

# THE Bharata Dharma

A Magazine of Liberal Hinduism

—The Official Organ of the Arya Mata Sabha—

HONORARY EDITORS.

MR. E. VINAYAKA ROW, B.A., B.L. (Editor in charge).

RAO BAHADUR S. K. YEGNANARAYANA IYER, M.A.



चित्रं वटतरोर्मले वृद्धाः शिष्या गुरुर्युवा । गुरोस्तु मौनं व्याख्यानं शिष्यस्तु चिन्तनसंशयः॥

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### THE NEW YEAR.

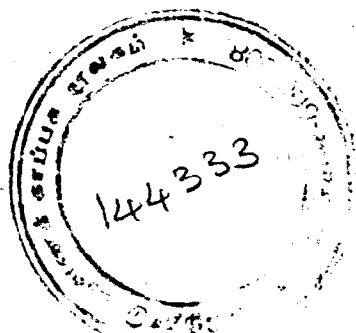
We wish a happy and prosperous New Year to all our readers and well wishers and to all fellow worker in the cause of of Liberal Hinduism. Hindu Society has in the years ahead to withstand a variety of shocks from within and from without while there is no use in blindly sticking to obsolete old forms and adhering to formulae and rituals wholly out of accord with the changed circumstances of modern times there is no use either in rushing forward rashly along novel and strange paths which have no relation to our past history and which are foreign to the genius of our people. We devoutly pray that our leaders and thinkers will be blessed with that spirit of wise moderation which is so necessary for a satisfactory solution of the many knotty problems which will confront us.

Not the least of them is the Draft Hindu Code. Our esteemed friend Mr. K. Balasubramania Aiyar B.A., B.L., Advocate, Madras has at our request specially contributed two articles on the subject the second of which appears in this issue and the first has appeared in our December issue. We commend those articles for careful consideration by the Committee and by the public with the note that we are fully in accord with the views expressed therein by the learned writer whose erudite learning in our Scriptures and Hindu Law Texts and special qualifications to express an authoritative opinion on the subject will be admitted by all.

On account of the importance of the subject we propose to give in our next issue another article on the same subject from Dewan Bahadur K. S. Ramaswami Sastriar, Retired District Judge, Vice-President Hindu Mahasabha, Madras.

We wish we could have given that article also in this issue. But we are cribbed and cabined within the inexorable limits of the eight pages form imposed on us by the paper control order. We fear we shall not get this year paper even of the quality to which our readers have got accustomed last year. May the year before us see the end of the war in the West and in the East and peace bring among the countless benefits a plentiful supply of good quality paper for all Journals like the Bharata Dharma.

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## THE DRAFT HINDU CODE

By

Mr. K. BALASUBRAMANIA AIYAR, B.A., B.L.

*Advocate, Madras.*

*(Contd. from previous issue.)*

The Draft Code introduces another important change in the Hindu Law by allowing divorce of Hindu marriages in certain special cases mentioned in clause 30 sub-clauses (a) to (f). The Committee in the marginal notes give the reason that as Hindu marriages have been made monogamous, there is a growing demand for a provision for divorce. I have already stated my opinion and my reasons there for the view that the Hindu marriages need not be made strictly monogamous, in the case of Hindu males. The texts allow the second marriage for a Hindu under certain specified cases only for the reason that the Hindu Law and Religion have always held the view that offspring of marriages confer spiritual benefit upon the parents and hence consider that the institution of marriage fulfills its purposes completely, only when the union of husband and wife results in the birth of children, especially male children.

The Committee refers, evidently as an argument in support of their proposal for the introduction of clause 30, to the Hindu Law Texts which, provide for the husband putting away his wife and taking another when she is barren or diseased. But the texts, referred to, do not contemplate any dissolution of the first marriage. These texts provide only exceptions to the general rule of Hindu Law, which is referred to by "Apasthamba" that "if a man has a wife who is willing and able to perform the religious duties and who bears sons, he shall not take a second wife." Hence these texts do not give any support to the idea that the indissoluble tie of a Hindu marriage can be dissolved for any reason. The text of "Yagnyavalkya" which mentions the exceptions uses the sanskrit expression "Adivetthavya". The comment of the Mithakshra on it is as follows:—"Adhivedana means taking another wife by the husband." There is no mention of any dissolution of the first marriage.

According to the Hindu Law, Marriage is a *samskara* and creates an indissoluble tie between husband and wife. In this important matter

of regarding marriage as a sacrament and as a consequence thereof indissoluble, the Hindu Law fundamentally differs from other systems of law. The conditions under which in different communities divorce has at different times been permitted vary with the aspects in which the relation of marriage has been regarded. If it is regarded as a civil contract between the husband and wife we find that the marriage has been dissoluble at the will of the husband or by the agreement of both. Yet even here, the interest of the whole community in the purity of marriage relation, in the pecuniary bearings of this particular contract, and the condition of children, has led to the imposition of restrictions to the termination of the obligations consequent of the marriage legally contracted. But if marriage is regarded as a sacrament as in Hindu Law, very different considerations arise. The Mohammedan Law regards marriage as a purely civil contract. Hence that law has given power to the parties to repudiate the contract. But if, in the Hindu Law, marriage is regarded as a sacrament very different considerations arise. Hence courts in India have held that the Hindu marriage is binding for life because the marriage rites create a religious tie, which, when once created, cannot be untied. See the observations of the High Court of Madras in I.L.R. XIV Mad. p. 316 a decision in which, Justice Muthuswami Iyer, one of the greatest Hindu Judges took part. Hence I feel that the introduction of clause 30 for dissolution of marriage even, under the circumstances, mentioned therein, is practically striking at the root of the fundamental principle of Hindu Law and it interferes directly with the Hindu religion also. The cases mentioned in the sub clauses (a) to (f) are, it is true, cases of great hardship to the parties concerned. But when dealing with reform or change in social institutions of which marriage is most important, we have to bear in mind that the attempt to eradicate one kind of evil may give rise to a host of other evils and the principle of putting up with a lesser evil has always to be observed. For it is not possible to completely eradicate evil altogether from society or to do full justice to all cases of hardship. Even in cases of insanity or disease to which the husband or the wife becomes a victim years after their marriage, it is only rarely that an ordinary Hindu wife and Hindu husband will think of allowing the other party to go helpless and get a divorce of the marriage so that they may be at liberty to marry third persons. Especially under present circumstances in India where the State has not successfully solved the problem of giving protection lodging, and treatment to all

persons suffering from insanity or leprosy, it will be hard, indeed, if they are thrown adrift, helpless and are deprived of the solace, protection, and help from their partners in life. Further, the experience of centuries in India proves that strong family ties created by the Hindu ideals of marriage and emphasized and strengthened by Hindu religion have been largely responsible for preventing disintegration of Hindu society leading to utter annihilation during the thousand years of political subjection, economic exploitation and foreign penetration aggression and proselytization. The learned writer on Divorce in the "Encyclopedia Britannica" observes as follows: "Certainly divorce is increasing in every civilised country; (meaning countries where divorce is allowed in law) Referring to the conditions obtaining in the United States of America he states as follows: "The belief that the family is an Institution ordained by God's decree to continue "till death us do part" and in its relation typifying and perpetuating many holy religious ideas probably became weakened in the United States along with the weakening of other religious conceptions and it is yet to be determined whether a substitute for these ideas can be developed under the guidance of social utility or individual desire." I am afraid that clause 30 will tend to the weakening of those conceptions and ideals and the loosening of family ties which the rigid social institution of Hindu marriage has all along fostered. If it is finally decided by the Legislature that clause 30 should be in the code, rules will have to be made in the code as regards rights of succession between the children born of the first marriage and those children born after the second marriage.

In the case of the Hindu male, sons born of the second marriage will come under the definition of half-blood in class 5 (e) but where the woman, after divorce marries a second husband, the children of the second husband will not come under the definition of class 5 (e) and as the draft code at present stands, the children of the second husband will not be able to inherit to the property of the first husband or to the stridhana property of the woman. The Bombay High Court in I. L. R. XLVI Mad. p. 716, has held that the sons born of the same mother to a different father are not entitled to succeed to the property of the sons by the first husband. There may be other cases also as regards collateral succession. In regard to sub clause (f) also, I feel that so long as adultery is not made a ground for divorce, there is no reason why the existence of a concubine alone should be made a ground for

divorce. In my opinion therefore, clause 30 has to be deleted from the code.

The draft code proposes to abolish the doctrine of the right of survivorship and right by birth which are the special features of the Mitakshara system of Hindu Law. In the marginal note, the Committee states that the Deshmukh Act has the effect of repealing survivorship where a member of a Mitakshara joint family dies leaving a widow. This is not at all clear. A recent decision of the Madras High Court, reported in 1944 (2) M.L.J. p. 262 has held that the Deshmukh Act has not affected in any way the doctrine of survivorship under the Mitakshara Law. By the introduction of clauses 1 and 2 and by the definition of "heritable property" in part II class 2 (I.B) the draft code tries to abolish the Mitakshara Law in its application to the joint family and thus assimilate the position of the joint family in the Mitakshara jurisdiction to that of the Dayabhaga family, thereby securing uniformity in the law throughout India. In this connection it must be pointed out that the Mitakshara Law of joint family is followed by the major portion of India. It is the prevailing authority in Southern India, in the Maharatta country, in the United Provinces etc. Even in Bengal, it is accepted as high authority in matters where it is not controlled by the Dayabhaga law. But, even in certain parts of Bengal and in the case of many families there, the Mitakshara Law is applicable. So, if uniformity alone is to be the test, it is easier and more convenient to extend the operation of the Mitakshara Law generally to the whole of India. Instead of that, to apply the principles of the Dayabhaga law to the whole of India will be a drastic change. The joint family system has been the result of centuries of growth in Hindu society. It has been evolved by the experience of many generations and it will not be beneficial to effect a revolutionary change in the structure of Hindu society, especially among rural populations in the country. On the whole, the joint family system has been a source of stability and strength to the large agricultural population of our country and fits in very well with their rural economy. It has prevented fragmentation of agricultural holdings and it has withstood the evils of unemployment and vagrancy. It has given maintenance and protection to all the members of the family including females. Though, on account of the impact of western civilization, the increase of the proportion of urban populations and of the sources of individual wealth through trade, commerce and industry and also owing to the spirit of

the modern age in the development of a sense of individuality, the joint family gets disrupted more and more, chiefly among urban populations, it still remains in tact among the large majority of people living in villages. There has been no country-wide agitation among the members of the Hindu community for the abolition of the joint family system. In the absence of a very persistent demand from the majority of people for its abolition, it will be highly undesirable to introduce a drastic change like this in the guise of a codification of the Hindu Law. It has been stated, sometimes, that the joint family system has not been conducive to the free growth of trade and commerce and the flow of capital for large industries in the country as a result of the fetters on alienation. But this is not wholly correct. Trade and commerce and the management of industries are even now in the hands of many trading families who preserve the characteristic features of the joint family system. Moreover, the right of partition by unilateral declaration has removed many of the obstacles for alienation and for the inheritance of the property of the individual member by his widow or daughter.

The draft code also introduces important changes in the Law of Intestate Succession. In my opinion, the rule of intestate succession will have to be applied only to the separate property. I have no objection to the heirs enumerated as simultaneous heirs in class I. I am aware that class I makes a change in the Hindu Law of Intestate Succession as regards the separate property of a deceased Hindu. Under the existing Hindu Law, it is only in default of a son, divided or undivided, that the widow takes the estate and, after her, the daughter and the daughter's son and so on. But in modern days in respect of self-acquired property many people generally desire that in addition to the son, the widow and the daughter should also be given shares in their property and we find that in the wills executed by them they bequeath property to the widow and daughters also. Hence the change introduced by the code is in consonance with the wishes of a large number of people in modern days. Therefore, I am in favour of a change introduced in class I, especially, as according to my opinion, the rule of intestate succession applies only to the separate property of a deceased Hindu.

In class I, the draft code does not include the mother and father. But the provision in the Bill drafted by the Joint Select Committee, includes the father and mother as 'simultaneous heirs'. There is

no reason for denying them shares in the estate when the widow and the daughter get shares in addition to the son. The argument as regards excessive fragmentation equally applies in the case of daughters. I do not see why the father and mother alone should be omitted for that reason. In the case of the daughter or the daughter of a predeceased son or grandson, a rule should be introduced that, in the distribution of the shares of the net estate of the deceased, marriage expenses already incurred for them should be deducted before such distribution. It is, also, necessary to provide that unmarried and indigent daughters, even though married, should have priority over the married and rich daughters as is the rule in the succession to stridana under Hindu Law.

Part II, clause 21 of the code states that where a Hindu who has ceased or ceases to be one by conversion to another religion children born to him or her after such conversion, and their descendants shall be disqualified from inheriting any of the property of their Hindu relatives unless such children or descendants are Hindus at the time when the succession opens. I am of opinion, that this provision is a salutary one but I want to go still further and disqualify even the convert himself from inheriting the property of any of his Hindu relatives. The provisions of the Caste Disabilities Removal Act of 1850 may if necessary, be altered to that extent. The time has come when it is absolutely necessary to safeguard Hinduism from disintegration and decay by proselytization. The draft Hindu code also proposes to give absolute rights to women over all kinds of stridhana property acquired by them whether inherited by them from their husbands or in any other manner. This change has also to be welcomed. The Hindu women are rapidly taking their place in Hindu society. Female education has been progressing, fairly quickly, and it is no longer necessary that they should be regarded as in any way incapable of managing their own property and therefore to treat them differently from men in this respect.

I have in this article discussed some of the main changes proposed to be introduced in the code. We all hope that the Committee which consists of eminent lawyers and statesmen of ripe experience, will sympathetically and carefully consider these aspects.

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[No. 2

## THE DRAFT HINDU CODE.

By

Dewan Bahadur K. S. RAMASWAMI SASTRI, B.A., B.L.,

(Retired District Judge, Vice President, Hindu Mahasabha, Madras.)

The Draft Hindu Code drafted by the Rau Committee has become a storm centre. I shall discuss here only a few basic matters dealt with in it.

It is curious that the Bill is sought to be introduced into the moribund Central Assembly which is ten years old and has outlived its usefulness and has lost its contact with the people. Its members did not come in with any mandate about such a vital codification of the Hindu law. The codification was not a live issue at all before the previous election took place. The Provincial legislatures are mostly out of action and we have only the Adviser Regime in most of the Provinces. The power of legislating about agricultural lands is, according to the judgment of the Federal Court, only with the Provincial Legislature Assemblies. The draft Hindu Code is confined to matters on which alone the Central Assembly can legislate. It is not a complete self-contained codification of the Hindu law.

The next point for consideration is whether a uniform Hindu Code for the whole of India is necessary. Hitherto there was ample room for the healthy growth of customs, these being grafted on the regional legal systems. Both the systems and the customs were the outer expression of the home-grown social and legal consciousness. A cast-iron code would prevent such healthy growth of customs. In any

event the Code would not affect Indian India, and the old state of affairs might continue there: Further, the Muslim and Christian laws would continue to be what they are without falling into line with the Hindu Code. If for the emergence of one nation a single national code is necessary, we must then have a single system of laws for the entire Indian people. But nationhood does not depend on the prevalence of a single system of law. India has attained psychological national unity despite its diversity of laws, though now the Pakistanites wish to subvert the hard-won national unity.

The greatest defect in the draft code is that it seems to be out to carry out all the ideas of the Hindu social reformers and not to construct a code which will express the general consensus of opinion of the Hindus as a whole and which would aim at a compromise between extreme views and a synthesis of divergent ideas. The framers of the Draft Code do not seem to have any faith in the value of the Smritis in general. I believe that the basic principles of the socio-religious life as laid down in the Smritis are conducive in general to social harmony and efficiency and to spiritual welfare, though I am not prepared to attach the same importance to matters of succession (which deal with visible results) as to matters of marriage (which have far-reaching visible and invisible results) and though I am not against such changes of law as are absolutely necessary today and as do not violate the abovesaid basic principles.

**Part I Preliminary.**—The proposed definition of 'Hindu' would bring within the Hindu community converts to the Hindu religions from other faiths. The definition in Mayne's "Hindu Law" is that a Hindu is a person who is a Hindu by religion, and who, being a Hindu by birth, is not a Muslim or Christian by religion. It is proper to include in the definition of 'Hindu' the members of Hindu protestant sects and those who are reconverted to Hinduism. The time is now come when the vigorous limits laid down in Devala Smriti for reconversion have to be widened. That Smriti's provision itself belonged to an era when the ancient religion was assailed by schisms and otherwise. India has now become the home of all the aggressive proselytising world religions. Hinduism should, therefore, by adjustments and internal reforms and by an expanded technique of reconversion, meet the new situation. But Hinduism has never been a proselytising religion and has always affirmed the spiritual truth and value of diverse creeds and revelations. There is no such thing as conversion to

Hinduism, and a convert cannot be fitted into the social framework. Anyone can be a Hindu in belief but there is no agency or technique of conversion. But reconversion stands on a different plane from conversion. I would alter illustration (a) of Section 2 thus:—"A re-convert to the Hindu religion is a Hindu."

**Part II.**—The authors of the draft Code say:—One of the objects of the Committee is "to evolve a uniform code of Hindu Law which will apply to all Hindus by blending the most progressive elements in the various schools of law which prevail in different parts of the country". The phrase "the most progressive elements" means little and may mean many things to many minds. We have to see whether we have in the draft Code a coherent and refined legal system in accordance with the general social and legal consciousness of the Hindu society as a whole, taking into consideration the right-wing and the centre and the left-wing, the conservatives and the moderates and the radicals, the No-changers and the slow-changers and the All changers.

(1) Section 7, Clause (b). I do not see why a divided son should take a share. I would omit the words "or divided from."

(2) Section 7 Clause (d). Apart from the question as to whether Mitakshara should invade Bengal or Dayabhaga should invade Madras, there is much sense and propriety in giving daughters a share in intestate succession. However much a Hindu may value a son, the days when he valued a son more than a daughter are gone for ever. I like the rule of law which says that the daughter shall have half the share of the son in the properties other than the dwelling house. The argument that this will lead to the fragmentation of holdings is of little force, because if fragmentation be an evil, the Hindu Law should not have allowed partition to the sons. In fact while the Mitakshara deprecated the son's demanding a share during the life-time of his parents, modern Hindu law allows him to do so. Further, co-operative cultivation will meet the evil of the fragmentation of holdings. I have no faith in leaving brothers to do the proper thing by their sisters as a moral obligation. The argument that if a woman is given a share some man or other may cheat her is baseless. Are women cheated out of their Stridhana? As women's education spreads, the basis of this fear will disappear.

But as there is some objection that giving a half share to a daughter is a Muslimisation of Hindu law and as a girl's marriage and *seer* expenses are a charge on the estate I have no objection to the share

being one-third instead of half. But I personally prefer a half share being given to the daughter.

I think that the father and the mother also may be included among ' simultaneous heirs '.

(3) In the share inherited by a woman from her husband, she should have a life estate if there are children and a full estate if there are no children. The daughter should take an absolute estate.

(4) The son's daughter should have a higher rank in the order of succession.

(5) S. 14. I was at one time against allowing a son taking half the daughter's share in the mother's stridhanam. But I now think that it is parallel to Sec. 7, Clause (d) and is proper.

Part III. On the whole I am in favour of this portion of the Code; I know the value of joint family life. But of late its disadvantages have outweighed its advantages. The father should have full powers as in the Dayabhagha law. Already the Deshmukh Act has made the widow a cosharer with the son. The recognition of the daughter as a simultaneous co-heirs along with the son is, in my opinion, quite proper.

Part IV Sec. 3, Clause (a).—The present freedom for a man to marry a second wife as he pleases is in my opinion improper. I think that Manu's provision of a right of marrying a second wife if there is no son by the first wife and if the first wife agrees to his second marriage is a wise rule. The Hindu's desire for a son, if there is no son by the first wife, is a very strong feeling and springs from deep religious sources and must be respected. An upper age-limit (say fifty years of age) may be fixed for such a marriage. I would enact such a rule and delete Sec. 3 Clause (a).

It is strange that the Draft Code which stands up for the ideal of strict monogamy recognises a continuously kept concubine's right to maintenance.

Part IV Clauses 6 (a) and (b).—Under the present Hindu Law Sagotra and Samanapravara and intercaste marriages are invalid. I am against such a rule being swept away. The Hindus have been bred up for centuries in that frame of mind. It has not worked any hardship and has not resulted in any inconvenience. There is also sound sociological reason for such a view. A Hindu who wants to break that rule can resort to a civil marriage. I would omit these clauses.

I am wholly for inter sub-caste marriages so that we may retain our *Chatur Varna* ideal which will lead to an interdependent non-com-

petitive social order and at the same time remove the weaknesses and jealousies due to the existence of too many sub-castes.

Sec. 24 of Part I.—I would drop this rule because of my view about Sec. 3 Clause (a).

I do not like to have civil marriages declared to be a part of Hindu law. Civil marriages may well continue to be governed by the Special Marriage Act of 1872. Under the Hindu law marriage is not a mere contract but is a sacrament and this conception is of the essence of Hindu life and law and should not be lightly tampered with.

In Part IV of the Draft Hindu Code (which relates to Marriage and Divorce) there is an extraordinary piece of drafting! By putting sacramental marriages and civil marriages together, the former are devitalised. There is no need to bring the latter into this Code. It is governed by a Special Act of 1872, and attracts to itself the Indian Succession Act in respect of matters of succession. Such Hindus as want Hindu marriages to fall into line with Western marriages have got open to them under the Special Marriage Act the remedies which they seek. There is hence no justification for dragging civil marriages into this Code or for tampering with the sacramental concept underlying Hindu marriages.

Part IV Chapter II.—This is a thorny question. Under the present Hindu law there is no right of divorce. There is a religious feeling that marital relationship is carried on into succeeding births also (*adbiddatta swadharma pretya lokepi tasyasa*) Ramayana Ayodhya Kanda, XXIX verse 18). The granting of a right of divorce is sure to generate an itch for divorce. I do not like the possibility of the general loosening of the marriage tie and the ruination of the Hindu marriage ideals. The plight of the children of a divorced couple would be most miserable. It does appear hard that in case of insanity or virulent and incurable leprosy or desertion for over 7 years, the couple should be legally bound to each other. They may well live apart in such cases but should the marriage tie be allowed to be severed.

The code seems to allow concubinage also as a ground of divorce. This would open the door to a lot of disgusting and even manufactured evidence as we find in other countries, the employment of detectives to spy on persons, and other evils. I would allow the question of divorce to be decided by a referendum of all the Hindu adult men and women rather than by legislation in the Assembly, because only men and women of a vociferous and social reformist mentality seem to be able to effect an

entry into the legislative Assemblies and because no election will take place on the specific issue of Hindu divorce alone although it is a vital matter deeply affecting Hindu Society.

### MAINTAIN THE INTEGRITY OF HINDUSTAN

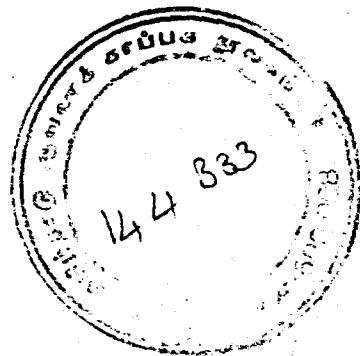
By

RAO BAHADUR A. RAMA RAO PANTULU, *Advocate, Rajahmundry.*

We must defend the integrity of Hindustan at all cost. The demand for independence and the maintenance of the integrity of India must go hand in hand. 'Pakistan' the imaginary name for two separate Muslim States is only a creation of Mr. Jinnah. Mr. Jinnah who is a very shrewd lawyer thinks that he has caught the British but the latter know that they are playing with him. If Mr. Jinnah's claim is conceded, it would lead to the Balkanisation of India and there will be unending civil wars. Mr. Jinnah may insist upon two separate Muslim States but what about the rest of India? It must be like a gigantic Polish corridor between two independent Muslim States! There is a great lesson which India must learn from the present state of Europe and Europe's Warring Nations. The root cause of Europe's troubles is its division into as many as 27 independent sovereign states. There is no constitution for Europe in order to help to unify its peoples and keep them at peace. It is the lack of a constitution that has inflamed their differences at every point. As there is no means of settling their disputes, they have had recourse to diplomacy for a time and after that war. Europeans are not more savage or violent than the other peoples. They have been driven to violence because there is no central effective constitution through which a moral principle can find expression and control the destiny of the independent states. Leaving European Russia out of account, the rest of the continent is about the same size as India and contains almost the same population (about four hundred millions). Although it is of the same size as India, on account of historical reasons it is divided into as many as 27 sovereign states: its territory is criss crossed with frontiers and their accompaniments—tariffs, embargoes, exchange controls etc. Every state has to rely for its safety on armaments, which means constant competition for superior armaments. So the affairs of Europe are determined not by a body which

can settle any dispute from the standpoint of the interests and well being of the people of Europe as a whole but by a series of negotiations between Governments each thinking primarily of its own country and possessed of no means of reaching decisions and we have seen how after such negotiations fell through, we had the present War started in 1939. We have seen how a league of sovereign states proved the most ineffective remedy for Europe's discords. I think there is no remedy for them except a compulsory union under the aegis of a single dominant power. There must be central power and all the other sovereign states must surrender a part of their individual sovereignty to that central power, call it by whatever name we like. We may call it a Federal Union. As Lord Bryce said "Forms of Government are causes as well as effects". It is the lack of a federal system in Europe that has inflamed and brought about the deplorable conditions in Europe and the same is a warning to India. Mr. Jinnah does not want to take a lesson from the conditions of Europe. He insists on the vivisection of India which means a disruption of constitutional unity and which ultimately means that India will go down to a worse hell than that in which Europe finds herself to-day. Everybody talks of post War re-constitutions and world reconstruction. India's problem is more one of construction right from the beginning than of reconstruction on account of the appalling poverty and destitution of the teeming millions. India's future depends upon the political character of the world's rulers after the war. If liberal forces come into power in England, Russia and the United States no one will be able to stop India from getting her freedom. But if reactionary forces come to supremacy, India's hopes will be frustrated for a long time to come. Indian independence is long over due. Lord Halifax declared last year at Washington that England had already applied the principles of the Atlantic Charter to India long before the charter had been drawn up. We can easily visualise whether His Lordship is speaking a fact or fiction. Surely, it is neither fact nor fiction but must be a figment of His Lordship's imagination and a political stunt. Subsequently we heard that there is no such document as the Atlantic Charter as no one signed it. So it has become a mere mockery. But whatever that may be a free India would certainly associate more easily with Britain than with other countries on account of its long contact with Britain. No country can go on exploiting another for an unlimited period. No imperialism can last for an unlimited time. The sin of Mogal Imperialism was fanaticism and the sin of British Imperialism is

exploitation. We do expect that liberal forces will come into power amongst the three great united nations after this War and all sorts of exploitation will be at an end. By liberal forces coming into power I mean, those at the helm of affairs at the time of readjustment after the War, must be different from those who had handled the affairs during the War. We do expect a just peace after this War and India must fit into a world picture. In order that India may fit into a world picture, any scheme regarding its political and economic construction must take India as a whole with a central direction and control. Let us not lose our grip on the principle of Federation and accede to the dictates of Mr. Jinnah as some Congress Leaders have already done.



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## "DHARMA" IN THE MAHABHARATHA

By

R. SREENIVASA AYYANGAR, B.A., L.T.

The Chinese have a wonderful word 'Li', only comparable to our Dharma, which defies exact definition, but which is the keynote of the Chinese culture and civilisation. It is explained as 'Propriety' or Correct Behaviour, Reasonableness, Right Principle, or the Human Rights in the Case; and it embodies the conceptions of benevolence, harmony and loyalty. It is a heritage of teaching of Confucious, and is a force in China to day, in spite of the Westernisation that is going on. Even to-day among commonfolk, it is not uncommon to have disputes decided in their amateur law courts, the tea-shops on the basis, "What is the Li the principle, the reasonableness—of the matter?" "Hen you Li" (That has a lot of Li, is just, reasonable), He has no Li (He does not behave like a human being), and so on.

The ancient Greeks had again the word 'Arete' which signifies the best that man is capable of, and embraces the whole of the Greek humanism. We should achieve the best we are capable of by perfecting our natural endowments and by making the most of our circumstances. *Arete* has therefore an individual as well as a universal aspect, because it has reference to the peculiar endowments of each individual and the circumstances in which he is placed.

But neither the Chinese 'Li' nor the Greek 'Arete' has reference to God or to a divine purpose in the Universe. It is in this respect that the Hindu concept of Dharma differs from the apparently identical concepts of the Chinese and the Greeks. To a Hindu, righteousness is

divine; and the ideal perfection of the individual should be in harmony with the Divine Will, and the Divine Plan. As C. E. M. Joad finely puts it, Dharma enjoins "a right relation between the temporal and the earthly on the one hand, and the eternal and the spiritual on the other", and connotes "a fellowship of all those who accept the immutable laws of right conduct" and fashion their lives by endeavouring to practise them. That is why Dharma stands even to-day as a unique, sublime concept of Indian culture. To our great epic poets, the splendour, wealth, power and the scientific efficiency of civilisations, such as those of Ravana and Duryodhana, is not the criterion. The true progress of individuals as well as of nations is moral and spiritual progress, and is based upon the well-being of society and sound human relationships.

The article in the October issue of Bharatha Dharma attempted to study the concept of Dharma as revealed in the Ramayana; and this article is an attempt to study this concept as expounded in the Maha Bharatha which is regarded as the world's greatest epic, as India's national heritage of culture, as the Bible, the law and the story-book; all combined in one, and as an Encyclopaedia of the Hindu Dharma and Ethics. The task is not easy; for this epic is less compact, more voluminous, and, more complicated in plot. Again, as in the Ramayana, the Divine Incarnation is not the hero, the centre of the system. As Monier Williams says, 'Sometimes Arjuna, sometimes Yudhisthira, at other times, Bhima, appear to be the principal orb round which the plot moves'. Nevertheless, if we are to have a fuller knowledge of the concept of Dharma, we should sit at the feet of the sage Vyasa who says, towards the close of the great epic, "What is found in this epic may be found elsewhere; what is not here can be seen nowhere." With these prefatory remarks, we shall learn, though in a perfunctory way, about Dharma as explained in this epic.

The heroes, the Pandavas are referred to as धर्मज्ञाः धर्मवत्सलाः and the eldest Yudhisthira, as धर्मभृता श्रेष्ठः the most eminent among the righteous. It is well to note at the outset Sri Krishna's tribute to the character of Yudhisthira. When Yudhisthira thanked Krishna that the kingdom of Indraprastha had been obtained by His grace, Krishna said, "this great kingdom has been secured by your greatness and by your own Dharma." When the Pandavas were staying in the Kamyaka forest, Krishna accompanied by Satyabhama saw the Pandavas, and in consoling them, said, "King Yudhisthira, Dharma is superior to the gain of a kingdom; Dharma has as its root, Tapas; as you have observed

your Dharma with truthfulness and honesty (सत्यार्जवभ्यां), this world, as well as the world beyond, has been conquered by you."

Samuel Smiles says that the character of a person of integrity and uprightness shines with the greatest lustre, when he is subjected to misfortune. Draupadi taunted him with his faith in Dharma as the cause of their suffering. Yudhisthira said, "Oh Princess! I do not observe Dharma, hoping to enjoy the fruit of it. I am so constituted by nature that my mind is firmly set on Dharma. He who desires the fruit of Dharma will not obtain the fruit of Dharma. To those who go to heaven, Dharma alone is the boat, and nothing else. So do not traduce the Lord". Again, to Bhima who accused Yudhisthira of saying "Dharma, Dharma", and emaciating himself with austerities, Yudhisthira said, "I know the lofty and very inscrutable way of Dharma." But it is a refreshing contrast to hear of Arjuna's exhortation to Yudhisthira when he felt despondent of victory in the fight with the Kauravas; Arjuna heartened his eldest brother as follows, "Victory is won not by strength and valour, but by truthfulness, benevolence and righteous effort".

त्यक्त्वा अधर्मं तथा सर्वं धर्मं च उत्तममाप्सितः ।

युध्यध्वमनहङ्कारा यतो धर्मः ततो जयः ॥

यतः कृष्णस्ततो जयः ।

गुणभूतो जयः कृष्णे पृष्ठतोऽभ्येति माधवम् ॥

Abandoning Adharma, and firmly relying on highest Dharma, fight without egoism; Where Dharma is, there victory is. Where Krishna is, there victory is; Victory is an attribute of Krishna; it follows Madhava at His back.

The preceptors who had to fight against the Pandavas had faith in the potency of Dharma. When Yudhisthira took leave of his illustrious preceptor Drona and assured him that he would fight with a pure heart, Drona said :

ध्रुवस्ते विजयो राजन् यस्य मन्त्री हरिस्तव ।

यतो धर्मस्ततः कृष्णो यतः कृष्णस्ततो जयः ॥

Victory is assured for you, as Krishna is your counsellor. Where Dharma is, is Krishna; and where Krishna is, victory is.

Kripa also gave his blessings to Yudhisthira, "Fight and obtain victory." When Karna asked for pardon, and told Bhishma his resolve to fight against the Pandavas, Bhishma said,

यतो धर्मस्ततो जयः ।

Where there is Dharma, there victory is assured.  
Gandhari herself spoke harsh words to Duryodhana,

शुणु मूढ वचो गङ्गं यतो धर्मस्ततो जयः ॥

Hear these words from me, you stupid fellow: Where Dharma is, victory shall be.

Thus several quotations may be given to emphasise the truth that *righteousness is divine*, a purely sublime Indian concept.

The efficacy and potency of the observance of Dharma are brought out in several instances. Madhri bidding farewell to Kunti gave the following advice, "Those who serve their elders and adhere to Truth and Dharma never come to grief, never get humiliation." Krishna while restoring the dead child of Abhimanyu to life, said, If Truth and Dharma are firmly rooted in me, let this child come to life." The child came to life. When Yudhisthira stayed in Hell, the darkness of Hell disappeared; tortures were not seen; and a pure breeze blew.

According to the Chinese 'Li', no faulty human being can ever be a 100% right. Similarly, there is the inviolable law that those who transgress Dharma should suffer. Yudhisthira under cover of deceived Drona in respect of his son Aswathama a pretext; hence hell was shown to Yudhisthira through some pretext.

The portrayal of the concept of Dharma in the Baghavat Githa should be dealt with in a separate article. But this article should close with Bhishma's exposition of Dharma in the Santi Parva and the Anusasana Parva, which contains marvellous truths, eternal verities for living the highest and the noblest. The योगमयि Master of the Yoga Sri Krishna therefore urged Yudhisthira to take hold of Bhishma's feet in reverence, and learn from him धर्मविदां श्रेष्ठः the greatest of those versed in Dharma. Mr. T. R. Venkatarama Sastriar recently suggested that every individual should compile for practice of his meditation and contemplation his own Upasanas.

The following few Selections from Bhishma's exposition of Dharma to Yudhisthira will indicate to enable us to realise the importance that Sri Krishna attached to Bhishma's knowledge of Dharma. Krishna told Yudhisthira that when Bhishma was dead, the world would be like the night that has lost the moon and that (ज्ञानान्तरूपी भविष्यन्ति) knowledge would be reduced to insignificance. Hence I would commend the study of the Santi and the Anusasana Parvas for meditation with a view to moulding our practical conduct and putting ourselves on the path to salvation.

धर्मेण निधनं श्रेयो न जयः पापकर्मणा ।

Death through Dharma is superior to victory through a sinful act.

धर्मस्सनातनस्सर्व । सत्यं ब्रह्म तपस्सत्यं स्वर्गं सत्येन गच्छति ॥

Truthfulness is the eternal Dharma; Truth is the Godhead. Truth is penance. One goes to heaven by truth.

नास्ति त्याग समं सुखम् । त्यक्त्वा सर्वं सुखी भवेत् ।

No happiness equal to sacrifice; abandoning everything, one becomes happy.

अत्यरिच्यत दारिद्र्यं राज्यादपि गुणाधिकम् ।

Poverty allied with virtue is superior to kingdoms.

मास्म दुर्बलमासदः—Do not assail the weak.

एष मे सर्वं धर्मणां धर्मोऽधिकतमो मतः ।

यद् भक्त्या पुण्डरीकाक्षं स्तवैरर्चयन्नस्सदा ॥

The greatest of all Dharmas is, I consider that man should always worship with devotion and hymns the Lotus-eyed Lord, Narayana.

सत्येषु यतितव्यं वः सत्यं हि परमं बलम् ।

You must strive for Truth; Truth is the greatest strength. Bhishma's final exhortation to Yudhisthira was :—

धर्मे च ध्रियता मनः ।

Firmly set your mind on Dharma.

Bhishma also expounded the responsibilities of kings and ministers of statecraft; and the righteous Yudhisthira ruled the earth, even as the Emperor Manu, even as Sri Rama. There was nothing unrighteous in Yudhisthira's kingdom; all people were lovingly attached to Dharma.

Thus, as the appreciative American Professor of Comparative Philology Mr. E. W. Hopkins observes, "India has indeed preserved for us the most remarkable record, perhaps, the most remarkable record in the history of the human race, of man's never ceasing effort to raise himself above the control of the senses to a moral and spiritual height. It is well for the Hindu to be able to think: This is our spiritual and ethical heritage", that righteousness is divine. What India needs is to realize herself to broaden out her spiritual heritage, and to continue to build along the same inspiring lines." The beautiful concept of Dharma is a precious heritage to the Indian thought and culture which we should proudly pass on the succeeding generations in all its glory and purity.

THE DANCE OF GOPIS WITH SREE KRISHNA—SYMBOLICAL OF  
TRUE BHAKTI

By

THE LATE MR. C. RAJAGOPALA ROW, B.A., Registrar\*.

Little events cast their shadows far indeed, and it is for minds that hitch their waggons to the stars to realise their significance. Now for an instance that occurred before me. It is as if I see now the potter woman standing just before beginning her day's work. She lifts her hands to God in prayer before touching the lump of prepared clay. And she is assured in her own mind of His beneficence ensuring her salvation. She trusts to His Almighty power to shape the day's work in the best way possible for her.

2. Not for her the questionings and doubts that flit before some educated men. Let the wrangles about God's existence sway *their* crude minds. But *she* is sure of God's influence over her. She realises it for herself. She needs no arguments to buttress up her belief. She merely believes and her belief goes the entire way. She would reach God's throne by the direct path through her insight of soul and that is all.

3. The present day education is apt however to blur our faith in religion, to make us ignore it as not worth any attention. We must remember that Hindu culture is a system of philosophy and religion with an admixture of poetry and requires deep study. Now to return. Does not the potter woman explain the ethics of the *Gopis'* dance (*Rasakreeda*) to the hilt?

4. In her prayer the potter woman endeavours to realise herself. There she stands alone, forgets her husband, child or brother and all the rest of the world. She is filled with the God-idea. She thinks of nothing but Him. Does He not reciprocate?

5. He does. He blesses men of pure bhakti such as this woman is capable of. The grandeur of the ritual or the paraphernalia of worship, the majesty of temples or the beauty of mosques hardly count with Him. He is satisfied with mere fruit, flower or water if dedicated with bhakti. Bhakti alone counts and draws his reciprocal love. The picture is complete therefore of this woman and God standing face to face—she, oblivious of all else.

\*Sent to us for publication by his son Mr. K. R. Kshirasagar, Bombay Company, Madras.

6. But is there only one such worshipper in the world? The potter woman is but a type. For the credit of Mankind we can grant that there are many such. And God treats every one of them in the same loving fashion. Each worshipper sees or feels Him standing directly in front. And being merely human she thinks that God is with her and so nowhere else. But God who is omnipresent is at one and the same time with each worshipper.

7. It is just this that is portrayed in that grand poetic imagery where blissful Krishna in many forms dances with as many Gopis. Each Gopi is like the potter woman entranced. She sees Him before her and thinks He is with her alone. Krishna assumes many forms in the circle of enchanted devotees each of whom is face to face with her Beloved.

8. Is it not blasphemy for unbelievers to misinterpret the natural meaning of fervid poetic symbolism commonly understood in India as relating only to God and bhaktas? To insinuate against the gopi devotees is the height of ignorance. To clothe Krishna's childhood with the debasing notions of a debased adult mentality argues only lewdness. Every gopi *feels* the presence of God. But how can one, entirely stranger to devotion understand? One that has never tasted honey is ever ignorant of the taste. Realisation is only to the bhaktas. Others come to scoff but remain to pray—only after a long long experience through cycles of births and deaths.

9. This grand poetic imagery was conceived and laid before the gaze of the world centuries before Christ. The question is why can it not be properly and correctly understood by educated men even in this twentieth century? Was the poet-philosopher just a little in advance of those old ages, and is he now *much* in advance of these prosaic days? Does it show that we have retrogressed? Instead of being the subject for pride it is now subjected to ridicule. For instance, see publications where proselytising zeal could not reach up to truth. Their imagination bodies forth the forms of things unknown to truth.

10. The educated Indians—some of them at least were impressed. They succumbed to the propaganda. How far they justified their birth by ignoring their traditions and following the wrong path. As professor Radhakrishnan says there is cordial harmony between God and man in Indian thought, while the opposition between the two is more marked in the west. Why follow the *other* man and give up the traditional lead? To follow other men blindly and hate your own religion

is double wrong. As a Hindu lost to your religion, you may not know where you are. How I wish for a timely help from a religious book or friend.

11. In the predicament of the Hindu lost to religion, a ship lost at sea for many days suddenly sighted a friendly vessel. From the mast of the unfortunate vessel was seen a signal "Water, water, we die of thirst." The answer from the friendly vessel at once came "Cast down your bucket where you are." A second time the signal "Water, water, send us water" ran up from the distressed vessel and was again answered "Cast down your bucket where you are." And a third and fourth signal for water was answered "Cast down your bucket where you are."

The not over acute captain of the distressed vessel at last heeding the injunction, cast down his bucket and it came up full of fresh sparkling water from the mouth of the Amazon river! It is only the mouth of the Amazon that can be mistaken for the sea, and it is only the culture of the Hindus that like the ocean satisfies all grades of Civilisation and all kinds of intellectual endowment in the same grade of Civilisation. It is adapted to different stages of spiritual development and different conditions of life. The unique feature of the Amazon is its mouth 100 miles wide and that of the Hindu religion is its vast extent and variety of world problems, philosophical as well as religious, which it solves but does not shelve.

12. To those of our educated men that are ignorant of our culture, I would respectfully say "Cast down your bucket where you are." Cast it down in the *Ramayana*, accepted as the best of epics in the world, in the *Mahabharata*, the longest and most didactic in the world, in the *Bhagavata*, the most sublime system of philosophic devotion, in the *Bhagavat Gita*, the light of Asia and of the world, of which Swami Vivekananda says that the like of its author's brain has never been and never will be.

Cast it down in the Upanishads which gave the utmost solace to Schopenhauer, in the Puranas and in the systems of philosophy of the three great Acharyas, in the writings of the sages, saints and super-saints of our land, in the religion of Buddha, a son bred up in the lap of India.

13. If you are not so circumstanced as to drink deep from any of the above sources of knowledge and culture, it is open to you to skim from the surface and draw up fresh water from the folklore of India,

the historical stories of saints like Mira Bai, Namdev, Chaitanya, Nanda and others, to draw inspiration from the simple yet most didactic *Satakams* of Vemana Reddy who teaches that "Truth is the life of the spoken word," a simple truth but yet as well expressed as in any literature, of *Sumati*, the songs of Venkamma, of the Tamil poetess Auvvai, of Purandhar Das, the sayings in *Athi Chuvadi*, *Kondraivendan*, in the innumerable folk songs sung by thousands of bards over the land, and in the tit-bits of religious significance flying from mouth to mouth.

14. If you want to see the effect of that hoary culture of Hinduism, you have but to see the toiling masses with resignation written in the face, but without a tinge of hatred towards the rich man, to see them turn their light inwards, resort to self-examination, and understand in their daily life that their predicament is but the result of *karma*, to look to the future and the heavenly life rather than to the present and the earthly life, to rid themselves thus of the passions and the temptations that beset the souls of less understanding. You can also see peace and calm reigning where nations of militant temper would rush to war and blood-shed. No doubt you will say it shows up the root defects of the Hindu religion. But you must know the misery of the submerged tenth in Christian lands is abysmal but is at the same time not alleviated by the sublime philosophy enshrined in the doctrine of *karma*, whereby the least, the lowest member of our society is imbued with hope beyond. The Hindu's perseverance in toil and industry is proverbial but he is resigned only in the matter of claiming wages and reward.

15. Now I wish to ask if there is in any other country the grand idea that God is a Being with whom it is possible for man to hold communion. In our religion He is regarded not as a far off separate entity punishing and rewarding as suits His judgment. He is One among ourselves a Self embracing ourselves, a Soul comprehending all our souls. The evolved among us can see Him and feel Him. We become divine by claiming kindred with Him. The best of us claim to talk to Him, address Him, to question Him and even to blame Him if He is too long to claim us to Himself. The holy sages have called Him the slave of Bhaktas. We claim to belong to a hierarchy wherein God is the centre and the lowest as well as the most wicked none the less occupy spaces in the circle. Our plane is by far higher than the one occupied by those who regard themselves as subjects of His wrath or pleasure. Our religion recognises no separate classes like God, Angels,

Prophets and believers and unbelievers and infidels. There is only one class in which God is bound by ties to the highest as well as the meanest of beings and even of lower animals. The Muslim Kabir and the Panchama Nandanar are acclaimed as among the best of saints.

16. If this unique boldness of conception is not grand, sublime and transcendant taking us in time to the very foot of the Throne,—I do not know what it is.

THE ARYA MATA SABHA (Regd.) MADRAS.

At the Annual General Body Meeting of the Arya Mata Sabha, Madras held on Sunday the 18th February 1945 at No. 3, Sullivan Garden Road, Mylapore with Sir P. S. Sivaswamy Aiyer in the chair, the following office bearers for the year were unanimously elected.

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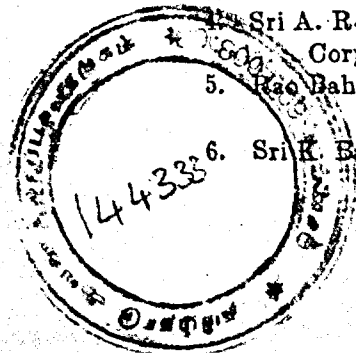
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