

DOCTRINES OF JAINISM VIS-A-VIS MODERN LEGAL SYSTEM OF INDIA

Dr. Binima Buzarbaruah

Abstract

The doctrines of Jainism are very significant in the matters of spiritual advancement. According to Jainism path of liberation is constituted by *ratnatraya* i.e. triple gems viz. Right faith, Right knowledge and Right conduct. Amongst these, Right conduct is the most important and it is the transformation of the things into action. Great emphasis is laid in Jaina scriptures on the five vows which are non violence, truthfulness, non- stealing, chastity and non- possessiveness. These are essential to attain liberation. There are certain teachings of Jainism which are found to be in conformity with the provisions of modern legal system of India. The provisions of modern law are found for the purpose of maintaining justice, liberty, equality and fraternity in the society some of which have also their existence in the Jaina texts prescribed for an ethical living.

In this paper an attempt has been made to highlight some doctrines of Jainism and show their reflections in modern legal system of India.

Key words : Jainism, *Samaṇa Sūttam*, *Tattārthasūtra*, modern law, Constitution of India, Indian Penal Code

The doctrines of Jainism have great contribution in paving the way to lead a life full of ethics and piety. Jainism lays importance not only on enlightenment but on conduct also. According to Jainism *karma* permeates the *jīvas* and lowers them down to the mundane level. To get oneself disentangled from *karma* and obtain emancipation one should make oneself free from bondage. In such

circumstances it is the self discipline which plays the vital role to attain liberation.¹ For this purpose the Jaina texts prescribe three precious principles of life called as *ratnatraya* viz. right faith, right knowledge and right conduct.² Amongst these the most significant one is the right conduct as it is the practice of what has been learnt through the former two. The right conduct consists mainly of five different vows viz. *ahimsā* i.e. not to take any life even by mistake, *sunṛta* i.e. to speak that which is true, good and pleasing, *asteya* i.e. not to take anything which has not been given, *brahmacarya* i.e. to abandon lust and *aparigraha* i.e. to abandon attachment.³ With the practice of the prescribed principles only, one can lead his life towards the goal. Many doctrines of Jainism are such that those are quite befitting to the modern legal system of India also. The aim of the modern law is to maintain justice, equality, fraternity etc. for the establishment of a peaceful society which are also found to be emphasised in Jainism.

The Constitution of India is regarded as the supreme law of the land in modern time. Its main aim is to establish a society based on justice and equality. It has been revealed in unequivocal terms in the Preamble of the Constitution. To establish an egalitarian state it secures to all its citizens justice, liberty and equality. All people irrespective of caste, race and sex are regarded as equal before the eyes of law. In present time the right to equality which is the fundamental right of the Indian Constitution states that human beings are equal before the law and all should be protected equally by the law. No special privilege is granted in favour of any individual or group. All people without any discrimination are equally subjected to the jurisdiction of ordinary court of law.⁴ So, in the eyes of law all are equal.

In the principle of equality the entire human world is considered as one. One life form is expected to respect the other form. In Jainism equality is very much tried to be maintained. The realisation of unity in diversity and the elimination of feeling of difference is an important feature of Jainism. In the precepts of non

violence it is stated in the *Samaṇa Sūttam*, a popular text of Jainism, that one should know the principle of equality and treat others with compassion and respect. There is no difference between oneself with the other and to kill a living being is to be considered as killing one's own self. It is rightly stated there that there is no difference amongst different beings.⁵ Thus equality has been established in the principles of Jainism and also in the modern law.

For the proper maintenance of justice punishment is to be inflicted according to the gravity of the crime. If the degree of the crime is a lesser one then the punishment should not be of higher degree. If two different crimes seem to be similar then also the punishment should be different considering the minutes difference also. Though robbery and dacoity seem to be similar there remains a bit difference between these two and their punishment is prescribed in two different sections of Indian Penal Code.⁶ There is a principle in the *śrāvākadharmaśūtra* i.e. precepts on householder's religion that punishment should not be harsh.⁷ If the crime is of lower degree in that case punishment should not be inflicted in a harsh manner. It means that Jainism lays stress on proper punishment which should be according to the degree of the crime. So a particular kind of crime needs particular kind of punishment according to the degree of the crime as found in both Jainism and modern law of India.

Violation of law is a crime. The law which is prevalent in a state should not be violated by anybody. There is a maxim that ignorance of law is no excuse.⁸ It means that if someone is unaware of the law then he can not escape his liability for the violation of laws only because of his absence of knowledge of law. Different provisions of punishments are there in modern time prescribed in the Indian Penal Code, Criminal Procedure Code etc. Also for the wrong done for the civil matters there are certain provisions to compensate the party who is victimised. The *Samaṇa Sūttam* shows the importance of the rules of Government and declares that those should always be followed and should never be violated. It

instructs every house holder not to avoid the rules of government.⁹ So, it is the duty of every one to obey the rules and to disregard those laws is improper.

It is the constitutional duty for every citizen to protect the environment and not to destroy. So, any violent activities towards different elements of the nature like animals, plants etc. are to be avoided. Indian Constitution contains different specific provisions relating to environmental protection. Article 51(g) specifically deals with the fundamental duty with regard to environment. It states that it shall be the duty of every citizen of India to protect and improve the natural environment.¹⁰ Moreover there are certain statutes enacted in India. The wild Life Protection Act was passed for the protection of the wild animals, birds and plants. For the checking of further deforestation the Forest Conservation Act was enacted by the Parliament of India.¹¹ So, different steps have been adopted by the modern law for the protection of the wild animals and trees.

The principles of non violence which is the root of Jainism has great significance and universal application. These principles have much contribution towards the protection of environment also. According to the *Samāṇa Sūttam* careless activity through passion amounts to violence or *hiṃsā*¹². *Hiṃsā* is stated in the *Tattārthasūtra*, an ancient Jaina Text, as the severance of vitality out of passion.¹³ A person is directed to be wise by not being engaged in violence or *hiṃsā*.¹⁴ It is also rightly stated that as the mount Meru is the highest one and sky is the most expansive, likewise nothing is equal to *ahīṃsā*.¹⁵ So, one should not indulge in *hiṃsā* and practice non-violence or *ahīṃsā*.

In Jainism, the whole universe is divided into two categories called *jīva* and *ajīva*. The *jīvas* are divided into two viz. liberated i.e. *mukta* and bound i.e. *baddha*.¹⁶ According to the *Tattārtha sūtra* the bound souls are again divided into two viz. *Trasa* i.e. mobile and *sthāvāra* i.e. immobile. Earth, water, fire, air and plants are

regarded as immobile beings having one sense whereas mobile beings are found from two sensed to five sensed. Higher animals are said as five sensed beings.¹⁷ Non-violence or *ahiṃsā* as stated in the *Samaṇa Sūttam* is not to kill any living being.¹⁸ Thus, in Jainism violence is stated not to be towards any living being whether it is movable or immovable.

Principle of equality is instructed to follow when non violence is practised. It is stated that one should understand that as the pain is not welcomed by oneself, so is not desired by others. One should know this principle of equality and treat other beings compassionately. As one has no difference from the other the *Samaṇa Sūttam* states that killing of living being is killing one's ownself. Likewise, if one shows compassion to others that is equal to showing compassion to oneself. Persons who desires his own good should avoid causing harm to other living beings.¹⁹

In Jainism the killing of animals is completely prohibited. There is a dictum in Jainism i.e. *Parasparopagraho jīvānām*.²⁰ It indicates rendering of service by one living being to another. In *Puruṣārthasiddhyupāya* another Jaina text states that a person is prohibited from killing animals in the name of religion also. Moreover, killing of animals for feeding the guest is also prohibited. To make oneself free from violence in Jainism, the people are asked to be vegetarian. It is because meat is found only after killing animals.²¹ Thus it has a great contribution towards the ecology instructing people not to keep themselves engaged in the violent activities toward any living being whether it is movable or immovable.

Theft according to Indian Penal Code is an offence. the Indian Penal Code defines theft as whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.²² So, in the action of theft there remains a dishonest intention. Section 379 of the Indian Penal Code declares

the penalties for theft. It states that whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

Non-stealing is an important vow prescribed in the Jaina texts. One should keep oneself away from taking anything from others without the knowledge of the owner. Even the minutest thing is prohibited from taking from others without asking.²³ So stealing which is a crime under the law is equally shown as sin in Jainism. Non-stealing is prescribed to be observed as an important vow by both the householders and the monks.

The right to food is a human right. It imparts people the right to feed themselves in dignity. Article 21 of the Constitution of India guarantees the fundamental right to life and personal liberty. The Supreme Court of India time to time has widened the scope of this article by different judgments. In *PUCL Vs Union of India and others* (No. 196/2001) the Supreme Court established a constitutional human right to food for India's impoverished millions. Moreover, the National Food security Act was passed in 2013 which provides for food and nutritional security. Right to food has been recognised by international law also where every one is given the right to adequate standard of living including food, clothing housing etc.²⁴ It is rightly stated in the Jaina text that no human being should be deprived of food and drink. It is stated to be a transgression or *aticāra* of the vow called *ahimsā*.²⁵ Thus, the importance of food for every human being has been well established in both modern law and Jaina text.

To give false evidence is an offence under law of crime. It is found in the Section 191 of the Indian Penal Code in this way that a person is said to give false evidence if he makes a false statement which he knows or believes to be false. Anything stated in declaration falsely comes under its purview. Desisting from falsehood is one of the five significant vratas as declared in Jaina texts.²⁶ According to the *Tattārthasūtra* to abstain from injury,

falsehood, stealing, unchastity and attachment are the fivefold vow to be observed.²⁷ The *vratasūtra* of the *Samaṇa Sūttam* states that one should not speak any kind of falsehood either in one's own interest or the interest of others and one should not give false evidence.

Illegal acts may be done by a person alone or it may be done by in conjunction with other persons. When several persons are found to be joined, in a particular offence then each one of them may not do the thing in an equal manner or degree done by another. In such cases one person may persuade another to do an illegal act, may instigate him or advice or aid and the latter may act accordingly. This is called abetment. According to Section 107 of the Indian Penal Code a person is said to abet the doing of a thing when he instigates any person to do that thing, engages with one or more persons in any conspiracy or intentionally aids the doing of that thing by any act or illegal omission.²⁸ There is a similar principle of this in the *Śrāvakaḍharmasūtra* of *Samaṇa Sūttam* that one should desist from inciting another to commit theft. The third *guṇavṛata* i.e. the *anarthadaṇḍaviramanavṛata* also refrains one from advising others to commit any sinful act.²⁹ These are all equal to what is called abetment in Indian Penal Code of modern time.

There are certain offences which are committed without any evil motive but for one's own safety and security. Sometimes one might have to attack the other to protect his own self. Section 106 of IPC declares the right of private defence when there is risk of harm to innocent person. It is stated that for one's own security sometimes violent activities may occur and it is stated to be a complete defence only when the deceased is the actual assailant of the accused. The *Śrāvakaḍharmasūtra* of *Samaṇa Sūttam* states that under certain circumstances violent activity may happen which is not granted as improper. According to this, the actual violence is called as *anartha* or useless activity by which bondage is caused. The violence which is performed under certain circumstances only, that is called as *artha* or meaningful activity which is said as not the cause of much bondage.³⁰ Thus, though non violence was so strictly

instructed to follow in Jainism, the result of violent activities done for the needs of the time etc. was stated to be not so serious and this is similar to the offence committed under special circumstances without evil motive in modern time.

Thus, the teachings of Jainism are full of ethical importance and give every follower the opportunity to lead a very pious life. It was the endeavour on the part of the Jaina preceptors to instruct people with their valuable teachings like non violence, truthfulness, non stealing, non possession etc.. It is seen that certain provisions of Indian law adopted by the legislators in modern time are very much in conformity with the principles of Jainism. Equality, justice, evidence, abetment, protection of elements of nature etc. are some of the important aspects of modern Indian Law which have their existence already in the Jaina texts. So, from this it can be well stated that the principles of Jainism made thousands of years ago are very significant and have their relevance in today's legal system also in the true sense of the term.

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