



Jainism as Philosophical Backbone of Human Rights-A Perspective in Indian Jurisprudence

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Abstract

This paper is an earnest approach to draw the similarities among the various provisions of Indian Constitution (related to human rights) and Jainism. The principles of Jainism give religious sanction to some of the most important rights, which are in modern time safeguarded by the laws of state, and thus act as an implicitly guiding light for these provisions. This paper is an earnest approach to draw the similarity between two and to show that how the dream of making father of Constitution can be fulfilled by adopting Jain philosophy in our practical life.

Key words: Human right, philosophy, mankind

INTRODUCTION

The idea of human right is as old as the history of human civilization but the name human right given to it in the recent origin. The rights of man have been the concern of all civilization from time immemorial. The philosophy of human right has already occupied a place of prime importance in ancient India. Actually what the west has discovered now in the field of human right has been an accepted principle of Indian tradition since time immemorial. Jainism is also true representation of Indian culture. The concept of equality, respect for dignity, morality, justice, righteous, non-violence, non-possessiveness are guiding and directing principle of spirit and action of Jain philosophy. There is an essence of humanism in the Jainism.

ANALYSIS

The Jainism dedicate itself to save mankind and stands for the dignity and worth of human person, believe in the equal rights of men and women, support the human right of all individual, create

spirit of cooperation, enhance peace and good will among the people. Jain humanism is based on their metaphysical background. The Jain metaphysics is a realistic and relativistic pluralism. On these basic metaphysical foundations Jainism treats all persons equal and respects their dignity. Jainism accepts the basic foundation that 'Human race is one' (1). Jainism advocates the principle of cooperation and does not believe in any sort of discrimination based on caste, color or race. This is an opinion of Jainism that 'man is superior due to his actions and qualities not by his birth or caste' (2) "No one is inferior or no one is unwanted thus nobody shall feel proud on the basis of caste". (3) On this basic thought Jainism opens the door of employment for all people.' it is our actions which make us *brahmin, kshatriya, vaishy* or *shudras* Jain religion is open for all without any discrimination on the basis of caste, classes or places of birth. Jainism accepts the oneness of human race and opposes those man made divisions of class and creed. The right of



equality is the faith and creed of our democratic republic also. It forms the foundation of socio economic justice. Article 14 based on right of equality. The succeeded article 15, 16, 17, 18 lay down specific application of general rule lay down in article 14. Article 14 guarantees the equality of all persons before law. Article 15 prohibits the discrimination on the basic of religion race, caste, sex or place of birth. Further article 16 provides equality of opportunity to all citizens in the matters of public employment. Article 17 is also very important from the point of view of equality before law. It guarantees social justice and abolishes the practice of any form of untouchability. These articles advocate the non-discrimination on the basis of general rule of equality. Once the principle of equality is accepted it becomes impossible to discriminate against any group or person. Discrimination can be said to the denial of fundamental and universally accepted rights of all human being. These articles support the same philosophy.

Personal liberty is also one of the most important of all human right. To be born free and having right to liberty presuppose that each human being has the freedom of choice in the conduct of his or her life. Freedom next to life itself is viewed as the most precious human value closely linked to human dignity and worth of human life. Jainism has emphasized on the same philosophy, which could be easily found out in various concepts like *ahimsā*, (non-violence), *anekāntavāda* and *Karma* theory of Jainism. Jainism upheld the worth of life very much hence it mainly emphasized on those thought, which respect and secure the human freedom. The most distinctive contribution of Jainism consists in its great emphasis on

the observance of *ahimsā*,– non-injury of living being by the all persons to the maximum extent possible. Principle of *ahimsā*, is a logical outcome of Jain metaphysical theory that -all souls are potentially equal. Since all living being, possess soul, the principle of non-injury and love to all obviously extend to cover all living being. "*Ahimsā*, is disciplined behavior towards every living being"(4) The scripture tell us that do not injure, abuse, enslave, insult, torture or kill any creative or living being " Absence of violence of any sort towards all being at all times is *ahimsā*) Concept of *ahimsā*, emerged from the doctrine of equality of all soul. Through the preaching of *ahimsā*, the Jain scriptures and Acharya emphasized the basic fact that every living being has sanctity and a dignity of its own and therefore one must respect it as one expects own dignity to be respected by others. Jainism emphasized the basic philosophy that 'Live and let live'. In this way the Jain teaching convinced the people that the practice of *ahimsā*, has a positive force and collective appeal. In this context *anekāntavāda* is an extension of *ahimsā* in realm of thought.

Article 19 to 24 of the Indian constitution deals with the different aspect of this basic principle 'personal liberty'. Article 19 grantee the freedom of speech and expression, which is indispensable in a democracy. Article 21 provides that No person shall be deprived of his life or personal liberty except according to procedure established by law. Article 22 supplements Article 21. it prescribes the minimum procedural requirement that must be included in any law enacted by the legislature in accordance with which a person may be deprived of his life a personal liberty.



Article 23 and 24 prohibits the traffic of human being and beggar and other similar form of forced labor. These are article, which prohibits the exploitation of any form. These articles are various aspect of personal liberty, which respect the human dignity.

Apart from this *Karmvaad* of Jainism is also provides protection of human rights. In short *karmvad* may summarized as the theory of infallible consequences of one's action. *Karma* doctrine involves freedom of will of the individual. Jainism lay down that it is ones *Karma* that primarily regulates the future destiny and course of life of all soul without and interference of powerful god. The same philosophy we can find out in the Article 20 which protects the basic human right of the people that no person can be punished for an act, which was not offence at the date of commission. It further protects the person by providing that no person could be subjected to a penalty greater than that, which might have been inflicted under the law in force at the time of commission.

As a religion, Jainism unveils the meaning and purpose of life. Its attitude towards other religion is that of non-criticism. It preaches universal tolerance and humanism. Jain Acharya believe in cooperation yet for them unity does not mean absolute unity. By unity, they mean an organic whole in which every organ has its individual existence but works for a common goals human good. For them unity means unity in diversity. They maintain that every race, every religion and every culture has full right to develop with all its particularities but at the sometime, it is pious duty to scarify its own interest in the larger interest of humanity.

Apart from the protection of religious freedom Jainism, also believe in the self-development by the help of educational and cultural development of mankind. The same philosophy is contained in the religious, educational and cultural rights of Indian constitution. India is a secular state. Articles 25 to 28 of the Indian Constitution specifically provide freedom of religion. Article 25 of the constitution ensures equality of all religions. Article guaranteed two-fold freedom, i.e. (i) freedom of conscience and (ii) freedom to profess, practice and propagate religion. However, these freedoms are not absolute. They are subject to the restrictions. Every person is given the freedom to profess, propagate any religion but in doing so, he cannot interfere with the religion of another person.

Under Article 26 of the constitution, every religious denomination has been given the freedom to manage the religious affairs. Article 27 further advances the secular character of the nation. It provides freedom as to payment of taxes for promotion of any particular religion. Article 28 prohibits the imposition of religious beliefs on the persons attending any such educational institutions. All these provisions are of great importance to India, which comprises of people belonging to different religions, faith and belief. Similarly, cultural and educational rights are indispensable for the dignity of a person for the free development of the personality.

Jainism has laid great stress on the observance by the householders of right conduct. For this purpose Jain ethics emphasis on various vow. Obviously these value as they around a religious sanction to some of the most important public and private interest and rights



which are in modern time safeguard by the law of state. It could be seen that these vows merely reproduce the unwritten moral code of the best societies of men. Householders must have practice these vows in their daily life with almost care so that transgression of these vows can be avoided to a great extent. It means that the observance of these vows has to be made as faultiness as possible. Similarly in constitutional provision, also there is a need of effective machinery. If there is no effect remedy against the violation of human right, there is no meaning of these rights in real sense. Article 32 provide and give power of Indian court to stand between individual and state protecting human right of individual from any interference which is not justified by law. However, these fundamental rights cannot be enjoyed as absolute rights in Constitution. There are many grounds on the basis of which restriction can be imposed in the exercise of those fundamental rights.

Jainism is a religion whose success lies in a state of internal and external, mental and physical discipline with principles of good behavior and high morality for individual as well as for society. *Vrata* are heart of Jain ethics. Jainism emphasis on many *Vrata*. Out of which 5 are main and other are supplementary *vrata*. It is emphasis that in order to practice main *vrata* those supplementary *vrata* must be practiced. Similarly in the constitution, there is a provision of directive principle. To make fundamental rights meaningful, exercise of directive principle is must. Directive principles (article 36-51) intend to bring about the socio economic revolution. The main aim of these articles is to create a new order of socio economic order wherein there will be social and

economic justice for all and everyone. Article 38 and 39 provided that state has to secure a social order for the promotion of welfare of people and making of certain principles or policy to be followed by state by securing socio economic justice to all. These article promote the objectives of establishing a social welfare state and further article 41to 43 provides the right of education, provision for just and human conditions, maternity relief, living wages etc. for workers. Article 45 provides provision for free and compulsory education for children. Article 47 says that it is duty of the state to raise the level of nutrition and the standard of living and to improve public health.

The basic aim of these provisions is to develop a social security and welfare of the people. Finally article 51 provides the promotion of international peace and security. It is the duty of state to achieve those objectives.

Jainism respect the dignity, equality and rights of every person but at the same time, it also emphasis certain duties towards other in the term of *Anuvrata*(ethical code)(4) to promote harmony and brotherhood among all people. According to Jainism it is duty of every person to believe in human unity. It is duty of every person to practice the various forms of non-violence, religious tolerance and restrict himself not to harm other for selfish gain and not to discriminate based on caste, creed, race, and a religion nor encourages the evil custom. The practices of these vows will definitely bring the harmony in the society. Similarly in Indian constitution, also there is provision of Fundamental Duties (5) we find that it is duty of every Indian to promote harmony and the spirit of common brotherhood amongst people, to strive towards excellence in all



sphere of individual and collective, which is possible if we protect and promote the human right of all the people.

CONCLUSION

This comparative analysis shows that various concept of Jainism lies at the roots of various provision related to human rights in Indian Constitution. The teachings of Jain humanism are universal in essence and if sincerely practiced by the human beings they are guarantee the kind of understanding and peace that are really needed to exercise basic human rights. An honest application of various concepts of Jainism in life like nonviolence, ethical code and metaphysical teachings can ensure peace and social security. The humanism of Jainism thus can be a powerful source of peace and national understanding among the people of country.

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