

Vedic Traditions and the Present Scenario of Good Governance and Rule of Law in India¹

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“प्रजासुखे सुखं राज्ञः प्रजानां तु हिते हितम् ।
नात्मप्रियं हितं राज्ञः प्रजानां तु प्रियं हितम् ॥”

The king's happiness is derived from his subjects' happiness, and his wellbeing is derived from their welfare. He will treat as helpful to him whatever pleases his subjects rather than just considering as good that which pleases him. - {1.19.34}

Abstract

It is the happiness of the king that is drawn from the happiness of his subjects, and the king's wellbeing is obtained from the welfare of his subjects. He will view as beneficial to him whatever it is that satisfies his subjects, rather than simply considering as worthy of praise whatever it is that satisfies him. "Good governance" as an all-encompassing concept that incorporates all aspects of a nation's governance, including its legal system, economic policies, and regulatory framework, among other things. The government of a state must adhere to the rule of law if it is to sustain good governance. To us, the idea of a rule of law is relatively new. But that's not the case. The Vedas, Upanishadas, Kautilya Arthshashtra, and countless other ancient texts in Indian tradition describe the principles of good administration and the rule of law. Several old texts elaborate on the Rule of Law, even in the Rajdharma notion. The Rule of Law means that everyone, even government officials and those in positions of power, must abide by the law. The Indian Constitution does not include a specific definition of good governance or Rule of Law, nor does it clarify their relationship. The judiciary employed this word in multiple rulings.

Keywords: Vedic Jurisprudence, Rule of Law, Good Governance, Raj Dharma

Introduction

Good governance means maintaining the rule of law and protecting human rights, i.e., political, civil, cultural, and economic rights. It gives the authority of the country the duty to maintain the rule of law in the country. Generally, good governance in a country preserves justice, the rule of law, empowerment, employment, securing justice for all, and efficiently delivering services.

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According to the UNDP Report government for Sustainable Development from 1997, "Participatory, transparent, and accountable government is among the attributes of good governance. In addition, it is fair and efficient. It also advances the rule of law. The views of the poorest and most vulnerable people are heard when decisions are being made on the distribution of development resources, thanks to good governance, which guarantees that political, social, and economic agendas are founded on a broad consensus in society."²

According to International Market Fund, good governance is a comprehensive idea that encompasses all facets of a nation's governance, such as its legal system, economic policies, and regulatory framework."³

So if the government has to maintain good governance in the state, they shall work on the basis of the rule of law. We think that the rule of law is a modern concept. But it is not true. In our Indian traditions, the concepts of good governance and rule of law are already described in ancient documents, namely the Vedas, Upanishadas, Kautilya Arthshashtra, and many more. Even in the concept of Rajdharma, the Rule of Law is elaborated in various ancient books.

The simple meaning of Rule of Law is that no one is above the law; even the government or authority of power are also working under the law. In the Indian Constitution, there is nowhere a clearly given definition of good governance or Rule of Law, and it even does not explain the relation between them. But the judiciary used this term in the various judgments.

The Indian philosophers, namely Chanakya, i.e., Kautilya, have given prime importance to good governance and the rule of law, described their theories, and explained that a king should be under the law and no one is above the law. The king and representatives of the state shall have to govern the state through law.

Rule of Law

The Rule of Law has been deprived of the French phrase, i.e., 'la principle de legalite' means 'Government has to work based on principles of law'. The concept of a rule of law comes from ancient Rome. It was developed by various philosophers in the medieval period by Hobbs, Locke, and Rousseau through their Social Contract Theory.

According to Edward Coke, the Rule of Law means 'absence of arbitrary power on the part of the government. It means the king is under God, and the law must act under the supremacy of the law.'

Vedic Tradition of Good Governance and Rule of Law in India

In the Vedas, Good Governance is known as Raj Dharma. Raj Dharma is the duty of the king towards their state. Dharma is the Indian version of natural law, as Indians perceived it in ancient

² Definition of Good Governance as per UNDP Report 1997 available at: <https://sustainabledevelopment.un.org/content/documents/6673adt.pdf>

³ IMF Definition of Good Governance available at: <https://www.imf.org/en/About/Factsheets/Sheets/2023/The-IMF-and-Good-Governance>

society, but their vision of it was very far-fetched and is praised by many imminent personalities like Max Muller.⁴ Dharma is the legal duty of the individual towards society, and Raj dharma is the duty of the king towards the state to preserve and maintain social security, justice, rights, and law. The Manu, Kautilya, and Mahabharata contain the various rights and duties of the king and even recognize the various human rights of society at large.

In Vedic culture, prime importance is given to Dharma, whose main aim is the welfare and upliftment of society. Dharma is the law, i.e., talk about the moral laws, duties, and rights of individuals. Presently, Dharma is considered a religion, but that is not true; it is a law. Justice J. Hansaria, in A.S. Narayana Deekshitulu vs. State of Andhra Pradesh & Ors, had described in 'A Call to Humanity' book of Swami: "Religion is enriched by visionary methodology and theology, whereas dharma blooms in the realm of direct experience. Religion contributes to the changing phases of a culture; dharma enhances the beauty of spirituality. Religion may inspire one to build a fragile, mortal home for God; dharma helps one to recognize the immortal shrine in the heart."

As Per Mahabharata

The twelfth book of the Indian Epic, Shanti Parva, provides detailed information regarding the Raj Dharma. Currently, what we refer to as "politics" in modern terms is called "Rajdharma" in ancient languages. There are details about Rajdharma in the Mahabharata. Aside from this, references to the Rajdharma have been made throughout the Mahabharata in accordance with the situation. However, after talking about the Shanti Parva, it becomes evident that the primary subjects of discussion in Rajdharma are the nature of the monarchy and his needs, the situation of the kingless society, the king's organization of the state and the well-being of the people, etc. The Mahabharata gives an idea as to the king's and the state's origins. To Yudhishtir's question, Bhishma replied that there were no kingdoms or kings during the Satyayuga. People's dread of religion made them instinctively carry out their duty. So, at that time, there was religious discipline. Over time, attachment and greed spread across society. Seeing time as uncontrollable, Brahma used his wisdom to produce a moral treatise consisting of one lakh chapters, detailing Dharma, Artha, and Kama, at the behest of the gods. Trivarga is the name of this chapter. "Iti Raja Rajte" A king is someone who has been appointed and who shines among the people. The king possesses a divine essence, according to an old belief. The same components that formed gods like Vishnu, Indra, Varun, and others also constructed rulers. The king is the wisest and cleverest because of this. As stated by Shri Krishna himself in the Mahabharata (Bhishma Parva 34/27), "Narayanam Cha Naradhamah" means "I am the king among the human race. The implication is that, although the king is a member of the human race, he bears the mark of God.

There were many different types of challenges and barriers in society. Therefore, in order to manage the unruly population, a strong structure of government was required. Because each person strictly followed the laws of moral behavior out of habit and culture rather than out of fear of punishment from a strong, overbearing authority like the state, this kind of society was the most

⁴ Bhavan Journal, p. 123, Vol. XX, No. 1, 1973.

ideal. As a result, protection and cooperation occurred. Society was devoid of the problems brought about by personal exploitation and greed. The people's unquestioning loyalty to the Dharma was reinforced by their confidence in it and their fear of facing divine wrath if they disobeyed it. But the idyllic society that was so vividly portrayed was short-lived. The real state of affairs steadily declined, although people's confidence in God, the effectiveness and usefulness of Dharma, and their god-fearing mindset persisted in ruling society.

These people posed a threat to peaceful coexistence, which in turn caused uncertainty and anxiety about people's safety, both personally and in terms of their property. "Society seemed to operate under the principle of 'Matsyanyaya,' where the larger fish preyed upon and consumed the smaller fish, symbolizing a system where the powerful dominate the weak." The law-abiding individuals were compelled by this circumstance to look for a solution. As a result, the institution of kingship was established, along with the state's or the king's authority, and Raja Dharma—a modern constitutional law that specifies and restricts the exercise of power by the various branches and departments of the state—was formulated.

The Mahabharata succinctly conveys the primary significance of kingship and the significant impact a king has on the status of society. There is no room for argument over whether the king creates the age or whether the era creates the king. The ruler surely made the age. This statement is a timeless reality. In any given polity, the king bears a great deal of responsibility for the condition of the country or society. The monarch's conduct and character, as well as his ability to uphold Dharma, or the rule of law, have a significant influence on whether or not the populace is moral. Because Dharma depended only on the proper application of Rajadharma, it was believed that Rajadharma was the highest and the protector of the people.

As Per Kautilya Arthashastra

The Kautilya Arthashastra very deeply elaborates on the king's duties towards the state and explains the importance of good governance and the rule of law.

" According to Kautilya, "There is no kingdom without a country, and there cannot be a country without people."⁵

It means the kingdom and its people are both in need of each other. If the king has not worked for the prosperity of the state, no one is ready to live in the state. A king should work for the people and not for himself. If it acts ambiguously and arbitrarily, the rights of individuals are violated. So the king should be under the law, and only then will the people of that kingdom live happily.

"A monarch ought to be vigilant in anticipating potential disasters, attempting to prevent them from happening, managing those that do occur, eliminating any barriers to business, and preventing the state from losing money."⁶

⁵ {13.4.5}

⁶ {8.4.50, 8.5.21}

According to this, the state can only become ideal if the monarch is ideal. It had detailed the King's many attributes. An exemplary monarch ought to possess audacity, eloquence, and a sharp mind, memory, and intelligence. He ought to be responsive to direction. He need to be capable of leading the army and have extensive training in all the arts. He ought to be fair in his rewards and punishments. He ought to be wise enough to take advantage of the chances by selecting the appropriate moment, location, and course of action. He ought to be capable of leading both in peacetime and during emergencies. He ought to understand when to strike at an enemy's weakness, when to hold out for peace, when to lie in wait, and when to honor treaties. He ought to maintain his honor at all times. and refrain from laughing in an indecent way. He should avoid frowning, speak sweetly, and look directly at people. Passion, rage, avarice, stubbornness, fickleness, and backbiting are things he should avoid. He ought to act in a way that complies with the guidance of the elderly.⁷ "A monarch who upholds the law and fulfills his responsibility of justly defending his subjects will go to paradise; in contrast, a monarch who fails to do so or metes out unfair punishment will not."⁸ "A monarch who disobeys the Dharmashastras and the Arthashastra destroys the realm through his own wrong."⁹

The court does not wait for the petitioner to get justice when he applies for justice, but the court itself works for justice. It is open to all people, even those who do not live in its country. The King is accessible to everyone, not only those close to him. If he makes the wrong decisions, the people will get angry and may turn into enemies.

Kautilya explains the law and justice system of ancient times in Arthashastra.

"The king who fulfills his responsibility to safeguard his subjects in a fair and law-abiding manner will ascend to paradise, while one who fails to do so or administers unfair penalties will not."¹⁰

"This world and the next are protected only by the power of punishment, applied equitably according to the offender's culpability and regardless of whether the offender is the King's son or an enemy."¹¹

"When all conventional rules of behavior disappear [due to misuse or disobedience], only the King [alone] has the authority to make and enforce laws [to preserve them] since he is the defender of this world's proper conduct with its four varnas and four ashramas."¹²

"Judges must carry out their responsibilities impartially and objectively in order to gain the public's respect and affection."¹³

⁷ {6.1.2-6}

⁸ {3.1.41}

⁹ {8.2.12}

¹⁰ {3.J .41}

¹¹ {3.1.42}

¹² {3.1.38}

¹³ {3.20.24}

It is explaining the Kautilyan legal system, which is an essential duty of the government, i.e., maintaining social order. Their arthashastra contains two books. First, “concerning upholders of dharma, i.e., civil law—family law, law of contracts, and law of labour. Second, “the removal of thorns, i.e., criminal law, penal code, and the removal of anti-social activities from society. It is broadly clarifying the maintenance of social order and the need to prevent and punish criminal activity. In addition to this, law procedure also describes, i.e., law evidence. The judge is known as a ‘dharmastha’ upholder of dharma. Dharma is the only source of law. If king, follow Rajdharma so social order is maintained in society. The king is only the guardian of the law in society. If all traditions do not follow their code of conduct and breach of duty, the King can only pressure them to follow the law.

Good Governance and Rule of Law in India

In contemporary India, good governance is used instead of Raj dharma. The government has a duty to maintain the rule of law and protect society. Good governance means the governance of the law in the right and just sense. The rule of law is essential to good governance and is one of its key components. The rule of law confers government authority and legitimacy. Rules and regulations provide the framework for activity and decision-making.

Sir Edward Coke was the origin of this concept, but this concept is already available in our Puranas, not only in the Mahabharata and the Kautilya Arthashastra but also in the Ramayana and other Puranas. He said that everyone must be under the law, i.e., no one above the law. After that, Dicey formulated the concept of the rule of law.

He says the following:

- i. Government officials do not have discretionary power.
- ii. Except in cases of a violation of the law proven in a regular judicial proceeding, no one shall be subjected to physical suffering or have their property taken away from them.

The following are implied by the rule of law:

- a. No one, even government officials, is granted special privileges.
- b. The regular courts of the land must have jurisdiction over all individuals, regardless of their status.
- c. The laws enacted by the State's regular legislative bodies ought to govern everyone.
- iii. The rights that the people want must stem from the customs and traditions that the courts have recognized as legitimate in the administration of justice.

While both the rule of law and good governance are vital ideas, they are not synonymous. The rule of law is a set of legal and governance precepts that guarantees all people, groups, and governments are subject to accessible, uniformly implemented, fair, and documented rules. On the other hand, the creation, application, and enforcement of those laws are the domain of good governance.

Ensuring the equitable, transparent, and inclusive application of the law is the goal of good governance. Both the rule of law and good governance, when properly formulated and put into practice, promote cooperation and mutual respect among individuals, public servants, and the institutions they serve. Having a strong legal system and effective government are crucial for fostering and preserving mutual trust.

A government that practices good governance raises the standard of living for its citizens by establishing and making available the necessities of life, giving its citizens security and the chance to improve their lot in life, giving them hope for a brighter future, granting equal and equitable access to opportunities for personal development, enabling participation and the ability to influence public affairs decision-making, maintaining a responsive legal system that administers justice based on merits in a fair, unbiased, and meaningful manner, and upholding accountability and honesty in every branch and employee of the government.

Both the good governance and rule of law have inserted in the constitution of India through fundamental rights of the citizens, directive principles of the state policy, independence of judiciary. The constitution's preamble lays forth the three main ideas of justice, liberty, and equality. Part III of the Constitution guarantees fundamental rights, which are also rendered enforceable by Arts. 32 and 226. It is evident that the Indian Constitution is supreme and that the judicial, legislative, and executive branches are all bound by this omnipresent document. Fundamental rights violations may be brought before the Supreme Court and the High Courts through writ petitions, as the theory of judicial review has been accepted in its entirety.

Justice Khanna observed that: "Rule of law is the antithesis of arbitrariness. It is accepted in all civilized societies. It has come to be regarded as the mark of a free society. It seeks to maintain a balance between the opposite notions of individual liberty and public order. The principle that no one shall be deprived of his life and liberty without the authority of law was not the gift of the Constitution. It was a necessary corollary of the concept of relating to the sanctity of life and liberty, it existed and was in force before the coming into force of the Constitution. Even in the absence of his life or liberty without the authority of law. This is the essential postulate and basic assumption of the rule of law and not of men in all civilized nations. Without such sanctity of life and liberty, the distinction between a lawless society and one governed by law would cease to have any meaning. Art. 21 incorporates an essential aspect of that principle and makes it part of the Fundamental Rights guaranteed in Part III of the Constitution. It does not, however, follow from the above that if Article 21 had not been drafted and inserted in Part III, in that event, it would have been permissible for the State to deprive a person of this life or liberty without the authority of law."¹⁴

Conclusions

¹⁴ ADM, Jabalpur v. Shivakant Shukla, (1976) 2 SCC 521, paras 525-536, 575, 593.

As per the above discussion, it is clear that good governance and rule of law concepts are not new in India. Because it is already covered in Sanskrit and culture in the form of Raj Dharma. In the Mahabharata in “Shanti Parva” in detail elaborated the duty of kind towards their State and society. The king has duty to protect and preserve the rights of the society and work for the welfare of the society. There were many different types of challenges and barriers in the society. Therefore, in order to manage the unruly population, a strong structure of government was required. In the Kautilya Arthashastra very deeply elaborate the king duties towards the state and explained the importance of the Good governance and Rule of Law.

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