones who are the violators of fundamental duties.

The recent protests in Shaheen Bagh, Jamia Islamia and JNU shows how people have no respect for the country's property, it's flag, it's unity and integrity. The constant violence on the national property by these so called advocates who believe their rights are been violated are the number one violators of duties towards their nation.

Constantly destroying the property, threatening the unity of the country, constant blockading the public's movement, constantly raising anti-national slogans just shows us they have been given excessive power and freedom of exercising their fundamental rights that their exercise is not only violation or leading them to commit crimes against the nation but is also hampering and interfering the rights of the other citizens.

But it is high time we revert back to our ancient culture and Vedic practices of following our fundamental duties and take India again to the glorious heights at which it was during Vedic and ancient period of Satyayuga.

Jai hind !!!
