

The Benefits and Drawback of the Rule of Law

Let us first take up benefit of law. The institution of law plays an important and indispensable part. The law cannot, of course, directly initiate or promote the erection of the edifice of civilization; it cannot order people to be inventors or discoverers, to contrive new ways of city building, or to compose good music. But it can make an indirect contribution towards achieving the "good life" in society by establishing the conditions in whose absence the higher tasks of human social organization could not be discharged.

The success of social system depends largely upon its ability to direct the surplus energies, which are not absorbed by economic or sexual pursuits into socially desirable channels. This can be achieved only if the base of the entire structure is so solidly constructed that the top layers may be superimposed without causing the collapse of the foundation. Only a society which has set up a working system for the primary satisfaction of basic wants can afford to direct or encourage activities which are designed to enrich and embellish the material and spiritual world in which we live and to satisfy the urges of all human beings to participate in a great undertaking.

The beneficial effect of the law upon society to a considerable extent from the fact that it creates and maintains a sphere of security for individuals in certain basic conditions of life. The law protects the life, bodily integrity, property transactions, family relations, and perhaps even the subsistence and health of the members of the body politic. It makes it unnecessary for people to set up private systems of protection against invasions of their privacy. It promotes the growth and maturing of human personalities by creating ordered conditions beneficial to the development of their mental and spiritual powers. It curbs physical or social adventure by those whose nature drives them to seek mastery and arbitrary power over others. By stabilizing (within the limits set by the unruly aspects of human nature) certain basic layers of conduct, the law helps to free the performance of the higher tasks of civilization from constant attention to problems on the lower levels, which may interface, with an adequate discharge of these higher functions. Furthermore, the law sets up institutional frameworks to provide means and proper environments for carrying out the manifold political, economic, and cultural tasks, which a progressive society must accomplish in order to achieve satisfaction of the demands of its members. By performing these functions, the law helps the creative, life-affirming powers latent in the social body to flow into constructive channels, and it thereby proves to be an indispensable instrument of civilization.

In the domestic affairs of nations, as well as in the international arena, law has aimed at serving as an institutional device for substituting aggressive force by peaceful forms of human relations. The past history of mankind demonstrates clearly that thus far the law has been more successful in curbing fighting within organized groups than in controlling warfare between such groups.

A chaotic state of society in which individuals or group would be engaged in constant strife, attempting to harm or annihilate each other, would not be conducive to developing in men those constructive faculties whose affirmative

exercise is a condition of human happiness and cultural growth. The entire energies of men, in such a state of affairs, would be applied to self-protection and the devising of destructive means for warding off aggressors or committing aggressive acts. The psychology of human beings is not so constituted as to make likely the existence of endless and perpetual condition of social struggle. Almost all societies have succeeded in establishing various means of coexistence among their members and in creating institutions designed to promoted harmony and peace within the social unit.

In this human endeavor to form orderly and peaceful ``polities,`` the law has played a vital and leading part. Law is an instrument for the rational distribution of power in society. If it undertakes this task successfully, the law makes a significant contribution to social cohesion and the security of life. A healthy system of law will allocate rights, powers, and liabilities according to a plan, which takes account of the capabilities and needs of individual persons as well as the concerns of society as a whole. The legal system of a social body also sets up machinery for the adjustment of conflicts arising between various members of the unit, including in many states conflicts between these members and their government.

While domestic law strives to safeguard intragroup harmony and cooperation, international law pursues the same aim on a transnational or world basis. It seeks to reduce the cause for international strife by fashioning norms and procedures to facilitate political and economic intercourse between nations, to adjust disputes and grievances among them, and to protect the nationals of one country residing under the temporary sovereignty of another country. It will be generally conceded, however, that because of the incomplete character of its normative system, and certain serious weaknesses in its processes of enforcement, international law has not been greatly successful in eliminating the sources of international friction and in composing severe differences between nations.

In a world threatened with atomic destruction, this deficiency in the rule of law must be cause for grave concern. In the words of Ranyard west, ``the trouble of modern society springs less from the individual self-assertiveness of its individual members than from its failure to master collective aggressiveness.``¹ At this juncture of history, it is a matter of speculation whether a remedy for banishing international war will be found in the future. Some distinguished students of human nature have expressed considerable doubt regarding the possibilities for a satisfactory solution. Sigmund Freud, for example, was convinced-at least in the later periods of his life-that the sociable and creative impulses of human beings are fully matched and counteracted by a negative force, the ``death instinct,`` which finds one of its outlets in the human desire for aggression and destruction.²

¹ Consciences and Society (New York, 1945)

² Freud, The Ego and tbe Id, transl. J. Riviere (Landon, 1949)

The powerful drive, Freud believed, stands in the way of an abolition of war. He expressed some hope, however, that the progress of culture and "the justified dread of the consequences of a future war" might result within a measurable time in putting an end to the waging of war.³ More recently, the German ethnologist Konrad Lorenz came to the conclusion that "intraspecific fighting" is common to animals and men, but like Freud he did not rule out the possibility of devising some effective controls on man's bellicose impulses.

Freud's hypothesis of a universal human impulse of aggression was questioned by Erich Fromm. In his opinion, the destructive forces in human nature are not primary and appetitive but come to the fore only in frustrating circumstances. "The degree of destructiveness is proportionate to the degree to which the unfolding of a person's capacities is blocked... If life's tendency to grow, to be lived, is thwarted, the energy thus blocked undergoes a process of change and is transformed into life-destructive energy. Destructiveness is the out-come of un-lived life." If this theory is correct, it does not, of course, throw a great deal of light on the likelihood of future wars. Nations, like individuals, may become faced with frustrating situations if they encounter strong hostility in the surrounding world.

Bronislaw Malinowski addressed himself specifically to the question whether the instinct of warfare was implanted in the human genetic system. He answered this question in the negative. "Human beings fight, not because they are biologically impelled, but because they are culturally induced... War is not the original or natural state of mankind." If war came from an innate biological urge, he said, it would most certainly occur at the earliest stages of anthropological development, where these inclinations manifest themselves in their most primitive groups. Later, when intertribal fighting makes its appearance, it is only an occasional affair and remains on a small scale. Such wars may break out when one organized group feels threatened in its interests and security as a collective unit by the actual or anticipated interference of other units. Hunger may also drive an aggregation of human beings to the warpath. Fighting in these cases does not take place for its own sake, but under the impulses of fear, anger, or desperation. While wars of conquest occur at later stages of development, they are in Malinowski's opinion, conducted because they are economically and politically profitable and not because human beings are driven into them inexorably by a supposed "animal of prey" constitution of human nature.⁴ Some support for this theory can be found in the fact that the Roman Empire was able to preserve peace for two centuries, and that many nations in the modern world (among them Switzerland and the Scandinavian countries) have not commenced wars for a considerable period of time.

³ Freud, "Why War?"

⁴ Id., pp. 278, 282, 286

The course of future history will provide the final answer to this perplexing question. Even if unification of the globe should some day be achieved, this would not exclude the possibility of destructive civil wars waged between some constituent units of a world state. We cannot be entirely sure whether there will not always be a sufficient number of strong-willed, power hungry leaders able to capture the militant instincts of men and thus to render permanent peace a utopian dream. There would not, however, at this time appear to exist a preponderance of psychological evidence tending to show that aggressive violence is a primary, ineradicable trait of the majority of human beings, and that moral struggle to the bitter end must be the inevitable fate of mankind.

In a society, which leaves any leeway for the exercise of individual initiative and self-assertion, there will necessarily be conflicts and clashes between contradictory individual interests. Two persons may covet the same property and may have taken steps to obtain it, which have entangled them in a serious dispute. Several persons may have entered into a partnership and encountered disagreements in the management of the enterprise or in the computation of individual shares of gain or loss. One person may have injured another person and may have been exposed to a claim for damages on the part of that person, but may have denied his obligation or responsibility to make good the other's loss.

Societies are not, however, troubled only by contradictions and conflicts between the interests of individuals (or groups of individuals). There may also arise incompatibilities between the interest of a single individual or group of individuals on the one hand and the interests of society viewed as an organized collective unit on the other. The government may wish to build roads structures in places occupied by a private owner. It may wish to impose curbs and restrictions in the interest of internal security of national self-preservation that infringe upon the freedom of individuals to act or speak. In wartime, organized society may have to go as far as to require individuals to sacrifice their lives for the sake of the collective whole.

It is one of the chief functions of the law to adjust and conciliate these various conflicting interests, individuals as well as social. This must be done, in part at least, by the promulgation of general rules assessing the weight of various interests and providing standards for their adjustment. Without certain general yardsticks of a normative nature, organized society would flounder around in uncertainty in determining what interests should be regarded as worthy of protection, what the scope and limits of their guaranty should be, and what relative rank and priority should be assigned to various claims and demands. Without measuring rods of this type, the adjustment of such interests would be left either to chance or happenstance, with fatal consequences for social cohesion and harmony, or to the arbitrary fiat of a group having the power to enforce decisions.

Interests, as we have seen, may be either individual or social. Among the individual interests may be counted the interest in one's own life in private property, freedom to make contracts, and freedom of expression. The social interests requiring recognition and protection by the legal order and which in part overlap with the individual interests mentioned were classified and described by

Roscoe Pound. Among the interests to be encouraged and promoted, according to him, are the following: interest in general security, which includes safety from internal and external aggression and public health; security of social institutions, such as government, marriage, the family the religious institution; social interest in general morality; conservation of physical and human resources; interest in general progress, especially economic and cultural advance; and, last but not least, social interests in individual life, requiring that each individual be able to live a human life according to the standards of the society.

The most difficult question arising in relation to these individual and social interests is their relative ranking and importance if all of them cannot be satisfied at the same time. What determines or should determine the value judgments that may have to be made in assigning preferences and priorities to one or another of the interests mentioned? This raises the problem of a "valuation of interests." Is the interest in general security superior to the individual interest in property protection and maximum self-development? Does the social interest in conservation of natural resources prevail over the individual interest in full exploitation of private property, such as oil property?

Pound himself declines to commit himself to a rigid experimental. The jurist should be aware of the nature of his responsibility and should do the best he can on the basis of the best information he can get. The final goal, as Pound sees it, is the satisfaction of as many interests as is possible with a minimum of sacrifice and friction.

It is indeed not possible to undertake, by the methods of philosophy, a generally valid and authoritative ranking of the interests entitled to recognition and protection by the law. This does not mean, however, that all interests must be regarded by jurisprudence as necessarily being on the same plane, and that no qualitative evaluation is ever feasible. The interest in life, for instance, being the normal precondition for the safeguarding of other interests (especially all individual interests), will be entitled to claim precedence over the interest in property. The interest in health would appear to rank above the interest in pleasure or entertainment. In the case of legitimate war, the interest in the preservation of the commonwealth would have precedence over human life and property. The protection of the natural resources of a country for the sake of future generations would appear to be superior to the desire of an individual or group to gain wealth through the exploitation of such resources, especially at the time when maintenance of a proper ecological balance conditions the survival of the human race. This last example shows that the special historical and sociological contingencies of an age may prescribe or necessitate particular priority rankings among social interests, even though there may be little merit in an attempt to establish a permanently valid or rigid value hierarchy for the legal order.

Adjustments of competing interests, and the assignment of priorities among them, are often undertaken by means of legislation. However, since legislation is general and prospective, a statutory enactment may be insufficient to solve a concrete case in which a clash of interests has occurred. In that event it may be necessary to determine the relevant facts and render a decision as to which of the opposing claims is entitled to recognition.

The process of decision-making in this area may take on several forms. The law may, as a matter of principle, adopt a black-and-white approach and respond to the adverse pleadings in a litigated case exclusively by the device of upholding the claims of one party and denying those of the other. This has been the traditional preference of the common law. For example, in a personal injury case when both parties are guilty of negligent conduct, the common law has refused to sanction a compromise solution, which would reduce the size of the plaintiff's recovery proportionately to the measure of his own negligence; it has instead insisted on denying recovery altogether to a claimant guilty of any degree of contributory negligence.

In Anglo-American equity jurisprudence, on the other hand, this rigid attitude has not prevailed. A court, in a proceeding governed by equity, may issue a conditional decree requiring the plaintiff to do justice to the defendant, in some form or other, as a prerequisite for obtaining the relief requested by him. Equity has recognized that there may be varying shades of gray in the relative positions of the parties, that both of them may be partly right and partly wrong, and that therefore a compromise or mutual adjustment may be preferable to an "either-or" solution.

In recent times, increasing resort has been had in many countries to the processes of arbitration, which involve the submission of disputes to persons standing outside the regular court system. The submission may be entirely voluntary, depending on the free and mutual consent of the parties, or it may be compulsory, if consent is enforced by a legal enactment. In both instances, the arbitrators are commonly given a large measure of discretion in adapting their awards to the particular circumstances of the case.

The device of mediation is distinguished from arbitration by the fact that arbitrators issue awards, which are generally binding and enforceable, while mediators merely bring the parties together and help them, reconcile their differences by a voluntary settlement. In Confucian China, mediation was favored strongly over litigation, and this preference has to a considerable extent been preserved in contemporary China. Other eastern countries, such as Japan and the Soviet Union, have also adopted various types of mediation procedures. A trend in the same direction, in some areas of social relations, can be observed today in the western world.

The question may be raised whether arbitration and mediation, because of the great flexibility and informality of their procedures, signify a contraction of the sphere of the law. To the extent that arbitrators and mediators, in making their decisions, are governed by basic rules and principles of law, this need not be case. It can be assumed that they will be so guided in many instances, especially when those basic rules at the same time mirror the conceptions of justice prevailing in the particular society. Furthermore, within the limits of the strictly mandatory provisions of the positive law, arbitration and mediation will sometimes lead to the adoption of private norms regulating the future conduct of the parties and thus bring about a special kind of legislative law.

The Drawbacks of Law

Although the law is an indispensable and highly beneficial institution of social life, it possesses like most institutions of human making certain drawbacks which, if they are insufficiently attended to or wholly ignored, may evolve into serious operational difficulties. These shortcomings of the law stem in part from its formal structure, and in another part from the restrictive aspects connected with its control functions.

Hans Morgenthau has said that “a given status quo is stabilized and perpetuated in a legal system” and that the courts, being the chief instruments of a legal system, “must act as agents of the status quo.” Although this statement pays insufficient attention to the complex interplay between stability and change in the life of the law, it contains as important ingredient of truth. By setting forth the social policy of a particular time and place in constitutional and statutory precepts, or by making the precedents of the past binding, or presumptively binding, on the judges of the present, the law evinces a tendency towards conservatism. This tendency is rooted in the nature of a law as system of rules not subject to change from day to day. Once a scheme of rights and duties has been created by a legal system, perpetual revisions and disruptions of the system are, as much as possible, avoided in the interests of freedom, security, and predictability. But when the established law comes into conflict with some fluid, pressing forces of social growth, a price may have to be paid for this policy of stability. “Society changes, typically faster than the law. In times of social crisis, the law has frequently broken down, making room for discontinuous and sometimes cataclysmic adjustments.

The problem of the “time lag” in the law may manifest itself on various levels of the legal system. A constitution which is very detailed and specific in its provisions, and not easily amendable, may under certain circumstances operate as a fetter on progress and change. A legislature may be impeded in its task of reform by influential groups which have a vested interest in the maintenance of things as they are. Furthermore, legislative procedure is often slow and cumbersome, and legislators are prone to attend to issues of immediate political advantage more expeditiously than to the revision of outmoded codes or the modernization of tradition-clogged judicial law. Judges, for the most part, innovate rarely, hesitantly, and interstitially. They may follow antiquated precedents even they have power to overrule them.

Related to the conservative bent of the law is certain rigidity innate in its normative framework. Since legal rules are couched in general, abstract terms, they sometimes operate as straitjackets in individual situations. The aversion expressed by Plato in some of his works to the notion of law is rooted in this characteristic feature of normative arrangements; general rules, he thought, could not do justice to human relations because of their infinite variety and complexity. Aristotle pointed out that the law, although as indispensable social institution, may by its generality and universality cause hardships in individual cases; he proposed, therefore, that in certain well-defined situations a correction of law by means of an individualized equity be permitted. Even more radical apparently, was the antipathy of Confucian ethics to legal rigidity, which manifested itself in a strong preference for mediational justice. Confucianism

discouraged a litigious attitude, characterized by a desire to vindicate rights accorded by the legal order to the fullest extent, as distinguished from a willingness to compromise and meet the adversary halfway in a spirit of amicable forbearance.

A third potential drawback of the law stems from the restrictive aspects of normative control. Norms are designed to combat and forestall anomie, that is, structureless growth that may produce a social jungle without discernible pathways guiding the steps of human beings. Since there is always a danger that institutions serving beneficial purpose may be employed beyond the legitimate bounds of their functions, it may in some historical situations happen that regulation turns into overregulation, and that control becomes transformed into restraint. Private and public power become unduly tight and unbending, some salutary forms of expansion and experimentation may become stifled. It was Nietzsche's fear that restrictive character of the law ways of social organizations would always produce this result. Although many reasons exist for rejecting the eccentric dynamism of his power philosophy, one must at the same time acknowledge that he posed a problem that should not be ignored.

There are historical instances, which exemplify an overuse of legal control functions. The late Roman law of the Dominate period interfered with the activities of private individuals in every conceivable way, including the field of occupational choice. Artisans, handicraftsmen, and other workmen were not only bound to their jobs, but their calling was even made hereditary: the son was forced to do the same kind of work as his father. At the later time, the Code of Frederick the Great of Prussia was characterized by a minute regulation of the life of the citizens, extending to some intimate details of their domestic relations. In nineteenth-century America, public administration was sometimes hampered by an over restrictive use of the law, which tended to paralyze needed discretionary exercise of governmental power.

Shortcoming of the law can presumably be avoided by a wise and judicious use of norm-setting authority. This applies particularly to the danger of over regulation. It must be realized, however, that in certain sociological situations, when anarchy and disintegration threaten the social body, the temptation to employ repressive methods of legal control becomes strong. The endeavor to stem the centrifugal forces operative in society and bring about a greater degree of social cohesion may swing the pendulum over to the other extreme of enforced stagnation and conformity.

Other drawbacks of the law are inextricably connected with the essential character of the institution and represent the reverse of the coin of its beneficial components. "Where there is light, there is shadow." The conservative, past-oriented aspects of the law insure a degree of continuity, calculability, and stability which makes it possible for people to rely on established, preannounced rules of conduct in planning their activities and avoid collisions with others due to a lack of foreseeable modes of human behaviour.

An increased use of mediational or arbitral justice would reduce some disadvantages of legal inflexibility, such as the "all-or-nothing" and "winner-take-all" philosophy of typical adversary litigation. It would produce many voluntary or

court-imposed compromises resulting in “the apportionment of right and duty between opposed litigants by a court according to a quantitative standard that is not limited to the favoring of one party to the exclusion of his adversary. It can be safely assumed, however, that a developed legal system will have to recognize many situations in which the answer to a litigant’s claim must be a clear-cut “yes” or “no”. it is also necessary to realize that the processes of conciliation require a cooperative attitude on the part of opposing parties which will not be present in all cases.

The truly great systems of law are those, which are characterized by a peculiar and paradoxical blending of rigidity and elasticity. In their principles, institutions, and techniques they combine the virtue of stable continuity with the advantages of evolutionary change, thereby attaining the capacity for longevity and survival under adverse conditions. This creative combination is very difficult to achieve. It requires statesmanlike acumen on the part of the lawmakers, a sense of tradition as well as sagacious discernment of the trends and needs of the future, and a training of prospective judges and lawyers which accentuates the peculiar and enduring features of the technical juridical method without losing sight at the same time of the claims of social policy and justice. These qualities can be acquired and developed only in a slow and painful process through centuries of legal culture.

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THE STATE IN INDIAN PHILOSOPHY

1. Origin and Nature of the State

Hindu jurist generally subscribed to the theory of social contract regarding the origin of the state. The Mahabharat describe primitive society as having no state and no law. There was no ruler and no subjects. People protected themselves by dharma. But this ideal state did not last long and chaos ensued. The condition of society was similar to the one prevailing in the sea where the large fish devours the small one. People approached Manu and made him their King. In the Western world the theory of social contract whereby the people formed the state by transferring their rights to the ruler has assumed various forms. In ancient India the theory supported a monarchical form of government subject to the rule of dharma.

Kautilya is the principal writer on political science. His famous work is named arthashastra. The name is little misleading. It is more a work on politics than economics. Another name for political science was dandaniti. A danda or the power of the state was the means of acquiring and preserving the wealth of the people. Kautilya defined artha as "land peopled by men", Wealth therefore included human and material resources. Writers on political science concentrated their attention on practical affairs which are amenable to human experience. In fact, Kautilya boldly states that conduct dictated by policy may and not confirm to the rules of dharma. Kautilya has been compared with the Italian jurist and political philosopher Machiavelli who propounded the theory of the "Policy of State", "raison d'etat" which may not confirm to the moral theory of natural law.

The most important constituent of the state is its territory. Ancient India, was called Bharatvarsha. It was clearly marked by two broad divisions, aryavarta and dakshinapatha. Aryavarta was the land where vedic culture and civilization originated and flourished. This culture and civilization spread gradually to the south. Aryavarta was the land between the Himalayas and the Vindhya and between the eastern and western oceans. To the south of the Vindhya lay Dakshinapatha. This culture and vast territory was not one state except when great emperors like Chandragupta, Ashoka and Samundragupta extended the frontiers of their states and consolidated their empires. Imperial sovereignty, however did not entirely suppresses local powers. Vissal states recognizing imperial sovereignty continued to function. Bharatvarsha did not remain merely a restricted geographical entity but an expanding geographical area peopled by men who lived the bhartiya way of life. Bharatvarsha was not a single state but the entire population and of Bharatvarsha was governed by communal and other laws, which forged the population emotionally, and culturally into one people or nation. The basis of nationality is psychological and the bonds uniting the people of Bharatvarsha gave them the imprint of a common nation or Rashta.

Originally the Aryans were not divided into castes. Later on they developed a caste system on functional grounds. But ultimately the caste systems degenerated into rigid order based on birth. Society was fragmented into higher and lower castes and discrimination was practiced in favour of higher castes. Unsociability was practiced and it has prevailed right down up to the present times. In the light of the Vedic declaration of the equality of men, the later smriti regulations and customs should be discarded and Hindu society should be organized on the basis of true Saanatana dharma.

2. King

Political theorists of ancient India conceived of the state as having seven elements. They were the King, the people; ministers, treasury, army, forts, and allies. We shall now take up the discussion of the office of kingship. Ancient Hindu polity was basically monarchical. There were a few republican states in ancient India but they withered away by the internal dissensions and imperial conquests. In like manner, ancient Greek and Roman republics also were displaced by imperial states. The history of Europe after the fall of the Roman Empire has been one of a number of states ruled by powerful kings down to the middle of the 19th century. It was only in England that constitutional monarchy and parliamentary sovereignty were established after the revolution of 1688.

Ancient Writings like Manu glorified monarchy and attributed divine origin to it. But they did not recognize that the king had absolute powers. The king was subject to dharma. In fact the king was responsible for the conditions of the age rather than conditions of the age were responsible for the king's rule. The personal responsibility of the king to mould the conditions of life was an article of faith. Kalidasa, the great Sanskrit poet speaks of the ideal king as the father of his people responsible for the discipline, protection and maintenance for the discipline, protection and maintenance of his people. Natural fathers were mere procreators.

There were no elected representative assemblies but the king was not despot. He was as much bound by dharma as the people whom he governed. Manu enjoins the people to rise in revolt against protection, violated the law, unlawfully deprived the people of their property and failed to lead them in fighting the enemy. In fact, the king was saddled with heavy responsibilities and had no right to govern by his autocratic will. He could not create new rules of law but only issued administrative orders to enforce the law. He incurred personal liability for the violation of law. He had no immunity. In fact he was liable to more severe punishment than that incurred by the ordinary citizen. It should not be assumed that this ideal of kingship was generally realized. There have been kings good, bad and indifferent. But kingship in India was, on the whole, a beneficial institution.

3. People

We shall now try to have a picture of people who constituted the rashtra. The people constituted the strength of the state. The Smirity writers describe the happy conditions of life under a king harmoniously. There was no class conflict. The caste system also played a significant role in the decentralist ion of social and political life.

The state was sub-divided into various sub-divisions under a governor who was called the 'Rashtriya' or 'Rashtrapati'. Villages were grouped together in a hierarchical order ranging from a group of 10,20,100 and 1000 villages. Special officers were palces in charge of these groups. The civil service was well organized and minute rules were laid down for the appointment and transfer of officers, their condition of service and payment. Provision was made for the retired servants.

Village life was organized on the basis of autonomy. The head of the village was called gramani or gramadhipati. His duty was to protect villagers from thieves, robbers and even the officers of the state. He had limited powers to fine for petty offenses. The village's communities had their own courts. The king was required to respect the usage and conventions of occupational guides, merchants and even heretical sects were allowed to govern themselves in their own affairs.

The state provided several facilities for agriculture and irrigation. Villages in ancient India had several centers of learning and many great scholars hailed from villages.

The king was the guardian of all minors and was responsible for the protection of the property of minors. The king was also charged with the duty of supporting destitute women.

4.Ministers

Ministers were the advisers of the king. The terms employed to describe them were mantri, amatya and sachiva. According to Kutilya, manries belonged to a higher category than amatyas. The larger body was called the mantri-parished consisting of eight or more ministers. The word mantri is derived from 'mantra' meaning one engaged in consultation and deliberation. Kautilya says, "All administrative, undertakings must be proceed by consultation with ministers." The king presided in the absence of the king. Manu prescribes that the king should appoint seven or eight ministers and lays down that they should be men connected with the royal family, learned in Shastras, brave and who are conversant with the aims to be pursued. The number of minister depended on the resources and needs of the state. The king was ordinarily required to follow the majority decision unless he thought to act otherwise. Normally the king consulted each minister separately regarding the affairs of his ministry unless the matter was urgent or important to require joint deliberations. Ministers were under a duty to maintain sececy relating to the affairs of the state. Any breach of duty entailed severe punishment, even death.

Apart from the ministers, there were important dignitaries and executive officer that was called ratiins i.e. jewels of the state. Some important members of this order were (i) the yuvaraj, the crown prince, (ii) the purohita a learned Brahmin to advise the king on spiritual and religious matters. He advised the king on social and administrative matters also (iii) The commander-in-chief and the(iv) ambassador or dute.

The king was enjoined to protect the subjects against the excesses committed by ministers and officers. Manu strongly condemned as thieves corrupt and oppressive officers.

4. Treasury

Kautilya defines royal power and energy as emanating from the treasury and the army. Financial strength and armed might of the state were factors that commanded respect from the people and other states.

The king was advised to levy taxes in the manner in which bees suck honey from flowers. The technical term for ' tax' was bali i.e.. Sacrifice by the subjects for the states. He word 'kara' also was used for taxes in general, tolls or customs duties.

The principal source of taxation was land revenue, which was levied at the rate of 1/6 of the produce. It could be raised to $\frac{1}{4}$ or even $\frac{1}{3}$ of the produce in times of emergency, such as war. The principal taxpayers were agriculturist, traders, workers and artisans. The king helped cultivators by supplying seeds, cattle and cash and recover the advances by easy installment. The state levied duties on goods carried by sea and inland waterways. The duty was to levied only once at a point. Whatever a man could on his shoulders was exempted.

The king owned and exploited minerals. The state manufactured salt and levied a tax on salt manufactured by private persons. There were other sources of revenue such as the road cases, fees from keepers of gambling halls, forest revenues, taxes from pilgrims visiting important centers of pilgrimage.

The state borrowed loans on interest from rich persons and repaid them after the need was over.

5. Army

References to the army are found in the Rigveda. The Vedic Aryans were organized as fighting unit having powerful cavalry. Armed might was greatly colonized by ancient writers. Sanskrit literature is full of the description of armies marching, fighting and conquering the enemy. The king was commonly described as the conqueror.

The army was mainly recruited from landholders who got tax-free lands in lieu of military service. The standing army was the main body of soldiers. Recruitment was made from wild tribes also but the standing

army was the regular force. Trade guilds maintained armed guards for the protection of their merchandise and property. Manu refers to special areas from which soldiers should be recruited to form frontline troops. Megasthenes describe the army of Emperor Chandragupta as having 400,000 infantry, 30,000 cavalry and 9000 elephants.

Strict military discipline was enforced on soldier. Military camps were required to be way from cities and village. Soldiers could visit cities and villages only with the permission of superior officers. Internal fighting, drinking and gambling were strictly prohibited. A system of passes for exit and entry was maintained. Medical units formed part of the army.

A special feature of Hindu military science was the concept of 'dharma-yuddha'. It meant war regulated by the moral laws of dharma. The rules required a fair fight, not taking advantage of the enemy who could not fight. An enemy surrendering was not to be killed. There was to be truce at night and fighting was to be by open challenge. It was this concept of Dharma Yuddha that furnished noble examples of chivalry in war. But at the same, it was mainly responsible for the defeat of Hindu armies fighting foreign invaders who never observed any rules of warfare.

7.Forts

The Vedic Aryans were race and built strong for the defense of their land. Manu mentions different kinds of fortifications and how they were to be equipped. Remnants of ancient forts dating beyond the first millennium before Christ are being excavated even now. The king resided in a special fortified area and the capital was surrounded by a mighty wall surrounded by deep and wide moats filled with water. Under ground tunnels, from and into the fort, provided means of escape in emergency.

Cities were organized under citizen's councils called paura and villages were organized under village councils called Janalpada.

There was an officer called nagarka who was the head of the city police organization. The mayor of the town also was called nagriak who functioned as a link between the citizen and the king. Every mercantile comity has its own head. He was called nagar-shresthi. He was the leading civilian dignitary representing the interests of the mercantile community.

8. International Relations and Alliances

Ancient Indian States within the limits of bharat varsha generally maintained relations with one another under the rules laid down in the samritis. But they were tempered with considerations of policy to suit the interests of the state. Kautilya plainly stated that inter-state behaviour was governed by the interest of the state. Even the Mahabharat stated that relations between states as friends and enemies are formed on the basis of their interests. Neeti or naya icy was policy as recommended by the

rules of political science. Good policy was believed to lead to acquisition and preservation of wealth and bad policy to disaster.

Kautilya has elaborately developed the theory of the circle of states with reference to their geographical location and friendly and hostile relations. The state whose relations with other states are discussed is placed in the center. Immediate neighbours are treated as actual or potential enemies and the neighbours' neighbouring state as natural friend. In the event of war with a neighbouring state, the neighbouring state behind the enemy was a natural friend.

International dealings were to be guided by six elements of policy. They were (i) forming an alliance with another state (ii) maintaining an attitude of hostility (iii) waiting for an opportunity (iv) starting hostilities (v) seeking the shelter of a powerful state and (vi) creating conflicts amongst enemies by alliance with one and hostility with another rules of war were also framed.

The means to achieve the ends were four (i) conciliation (ii) financial assistance (iii) duplicity and punishment. These means were to be employed as suited the convenience of the state.

Diplomatic relations between states were maintained through the agency of diplomatic envoys either permanently accredited or specifically employed. The immunity of the envoy was the most sacred principle of inter-state relations. The most classical examples are furnished by the Ramayana and the Mahabharat. Rama's envoy Angada hurled defiant challenge to Ravana in Ravana's court but no harm was done to Angada. Shri Krishna's mission of peace to the court of Duryodhana is the most fascinating illustration of persuasive diplomacy.

