

# INFLUENCE OF BUDDHISM ON THE CONSTITUTION OF INDIA

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## Abstract

Buddhism is more of a philosophy than a religion and not merely the teachings of Buddha. Buddhist philosophy has shaped the human approach and rational perspective of laws. It is said that the Constitution of India has been borrowed from the best of the laws of the world. However, Dr. B. R. Ambedkar and his team in the legislative assembly were already imbued in the jurisprudence of the East. Recalling that Dr. B. R. Ambedkar was himself a Buddhist may not be out of context. Hence, an introspection into the philosophy of Buddhism and Hinduism would have been enough to evolve the Constitution of India. Thus, from the fundamental rights, fundamental duties, and directive principles of the State Policy it could have been located in the philosophies of Buddha. In this context, Buddhist Jurisprudence becomes relevant and its influence on the Constitution of India is to be studied to reflect that India had the necessary jurisprudential foundation to create a Constitution of its own without borrowing from others.

**Key words:** Buddhism, Philosophy, Introspection, Constitution of India, Fundamental rights, Right view, Impact.

## I. INTRODUCTION

Buddhism can be understood as a path of practice, a philosophy of life, or a spiritual development leading to an insight into reality's true nature. Buddhists do not rely on idol worship. Rather, it preaches 'Buddha.' Hence, Buddhism is the teachings founded by the Buddha. A Buddha is the one who has attained Bodhi (wisdom). It is an ideal state of intellectual and ethical perfection that a man can achieve through purely human means. Buddha's teachings can be summed up in one word: Dhamma. It means truth. It also means law, which exists in a man's heart and mind and in the universe. It is the principle of righteousness. A man cannot

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discover Dhamma by prayer, or by ceremonies, or by any appeal to a God. Man will discover it only by developing his own character. The Buddhist principles are secular in nature. By virtue of being secular, rational and logical philosophy, it has been incorporated in the Constitution of India.

In the first phase, it discussed that around 6th Century BCE, with the advent of Buddha, the existing Hindu philosophy was very complex and quite aberrated. After seeing the sufferings and pains of people, Buddha developed his philosophy. By not being satisfied with any explanations in contemporary religion and philosophy, he embarked upon his journey. Unlike a Hindu, who valued Moksha, Buddha's journey looked at mitigating pain and suffering, in which nirvana or Nibbana was a mere byproduct of Buddha's quest. However, Buddha's nirvana (nibbana) offered a more egalitarian and alternative path to Moksha or liberation. It also broke the social hierarchy of caste and class that pervaded Hindu philosophy. The hegemony of Hinduism was threatened, and its parochial walls were shattered, as to which Buddhism apparently was in triumph. This is a second phase in the religio-philosophical and political power struggle. The third phase commences with the advent and philosophy of Adi Shankaracharya. Shankaracharya ushered in the Advaita philosophy and seemed to have succeeded over the Buddhist philosophy. Eventually, though the two philosophies retained their separate identities, there was inter-cultural intermingling. In the socio-political atmosphere, much of the political discourses are influenced by both Hindu and Buddhist philosophy.

## **II. FIRST PHASE OF BUDDHISM**

Buddhism is considered to be an offshoot of Hindu "religion".<sup>2</sup> When the Hindu "religion" was extremely aberrated and steeped in superstition, corruption and distortions. Buddha set off in search of a new alternative "religion" free of all the aberrations of the Hindu "religion" that came to be known as Buddhism.

The advent of Buddha is believed to be around in 6<sup>th</sup> Century BCE. Hindu "religion" by then had become complex and, in many cases, aberrated. Complexities of castes and class systems, stereotyping of sexes, and wrong interpretation of sacred texts had confused and

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<sup>2</sup> Hinduism is not a religion but a way of life, but its rites and rituals are popularly called religions, which have been corrupted over a period of time. But the philosophy remains untarnished.

blinded the true spirit of Hindu philosophy. As an alternative to the suffering caused by Hindu religion, Buddha developed his own philosophy. Not being satisfied with any explanation in the contemporary religious and philosophical world, he embarked upon his own journey. Unlike a Hindu, who valued *Moksha*, Buddha's journey looked at mitigation of pain and suffering, nirvana or *nibbana* was a state of perfect bliss without suffering a byproduct of Buddha's quest.

However, Buddha's nirvana (*nibbana*) offered a more egalitarian and alternative path to *Moksha* or liberation. It also broke the social hierarchy of caste and class that pervaded Hindu "religion". The hegemony of Hindu "religion" was questioned and its parochial walls were shattered and Buddhism apparently was in triumph. This marks the first phase of the development of Buddhist principles.

### III. THE SECOND PHASE OF BUDDHISM

The religio-philosophical transformation took a political overtone as several kings and emperors took to Buddhism. Harshvardhan, according to the Chinese Pilgrim Xuanzang 636 CE, had built numerous stupas in the name of Buddha. Harshvardhan had made several endowments to the University of Nalanda. Harshvardhan was considered to be the last Buddhist King.<sup>3</sup>

According to Chinese sources, during the reign of Samudra Gupta relationship between India and Sri Lanka had developed and he patronised Buddhist Stupas. According to the Chinese scholar Fa-Hien as he travelled eastward by the coast of the Ganges, he saw many Buddhist Stupas. Bengal has been heavily influenced by Buddhism since the time of Khadga Chandra, Pala dynasties.<sup>4</sup> In Kashmir, Lalitaditya Muktapida built many Vaishnava temples dedicated to many of the avatars of Vishnu, including Buddha temples.

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<sup>3</sup> They were the Pushyabhuti Monarchs. According to legends, Emperor Harsha worshipped Shiva on one day, worshipped Surya like his father on another, and worshiped the Buddha on another. King Harsha has made several endowments to Nalanda University. Two seals of Harsha have been found in Nalanda in the course of the excavations. In 643 he held a Buddhist convocation at Kannauj which was attended by 20 kings and thousands of pilgrims.

<sup>4</sup> Due to the Buddhist Hindu empires in the Bengal region, Buddha-worship has gained much popularity. For example the Bauls are still heavily influenced by the Buddhist traditions practiced by the empires. Many Bengalis are also named after the Buddha or have Buddhist names, such as Buddhadeb, Saugata, Samanta, and Rahul.

In Nepal,<sup>5</sup> the Malla Monarchs and Licchavi Monarchs worshipped the avatar of Vishnu (Buddha) and built many monasteries. In Odisha, the Boud Monarchs, the Bhaniya Monarchs, and the Somavamsi Monarchs were influenced by Buddhism.

In South India also, there were patrons of Buddhism for example King Vikaramditya Varaguna patronised Buddhism. Buddhism flourished during the Chalukya Kingdom.<sup>6</sup>

Emperors like Ashoka (CE 268-BCE 323), Kushan King (C191- C232), Bimbisara (543 BC- 491 BCE) are well-known patrons of Buddhism in the history of India.

Not only India there were countries like Indonesia, Sri Lanka, and Burma<sup>7</sup> were heavily influenced by Buddhism and adopted Buddhist principles in their governance. Xuanzang is the Monk who Brought Buddhism East, especially to China in 150 CE during the latter part of the Han dynasty.

Moreover, Buddhism is the official religion in two countries *i.e.*, Cambodia (since 5<sup>th</sup> century in its earliest form of Mahayana Buddhism) and Bhutan (since 8<sup>th</sup> century).

#### IV. THE THIRD PHASE OF BUDDHISM

The third phase of Buddhism commences with the advent and philosophy of Adi Shankaracharya. Shankaracharya ushered in the *Advaita* philosophy and seemed to have succeeded over the Buddhist philosophy. Eventually though the two philosophies retained their separate identities, there was also inter-cultural intermingling. In the socio-political atmosphere, much of the political discourses are influenced by both Hindu and Buddhist philosophy.

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Buddha Purnima is very popular in the Bengal. Just as in other Hindu temples, people will find not just one deity in the temple but others as well and Ganesha is found in the Paharpur and Halud viharas

<sup>5</sup> Buddhistic Hinduism is most often practiced in Nepal where Hindu temples contain Buddha murtis and Buddhist temples contain murtis of other Hindu gods. Also, the Newari Buddhists believe that the Trinity (Brahma-Vishnu-Shiva) is a Buddha incarnation, just as some Vaishnavas believe that Lord Krishna is the Trinity.

<sup>6</sup> The Chalukyas were known to be worshipers of Vishnu but during their time Buddha-worship also flourished. The pieces of evidence are present in the caves of Ajanta and Ellora. These Buddhistic caves also exist in Aurangabad.

<sup>7</sup> Buddha had visited the ancient Burman city-state of Dhannyawadi. There has also been a Burman city-state named Peikthano (or *Vishnu*.) Vesali is undoubtedly one of the earliest Buddhist cities in Myanmar. There are also some ancient Vishnu images of 6th century within the Vesali village. Sri Kshetra was also sometimes referred to as "Vishnu City". "Religious remains show both forms of Buddhism, Mahayanism and Hinayanism, together with Vishnu worship.

The Hindu philosophy is driven by four purushartha's like *Dharma*, *Artha*, *Kama* and *Moksha*. However, of the four purushartha's "Dharma" has had a huge socio-political influence. This word does not have an English equivalent but is a bundle of rights, duties, privileges, obligations and such others that have influenced much epic and historical governance in India. It can therefore, be said that, though *prima-facie* a political, Hindu philosophy had a deep-rooted political impact in laying down rajdharma.

On the other hand, there is a popular belief that Buddhism is a- political and has remained confined within the precincts of the monasteries and are a hegemony of the monks.

The Buddhist principles are secular in nature. By virtue of being secular, rational and logical, its philosophy has been adapted by several countries, including India, into the Constitution of India. The Buddhist thoughts and philosophies became diverse when few followers started interpreting the ideas differently than the mainstream followers of Buddhist thought. Buddhism is considered to be one of the major religions of the world. Its practice has historically been most prominent in East and Southeast Asia, but its influence is growing in the West. There are many philosophies and interpretations within Buddhism, making it an evolving religion. Buddha's most important teachings, known as The Four Noble Truths, are not only essential to understanding the religion but also as principles of good governance.

## V. BUDDHISM AND THE CONSTITUTION OF INDIA

The opening lines of the preamble, 'WE THE PEOPLE,' reflect Buddha's words that people are their own masters. He declared that a person is his own master; he has to build his future on his own. In the same way, the framers of the Constitution describe that the people of India are the masters of their land.

Dr. Bheem Rao Ambedkar in the Constitutional Assembly stated that:<sup>8</sup>

*"Although Justice, Liberty, Equality, and Fraternity are the result of the French revolution and also written in the French Constitution in 1958. This is nowadays part of their national heritage. The Buddhist philosophy too was "enshrined" in these words. Let*

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<sup>8</sup> Interviewed in an All-India Radio broadcast speech on 3 October 1954.

*no one however say that I have borrowed my philosophy from the French Revolution. I have not. I have derived them from the teachings of my master, The Buddha. I found that his teaching was democratic to the core".*

The basic idea of the democratic form of government is also the result of Buddhism which is its biggest contribution to India. Though, Buddha himself was a prince and a future successor of his father's throne, he never preferred any particular form of government be it is monarchical, aristocratic, or democratic. He advocated that any form may be good if it functions on the democratic spirit keeping in view the welfare of its subjects. The Buddha implemented the same in his institution- the 'Buddhist Sangha or institution'. It was a model democratic society, purely based on democratic norms. Within the Sangha Buddha was also a common member and there were no special privileges fixed for him, all the monks of the sangha were treated equally. But depending on seniority or admission of ordination there was a slight difference in the status of monks. Within this fraternity, all the decisions were taken employing vote, and problems were settled by debates, opinions, and consensus. This perhaps is the reason why the chairman of the drafting committee preferred the democratic form of government in order to present stable and good governance.

The idea of 'secularism' in the preamble as added later by the 42<sup>nd</sup> Constitutional Amendment Act, 1976 is akin to the Vedic concept of 'Dharma Nirapekshata' *i.e.* the impartiality of the state to religion. The Supreme Court of India, in the case of *Bommai v Union of India*,<sup>9</sup> elaborated the meaning of secularism. The Court said that secularism means equal treatment of all religions. The Court held that the word 'secular' which was inserted in the Preamble of the Constitution by the 42<sup>nd</sup> Amendment, highlights the fundamental rights guaranteed in Articles 25-28.

In another case *Abhiram Singh v. C D Commachem*<sup>10</sup>, there was a question before the Court about whether secularism means complete separation of religion from politics. The Court held that secularism does not say that the State should stay aloof from religion instead it should give equal treatment to every religion. Religion and caste are vital aspects of our society, and it is

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<sup>9</sup> (1994), 3SCC 1.

<sup>10</sup> (2017)10 SCC 1.

not possible to separate them completely from politics. The Court held that secularism is the basic structure of the Constitution and therefore, cannot be amended.

The idea of secularism also resembles the teachings of Buddhism. Because Buddhism also does not promote any particular religion. It teaches tolerance as a way of life. A secular person is one who does not owe his moral values to any religion. His values are the product of his rational and scientific thinking.

According to Buddha, his Dhamma (dharma) has nothing to do with God and soul. His dhamma is a principle of life and living. Like Hinduism Buddhism too is not a religion, it is a philosophy and its teachings are secular in nature. The concept of *Nirpekshata* of Buddha can also be equated with the principles of natural justice. In this context, the Indian judiciary also applies the principle of impartiality while delivering justice. Buddha is not concerned about life after death. He observed a world full of sufferings and to remove this suffering he founded the path of Dhamma. If the principle of governance is founded upon the path of righteousness and the path of virtue it will bring an end to all sufferings and this manner principle of governance may be founded upon dhamma.<sup>11</sup> Hence, secularism is an expression of tolerance, non-violence and a path of peace which gets its validation from Buddha. The principles laid down in the Preamble of the Constitution of India, provisions of Part III and IV, and certain principles of Indian Penal Code and other civil laws reflect the principles laid down in the eight noble path enunciated by Buddha and thus leading to the understanding that Buddhism has successfully influenced the secular laws. Though the word “secularism” was of later addition but its principles were already ingrained in the Constitution and other prevalent laws.<sup>12</sup>

Buddhism does not only have social implications – it also has political implications. The teachings of Buddha gave freedom of thought and freedom of self-development to all, which has found its existence in our Part III of the Constitution. Ambedkar argues that “the rise of Buddhism in India was as significant as the French Revolution” – a political event in the first place.

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<sup>11</sup> Uttamkumars Badge, “Essential Elements Of Human Rights In Buddhism”, Vol. 6(2), *Journal Of Law And Conflict Resolution*, p. 33, (2014).

<sup>12</sup> V. M. Tarkunde, “Secularism and the Indian Constitution”, Vol. 22, No. 1, *India International Centre Quarterly, Secularism In Crisis*, p. 146 (1995).

Buddha in his first sermon strongly emphasizes and instructs his five disciples to work for the sake of humanity, fraternity, and happiness. The philosophy of the first sermon is seeded and interpreted as *Bahujan Hitaya Bahujan Sukhaya*, which is for the welfare and happiness of many. It is also akin to the concept of Bentham's utilitarian principle which states, greatest happiness of the greatest number. Which supported the agendas like abolition of slavery, capital punishment, child labour, violence etc. Similarly, anything related to Buddhism which does not relate to the welfare of an individual cannot be treated as the statement of Buddha. The spirit of the Indian constitution reflects the philosophy of *Bahujan Hitaya Bahujan Sukhaya i.e.*, the welfare of many, happiness of many ensured through the form of Directive Principles of the state policy. Directive Principles of the state policy which are often termed as Instrument of Instructions vested in Part IV of the Constitution from Articles 36-51. The Constitution of India provides a set of instructions to establish a welfare state by securing social and economic justice by minimizing the inequalities in income as well as inequalities in status and opportunities. The government is directed, under Part IV, to work for securing the right to an adequate means of livelihood both for men and women living within its jurisdiction. The government must *inter alia*, ensure proper health, educational, recreational facilities to its citizens. The government is also expected to keep a check on social problems like child abuse, drugs, early marriage, dowry, and sexual harassment, and so on under the aegis of *Bahujan Hitaya Bahujan Sukhaya*.<sup>13</sup>

The Fundamental duties in the Constitution are also of later addition but a reflection of Buddhist teachings. By way of the 42<sup>nd</sup> Constitution (Amendment) Act, 1976 and upon the recommendations of the Swaran Singh Committee that was constituted by the Government a new Chapter IV-A was added which consist of Article 51-A, dealing with a Code of Ten Fundamental Duties for citizens.<sup>14</sup> Fundamental duties are intended to serve as a constant reminder to every citizen that while the Constitution specifically conferred on them certain Fundamental Rights, it also requires citizens to observe certain basic norms of democratic conduct because rights and duties are *jural* co-relative. The inclusion of Fundamental Duties brought the Constitution in line with Article 29 (1) of the Universal Declaration of Human Rights (1948) and several Constitutions of other countries. Theoretically, the concept of Fundamental duties was taken

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<sup>13</sup> Prasar Bharti, accessed on 30<sup>th</sup> March, 2022, <https://prasarbharati.gov.in/our-mission-air/>.

<sup>14</sup> Originally ten fundamental duties were listed. Later on, by virtue of 86th Constitution the Amendment in year 2002, 11th duty i.e., 51-A (k) was added. It states, who is a parent or guardian to provide opportunities for education to his child or as the case may be ward between the age of six and fourteen years.



from the Constitution of USSR. The eight fold path of Buddha is more duty oriented rather than rights oriented one need not have travelled to USSR and other countries to find a parallel. The individual's *kartavya* means executed actions and intentions of the individual not only affect themselves but also to the whole environment. Mahatma Gandhi had said: '*the true source of rights is duty, if we all discharge our duties, rights will not be far to seek*'.

Buddha relied on the concept like *Karuna* (compassion), *Metta* (loving kindness which is not possessiveness) and *Ahimsa* (do no harm), thereby giving way to the Fundamental Duties in the Part IV-A of the Constitution of India. Likewise, **Art. 51 A(e)** specifically states, to promote harmony and the spirit of **common brotherhood** amongst all the people of India transcending religious, linguistic and regional or sectional diversities; **to renounce practices derogatory to the dignity of women**; **Art 51A(f)** specifically states to value and preserve the rich heritage of our composite culture; Art 51 A (g) to protect and **improve the natural environment** including forests, lakes, rivers and wild life, and to have compassion for living creatures. Art 51A(i) directs to safeguard the property in the public domain and to **abjure violence**. Moreover, the principle like to defend the country and render national service upholds the concept of *Dharma*.

There are other Fundamental duties inclusive of the above-mentioned duties towards the environment and are also a depiction of how to lead a noble life by doing mandatory *karmas*. Those Fundamental Duties include- Art 51A (c) to **uphold and protect the sovereignty, unity, and integrity of India**. **Art 51 A(h)** to **develop scientific temper, humanism and the spirit of inquiry and reform**.

Hence, it is evident that the Fundamental duties are deeply influenced by Buddhist philosophy.

Buddha's concept of *Ahimsa* is also seen in the India's national Flag. The white stripe in the middle of the flag embeds peace. Ashoka Chakra was included in the middle of the national flag of India. The chakra intends to show that there is life in movement and death in stagnation. It is also said, that the 24 spokes align with the 24 qualities of a Buddhist follower, as defined by the Buddha in his sermons.<sup>15</sup>

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<sup>15</sup> The 'Lion Capital': a Buddhist symbol that became India's National Emblem, THE HERITAGE LAB, (Last visited on 22 July 2023) <https://www.theheritagelab.in/lion-capital-india-national-emblem/>, These 24 qualities are:

The basic teachings of Buddhism are in the form three universal truths are:-

- (1) Everything is impermanent and changing;
- (2) All life involve suffering, and
- (3) Suffering is caused by desire and attachment.

Impermanence, in other words, means change. The Constitution of India is also a living document. This is ensured by Article 368 of the Constitution which enables the Constitution to change in accordance with the demands of time. Article 368 of the Constitution reflects the spirit of the theory of the Middle Path of Buddhism. Buddha never claimed infallibility for his message but was always opened to re-evaluation and re-examination. Thus, Buddha opened the doors for discussions and dialogues over his knowledge by terming that his teachings and philosophies are not final but can be modified following social changes. The Buddha in the Mahaprinibbana Sutta stated,

“Buddhism is based on reason and experience. The followers of Buddhism should not accept his teaching as correct and binding merely because they emanated from him. Being based on reason and experience they were free to modify or even abandon any of his teachings if it was found that at any given time and in given circumstances, they do not apply.”

The same has been quoted by Dr. Ambedkar in “Buddha and his Dhamma as<sup>16</sup>:

The Buddha did not promise to give salvation. He claimed himself to be *Marga Datta* (Way Finder) not *Moksha Datta* (Giver of Salvation).

The noble eightfold path are the following:

- (1) **Right view**- the path of right view corresponds to the path of correct expression which is similar to the Indian concept of Art 19(1)(a) Right to

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Anurāga(Love), Parākrama(Courage), Dhairya(Patience), Śānti(Peace/charity), Mahānubhāvatva(Magnanimity), Praśastatva(Goodness), Śraddāna(Faith), Apīdana(Gentleness), Niḥsaṃga(Selflessness), Ātmnīyantranā(Self-Control), Ātmāhavana(Self Sacrifice), Satyavādītā(Truthfulness) Dhārmikatva(Righteousness), Nyāyā(Justice), Ānṛśaṃsya(Mercy), Chāya(Gracefulness) Amānitā(Humility), Prabhuhakti(Loyalty), Karuṇāveditā(Sympathy), Ādhyātmikajñāna(Spiritual Knowledge), Mahopekṣā(Forgiveness), Akalkatā(Honesty). Anāditva(Eternity), Apekṣā(Hope)

<sup>16</sup> Dr. B. R. Ambedkar, *The Buddha And His Dharma, Book Three: What The Buddha Taught*, [http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambekar\\_buddha/](http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambekar_buddha/).

Speech and Expression along with Right to Information read with Art. 21 Right to life and Personal liberty.

- (2) **Right intention** means the correct motive or intention behind an act. If there is no *mense rea* behind an action then the person can be saved from punishment excluding few offences in which only *actus rea* plays an important role e.g. Offences to overawe the government. Similarly, if any right has been hampered due to government action or intention the same can be claimed *via writ*.
- (3) **Right speech** – this path denotes one’s right to freedom of speech and expression along with the reasonable restrictions mentioned under Art. 19 of the Constitution of India. The restrictions includes the clauses like in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence
- (4) **Right action** – this path leads one to behave in a skillful manner and not harm others. This path also corresponds to the right and duty relationship. In which if one has a right to life or a pollution-free environment and others have a duty to not intervene or pollute the environment. no killing or injuring, no taking what is not given, no sexual misconduct. This path is specifically mentioned under Art. 19 and Art. 21 of the Constitution of India.
- (5) **Right livelihood-** this path denotes one’s right to earn a living in a way that doesn’t cause suffering or harm to others. This path is expressly adopted in the Constitution of India in the form of Directive Principles of State Policy. Though they are not justiciable or enforceable in the court of law but are meant to guide legislatures while framing laws. The provisions include,- no trading in weapons, living beings, meat, liquor, and poisons, existence of a legal right to work, the right to fair wages, humane conditions of work, maternity benefits so on and so forth.
- (6) **Right effort-** the threats of bioterrorism, climate change, global warming, radicalism, extremism, etc, are shaking the conscience of humanity. Since time immemorial, mankind has built up the capability to control natural

resources. The greed and impatient attitude towards utilizing these resources have created an imbalance. Through Fundamental Rights, Duties and DPSP the makers have incorporated benevolent principles relating to protection of environment, implementing conventions through legislations etc.

- (7) **Right concentration**– involves no malice or ill intention, prevention of cruelty, protection of women from harassment or violence.
- (8) **Right mindfulness**- this denotes the complete freedom to attain consciousness of the inner self and the freedom to have faith and worship. The Indian concept of secularism is different from the Western concept here the state not only restrains itself from interfering with a person's faith but also if needed helps a person to establish his right to religion.

The eight noble paths seem to encapsulate not only the spiritual path for the common man but also the guidelines of raj dharma, *i.e.*, the manner in which a king should behave and govern. This in modern parlance denotes how governance should be. The eight fold paths also incorporate much of secular jurisprudence, for example, Right view would include the principles of natural justice such as *audi alteram partem*, *nemo judex in causa sua* and reasoned decision, this has been incorporated impliedly by the Constitution makers and the Judiciary time and again interpreted the Part III of the Constitution with the philosophies of Right view. The Supreme Court of India in *Maneka Gandhi v. Union of India*<sup>17</sup> observed that a procedure established by law under the arena of Article 21 should be “*fair, just and reasonable, not fanciful, oppressive or arbitrary*”, otherwise it will not be regarded as a procedure at all, and the condition attached to Article 21 will also not be fulfilled. Therefore, in India, the phrase procedure established by law should be equated with the phrase due process of law as mentioned in the American Constitution. Procedure established by law signifies that a law that has been enacted by following a proper procedure is lawful even if it violates principles of natural justice, fairness, and equality. But the strict following of the procedure may increase the chance of endangering a person's life and personal liberty. Hence, to minimise such circumstances, the Supreme Court emphasised the significance of the due process of law. Which is *at par* with Buddhist philosophy.

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<sup>17</sup> 1978 SCR (2) 621.

Right intention and Right action include elements of *mens rea*, *actus reus* and acts done in good faith and intention.

Right speech would include freedom of speech and expression with its reasonable limitation as mentioned in our Preamble and under Art. 19(1)(a) and (2). Freedom of speech includes the right to propagate one's views not only through the mouth, signs, or effigies but also through print media or any other communication channel say radio, or television subject to reasonable restrictions imposed under Article 19(2). The *Romesh Thappar v. State of Madras*<sup>18</sup>, was amongst the earliest cases to be decided by the Supreme Court declaring freedom of the press in any democratic nation as a part of freedom of speech and expression, without free political discussion, no public education, so essential for the proper functioning of the process of Government, is possible. The Government shall also not regulate the number of pages of a newspaper nor its size or price within the country as the same would be a violation of free speech.<sup>19</sup> Art. 21 not only gives protection to the free citizens or non-citizens but also extends a similar treatment to the prisoners who are under punitive or preventive detention. The right to be interviewed with consent, right against handcuffs or solitary confinements, and fair or speedy trials are all part of fairness and freedom of expression.

Similarly, the path of Right livelihood is indicative of a non-corrupt process of earning one's living and also the sovereign's duty to provide a livelihood to its subject; it has a resemblance to Article 21 of the right to life and personal liberty. But in the Indian context, DPSP's are not superior to Fundamental Rights. Implementing a DPSP is always subject to the State's economic capacity to provide livelihood which varies from one state to another. In order to preserve both the principles of Part III and Part IV a technique of Harmonious construction was applied by the Supreme Court in several cases. Leaving the Orthodox or rigour judgments of Shankari Prasad<sup>20</sup> the court took a new approach to harmonious construction. In the case of *Quareshi Mohd. v. State of Bihar*<sup>21</sup> the court stated that the Constitution must be construed harmoniously, and the Directive Principles must be implemented in such a way that it does not take away or encroach upon the fundamental rights of citizens. But the situation turned upside

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<sup>18</sup> AIR 1950 SC 124.

<sup>19</sup> Sakal Papers Ltd. v. Union of India, AIR 1962 SC 305, Bennett Coleman and Co. v. Union of India, AIR 1973 SC 106.

<sup>20</sup> AIR 1951 SC 458.

<sup>21</sup> 1961 SCR (2) 610.

down in 1967 at Golaknath case,<sup>22</sup> where the Part III was given sacrosanct position and thereby cannot be amended just for implementing DPSP.

Justice Chandrachud in the landmark case of *Minerva Mills v. Union of India*<sup>23</sup> observed, “Fundamental Rights are not an end in themselves but are means to an end, and this end is specified in the directive principles. Therefore, harmony and balance between the fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.”

From the above excerpts, one can infer that the relationship between FR and DPSP had been conflicting but a measure has always been taken to keep a balance. Here, the Fundamental Rights enshrined in Part III can be considered to be the means to achieve several goals that are thereby enshrined in Part IV and even in various instances the Fundamental Rights are interpreted as non-justiciable Directive Principles of State Policy.

Similarly, in *Bandhu Mukti Morcha* case<sup>24</sup>, Justice P.N. Bhagwati expressly mentioned in the judgment that, the Right to live with human dignity, and the right to be free from exploitation are enshrined under Article 21 of the Constitution which derives its life and breath from the Directive Principles of State Policy particularly from clauses (e) and (f) of Article 39, Article 41 and 42.

Hence, this inextricable and entangled relation between Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) was even recognized by the Legislature in the 86<sup>th</sup> Constitutional Amendment Act of 2002, where the Right to Education was given the status of Fundamental Right enshrined under Article 21A of Part III of the Constitution.

The Supreme Court furthermore, in *Charu Khurana v. Union of India*<sup>25</sup> again highlighted the importance of the existing relation between Part III and Part IV and held “Fundamental Rights and the Directive Principles are the two wheels of the chariot establishing the egalitarian social order.

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<sup>22</sup> I. C. Golaknath v. State of Punjab, AIR 1967 SC 1643.

<sup>23</sup> AIR 1980 SC 1789.

<sup>24</sup> (1997) 10 SCC 549.

<sup>25</sup> 2014 SCC 900 online.

Paths like Right effort, Right concentration and Right mindfulness are all indicative of good practices in good governance which is hindered in the administration and governance of the nation.

Thus, unlike popular belief, the eight noble paths of Buddha have influenced politics, governance and best practices. Over the years this appears to have been proven true as many countries have Buddhism as their state religion and endeavour to govern accordingly. The eightfold noble path essentially appears to be a reflection of the path of Hindu Dharma in a more concentrated format.

## VI. CONCLUSION

Unlike popular perception, Buddhism has not remained confined to the boundaries of religion alone. It has influenced politics and governance in a big way. All the “fundamental” aspects of the Constitution of India, notably the Fundamental Rights, the Directive Principles of State Policies, and the Fundamental Duties show a more profound influence of Buddhism. Hence, Buddha’s teachings can be summed up in one word: Dhamma. It means truth. It also means law, the law which exists in a man's own heart and mind and also in the universe. It is the principle of righteousness which has successfully influenced us and has been incorporated in the Constitution of India.

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