

**Sakshi**  
**Vol.-52**



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# Reminiscence of Ram Rajya In Modern Law

Justice Devi Prasad Singh

*B.Sc., LLB*

*Former Judge, Allahabad High Court*

*Member (J) & HoD*

*Armed Forces Tribunal*

*Regional Bench, Lucknow (U.P.)*



**AYODHYA RESEARCH INSTITUTE**

Tulsi Smarak Bhawan, Ayodhya, Faizabad (U.P.)

Phone - Fax : 05278-232982

# **Sakshi-52**

## **REMINISCENCE OF RAM RAJYA IN MODERN LAW**

**Justice Devi Prasad Singh**

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**e-mail : vaniprakashan@gmail.com**

**Website : www.vaniprakashan.in**



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**Reminiscence  
of  
Ram Rajya  
In  
Modern Law**

## WISDOM

- (i) “There are three attitudes towards the observance of Dharma; Am I right? These three should be avoided if you want to act righteously. Those are, viz: Uttering a falsehood is a great sin; the second, that is more great sin, is desiring to possess the wife of another man and the third one is, which is worse than even to these two, is hurting someone who has not offended one in any manner.”(Sage Valmiki).<sup>1</sup>
- (ii) “The Wheels (Caka) of the chariot (tehiratha) are valour (Sauraja) and fortitude (dhiraja). Steadfastness in truthfulness and good character (Satya Sila Dradha) are its flags of victory and safety (Dhvaja pataka). The horses (ghore) of the chariot are strength, discrimination, self control and caring for others (bala bibeka dama parahita). Its reins are made up of the ropes of forgiveness, compassion, and equanimity (ksama krapa samata raju jore).”<sup>2</sup>
- (iii) “Cardozo advocated power for creation of law to be exercised with vision and understanding exacts a philosophy of law, the theory of its genesis and growth and aim, only then we shall be saved from the empiricism which finds in an opinion, not a prophecy to inspire, but a command to be obeyed.”<sup>3</sup>

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1. ibid

2. ibid

3. ibid

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## PREFACE

The evolution and growth of law in context to India seems to begin from the dynasty of Lord Shri Ram sometime seven thousand years ago, subsequently saved and moulded during the period of Lord Shri Krishna/Mahabharat to meet the practical difficulties. During the period of Lord Shri Ram, law as subject, based on righteous conduct, was founded on absolute morality, fair conduct and traditions. The morality was so adhered to that even in the extreme hardships, it was not expected to deviate from. Truth was the ultimate object even while dealing with monsters or Rakshasas. Fair treatment even to evil people was the hall mark of civilisation during the period of Lord Shri Ram. We may safely infer that it was Lord Shri Ram, who laid down the foundation of Indian civilisation. Practicability was introduced during Mahabharat adopting the principle of play-in-joint to meet out the challenges of evils to the extent of “ASHWASTHAMA MARO NARO VA KUNJARO”<sup>1</sup>, that too for right cause.

Foundation of modern jurisprudence seems to begin from Roman civilisation, more precisely from Magna Carta (1215 AD). On account of influence of Christianity and Muslims, the tool of Indian jurisprudence shadowed and superseded by western jurisprudence, which appears to be ad-mixture of principles basically borrowed from West, nourished by Socrates, Plato, Montesquieu, Dicy, Bentham and other thinkers/authors. West travelled from “Battle of Ordeal” sometime six or seven hundred years ago to regulate its administration of justice and became civilised in the present form.

The purpose of writing the present book “REMINISCENCE OF RAM RAJYA IN MODERN LAW” is to find out and indicate the righteous conduct or law in Ram Rajya during the period of Shri Ram in modern jurisprudence. A number of statutory provisions, opinions of sociologists, judgments of Supreme Court of India and passages from the articles of western jurists referred to in the present book go a long way to establish the fact that whatever the modern world possesses at present is the off-shoot of ‘Ram Rajya’, at play not only in this country but all over the world. Culture, civilisation and equal treatment in Ram Rajya were superb and were at its highest pinnacle. Deceits or lies seems to not existed in civilized society. Truth was the foundation of Ram Rajya. To exemplify, when a Brahmin beggar hurt the dog, he fearlessly appeared and confessed his guilt fearlessly before King Ram leaving it open to Shri Ram to award any punishment he deserves, includes death penalty.<sup>2</sup>

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1. from Mahabharat.

2. Ramayan, Uttarkand.

Study of life history of Rama by Balmiki, Raghuvansh by Kalidas, Ramayan by Kamban, Ramcharit Manas by Tulsidas and bunch of other authors indicates that law or righteousness was propped up by conduct & fairness. When Sita, the paragon of virtue, says that there are three formidably dangerous evils towards the observance of Dharma or righteous conduct i.e. uttering a falsehood (speaking a lie), desiring to possess the wife of another man (molestation, rape and concubine, etc.) and hurting someone without offending anyone is not righteous in any manner, it does not seem to have relation with the religion as understood today.<sup>3</sup> It was purely undesirable human conduct in tune with today's principle that no one should be punished without commission of crime and without providing an opportunity to defend for the crime committed. It may be noticed that punishment for rape, molestation or possession of another man's wife was treated to be serious offence inviting major penalty of death, not only told by Sita but also in action followed by Shri Rama while executing Bali and later on killing Ravana, being an accused, who kidnapped Sitaji. The trial was fair, punishment was awarded with full compliance of natural justice, as we will find in last Chapter VII of the present book under the heading 'Maiden Justice' where before awarding punishment to a person on account of an injury caused to a dog, Lord Shri Ram gave full opportunity to accused to defend himself. It also shows that the benefit of administration of justice was equally available to animals and nobody was permitted to hurt anyone taking law in his/her own hand without right cause. Punishment awarded by Shri Ram to a Brahmin beggar on the complaint of an injured dog is an eye-opener for modern generation. One other feature, which is the basic principle of modern law, is the liability or accountability of the State. Dhasharath gave his young sons (Ram and Laxman) aged about 15 or 16 years, on demand raised by a sage Vishwamitra reluctantly. It shows that it shall be the obligation of the rulers to secure the interest of its citizens for a peaceful life at the cost of his/her own life and interest. If a parallel is drawn in the present context, bureaucracy, people's representatives and ministers are supposed to serve the people at the cost of personal life, lust and leisure and peace of own family members.

The epic Ramayana contains the history of dynasty of Lord Shri Ram, which undoubtedly is the beginning of Indian culture, civilisation and jurisprudence. The period of Shri Ram also shows that in those days also, monsters or devils used to kill sages, demolish temples, create obstructions in worship of gods. To kill human without cause/reason and do alike crimes as well as disturb the peace and tranquility of society was in nature of evils. The manner and mode of killing was barbaric to create fear in the society. That is why when things were out of control, and kings failed to provide peaceful atmosphere and civilisation was confined to the limited area of the country, all this gave rise in the incarnation of God in the form of Shri Ram. If we consider the Ramayana in the present context, we may

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3. *ibid*

notice that more or less, the same evils like arrogance, crime and barbarity are again raising their heads as we have. Devotees of God and pilgrims are being killed. (For instance, the assault on devotees of Lord Shiva, who were on pilgrimage for Amarnath on 9th July, 2017). Similarly, demolition of temples, mosques, and churches by ISIS, Al Qaeda and other terrorist organisations in Syria, Iraq, Pakistan and Afghanistan, etc bear resemblance to the like situation at ground level. Devotees are killed, mosques are demolished and people are being killed during the prayer/Namaz. The statues of Buddha were demolished in Afghanistan. At number of places, we may notice the assault by hooligans on god-fearing people, temples, gurudwara, mosques and churches. Writ of Governments has failed to check them. This lends cogency that re-incarnation of Shri Ram or Shri Krishna is on cards to save humanity from monsters. Justice H.R. Khanna, former Judge, Supreme Court of India rightly said-

“Unlike some of the countries on the continent of Europe, in England, U.S.A. and India precedents play a very significant part in moulding judicial decision. This is so because ensuring continuity with the past is a matter of imperative necessity in the field of law. There is an eternal struggle between constancy and change-struggle between history and reason, between past reason and present needs.”

However, since last 2200 years, we have allowed our jurisprudence dealing with administration of justice based on human conduct coupled with morality in life to slide into oblivion. The necessary fall out is, none is safe. We live in fear-psychosis from top to bottom; corruption runs like rainy water; all doors of human relations are broken; dignity of children and women is in peril; emphasis on Indian civilisation to teach morality from childhood and establishing our country as a Nation consisting of men of impeccable character forgotten. Three Ws seem to rule the society. Dignified behaviour and respect seem to have vanished in the thin air in the families of modern period. Once the unit (man and/woman) is prone to evil habits, does not possess impeccable character, knowledge, restraint of mind/senses, flavour to serve society and nation, then a system will stare in our face which shall always be not workable for the peace and tranquility in the society. The three principles of basic law or righteous conduct expressed by Sita (supra) and the duty of a king to punish the guilty with all firmness show the highest standard of administration of justice our country Bharat i.e. India was possessing during the period of Shri Ram. We may notice the reminiscence of Ram Rajya in modern jurisprudence/law, referred to at appropriate places in the present book.

My previous books in series- “Philosophy of Life Random Thought, Morality in Law, Law and Reality, Law and Life and Triple Talaq and Common Civil Code deal with different facets of life within four corners of law. Present one a step ahead deals with the law as a subject followed in the form of traditions and practice in ancient India which seems to be very edifice of modern law.

To write something about the philosophy of Ramayana or Shri Ram is beyond the capacity of any common human being, that too by a person like me, who spent his life struggling for Roti and Daal to establish family and anyhow learnt the ABCD, which is required to live honourably. However, the eagerness to say something on foundation of Indian administration of justice based on “Ram Rajya” compelled me to write a few words as a beginner, and it is undoubtedly not the last word. If Lord Hanuman helps, then there may be other books in series viz. few more words of grandeur of Ram Rajya. The comments of readers are very humbly solicited.

Lucknow  
01-05-2018

**(Justice Devi Prasad Singh)**

31B, Laxmanpuri Colony  
Faizabad Road  
Lucknow, U.P., India  
e-mail: deviprasadsingh1953@gmail.com

## ACKNOWLEDGEMENT

From the very core of my heart, I feel indebted to great sage Valmiki for singing/narrating story of Shri Ram to the benefits of generations to come. The original name of this great sage was Ratnakar who happened to be born in the lowest strata of society (in Today's parlance "Dalit"). He was catechised and enlightened by Saptrishi which made him to achieve the highest degree of knowledge, spiritual attainment by chanting Ram so much so that white-ants had formed nest around his body. The history of Ramrajya is the very foundation and goes to the root of Indian culture and civilisation. I also acknowledge the work of Geeta Press at Gorakhpur for the great work of translating Ramayana of Valmiki and Ramcharit Manas scribed by Tulsi Das, into English. The English version of Ramayan and Ramcharit Manas by Kalidas translated by so many luminaries like Ramakrishnan Srinivasn inspired and enlightened me to author the present book in juxtaposition with modern law. The Britishers in pre-independent era like F. Max Muller, Monier Williams etc are entitled for the special reference and commendation for the interest evinced for Indian Civilisation and for translating the Indian Literature into English, or else the World would not have known the core value of Indian way of life. All the Authors who have been referred to or for matter of that, those have been missed inadvertently are the real academicians whose books provided guidance and helped me a lot to evoke and bring forth the fuller and deeper ideas in my mind to the effect of Ramrajya in modern law.

The reference of ancient manuscripts and writings are not mine but rather of those who relentlessly strove hard to pen down the ancient literature for the benefits of progenies and shall keep on enlightening the society for ages to come.

I also acknowledge the painstaking efforts and pain which my staff put in especially by Shri G.S. Rathore, and Shri J.P. Tangwan in preparing the manuscript, by devoting and putting in extra time notwithstanding his day to day routine duties, to complete the task for which I pay my special thankfulness, warmth and appreciation. I am also thankful to Shri Mehdi Hassan for going through the manuscript and in making it readable with absolute perfection.

By core of heart I am also thankful to Dr. Y.P. Singh, Director, Cultural Affairs U.P. Lucknow who inspired me to pen down the present

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Finally, I would like to acknowledge with gratitude the support and love of my family specially my wife. They all kept me going and this Book would not have been possible without them.

**(Justice Devi Prasad Singh)**

## INTRODUCTORY

### (I) Antiquity

<sup>1</sup>Hindu tradition gives 80,000 lunar years (128 lunar=124 solar years) for human civilization with six manvantraras each of 12,000 years and the seventh having passed substantially. According to this some 8000 years ago the seventh Manu, Vivasvan, started his lineage. So the Saptarishi era starting in the ninth millennium arrived at by modern scholars appears quite credible. Majumdar quotes H.H. Wilson : ‘He does not claim to know anything of the dawn of civilization. Wherever he turns in China, Egypt, Chaldea, India-he finds, at best a period of only 8-10,000 years, giving proof of a civilization already far advanced. Of the exact origin we know nothing absolutely. The creation of man with its fixed date is a chapter that has vanished from modern histories...The fabled glory of ancient India, Assyria, and Egypt was no myth, but a very tangible reality.’

<sup>2</sup>The Hindu Aryans travelled throughout the world. They started with the caravan trade, diffusing Aryan knowledge and culture everywhere. Gradually they started colonizing the west entering Babylonia, Assyria and Egypt. The Aryan merchants were called Panis in the Rig Veda, who then settled in Asis Minor around 2800 BCE. They adopted sataritra nau (100 oar ship) for their trades and settlements. It has been observed that southern Babylonia was originally the proper home of the Sumerians before 4000 BCE, according to H.H. Wilson.

<sup>3</sup>What emerges from the archaeological records is a remarkable continuity in India’s pre-history right from 7000 BCE (e.g.:at Mehrgarh in Baluchistan) up to the historic period. After the collapse of the Indus-Saraswati administration, the Harappan legacy lived on in the villages, and many of its contributions resurface a millennium later in the second urbanization which started around the eighth century BCE. John Marshal wrote in 1931: ‘The Harappan religion is so characteristically Indian as hardly to be distinguished from still living Hinduism.’

<sup>4</sup>The telegraph of Kolkata reported (24.9.2009) details of a new genetic study that included US and Indian scientists on India’s population patterns, which revealed two distinct streams in the ancestral population of 45,000 years ago. They

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1. History of Ancient India by Ramakrishnan Srinivasan, pp 24

2. Ibid pp 25

3. Ibid pp 29

4. Ibid pp 35

analysed more than 560,000 genetic markers from the genomes of 25 population groups, six language families and several castes and tribes. The two streams are : ancestral North Indians and ancestral South Indians that had diverged from older population groups, derived from the earliest modern humans, who trudged out of Africa some 70,000 years ago.

<sup>5</sup>India was fortunate to have had an oral tradition for the transmission of Vedic knowledge and the practice of Hindu Brahmins of copying texts repeatedly. This ensured that some of the important Vedic texts were preserved for posterity. From these the dynastic chronologies from 3138 BCE to 1193 CE can be arrived at as follows:

Brihadrata Dynasty	22 kings	3138 BCE-2132 BCE	1006 years
Pradsyota Dynasty	5 kings	2132 BCE-1994 BCE	138 years
Sisunaga Dynasty	10 kings	1994 BCE-1634 BCE	360 years
Nandal Dynasty	9 kings	1634 BCE-1534 BCE	100 years
Maurya Dynasty	12 kings	1534 BCE-1218 BCE	316 years
Sunga Dynasty	10 kings	1218 BCE-918 BCE	300 years
Kanva Dynasty	4 kings	918 BCE-833 BCE	85 years
Andhra-Satavahana Dynasty	33 kings	833 BCE-327 BCE	506 years
Imperial Gupta Dynasty	77 kings	327 BCE-82 BCE	245 years
Panwar Dynasty	24 kings	82 BCE-1193 CE	1275 years
Total			<b>4331 years</b>

<sup>6</sup>It was Varna dharma that kept peace and gave prosperity to Bharatavarsha. The four varnas-white, red, yellow and black-refer to the three gunas or a combination of any two viz, sattva, rajas and tamsas. Thus Brahmins with sattva guna are coded white, the colour of knowledge and peace, Kshatriyas with rajoguna are coded red, the colour of action, Vaisiyas with a mix of rajas and tamasa are yellow and the Sudras with only tamasa are black. None from the group need remain in the same group and can move to another by education and training. No one is superior or inferior to the others.

<sup>7</sup>According to A.K. Majumdar, Shri Ram descends from solar dynasty of which founding father was Vaivasvata Manu. There were three lineages of kings-solar, lunar and Agnivamsa or agnikula. Puranas list 58 kings who ruled for 1350 years. These are:

Solar-Vaivasvata Manu-Lunar-Sauma Manu-Ikshvaku-Bikukshi-paranjaya-Anena-Prithu-Viswagasva-Ardra-Yuvaswa-Sravastha-Brihadaswa-Kuvalaswa-Driraswa-Haryaswa-Nikumbaswa-Sanhataswa-Prasenjit-YuvaswaII-Mandhata-Purukutsa-Trasaddasyu-Prisbadaswa-Tridhanwa-Tryaruna-Satyavrata-(Trisanku)-Harischandra-Rohitaswa-ChampaSudeva-Vijayanandana-Bharuka-Vrika-Vahuka-Sagara-Ansuman-DilipaI-

5. Ibid pp 60

6. Ibid pp 61

7. Ibid pp 96 & 97

Bhariratha-Srutasena-Nabhaga-Ambarisha-Sindhudvipa-Aryutaswa-Rituparna-Sarvakama-Sudasa-Kalmashapada-Asmaka-Mulaka-Anaryana-Satyarata-Viswasaha-Duliduha-Ilavila-Dilipa-II-Raghu-Ajapala-Dasaratha-Ramachandra.

Modern scholars have independently arrived at dates of some famous men:

Aryabhatta	2765 BCE
Panini	2900 BCE
Buddha	1887-1807 BCE
Nandas	1634-1534 BCE
Chandragupta Maurya	1534-1500 BCE
Patanjali	1234-1182 BCE
Kalidasa I	1158-1108 BCE
Kumarlila Bhatta	557-494 BCE
Bhaskaracharya	486 CE
Brahmagupta	30 BCE

<sup>8</sup>The Puranas give a list of 100 kings from Manu to Mahabharata war and Rama was the 71<sup>st</sup> king of the solar line. His date of birth as given in his horoscope is 10<sup>th</sup> January 4439 BCE and this matches with the astronomical calculations. After the Bharata war, 30 kings ruled Kosala from 3067 to 1567 BCE. The 25<sup>th</sup> of these was Siddharta or Buddha, who was born about 1259 years after the war, i.e., in 1816 BCE.

<sup>9</sup>Swami Sakhyananda in his *Glimpses from Our Glorious Past*, gives the following chronological dates:

Important dates :

Vaivasvata Manu's coronation..... (Saptarishi saka starts)	8576 BCE
Yayati, sixth from Manu, Somakula...	8300 BCE
Panchaganas (Yadus, Turvasus, Druhyus, Anudruhyus & Pauravas)...	8300 BCE
Trisanku, Suryakula... (Navigation of southseas begins)	7000 BCE
Sagara, Suryakula..... (Sakas, Yavanas, Kambojas migration of Western regions)	6400 BCE
Vyasa, codification of Vedas....	5000 BCE
Sri Rama's birth.....	4439 BCE

8. *ibid* pp 109

9. *Ibid* pp 113

King assisted by Amatya and sages laid down broader principles to regulate the society and decide inter se dispute between citizens. However, the broader principle of jurisprudence flows from the period of Shri Ram. In Indian parlance, it is Treta. According to recent research, the birth of Shri Ram took place on 10 Jan 5114 B.C.<sup>10</sup> Thus finding has been recorded on the basis of piety position keeping the narration of fact in Valmiki Ramayan and other available literature. Shri Ram's exile period of 14 years (in forests) begins at the age of 25 years of life. Ravan is assessed to be killed in 5076 B.C. The 14 years of Shri Ram's exile completed on 02 Jan 5075 B.C. Thus, when Shri Ram returned back to Ayodhya he was aged about 39 years. Shri Ram had its origin to dynasty/clan of Suryavansh and he was 64th king in his dynasty (supra).

## (II). SHRI RAM BRIEF HISTORY

Lord Rama and Lord Krishna are the two pillars of Indian Civilization. Vedas and Upanishads follow them.<sup>11</sup> Sage Valmiki (Ratnakar) wrote Ramayana under his spiritual power even before the incarnation of Rama. Valmiki was a man belonging to lowest strata of society and was involved in the acts of robbery and looting of passersby in jungles. He attained enlightenment from 'Saptrishi' with the reality of life. Thus later on Ratnakar after enlightenment dawned on him, he became Valmiki. Lord Rama is the founder of Indian Civilization.

How Lord Rama enlightened and enriched the Indian Civilization may be inferred from the fact that in spite of all odds and efforts by invaders, He still survives in the hearts of the people. Justice during Rama Rajya (the period when Lord Rama ruled the country) may be inferred from the incidences of his life and seems to be a foundation of today's justice dispensing principles.

After Sage Valmiki it appears that it was Kalidas (6 to 7 A.D.) who wrote the epic Raghuvansh containing the history of complete dynasty of Shri Ram. Raghuvansh being in Sanskrit was not accessed to common people of the country for centuries. In the meantime Kamban, Tulsi and several other authors inspired by Ramayan written by Sage Valmiki wrote different books depicting the history of Shri Ram. Sage Valmiki as well as Kamban and Tulsidas wrote their epics broadly to the extent of life of Shri Ram. But Kalidas wrote about the whole dynasty of Shri Ram beginning from Raghu and ended with twenty or more kings who ruled the country after Shri Ram, for the complete assessment of culture and tradition of the Indian civilization. It shall be appropriate to reproduce<sup>12</sup>Raghuvansa written by Kalidas in its English Translation:-

10. जहं जहं राम चरण चलि जाहिं (प्रकाशक श्री राम सांस्कृतिक शोध संस्थान न्यास) बी-945, एम. आई. जी फ्लैट, चित्रकूट, पूर्वी लोनी रोड, दिल्ली. ईमेल : info@shriramvanyatra.com वेबसाईट : www.Shriramvanyatra.com

11. Though according to traditional Hindi concept Vedas are continuing since eternity. According to UNICEF Rigveda is oldest one, originated between 1000 B.C. to 1500 B.C.

“The royal line of the Raghus originally sprang from the Sun, whose son, Manu, was the first king in this race. In direct descent from Manu came the supremely eminent king Dilipa, with whose history the poem properly begins. Dilipa is an ideal king, being a most efficient, benign and virtuous ruler. He has a queen called Sudakshina, the very type of courtesy and kindliness, and the only thing that mars their happiness is that they have no issue. In course of time Dilipa decides to consult his family-priest, Vashishtha, as to what holy rites he might perform that would bless him with a son and heir. Leaving the government of his kingdom to his ministers, Dilipa starts for Vashishtha’s hermitage in the company of his wife. In the evening they reach their destination and make known their wishes to the preceptor. Vashishtha explains that a curse, formerly pronounced upon the King by the divine cow Surabhi, but unknown to him, was the bar in the way of fulfilling his wish, and for that purpose he should have to propitiate Surabhi’s daughter, Nandini, who was his (Vashishtha’s) own cow. If she happened to be pleased, she could grant that wish of his. Vashishtha then explains to the royal pair how to serve the cow; after which they retire for the night.

CANTO II. The next morning Dilipa begins the daily routine of disciplined service of the cow, Nandini. He regularly accompanies her every morning, after she was worshiped, to the forest and back again to the hermitage in the evening when she returned from the pasturage.

Twenty-one days thus pass away. On the 22nd day, the cow, wishing to test the devotion of her follower, enters a cave of the Himalayas, overgrown with grass, for grazing. As the King’s eyes are riveted on the mountain scenery, she creates an illusory lion pouncing upon her. The King’s attention is suddenly called back by Nandini’s cry; and what does he see? The cow is in the grip of a formidable lion, imploringly looking at him. Instantly the King’s hand passes to the arrow-case, but just as he seizes an arrow his hand remains fixed there. To add to the wonder of the already bewildered King, the lion speaks in human voice telling him that he was a servant of Shiva, posted there to guard the trees, with orders not to leave the place, but to live on whatever came within his reach, and claims the cow as his rightful prey. The king finds himself in a fix; it was his primary duty to save the cow at any cost. What was he to do? He could not shoot an arrow; but he could offer himself up in lieu of the cow, as they had both entered the cave together; for Shiva’s order to the lion was that he should eat whatever came within his grasp. This the magnanimous King does. After a long conversation with the lion he succeeds in prevailing upon the latter to eat him up and let the cow go. The king thus stands the test; the illusion vanishes and instead of the terrible leap of the lion there falls on the king a shower of flowers from heaven. The well-pleased cow confers on the king the wished-for blessing, and they return home. The king

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12. Raghuvarsha by Kalidas written in Sanskrit and translated by M.R. Kale in 1922, published by Gopal Narayan & Co., Kalbadevi Road, Bombay.

informs the sage and his queen of the cow's favour. Their object being gained Vashishtha sends back the royal couple, and they enter their capital amidst the rejoicings of the citizens. In a short time Sudakshina shows signs of pregnancy.

CANTO III. A son is then born to Dilipa. He is named Raghu, as one destined to be the most illustrious of the king of the solar race, the family being named after him. He is brought up and educated with due care. He is then married and installed as heir-apparent (Yuvraja). After this, Dilipa, who had already performed 99 horse-sacrifices, wishes to perform the hundredth to complete the list. Indra, Lord of the gods, in jealousy secretly steals the sacrificial horse to prevent the completion of the rite. To Raghu was entrusted the duty of guarding the horse; and ordinarily he would have been unable to trace the horse. But Nandini, whose protégé he was in a way, appears on the scene and bestows upon him superhuman sight. Raghu then sees Indra carrying away the horse, and fights with him most gallantly. Indra of course triumphs over Raghu in the end; but he is so highly pleased with Raghu's bravery that, although he could not restore the horse, he promises, to bestow upon his father, Dilipa, the whole merit obtainable from the sacrifice, had it been duly completed, as a mark of his appreciation of Raghu's valour. Indra also acquainted Dilipa, at Raghu's request, with what had occurred; highly gratified at the account, Dilipa accords his son a hearty welcome when he goes back to his court. A short while after he installs Raghu on the throne as King, and himself retires, with his queen, to the forest, as was the wont of the kings of Ikshvaku's race.

CANTO IV. King Raghu now begins to rule, and all are made to feel his equal justice and cautious vigilance. When autumn comes, Raghu decides to start upon an expedition of conquest (Dig-vijaya). Proceeding first to the east, he marches right up to the eastern ocean, where he vanquishes the Suhmas and the Vangas. Crossing the river IKapisa he goes through Utkala to the Kalinga country. He conquers its ruler and then marches to the South. After subduing the Pandya kings there, he crosses the Sahya Mountain, and subjugates the Aparanta districts along the Western Coast. Then by land he proceeds northwards, where he conquers the Parasikas. Thence he traverses as far as the Sindhu River, where he defeats the Hunas and the Kambojas. Thence he proceeds across the Himalayas, where he brings the Utsavasamketas under his sway. Descending to the plains he finally conquers Pragyotisha and Kamarupa, and returns to his capital laden with glory and wealth. He then performs the Visvajit sacrifice (indicative of universal conquest), in which he gives away to Brahmanas (by way of Dakshina) everything that he possessed.

CANTO V. While Raghu had thus practically beggared himself in the Visvajit sacrifice, an ascetic called Kautsa came to him. He wanted money, as much as fourteen crores, to enable him to pay his guru his tuition fees. Raghu had nothing with him, but he did not like to have it said of him that a supplicant, not gaining his object from Raghu, had to seek it from some other person. In order,

therefore, to satisfy Kautsa's demand, he planned an expedition against Kubera, the God of wealth, to obtain the money from him. Divining his intention Kubera filled Raghu's treasury with a shower of gold during the night, and Raghu gave all that to Kautsa. The latter, departing, blessed his benefactor that he would soon obtain a Baliant son. This son is then born, and is named Aja. When Aja, who is properly educated, reaches the marriageable age, a messenger comes to Raghu from King Bhoja of the Vidarbha country to invite the prince to be present at the Svayamvara ceremony of his sister, Indumati, which was shortly to take place. The invitation is accepted and Aja goes accordingly. On his way he happens to kill a wild elephant, who turns out to be a Gandharva born in that form owing to a curse. The Gandharva gives to Aja a certain miraculous weapon (astra) called Sammohana. On reaching Bhoja's city, Aja rests for the night, and in the next morning goes to the hall where the Svayamvara ceremony was to be held.

CANTO VI. There he takes his seat in the assembly of numerous other kings who had come from far and near for the Svayamvata ceremony. The Princess Indumati enters, accompanied by her clever maid Sunanda, who takes her in turn to each one of the royal suitors and describes him and his qualifications in a few well-chosen words. The Princess passes by them all, including among them the rulers of Magadha, Anga, Avanti, Anupa, surasena, Kalinga and Pandya. Finally she comes to Aja, whom she chooses as her husband, to the deep chagrin of the other kings who feel envious and humiliated.

CANTO VIII. The actual wedding-ceremony of Aja and Indumati then takes place in the royal palace, after which all depart for their respective countries. The slighted kings, however, bear a grudge against Aja, and they, therefore, waylay his party on his way back to Ayodhya. A very fierce fight ensues. Aja entrusts his bride to the care of his minister, and personally takes an active part in the slaughter of his foes, whom he completely vanquishes by means of the miraculous 'Sammohana' astra, which the Gandharva had given him before. He then returns to the capital; and his father entrusts the kingdom to his care, wishing to live in retirement.

CANTO VIII. Aja begins to reign, and Raghu continues to live near by, in secluded retirement, when after a few years he departs this life. Aja gives him a suitable funeral. In course of time Indumati gives birth to a son who is named Dasharatha. Aja pleases all by his excellent rule. A change comes over his happy life when once, while he and his royal consort were sporting in a pleasure-garden, a wreath of flowers falls from the sky below upon Indumati who instantly drops down dead. The grief of the King at this unexpected stroke of misfortune knows no bounds. After the funeral was over, as Aja still remained plunged in sorrow and took no interest in life, his preceptor Vashishtha sent to him a disciple with a message to cheer him. It was explained to Aja how his wife had formerly been a celestial nymph (apsaras) who had come down upon the earth owing to a curse, and who left as soon as the curse ceased to operate when the garland fell upon her

from heaven. Life being an ancient and death the rule, a firm-minded, wise ruler like Aja, should cease to brood over his grief. Thus ran the message, and the King received it dutifully as coming from his guru, though it had little visible effect upon him. He spent some eight years more after this, all the while mourning for his lost wife, whom he finally went to join in the next world.

CANTO IX. After his father, Dasharatha rules over Ayodhya as nobly as his predecessors. His greatness was such that even Indra himself on occasions asked for his assistance in his own wars.

Once, having enjoyed all the pleasures of the spring season with its attendant festivities, he plans a long hunting trip. He spends several days in that engrossing and delightful sport. One morning he starts after a deer, alone and without followers. In his pursuit he comes to the river Tamsa, where he hears the noise of a pot being filled with water. He mistakes it for the trumpet of a wild elephant, and discharges an arrow in that direction, aiming at the sound only, as he could not see the mark. As a matter of fact a young ascetic-boy was filling his jar there; and the arrow hit him fatally. His parents, who were blind, were at hand. The King, who was horrified at what he had unwillingly done, related to them what had happened. As the boy died, his sorrow-stricken father cursed the King as the author of his bereavement, with the words : “You, too, like me, shall die, in your old age, grieving for your son.” The King had no son then; so he received the curse as a sort of qualified blessing, since it meant that at any rate a son was bound to be born to him before he died. The aged couple burned themselves on the funeral pyre of their son, and Dasharatha returned to his city, full of grief not unmingled with a little anticipatory joy at the prospect of a son.

CANTO X. Some ten thousand years pass (means very long period in life), but still Dasharatha remains without the expected son. At last^ holy sages proceed to perform on his behalf a special kind of sacrifice intended to bring about the birth of a son. Now at about this time it so happens that the gods, who were continually harassed and persecuted by the dreaded and powerful demon Ravana, carry their tale of grievances to their lord Vishnu, who tells them how, by virtue of a boon given by Brahma, Ravana was immune from death at the hands of all except human beings, whom he despised and hence had left out of the boon. Vishnu, therefore, promises that he would be born as a man, as a son of King Dashratha of Ayodhya, and that at his hands Ravana would meet death. — Now, out of the fire of that sacrifice which was being performed for Dasharatha, there arises a being who gives consecrated food (charu) to the King, who gives it to his three wives. Into this food Vishnu had entered spiritually and thus Dasharatha's wives, who conceive afterwards, all bear sons who are partial incarnations (avatars) of Vishnu. Rama was the eldest of them, born of Kausalya. Of Kaikey was born Bharata, and of Sumitra were born the twins, Lakshmana and Shatrughna.

CANTO XI. The sage Vishvamitra, who wanted protection from demons in

his sacrificial work, now comes to Dasharatha with a request that the King should send Rama with him for that purpose. Accordingly Rama, and also Lakshmana, accompany Vishvamitra to his hermitage; on their way Rama kills the demoness Tadaka- In the hermitage of Vishvamitra, Rama routs the demons after having killed their leaders Subahu and Maricha. On the completion of his sacrifice, Vishvamitra goes to Mithila at the invitation of king Janaka of that city, taking with him the two princes. On their way Rama restores to her original form Ahilya, the wife of Gautama, who had been cursed by him to be reduced to the form of a stone. On reaching Mithila, Vishvamitra tells Janaka that Rama was anxious to see the famous bow of Lord Shiva in his possession. It had been announced that whoever should succeed in bending that bow, would be given Janaka's daughter, Sita, in marriage. No king had yet succeeded in bending the bow, and Janaka wondered how a mere boy should dare to make the attempt. Rama, however, bends the bow, and with such force that it cracks; he thus wins the princess Sita for his bride. Dasharatha is then invited to Mithila, when Rama is married to Sita; her sister is given to Lakshmana, and Bharata and Shatrughna were married to the two nieces of Janaka. On their way back to Ayodhya, they are stopped by the Brahmana Parasurama, who had vowed vengeance on all Kshatriyas, and whose anger was stirred into action on hearing of that bow-breaking exploit of Rama, a Kshatriya. He, therefore, challenges Rama to bend his (Parasurama's) bow, which was stronger than that of Janaka. Rama bends that too, and bumbles the pride of Parasurama, who recognizes in his adversary the supreme lord Vishnu, and makes peace with him. The party then safely arrive in Ayodhya.

Canto XII. King Dasharatha, who had grown old and was nearing his end, declares his intention to set Shri Rama on the throne, when Kaikeyi contrives, by means of two boons which her husband had promised her, to have Rama exiled for fourteen years and to have her son Bharata installed King. Rama quite willingly undertakes to go to the forest, and the old King, grieving at being separated from his beloved son, dies heart-broken, thus fulfilling the old man's curse (Canto IX). Bharata declines to accept the sovereignty earned by intrigue, and after vainly trying to persuade Rama to come back, himself remains a sort of exile at Nandigram, and from that place he rules the kingdom as Rama's representative. In his journey to the forest Rama is accompanied by Sita and Lakshmana. He there kills Viraadha, Dushana, Khara, and other demons, the news of whose death is carried to Ravana in Lanka by his sister Surpanakha, whom Lakshmana had disfigured. Ravana comes and carries off Sita in Rama's absence. Rama makes friends with Sugriva, the monkey-Chief, and through his retainer Maruti discovers the whereabouts of Sita. Building a bridge over the sea, Rama with Sugriva's army crosses into Lanka, and is engaged in a series of battles with the hosts of Ravana, whose death he finally accomplishes. Rama recovers Sita, gives Ravana's kingdom to his brother Vibhishana, and starts back for Ayodhya in the well-known aerial car, Pushpaka, along with Sugriva and Vibhishana and their armies.

Canto XIII. The journey of Rama from Lanka to Ayodhya by air is here described. Rama points out to Sita the various objects and places of interest on the way, including, in order, Janasthana, the mountain Malyavat, the lake Pampa, the Godavari, Panchavati, the dwelling-places of the sages Agastya, Satakarni and Sarabhanga, the mountain Ohitrakula, the stream Mandakini, the rivers Ganga and Yamuna, and lastly the Sarayu. After they had seen the Sarayu they observe Bharata advancing with an army to welcome the home-coming king. Rama gets down from the Pushpaka, and the meeting of the brothers is touchingly described. Then Rama again gets into the car and arrives at last in a garden outside Ayodhya, his capital.

Canto XIV. There in the garden Rama and Lakshmana see their mothers who greet them with joy. Rama is then formally crowned King of Ayodhya with due pomp and ceremony. He then gives the armies of Sugriva and Vibhishana leave to depart, and restores Pushpaka to its original rightful owner, Kubera. In course of time Sita shows signs of pregnancy. She expresses a desire again to visit the once-familiar regions along the banks of the Ganges. While Rama promises her that, a scandal reaches his ear about his unquestioning acceptance of Sita after her residence in a stranger's house for a long time. A strong sense of duty towards his subjects both as the dispenser of law and justice and the up-holder of social order, compels him to abandon Sita as a concession to this scandal, although he knew her to be pure and innocent. He, therefore, orders Lakshmana to take Sita away and leave her on the banks of the Ganges near the hermitage of Valmiki who, he thinks, would find her and take due care of her. Lakshmana very reluctantly performs this task; and when Sita knows why she is abandoned, she cries loud and long, though she would not blame Rama so much as she blamed herself. Valmiki takes her to his hermitage where afterwards in due time she gives birth to twins. Rama continues to discharge his kingly duties as usual, but without marrying again.

CANTO XV. Now, certain sages who were harassed by the demon Lavana apply to Rama for protection, who sends off Shatrughna on that mission. Shatrughna happens to halt at Valmiki's hermitage on his way, and it so chances that that very night Sita gives birth to twins. Shatrughna proceeds against Lavana, whom he kills in battle, and builds for himself a city called Madhura on the banks of the Yamuna. Sita's sons were named Kusha and Lava; they were duly brought up and educated by the venerable Valmiki, who also teaches them to sing his own poem 'Ramayana', celebrating the exploits of their father. After some time Shatrughna returns to Ayodhya, but says nothing to Rama about Kusha and Lava, at the express bidding of Valmiki, who bided his own time. Rama performs a horse-sacrifice, to which holy men are invited from everywhere. Among them is Valmiki, who brings with him his two pupils, the princes Kusha and Lava.

They sing the Ramayana in the presence of Rama, and charm all by their sweet singing as also by the majesty of their demeanour. Rama is then told that

they are his sons, and Valmiki then asks him to take back Sita. Rama agrees to do it if she would satisfy the public about her purity. Sita, therefore, calls upon the Earth to receive her in her bosom, if she (Sita) was really and truly pure. The Earth then appears in corporeal form and takes off Sita, whom Rama thus loses forever, although he gets his two sons. After a time Rama begins to feel his end approaching. He puts his brothers, nephews and sons in charge of separate, small principalities. Lakshmana dies, and soon Rama also leaves this world of mortals and ascends to heaven, after having completed his special work here.

CANTO XVI. After the death of Rama, his son Kusha, who ruled in the city of Kushavati, is visited in a dream by the guardian deity (Adhidevata) of the city of Ayodhya, which being kingless lay now a deserted ruin. She invites him to come back to his father's capital and to re-people it and restore it to its former glory. He consents, and coming back to Ayodhya re-endows it with its former splendour, and rules there in future. Once, while he is sporting in the river Sarayu, his bracelet drops in its waters and sinks to the bottom. He orders the river to be searched, but the ornament could not be recovered; at the suggestion that it was probably taken by the Naga Kumuda, who resided in a part of the river, Kusha takes up a missile (astra) to destroy the Naga, who hurriedly comes up, leading by the hand his sister Kumudvati. It was she who had taken the bracelet in curiosity, Kumuda requests Kusha to accept his sister as his wife; Kusha agrees and the two are then married.

CANTO XVII. Kusha gets from Kumudvati a son, called Atithi, who ascends the throne on the death of his father, who was killed in a fight with the demon Durjaya. Atithi is possessed of great political wisdom, and the Canto describes at some length some of the main principles of the science of Polity (Raja-Niti) which Atithi sedulously acted upon.

Canto XVIII. This Canto barely enumerates, without any illuminating details, the various kings, twenty-one in all, that Succeeded Atithi. They were Nishadha, Nala, Nabhas, Pundarlka Kshemadhanvan, Devanika, Ahinagu, Pariyatra, Sila, Unnabha, Vajranabha, Sankhana, Vyushitasva, Visvasaha, Hiranyanabha, Kausalya, Brahmishtha, Putra, Pushya, Dhruvasamdhi and Sudarsana. The last of these (Sudarsana) ascends the throne when a young boy of six, his father having been killed by a lion. After he attains youth he is married.

CANTO XIX. Sudarsana gets a son, Agnivarna by name whom he installs king and himself retires into the forest. Agnivarna turns out to be a voluptuous, pleasure-seeking sensualist. The Canto describes at length his amorous sports and pastimes. Agnivarna pays the penalty of having drunk too deep at the fountain of dissipation, and he falls a victim to consumption. At his death his wife was pregnant; she ascended the throne as the Queen-regent, and looked after the affairs of state on behalf of her unborn child. And here the story somewhat abruptly ends."

I feel in agreement with the various authors that Uttar Kand was added in

later periods by the passage of time. It might have been written at the later period by some authors but undoubtedly it appears to be doctored with the passage of time by adding Sambuk Badh and alike features for perpetuation of caste system based on birth and dominance of higher caste to monopolize the education and regulate the society by a section of people. It may be easily inferred from the saying and doing of Lord Rama where he touched the feet of Sabri and pleasantly ate the Indian plum (बेर) offered by Sabri after tasting herself. It is a subject matter to be discussed in appropriate book. Here we are concerned with the element of justice during Shri Ram Rajya in the days when Lord Rama's basic principle of the life was Dharma or righteousness. According to Sage Valmiki Dharma is the bed rock of this Universe. It is Dharma which leads to prosperity and ensures happiness. It is the source of happiness which a man desires. Lord Rama was 'Maryada Purushottam', symbol of righteousness, incarnation of God Almighty who followed the principles of renunciation in life as prescribed for the Vanaprastha Ashram. He carried bow and arrows not only for the kingdom but also to protect the weak. He has not shown miracle like Lord Krishna but lived as a man with righteousness in life. The commission of crime was exception during Rama Rajya but in the event of any crime, the trial and punishment was quick and spontaneous to the satisfaction of looser and gainer with the advice of ministers. People speak truth even at the cost of their life. Animals and other creatures were treated in a just and fair manner.

Rama laid down the foundation of Indian civilization which is still broadly continuing. It was He who began the monogamy in life. Earlier to Shri Ram the kings used to marry more than once but Shri Ram goes for one marriage and kept the oath / words throughout his life. It was Ram who laid down the standard to behave equally to each and every one and showed the sentimental attachment to people at large. Shri Ram gave importance to public perceptions and treated it as governing principles for the welfare of people. It was Shri Ram who laid down the principle that public perception even if based on incorrect fact must be attended and any misconception of people with regard to conduct of king should be attended to remove the doubt in peoples mind. It was the highest of idealism to maintain the confidence of people in the king/ruler.

Hundreds of books have been written with regard to life and work of Ram and undoubtedly by passage of time for vested interests and on account of caste conflict, Ramayana has been de-constructed. N.S. Jagannathan while editing the Kamban Ramayan<sup>13</sup> observed, to quote:

"I would myself call these different versions 'readings', preferring it to AKR's telling, because it is not only authors who create their own Ramayanas. Every reader of every Ramayana creates his own Ramayana by 'deconstructing' what he reads. His reading is autonomous and is as Balid as those of the original authors who have themselves deconstructed the original myth both in its totality and in particular

episodes, characters and relationships. In other words, the 300-odd telling of the Ramayana in literature and in entrenched folk traditions are nothing but deconstructions of the original myth and earlier texts and all of them are equally legitimate.”

Such deconstructions include radical ‘oppositional readings’, as Paula Richman calls them. In these readings, the assumptions of the mainstream versions are altered, modified, or even stood on their heads. Thus, in some of the Jain versions, Ravana’s character is deliberately given an altogether different salience. At a trivial level, it is a fussy correction of perceived absurdities such as Ravana’s ten heads. One Jain text gives an ingenious explanation : the abnormal nine are merely the reflection of the real head by the nine gems in a necklace put around infant Ravana by a loving mother”. It appears to be exploitation of illiterate people.

However, there is agreement between eminent authors that the Valmiki Ramayana followed by Kamb Ramayana and Ram Charit Manas by Tulsi Das are nearest to truth. However it is the matter of prolonged discussion to be dealt with at appropriate stage and time.

### (III). Beginning of Western Social Order

While considering the concept of law and its illusion in modern prospect, it shall be appropriate to understand how we have inherited the present system of judicature. The Greeco Roman period around 5th Century B.C. is the beginning of modern law. <sup>14</sup>In its first stage the kings decide particular causes by divine inspiration. In a second stage the customary course of decision has become a tradition possessed by an oligarchy. Later, popular demand for publication results in a body of enactment. At first enactments are no more than declaratory. But it was an easy step from publication of established custom to publication of changes as if they were established custom and thus to conscious and avowed changes and intentional new rules through legislation. The law of Athens in the fifth and fourth centuries B.C. was a codified tradition eked out by legislation and individualized in its application through administration of justice by large popular assemblies. Thus in spite of formal reduction to writing it preserved the fluidity of primitive law and was able to afford a philosophy for Roman law in its stage of equity and natural law-another period of legal fluidity. The development of a strict law out of codified primitive materials, which in Rome happily preceded the stage of equity and natural law, did not take place in the Greek city. Hence the rules of law were applied with an individualized equity that reminds us of the French *droit coutumier*-a mode of application which, with all its good points,

13. Kamban Ramayana by Penguin Classics.

14. An introduction to the Philosophy of law by Roscoe Pound.

must be preceded by a body of strict law, well worked out and well understood, if its results are to be compatible with the general security in a complex social order.

We may understand the materials upon which Greek philosophers were working if we look at an exhortation addressed by Demosthenes to an Athenian jury. Men ought to obey the law, he said, for four reasons : because laws were prescribed by God; because they were a tradition taught by wise men who knew the good old customs, because they were deductions from an eternal and immutable moral code, and because they were agreements of men when each other binding them because of a moral duty to keep their promises.

The exigencies of the social order called for a distinction between the law and rules of law. The *Minos*, which if not actually a dialogue of Plato's seems clearly Platonic and very close to Plato in time, is taken up with this distinction and gives us a clue to the juristic problems of the time.

Another example may be seen in Aristotle's well-known discussion in the *Nicomachean Ethics*. It is significant to note that Greek thinkers adhere to custom and enactment; things which today we contrast. These were the formal bases of legal authority. So Aristotle considers, not natural law and positive law, but what is just in its-just by nature or just in its idea-and what derives its sole title to be just from convention or enactment. The latter, he says, can be just only with respect to those things which by nature are indifferent. Thus, when a newly reconstituted city took a living Spartan general for its eponymous, no one was bound by nature to sacrifice to Brasides as to an ancestor, but he was bound by enactment and after all the matter was one of convention which, in a society framed on the model of an organized kindred, required that the citizens have a common heroic ancestor, and was morally indifferent. The distinction was handed down to modern legal science by Thomas Aquinas, was embodied in Anglo-American legal thought by Blackstone, and has become staple. But it is quite out of its setting as a doctrine of *mala prohibita* and *mala in se*. An example of the distinction between law and rules of law has become the basis of an arbitrary line between the traditionally antisocial, penalized by the common law, and recently penalized infringements of newly or partially recognized social interests. Although the discrimination between what is just and right by nature and what is just because of custom or enactment has had a long and fruitful history in philosophical jurisprudence and is still a force in the administration of justice.

Cicero enumerates seven forms of law. Three of these are not heard of thereafter in Roman juristic writing. Evidently already in Cicero's time they belonged to the past and had ceased to be effective forms of actual law. The four remaining, namely, statutes, resolutions of the senate, edicts of the magistrates, and the authority of those learned in the law, come to three-legislation, administrative edicts, and juristic reasoning on the basis of the legal tradition. And these correspond to the three elements which made up the law. First, there was the *ius ciuile* : the Twelve Tables, subsequent legislation, interpretation of both, and the

traditional law of the city. Second, there was the mass of rules, in form largely procedural, which was contained in the edicts. The growing point of the law had been here and to some extent growth was still going on through this means. Indeed this part of the law reached its final form under Hadrian. Third, there were the writings of the juriconsults. The growing point of the law had begun to be here and this was the most important form of law in the classical period from Augustus to the third century. This part of the law got its final form in the Digest of Justinian. Of the three elements the first was thought of originally as declared and published custom. Later it was thought of as resting on the authority of the state. It was obviously local and peculiar to Rome. In form it rested on the legislative power of the Roman people, supplemented by a mere interpretation of the legislative command with only the authority of customary acceptance. In Greek phrase, it rested on convention and enactment. The second purported to be the rules observed by civilized peoples, and on points of commercial law may well have been an approximation thereto. Apart from this, however, according to ancient ideas of personal law, the rules which obtained among civilized peoples were eminently a proper law to apply between citizen and non citizen. In Greek phrase, it was law by convention. The basis of the third was simply reason. The juriconsult had no legislative power and no imperium. The authority of his responsum, as soon as law ceased to be a class tradition, was to be found in its intrinsic reasonableness; in the appeal which it made to the reason and sense of justice of the iudex. In Greek phrase, if it was law it was law by nature.

The period from Augustus to the second quarter of the third century was one of growth. But it was revolutionary only if we compare the law at the end of the period with the law of the generation before Cicero. The juriconsults were practical lawyers and the paramount interest in the general security was ever before their eyes. While as an ideal they identified law with morals they did not cease to observe the strict law where it was applicable nor to develop its precepts by analogy, according to the known traditional technique when new phases of old questions came before them. Hence what to the Greeks was a distinction between right by nature and right by convention or enactment became to them a distinction between law by nature and law by custom or legislation. The word right or the just became their word for law. They said *ius* where Cicero said *lex*. And this convenient ambiguity, lending itself to identification of what ought to be and what is, gave a scientific foundation for the belief of the juriconsults that when and where they were not bound by positive law they had but to expound the reason and justice of the thing in order to lay down the law.

It must be borne in mind that 'Nature' did not mean to antiquity what it means to us who are under the influence of the idea of evolution. To the Greek, it has been said, the natural apple was not the wild one from which our cultivated apple has been grown, but rather the golden apple of the Hesperides. The 'Natural' object was that which expressed most completely the idea of the

thing. It was the perfect object. Hence the natural law was that which expressed perfectly the idea of the law, and a rule of natural law was one which expressed perfectly the idea of law applied to the subject in question; the one which gave to that subject its perfect development. For legal purposes reality was to be found in this ideal, perfect, natural law, and its organ was juristic reason. Legislation and the edict, so far as they had any more than a positive foundation of political authority, were but imperfect and ephemeral copies of this jural reality. Thus the jurists came to the doctrine of the *ratio legis*, the principle of natural law behind the legal rule, which has been so fruitful both of practical good and of theoretical confusion in interpretation. Thus also they came to the doctrine of reasoning from the analogy of all legal rules, whether traditional or legislative, since all, so far as they had jural reality, had it because and to the extent that they embodied or realized a principle of natural justice. Natural law was a philosophical theory for a period of growth. It arose to meet the exigencies of the stage of equity and natural law, one of the great creative periods of legal history.

Greek philosophers came to conceive of the general security in broader terms and to think of the end of the legal order as preservation of the social status quo. They came to think of maintaining the general security immediately through the security of social institutions. They thought of law as a device to keep each man in his appointed groove in society and thus prevent friction with his fellows. The virtue on which they insisted was *sophrosyne*, knowing the limits which nature fixes for human conduct and keeping within them. The vice which they denounced was *hybris*, willful bound breaking-willful transgression of the socially appointed bounds. This mode of thinking follows the substitution of the city-state political organization of society for the kin-organization. The organized kindred's were still powerful. An aristocracy of the kin-organized and kin-conscious, on the one hand, and a mass of those who had lost or severed their ties of kinship or had come from without, on the other hand, were in continual struggle for social and political mastery. Also the politically ambitious individual and the masterful aristocrat were continually threatening the none-too-stable political organization through which the general security got a precarious protection. The chief social want, which no other social institution could satisfy, was the security of social institutions generally. In the form of maintenance of the social status quo this became the Greek and thence the Roman and medieval conception of the end of law.

Transition from the idea of law as a device to keep the peace to the idea of law as a device to maintain the social status quo may be seen in the proposition of Heraclitus, those men should fight for their laws as for the walls of their city. In Plato, the idea of maintaining the social order through the law is fully developed.

Roman lawyers made the Greek philosophical conception into a juristic theory. For the famous three precepts to which the law is reduced in Justinian's Institutes come to this: Everyone is to live honorably; he is to preserve moral

worth in his own person by conforming to the conventions of the social order. Everyone is to respect the personality of others; he is not to interfere with those interests and powers of action, conceded to others by the social order, which make up their legal personality. Everyone is to render to everyone else his own; he is to respect the acquired rights of others. The social system has defined certain things as belonging to each individual.

<sup>15</sup>Cardozo advocated power for creation of law to be exercised with vision and understanding exacts a philosophy of law, the theory of its genesis and growth and aim, only then we shall be saved from the empiricism which finds in an opinion, not a prophecy to inspire, but a command to be obeyed.

Cardozo warned, to quote, "I can only warn you that those who heed the one without honoring the other, will be worshipping false gods and leading their followers astray. The victory is not for the partisans of an inflexible logic not yet for the levelers of all rule and all precedent, but the victory is for those who shall know how to fuse these two tendencies together in adaptation to an end as yet imperfectly discerned. I shall not take it amiss if you complain that I have done little more than state the existence of a problem. It is the best that I can do. We have had courts and recorded judgments for centuries, but for lack of an accepted philosophy of law, we have not yet laid down for our judges the underlying and controlling principles that are to shape the manner of their judging. We do not yet know either our powers or our duties. The tendency that is distinctive good to some distinctive error. What one judge most earnestly believes to be the right method is met by the challenge of men as able and conscientious who say it is the wrong one. I feel very profoundly that at the root of many of our troubles is the need of a better understanding of the existence of this problem, if it is too much to hope just now for a better understanding of the answer.

In the democratic polity, it is not necessary that the opinion of the majority shall always be correct supported by reasons. According to Cardozo, flaws are there as in every human institution. Because they are not only there but visible, we have faith that they will be corrected. There is no assurance that the rule of the majority will be the expression of perfect reason when embodied in constitution or in statute.

<sup>16</sup>Cardozo further adds to quote, "The process, with all its silent yet inevitable power, has been described by Mr. Henderson with singular felicity. When an adherent of a systematic faith is brought continuously in touch with influences and exposed to desires inconsistent with that faith, a process of unconscious cerebration may take place, by which a growing store of hostile mental inclinations may accumulate, strongly motivating action and decision, but seldom emerging clearly into consciousness. In the meantime the formulas of the old faith are retained and repeated by force of habit, until one day the realization

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15. *The Growth of the Law* by Benjamin N. Cardozo

comes that conduct and sympathies and fundamental desires have become so inconsistent with the logical framework that it must be discarded. Then begins the task of building up and rationalizing a new faith.

While dealing with the logic and history Cardozo approved the rules and said that the logic and history and customs had their place and the law may be sapped to conform them within bounds.

Aristotle's and later on Plato's views are that the happiness is the noblest and the best in the most pleasing of human goods theory may be final verdict of rule of law but foundation of Western jurisprudence followed to provide procedural law to regulate the society does not seem to be effective resulting into loss of women's dignity because of molestation, rape making them second grade citizen. Even up to the mid of 20th century civil rights were restricted with full of gender discrimination. Violence and hatred may be found also into Muslims and Hindus. Broadly women are treated with contempt and to fulfill sexual desire. Amongst Hindus, since ages, people suffering from untouchability and caste hatred. This prompts us to go back to our oldest culture and provide the seeds which still survives in a number of old manuscript (though doctored) and customs as well as traditions. Pleasure is the best of all human goods. If happiness consists in the exercise of the highest form of virtue, and if the unimpeded exercise of a virtue constitutes a pleasure, then happiness and that pleasure are one and the same thing.

#### (IV) Beginning of Indian Civilization

A deep study of Ramayan by Valmiki and other available literature indicates that the society was well regulated during those period based on certain norms and the principle of natural justice was applied before awarding punishment. The molestation, rape and kidnapping were exception. The punishment to such offence was execution or death sentence (ibid). Ladies were equal in status and involved in justice dispensing system as advisor to husband. The history of Shri Ram has been adopted by different communities/clans in their own way in thousands years of civilization like Kannad, Tamil, Malayalam, Bengali, Nepali, Parsi, Assamese, Punjabi and Urdu etc.

<sup>17</sup>It is not possible to evaluate the omnipresence of Rama. It is fully inherent in all the learnings, sub-learnings and arts of India. It is amazing for us to wonder as to in how many number of religions, Shri Ram is omnipresent in all sects of Indian religious faith like Buddha, Jain, Yoga, Vedanta, Dwaitmat, Vaishnav, Shaiv etc. Shri Ram is present and inherent everywhere in literature and different literary forms like Mahakavya (epic), Geetkavya, Khandkavya, Ekarthak, Champu, Rupak, Uprupak, Katha, Dootkavya, Shlisthkavya etc. Shri Ram is very much present in each of them. The beginning of poetic tradition of Indian Aryan language, the

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16. The Nature of the Judicial Process by Benjamin N. Cardozo.

Sanskrit is marked with the ancient epic Valmiki Ramayan. For ancient Hindi and Hindi folk language literature, Rama, in fact, is the lifeline. Right from Hindi to all the languages of the country are all imbibed with Shri Ram's influence. With the help of this composition, you will be able to mark that since the 12th century the tales of Shri Ram have been written in all Indian Languages like Tamil, Telugu, Malyalam, Kannad, Marathi, Pahari, Kashmiri, Punjabi, Sindhi etc. and not only in Hindi as is usually believed.

We may safely infer that whole Indian civilization begins from Shri Ram's period. The basic principle of life or jurisprudence is based on practice, sayings and doing of various kings who ruled the country begins from Suryavansh (supra). It appears that no literature of Indian civilization is available which may refer oldest kings who ruled the country except the dynasty of Suryavansh (supra). Incarnation of Shri Ram took place since it was not possible to eliminate Ravan, who was mighty, powerful and spoiled genius, and was persecuting the common people and disturbing the social life residing at safer places in distant Lanka. Brahmins, sages, kings and society was governed by a definite procedural law applied equally to all from top to bottom or king to common citizen. If we try to find out some law, then it seems to be not available except in the form of narration of different incidents or instances or occurrence, the manner and method used while resolving certain problems or disputes awarding punishment, securing nation and imparting justice to the citizens while administering the country with utmost dedication and commitment for the welfare of the people. Description given by Kalidas on different kings Suryavansh beginning from Raghu, Dilip, Sagar and Bhagirath reveals a lot of worthy things because of which Indian civilization flourished attaining intellectual and academic heights. The citizens were treated as children and brothers by the king ready to provide all required assistance in the event of necessity. Even animals were imparted justice when they were assaulted by men (ibid).

It may not be easy for Western people to follow the description of Shri Ram Rajya given in Ramayan where premature death, drought, telling lies, molesting the ladies was unheard of. The reason was righteous conduct. People were Dharma abiding (righteous conduct) and truthful in life creating peace and harmony in Indian society.

Dharmakosha speaks to quote:

धर्मैकतानाः पुरुषास्तदासन् सत्यवादिनः ।  
तदा न व्यवहारोऽभून्न द्वेषो नापि मत्सरः ॥  
नष्टे धर्मे मनुष्याणां व्यवहारः प्रवर्तते ।  
द्रष्टा च व्यवहाराणां राजा दण्डधरः स्मृतः ॥

When people were Dharma abiding (righteousness) and truthful, there

17. Ramkatha in Indian Languages, Edited by Yogendra Pratap Singh, published by Lokbharti Prakashan, Allahabad.

existed neither hatred nor envy nor any legal disputes. Practice of Dharma having declined in mankind, law-suits (Vyavahara) were invented and the king was entrusted with the power to decide law-suits as he had the sanction of Dharma to enforce obedience to, and to order punishment for disobedience of, Dharma.<sup>18</sup>

It was human nature to obey Dharma or do righteous conduct voluntarily hence there was no need to classify offence and provide codified law. Ram Rajya was ideal State. With the fall of character and rise of crime in later period of Indian civilization, law seems to be codified under different heads of punishment. Chapter-13 Verse 327 deals with different chapters of crime which based on the analysis of different evil, mental and bodily actions causes civil or criminal injury.

शुभाशुभफलं कर्म मनो वाग्देहसम्भवम् ।  
 कर्मजा गतयो नृणामुत्तमाधममध्यमाः ॥  
 तस्येह त्रिविधस्यापि त्र्यधिष्ठानस्य देहिनः ।  
 दशलक्षणयुक्तस्थ मनो विद्यात्प्रवर्कम् ॥  
 परद्रव्येष्वभिध्यानं मनसानिष्टचिन्तनम् ।  
 वितथाभिनिवेशश्च त्रिविधं कर्म मानसम् ॥  
 पारुष्यमनृतं चैव पैशुन्यं चापि सर्वशः ।  
 असम्बद्धप्रलापश्च वांग्यं स्याच्चतुर्विधम् ॥  
 अदत्तनामुपादानं हिंसा चैवाविधानतः ।  
 परदारोपसेवा च शरीरं त्रिविधं स्मृतम् ॥<sup>19</sup>

Action which springs from the mind, from speech and from the body produces either good or evil results. By action are caused various conditions of men. Mind is the instigator for all actions which are connected with and performed by the body. They are of three kinds and fall under ten heads.

(1) Three sinful mental actions:

The sin takes its origin in the mind in three ways:-

- (i) coveting the property of others;
- (ii) thinking what is undesirable; and
- (iii) adherence to evil doctrines.

These three types of sinful mental actions give rise to four types of evil verbal actions or three types of wicked bodily actions.

(2) Four evil verbal actions:

- (i) Speaking untruth;
- (ii) attacking another in abusive or strong language;
- (iii) carrying tales against another person; and
- (iv) talking ill of others.

(3) Three wicked bodily actions:

18. Nar. p. 5 1-2, Dharmakosha p.3

19. Manusmriti XII 3 to 7

- (i) taking what is not given;
- (ii) injuring living beings; and
- (iii) illicit intercourse with another man's wife.

The character of man was a prime concern. The kings were conferred power to punish guilty. Deviation in different Ramayan is because of influence of respective communities, culture and practice based on geographical area and climatic conditions. Some of the basic principles which cover the modern jurisprudence may be noticed in practice during period of Shri Ram. Indian civilization flourished because of social norms and justice dispensing system maintained by kings of respective period.

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## GROUND SCENARIO

**E**volution of man or humanity grew up gradually. The socio-economic development, law and procedure of justice dispensing system of all related subject matter must be looked into keeping with the ground scenario of that phase which we propose to look into on any subject. Ayodhya was ruled by King Dasharatha and Shri Ram was his son apart from three of his brothers, Bharat, Shatrughan and Lakshman. It is necessary to consider the description of city of Ayodhya, the status of inhabitants during reign of King Dasharatha while trying to understand the Indian culture and civilization of that period. Sage Valmiki in his Ramayan has given a brief description of the period when Shri Ram was born. It shall be appropriate to consider their rulings and lessons by the rulers and politicians of the present day.

<sup>20</sup>While living in the city of Ayodhya, King Dasharatha protected his subjects. He was well versed in the Vedas and collected all things. He was farsighted and highly glorious, and was loved by the people inhabiting the city as well as the countryside. (1) He was a superlative car-hero (Atiratha) of Ikswaku's race. He was fond of performing sacrifices, devoted to virtue and given to the control of his senses. He was a royal sage almost as good as Maharshi. He enjoyed a good reputation in all the three worlds. (2) He was strong and having no foes. He had a number of allies and was the conqueror of his senses. In point of amassing wealth and other things he was a compeer of Indra and Kubera. (3) Just as the highly glorious Manu protected the whole world, so did king Dasharatha. (4) That king, who was true to his word and who was engaged in the pursuit of wealth, religious merit and sense-enjoyment protected the foremost city of Ayodhya, in the same way as Indra protected Amaravati.

From Valmiki Ramayan, it appears that during king Dashrath the members of cabinet of king Dashrath were eight in numbers exceptionally of very high merits to deal with problems. Valmiki says:

“<sup>21</sup>The ministers of the exceptionally high souled king Dasharatha (a scion of Ikswaku) knew how to weigh the pros and cons of a problem, could read the mind of others and were ever devoted to the welfare of their beloved master. They were endowed with virtues (appropriate to a minister). Eight were the ministers of that heroic king, who were glorious, pure (of mind and conduct) and ever devoted to

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20. Canto VI of Valmiki Ramayana (Balkand) Geeta Press Gorakhpur.

21. Canto VII Valmiki Ramayana, p. 24 Geeta Press Gorakhpur

the affairs of the king. They were Dhrsti, Jayanta, Vijaya, Surastra, Rastravardhana,

Akopa, Dharmapala and Arthavit, Sumantra being the eighth. Vashishtha and Vamadeva, the foremost of seers, were his two beloved family priests (and counselors too). And there were other counselors too, viz., Suyajna and Jabali Kasyapa (a scion of Kasyapa) and Gautama, the long-lived Markandeya and the Brahmana, Katyayana. Along with these Brahmana seers, his hereditary priests too ever functioned as his counselors.

If we compare the quality and merit of the ministry of King Dasharath, which appears to be outstanding and possessing impeccable character with passion to serve the country, king Dasharath ruled over entire Globe means undivided greater India, the reason because of which Shri Ram during exile eliminated the rakshasas who were persecuting the peoples residing in Dandakaranya or South India. We compare the qualities of ministers, their knowledge to deal with their subject. A minister (Amatya) is believed to have charged with executive duties while mantri (counselor<sup>22</sup>) was supposed to exercise his judicial power.

While giving punishment to a person it was expected that the variety of factors shall be taken into mind including the age and capacity of the convict. The time and place of punishment as well as the age and capacity of the convict should be taken into consideration while awarding punishment.

<sup>23</sup>The ministers were modest through learning, bashful and clever, had fully controlled their senses, were affluent, high-souled, well-versed in the use of weapons, possessed of unbending prowess, glorious, vigilant, true to their word, majestic, forgiving and far-famed. They spoke with a smile playing on their lips and would never tell a lie in anger or for the sake of sense-enjoyment or wealth. Nothing connected with their own people or with others was unknown to them; whatever was done or sought to be done by the people was known to them through spies. They were tactful in their dealings, had been tried in the matter of loyalty, and meted out punishment even to their sons according to the law when occasion demanded it. They were intent on swelling the state exchequer and consolidating the army and did not persecute even an enemy if he was not guilty. They were great heroes with an undying zeal and followed the precepts of political science; they protected under all circumstances the people of good conduct in their state. They filled the coffers of the state without harassing the Brahmana and the Ksatriya communities and inflicted heavy penalties after duly considering the fact or splendor resources of the offender. As a result of the ministers being all upright, nay, of one mind and fully discerning, there was no man who told a lie anywhere in the city of Ayodhya or for that matter in the entire kingdom. Nay, there was no wicked man or one having liaison with another's wife anywhere in that kingdom. On the other hand the whole state as well as the aforesaid city of

22. देशकालवयः शक्तीः संचिन्त्या दण्डकर्मणि (valmiki Ramayana, Geeta Press, Gorakhpur)

23. Canto VII, p. 25 Valmiki Ramayana (Balkanda), Geeta Press, Gorakhpur.

Ayodhya was perfectly tranquil (free from turmoil or tribulation). They were all finely dressed and well adorned, and were of holy resolve; the welfare of the king was their purpose and they were always wide awake, seeing everything with the eye of prudence. Favoured of the preceptor because of their numerous virtues and celebrated for their prowess, they were universally recognized even in foreign lands, their conclusions being based on their intellect. They were qualified all round and were never devoid of virtues. They were conversant with the principles determining the propriety of peace and war and were naturally endowed with the divine properties. They were capable of maintaining the secrecy of deliberations and capable of subtle reasoning. They possessed a special knowledge of political science and always spoke kindly.

It appears that the status of society during period of Dasharath/Shri Ram was in conformity with the law laid down by Swayambhu Manu (not in the present form). The qualities of Monarch was based on very tough disciplined members.

<sup>24</sup>Assisted by such qualified ministers, as mentioned above, and priests and counselors, and free from vices, Emperor Dasharatha ruled over the entire globe. Seeing everything with his eyes through the spies and protecting the people through righteousness, (nay) providing maintenance for his subjects and abstaining from unrighteousness, the said tiger among men, who was munificent and true to his promise and well-known in the three worlds, ruled over this earth while residing in Ayodhya. He never met an enemy, who could match, much less excel, him (in strength), and had a number of allies; the rulers of the adjoining territories bowed to him and his enemies were got rid of by his glory. In this way the emperor ruled over the world as Indra (the ruler of gods) reigns in heaven. Surrounded by the aforesaid counselors, who had been charged with the act of deliberation and were devoted to the interests of the state, who were clever and efficient and loyal to the king, the said monarch (Emperor Dasharatha) shone with splendor even as a rising sun shines bright when joined with its glorious rays.

In case we compare the aforesaid passage from the present available text of Manu which is rightly condemned by a good section of people, it is beyond doubt to establish that either there has been another Manusmriti or original Manusmriti has been doctored for some reasons; in past for caste dominance.

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24. Lord Manu says-

दश कामसमुत्थानि तथाष्टौ क्रोधजानि च । व्यसनानि दुरन्तानि प्रयत्नेन विवर्जयेत् ॥

"A monarch should scrupulously eschew the ten insurmountable vices born of lust and the eight born of anger". The following are the ten vices born of lust :

मृगयाक्षौ दिवास्वापः परिवादः स्त्रियो मदः । तौर्यत्रिकं वृथाट्या च कामजौ दशको गणः ॥

Hunting, playing at dice, taking a nap during the day, slandering others, indulgence in women, inebriety, the three items of music (singing, dancing and playing upon musical instruments) and idly loitering about-these are the ten vices born of lust.

The following eight constitute the vices born of anger:

पैशुन्यं साहसं द्रोह ईर्ष्यासुवार्थदूषणे । वाग्दण्डनं च पारुष्यं क्रोधजोऽपि गणोऽष्टकः ॥

Backbiting, rashness, malice, jealousy, prying into others' faults, unjust seizure of property, using abusive words and harsh speech-these are the eight vices born of anger.

## DISTANT AREA

**T**hough, during period of Shri Ram in Treta, society was well civilized. So far as habitants of country were concerned the things became worse to the people who used to reside in remote area. Devils used to harass and prosecute the Indian sages with shivering effect across the board. The rule of justice and mighty power which Ravan exercised in area of the country to disturb the peaceful citizens compelled Shri Ram to move ahead with his mighty power to eliminate the rakshasas.

<sup>25</sup>There was tendency of exploitation and cruelty in Ravan. He misbehaved with Vibhishan. Anti-culture was displayed. Everything was opposite to Ayodhya. Culture of Ayodhya was progressive and of Lanka reactionary. Ravan struck with his foot at Vibhishan. Consequently Vibhishan decided to meet Shri Ram. He entered human culture from monster culture. Monsters were cheat, cruel and misbehaved. Vibhishan was calm and quiet by nature. After dire injustice he went to Kuber for advice. Kuber also gave advice to go in the shelter of Shri Ram. He argued that your elder brother is a rascal, there is nothing wrong in quitting him. A premonition of throne came to him but he ignored it.

There is further narration of monster culture in Aranya and Lankakand. There was good portrayal of cruel court culture of Ravan. There was code of conduct for everyone to come to and go from the court, sitting and getting up, message acceptance, refusal and advice. Meghnad performed the religious ceremony of Yagya. Many people had special boon. There was aristocratic development. Discipline and terror of Ravan of his own style were there. There were various pictures of cultural ignorance. There were instances of man eating and drinking of blood. There was vanity and illusions in the people. Ravan also spread Indrajala. For sake of battle, Ravan gave betel leaf to Dhoomraksha. Meghnad said to Mandodari while going to battlefield, "Mother, my father is god of the world. After defeating Ashtapals, he became invincible victor from whose power you are leading a glorious life. Still you are condemning such a great king in women society. You belong to women society and, therefore, your utterances are also feminine condemning the husband is dire sin. Why are you doing so? He also gave examples of god's abdication of surrogate wives. After it two lakh widows began to pray- "O master of monsters, listen our prayers. Our husbands died in

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25. Ramkatha in Indian Languages, Edited by Yogendra Pratap Singh, published by Lokbharti Prakashan, Allahabad.

battlefield, for them we are sorry. When it is noon all these widows sit to cook. Stoves begin to lit in every house of Lanka. And leave our pitchers”. Without paying attention to anyone, Indrajeet begins to pray Nikumbhila. Crores of goats are sacrificed. Ten thousand Brahmins perform the Yagya. In monster’s illusion, he battle in the sky by hiding. He created a great problem. He was over anxious for taking revenge of his father (Khar). He wanted to liberate his father from the Ram’s army. Counting in front of Ram, he began to criticize him. He was afraid about cow killing. He receded three steps and made cows-bulls fly with Pavan (air arrow). Then he killed him. Shri Ram defended modest culture. Listening the prayers of Tarnisen he put his arms, and said to Vibhishan, “I do not use any arm on devotees. It appears Sita cannot be set free and I would now return to Ayodhya”. Tarani began to criticize him. Lakshman became angry. Interestingly, Vibhishan’s son came to fight on his chariot decorated by Ravan. His enmity became successful. When he was killed, Vibhishan and Ram wept at his death. Ram said to Vibhishan, “had you told me that he was your son, I would not have fought the battle with him. I have not done a right act.” Ram and Lakshman, all monkeys and Jamwant began to weep. Shri Ram said again, “Friend, how hard are you that you asked me to use Brahmastra on your son. You yourself got your son killed, then why are you weeping.”

<sup>26</sup>When Shri Ram and his brothers had completed their education, and Dasharath’s thoughts turned towards their marriage, Vishvamitra, the valourous and great sage, came to the king’s court.

The king received him with great respect and affection and promised to carry out whatever the sage Vishvamitra desired.

Vishvamitra said that the king must be true to his promise, and narrated how two powerful rakshasas, Maricha and Subahu, often disrupted his performance of rituals by drenching the altar with flesh and blood. The rishi said that he did not want to curse the rakshasas as that would ruin the ritual he was engaged in. He therefore asked the king to give him Rama, who, though quite young was in fact a valorous hero. He promised to take care of him and said that with his blessings, Shri Ram would be able to kill the two rakshasas whom no other man could possibly kill. Vishvamitra told Dasharatha : “I promise, there is no need to be worried about your son.” The king was stunned and fainted upon hearing the rishi’s request for Shri Ram.

Regaining consciousness, the king said to Vishvamitra, “Shri Ram is only a boy, not yet sixteen years of age. Please do not take Rama; I myself will come and protect your ritual performance. If you insist on taking Rama, take me and my soldiers too with you. I cannot live even for a moment without Ram.” Then he asked the rishi about marich and Subahu. The rishi replied that there was a mighty raksasa, Ravan, said to be the brother of Vaisravana (Kubera), who oppressed the

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26. The Ramayan of Valmiki by M.R. Parameswaran

three worlds, and that it was on Ravana's order that Marich and Subahu disrupted the sacrifices of the rishis.

The king said to Vishvamitra, "Even I am no match for Ravana since even the devas and danavas were no match for him. I can't do battle with him or his troops, even if I had my army and my sons to help me. I will not give you my young son."

Vishvamitra was furious. He said to Dasharatha, "First you promised to give me whatever I want, and now you want to go back on your promise. It is unworthy of your family. If you think such behaviour is alright, then stay happily with your relatives.

The rishi Vashishtha, Dasharatha's family-and-court priest, then advised the king, "Born in the Ikshvaku dynasty, in the family of Raghu, you are famous as a dharmatma; you should not give up dharma. To go back on one's promise destroys all the dharma acquired. So, agree to send Rama with Vishvamitra rishi who is dharma incarnate; he is also a master of various weapons. He is a righteous person. You should not hesitate to send Rama with him."

Thereupon Dasharatha called Rama and Lakshman and handed them over to Vishvamitra. The two princes followed the rishi. When they reached the Sarayu river, the rishi imparted to them the mantras Bala and Atibala. He said, "Thanks to these mantras, you will never feel tired; and even when you are sleeping or are tired, the rakshasas can do no harm to you." Proceeding further, they came upon what was once Manmatha's ashram on the banks of the river Ganges.

The rishi who lived nearby called for a boat; Vishvamitra, Rama and Lakshman then crossed the river and soon came to the Dandaka forest. Vishvamitra told Ram that the forest stood on a once prosperous region before it was laid waste by Tadaka, a Yaksha woman capable of taking any form and who possessed the strength of a thousand elephants, and that she was the mother of the mighty raksasa Marich. He added that she lived close by, on the way to his ashram, and that Ram should kill the evil Tadaka and make the region free of her.

Ram asked, "But Yaksha women have little strength. How did Tadaka become so strong? Vishvamitra explained that it was due to a boon from Brahma. After her husband's death, she and her son Marich tried to attack the great rishi Agastya. The rishi cursed Marich to become a raksasa and cursed Tadaka to become an ugly and repulsive man-eater. Vishvamitra said to Rama that ever since then Tadaka ravaged the region, for Agastya used to live there. The rishi again told Shri Rama that he should kill the evil Tadaka.

Shri Ram replied, "My father has said that I must do what you ask me to do, and I will not disregard his words. And since a seer like you asks me to kill Tadaka, I shall do so," and twanged his bow. Hearing the noise made by the bow, Tadaka appeared before them, looking dreadful and angry. In spite of what he had said earlier, Ram did not want to kill her since she was a woman. But she hurled herself at him like a thunderbolt and then Ram shot an arrow at her and killed

her. Vishvamitra said that they would spend the night there before moving on.

The next morning, Vishvamitra gave Ram several divine weapons as well as the mantras that would make the weapons come to Ram whenever he called them to his mind.

Soon they came in sight of Vishvamitra's ashram. The rishi narrated that long ago Vishnu was born as Vamana (dwarf) and lived in that ashram; he narrated also how Vishnu, in the form of a dwarf, begged the king Bali who had defeated the devas and was lord of all the three worlds, to grant him what space he could cover in three paces; Bali agreed to it and then Vamana grew so big that he easily traversed all three worlds. Vishnu thus recovered the three worlds and gave them back to Indra.

As they neared the ashram, they were greeted by the sages who also lived there. And Vishvamitra told Ram that of late the two rakshasas-Marich and Subahu- had been coming and interfering with his religious activities. He added, "It is here, Rama, that you should kill those evil rakshasas.

Ram and Lakshman wanted to know when the raksasas were expected to come. As Vishvamitra had entered a state of deep concentration by then, the sages informed Ram that he and Lakshman should be on guard for six days and six nights. Till the sixth night the rakshasas did not come.

On the sixth night, the rakshasas Marich and Subahu, accompanied by many fierce followers, came, pouring down torrents of blood, and rushed against Ram and Lakshman. Ram shot a powerful weapon at Marich which stunned him and threw him across a vast distance. Ram then shot and killed Subahu and the remaining rakshasas. And Vishvamitra was able to finish his religious performance.

We may compare the situation of that period from the present scenario of the world where members of ISIS and some migrants tend to extend their dynasty not only in Europe but in India and Middle East. The ISIS or alike organization are doing almost same thing which Ravan and his representative used to do. The killing, looting and compelling to follow a religion in a particular way is the symptom of monsters activity resulted into divine incarnation of Shri Ram.

The recent attack on Amarnath Yatra on 09 July 2017 by the members of Lashkar-e-Taiba killing seven and injuring nineteen persons including women shows that the mind set of monsters is still same which they were possessing during Treta where Ravan and his representatives used to kill sages and devotees worshiping God in accordance to old religion, customs, practice and traditions.

The Iraqi antiquities ministry has acknowledged reports of a new attack by Islamic State militants on an ancient Assyrian city north-est of Mosul, reiterated calls for the international community to intervene and condemned the jihadi group for 'erasing the history of humanity'.

There have been reports that Isis bulldozed landmarks in the ancient city of Dur Sharrukin, now called khorsabad. The ministry said it was in keeping with

the militant group's 'criminal ideology and persistence in destroying and stealing Iraq's antiquities'.

Islam evolved until the Wahhabi movement, founded by Muhammad ibn Abdel Wahab in the 18th century, aimed to purify the faith by returning Muslims to what he believed were its original principles as typified by al Salaf al salih (the pious forebears). He rejected what he saw as pagan accretions introduced by bid'a (innovation) and shirk (idolatry or polytheism), which detracts from the absolute transcendence of God.

Abdel Wahab also revived interest in the works of the 13th century scholar Ibn Taymiyyah, who came to be seen as the mentor of the Salafi-jihadi world view, and the doctrine of takfiri permitting the killing of anyone deemed to be an apostate.

The influence of Wahhabism meant that 90% of Islamic monuments, holy places, tombs and mausoleums in the Arabian peninsula were destroyed on the grounds that they were 'polytheistic'. In 1924, Abd al-Azis ibn Saud occupied Mecca and destroyed the grave of Khadijah, the prophet Muhammad's wife, and that of his uncle, Abu Talib. In Medina, he demolished the mausoleum over the graves of the prophet Muhammad's descendants, including that of his daughter, Fatimah.

Some of the heritage sites destroyed by Middle East are as under:-

Palmyra thrived for centuries in the desert east of Damascus as an oasis and stop for caravans on the Silk Road. Part of the Roman Empire, it was a thriving, wealthy metropolis. The city-state reached its peak in the late 3rd century, when it was ruled by Queen Zenobia and briefly rebelled against Rome.

The Christian monastery was captured in August, when ISIS militants captured the Syrian town of al-Qaryatain near Palmyra. Dedicated to a 4th century saint, it was an important pilgrimage site and sheltered hundreds of Syrian Christians. Bulldozers were reportedly used to topple its walls, and ISIS posted pictures of the destruction on Twitter.

A rich Roman-era trading city, Apamea has been badly looted since the beginning of Syria's civil war, before ISIS appeared. Satellite imagery shows dozens of pits dug across the site; previously unknown Roman mosaics have reportedly been excavated and removed for sale. ISIS is said to take a cut from sales of ancient artifacts, making tens of millions of dollars to fund their operations.

A Greek settlement on the Euphrates not far from Syria's border with Iraq, Dura-Europos later became one of Rome's easternmost outposts. It houses the world's oldest known Christian church, a beautifully decorated synagogue, and many other temples and Roman-era buildings. Satellite imagery shows a cratered landscape inside the city's mud-brick walls, evidence of widespread destruction by looters.

Mari flourished in the Bronze Age, between 3000 and 1600 B.C. Archaeologists have discovered palaces, temples, and extensive archives written

on clay tablets that shed light on the early days of civilization in the region. According to reports from locals and satellite imagery, the site, especially the royal palace, is being looted systematically. The temple of Baal was one of the main attractions of Palmyra, a Roman-era trading outpost in the desert northeast of Damascus, Syria. A UN agency says it was mostly flattened over the weekend by explosions detonated by ISIS.

Built in the third century B.C., Hatra was the capital of an independent kingdom on the outskirts of the Roman Empire. Its combination of Greek- and Roman-influenced architecture and Eastern features testify to its prominence as a trading center on the Silk Road. Hatra was named a UNESCO World Heritage site in 1985.

In 2014, Hatra was taken over by ISIS and reportedly used as an ammo dump and training camp. A video released by ISIS in April 2015 showed fighters using sledgehammers and automatic weapons to destroy sculptures in several of the site's largest buildings. "The destruction of Hatra marks a turning point in the appalling strategy of cultural cleansing underway in Iraq," UNESCO head Irina Bokova said at the time.

Ancient Assyria was one of the first true empires, expanding aggressively across the Middle East and controlling a vast stretch of the ancient world between 900 and 600 B.C. The Assyrian kings ruled their realm from a series of capitals in what is today northern Iraq. Nineveh was one of them, flourishing under the Assyrian emperor Sennacherib around 700 B.C. At one point, Nineveh was the largest city in the world.

Reports of looting at Mosul's libraries and universities began to surface almost as soon as ISIS occupied the city last summer. Centuries-old manuscripts were stolen, and thousands of books disappeared into the shadowy international art market. Mosul University's library was burned in December. In late February, the ISIS campaign escalated: Mosul's central public library, a landmark built in 1921, was rigged with explosives and razed, together with thousands of manuscripts and instruments used by Arab scientists.

The book burning coincided with the release of the video showing ISIS fighters rampaging through the Mosul Museum, toppling statues and smashing others with hammers. The museum was Iraq's second largest, after the Iraq Museum in Baghdad. Statues included masterpieces from Hatra and Nineveh.

Nimrud was the first Assyrian capital, founded 3,200 years ago. Its rich decoration reflected the empire's power and wealth. The site was excavated beginning in the 1840s by British archaeologists, who sent dozens of its massive stone sculptures to museums around the world, including New York's Metropolitan Museum of Art and the British Museum in London. Many originals remained in Iraq.

Khorsabad is another ancient Assyrian capital, a few miles from Mosul. The palace there was built between 717 and 706 B.C. by Assyria's King Sargon II. Its

reliefs and statues were remarkably well preserved, with traces of the original paint still decorating depictions of Assyrian victories and royal processions.

Most of the reliefs and many of the statues were removed during French excavations in the mid-1800s and by teams from Chicago's Oriental Institute in the 1920s and 30's, and are now in the Iraq Museum in Baghdad as well as in Chicago and the Louvre in Paris. It's not clear what part of the site, ISIS targeted.

Established in the 4th century, the monastery was dedicated to an early Christian saint. The holy site, maintained since the late 1800s by Syriac Catholic monks, survived the Mongol hordes in the 1200s but fell to ISIS in March. The extremists used explosives to destroy the saint's tomb and its elaborate carvings and decorations.

Mosul's Mosque of the Prophet Yunus was dedicated to the biblical figure Jonah, considered a prophet by many Muslims. But ISIS adheres to an extreme interpretation of Islam that sees veneration of prophets like Jonah as forbidden. On July 24, ISIS fighters evacuated the mosque and demolished it with explosives.

Like many of Iraq's sites, the mosque was a layer cake of history, built on top of a Christian church that in turn had been built on one of the two mounds that made up the Assyrian city of Nineveh.

The Imam Dur Mausoleum, not far from the city of Samarra, was a magnificent specimen of medieval Islamic architecture and decoration. It was blown up last October.

A Unesco World Heritage site, the Umayyad Mosque is one of the oldest and largest mosques in Aleppo and was built at beginning of the 8th century, although the current building dates from the 11th through 14th centuries. The mosque was damaged during clashes between Syrian Army and Free Syrian Army during the Syrian Civil War in April 2013.

A Syrian rebel fighter points to destruction in the Umayyad Mosque complex in the old part of Syria's northern city of Aleppo. The Imam Dur Mausoleum, not far from the city of Samarra, was a magnificent specimen of medieval Islamic architecture and decoration. It was blown up last October. April 2013 Dimitar Dilkoff/AFP General view of destruction in Aleppo's ancient Umayyad mosque, in the UNESCO-listed northern Syrian city, April 2013 AFP/Getty Images. A section of the Umayyad Mosque complex is seen riddled with bullet holes in the old part of Syria's northern city of Aleppo Dimitar Dilkoff/AFP, the rubble of the minaret of Aleppo's ancient Umayyad mosque, in the UNESCO-listed northern Syrian city, after it was blown up Jalal al-Halabi/AFP.

The Buddhas of Bamiyan were two monumental statues of Buddha, carved into the side of a cliff in the Bamiyan valley in Central Afghanistan. They were destroyed in March 2001 by the Taliban, after President Mullah Mohammed Omar declared that they were idols and should be removed.

The taller of the two Buddhas in 1863 and in 2008 after destruction Wiki Commons, a combination photo showing the defaced Buddha statue prior to

their destruction in the Bamiyan town in central Afghanistan in December, 1997 (Reuters). Boys play soccer in front of the whole where the Buddhas of Bamiyan used to stand in the central town of Bamiyan northwest of Kabul April, 2007 (Reuters).

The ancient Iraqi city of Hatra, built in the 2nd and 3rd centuries, was destroyed by Islamic State militants in March 2015. Later, video footage emerged of members of the militant group demolishing its ruins.

Iraqi children run in front of a temple in the historic city of Hatra, 350 kilometres north of Baghdad, Iraq in December, 2002 Suhaib Salem/Reuters A purported Islamic State video shows militants destroying artefacts in Iraq's Unesco World Heritage city of Hatra (You Tube) A purported Islamic State video shows militants destroying artefacts in Iraq's Unesco World Heritage city of Hatra (You Tube).

Krak des CheBaliers Nev 1 Smoke rises from Smoke Krak des CheBaliers, August 2013 Syria 963 Damage in the renowned Crusader Castle Krak des CheBaliers near the Syria-Lebanon border AFP/Getty Images. Items left behind in the renowned Crusader castle Krak des CheBaliers near the Syria-Lebanon border after forces loyal to Syria's President Bashar al-Assad seized the fortress marking a significant advance in their drive to seal the Lebanese border and several rebel supply lines Sam Skaine/AFP.

If we compare the situation of the present conflict in middle east and some neighbouring countries, the magnitude of cruelty and destruction of temples, mosques and Churches etc or obstruction created in religious activities seem to be comparable to the era of ancient India facing because of Ravan though purpose may be different.

Now again we require Shri Ram to kill the present monsters.

## RIGHTEOUSNESS AND PUNISHMENT<sup>27</sup>

In last two thousand years after Jesus, a number of philosophies, religious tenets have come into being, governing the human life and social order. The relationship between man and woman, the norms to regulate the society and the punishment of offenders for wrongs done had been prime concern in every era and every facet of life. In majority of the religions, women have had a subaltern status, having little say in the walk of life. In some they are meant to satisfy sexual desire, in some they have been treated as domestic servant, in some they are only machines to produce the heirs for the family or to increase the population of the community. More or less, these features have dominated the practices in number of religions since centuries. The social and political rights of the women have been limited since ages all over world. For example, a voting right in western countries and Middle East relates back to few decades in past. The political decisions, policies and governance have been broadly outcome of decisions taken by the male dominated societies. The rape and molestation of women, slavery, kidnapping, concubines have been happening in almost all the countries and religions since ages, keep on offending the humanity. When we speak of India, it means the population residing in geographical areas, commencing from Afghanistan to Myanmar Bangladesh and the adjoining countries. Now recent researches show that Shri Ram and Shri Krishna are neither creation of mysticism or fiction nor borne from the mind of some story tellers, but is epic or narration of Indian History. The evidence and carbon dating, edifies shows that the known Indian culture relates back to more than five thousand years B.C. For the purpose of present text i.e. justice and status of women begins from the period of Shri Ram or little earlier from Raghu, Dilip, Bhagirathi, Sagar, broadly relying upon the text of Ramayan written by Valmiki, Kalidas, Kamban, Tulsidas and number of other authors.

Righteousness in action or Dharma was back bone of ancient Indian civilization. The period of Shri Rama goes back to five thousand years B.C. followed by period of Shri Krishna, then Vedic period. UNICEF recognizes Rig Ved as oldest manuscript written back between 1500 to 1800 B.C. (heritage list). Wisdom and knowledge deal with different facet of life and illiterate person may have more wisdom than a literate person having knowledge of different field.

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27. Based on Ramayan by Valmiki

This applies to men and women equally. While discussing the place of wife in life, Monier Williams referred the poetic passage from Mahabharat, viz :<sup>28</sup>

“Nevertheless, those enlightened Hindus and philanthropies Englishwomen who are now interesting themselves in the spread of female education throughout the East, may adduce good authority from India’s own sacred books for striving to elevate the wives of India to a higher position than that they occupy in the present day. They have only to quote such passages as those referred to at p. 437, notes 1, 3, and p. 438 of this volume. To these may be added the remarkable definition of a wife given in Mahabharata I 3028 & C, of which I here offer a nearly literal version.

“A wife is half the man, his truest friend-  
A loving wife is a perpetual spring  
Of virtue, pleasure, wealth, a faithful wife  
Is his best aid in seeking heavenly bliss,  
A sweetly-speaking wife is a companion  
In solitude, a father in advice,  
A mother in all seasons of distress,  
A rest in passing through life’s wilderness”

The character and feature of a true wife as observed in Mahabharat by Ved Vyas (supra) apply to Sita or goddess Sita in true sense. The intellectual height of Sita has been noticed by Sage Valmiki while narrating a conversation<sup>29</sup> between her and Shri Ram during the period of exile in forest. It shows that Indian women were academically and philosophically sound in the ancient India, particularly during the period of Shri Ram and later-on during Mahabharata, followed by Vedic period (1500 to 1800 B.C.). Virtually, the opinion expressed by Sita, which she learnt from her ancestors (Sagar, Raghu, Bhagirath, etc), seems to be the foundation of modern penology. Though Shri Ram executed rakshasas (devils) on the request made by Sages of that time because of their persecution by rakshasas or devilish people and killed them with ultimate elimination of Ravan but what Sita has said and codified by Sage Valmiki seems to have become the foundation in laying down law to punish guilty in democratic polity. In the development of Indian jurisprudence, based on western juridical philosophy, the Indian jurists have not taken note of number of available treatise of Ancient India, where certain principles have been laid down to deal with an accused and the society.

Shri Ram during his period of exile in forest was passing through Dandakaranya (now a days a portion of Maharashtra, Jharkhand, Chhatisgarh, Andhra Pradesh and Karnataka). He spent pleasant night in the Ashram of Sage Sutheekshna. Sage Sutheekshna guided him with regard to further course of journey. Sita and Lakshman were with him. He advised him to visit scenic places

28. Indian wisdom by Monier Williams, published in 1874 by Wm. H. Allen & Co., London 1875.

29. Chapter IX, Ramayan by Valmiki

in the forest and enjoy the fruits and roots, variety of gentle deers, herds and birds with other pleasantries. The flora and fauna of nature's bounty includes lakes and ponds full of lotuses and water-birds, including waterfalls here and there with the voice of peacock. The sage requested Shri Ram to visit him again after completion of pilgrimage of the forest.

While moving ahead from the Ashram of Suteekshna, they were talking about different impressions with variety of nature's bounties. Dandakaranya was possessing. During course of discussion, Sita spoke with great diffidence and affection, showed her desire to express her opinion, keeping the past experience. Shri Ram nodded.

The <sup>30</sup>Holy Qur'an also speaks for righteous conduct and debar's unfair treatment.

Sita said "Shri Ram the word 'Dharma' (righteousness) has subtle shades of meaning. It is couched in no uncertain terms but it is not easy to know what is Dharma in one's life. To act rightly without swerving even a hair's breadth from it, is possible only for one who has no desires in his mind. I am wondering about it since some time now while travelling with you in this forest. Sita continued to address.

"There are three attitudes towards the observance of Dharma: Am I right? These three should be avoided if you want to act righteously. Those are, viz: Uttering a falsehood is a great sin; the second, that is more great sin, is desiring to possess the wife of another man and the third one is, which is worse than even to these two, is hurting someone who has not offended one in any manner. Sage Valmiki has in Ramayana described in Sanskrit as under :-

त्रीण्येव व्यसनान्यत्र कामजानि भवन्त्युत ।  
मिथ्यावाक्यं तु परमं तस्माद् गुरुतरावुभौ ॥

30. The Holy Qur'an speaks of the equality of the two sexes in various verses. In one place it says:

"...and women have rights similar to those against them in a just manner,..." (Holy Qur'an, 2:228).

...contd..

Elsewhere, the Holy Qur'an says:

"O mankind, surely We have created you from a male and a female, and made you nations and tribes, that you may know each other. Surely the noblest of you with Allah is the most righteous. Surely Allah Knowing, Aware." (Holy Qur'an, 49:13).

About work and doing good deeds, again the Holy Qur'an reveals the beauty of Islam and its equal treatment of workers. This is something the West still has not been able to accomplish! The Holy Qur'an says:

"And whoever does righteous deeds, whether male or female, and he/she is a believer - they will enter the Garden, and not the least injustice will be done to them." (Holy Qur'an, 4:124).

"Whoever does good, whether male or female, and is a believer, We shall certainly make him live a good life, and We shall certainly give them their reward for the best of what they did." (Holy Qur'an, 16:97).

Another verse, Allah, Most High still promises:

"...I will not suffer the work of any worker among you to be lost whether male or female, the one of you being from the other..." (Holy Qur'an, 3:195).

Praise be to Allah, Lord of the Worlds.

परदाराभिगमनं विना वैरं च रौद्रता ।  
मिथ्यावाक्यं न ते भूतं न भविष्यति राघव ॥<sup>31</sup>

Sita had carried on her experience appreciating Shri Ram's character and conduct. She said: "Rama, you have never been guilty of speaking an untruth. You have not done it so far and you will not do it in the future. That is certain. As far as the second sin, you are not guilty of that either. Never once have you looked at anyone other than me."

Sita paused and Shri Rama smiled at her and nodded it to say, "Go on. Tell me what you want to, I will listen. Do not be hesitant."

We compare with the Bible<sup>32</sup>

Sita spoke softly and said : "I am afraid that the third sin may taint your image. In your partiality towards the inmates of the forest you have decided to fight with the rakshasas who have not offended you in any way. What was for, you came to Dandaka with the bow in hand? Is the bow an indication of future sorrow in store for us? I am scared, My lord, of the possible consequences. Ever since you gave them your word to the rishis that you would fight with the rakshasas and rid the forest of them, I have been worried. I am against your proceeding into the forest any further. I will give you my reason. The moment your eyes light on a rakshasa, your fingers will itch to kill him and to you, to think is to act. Fire increases in strength when fed by firewood and the glory of a kshatriya is enhanced by the bow in his hand. The touch of a weapon, I am told, is like the touch of fire. It is not because I do not respect you that I am talking like this, Rama. I do not want to teach you Dharma (righteousness). Far from it. But because of the privilege of love which is there between you and me, I am asking you whether you have done right? Unless provoked to do so, it is not right for you to kill

31. Chapter IX, Valmiki Ramayan, Geeta Press Gorakhpur

32. If ye continue in my word, then are ye my disciples indeed; And ye shall know the truth, and the truth shall make you free." (John 8:31,32)

Jesus Christ put it well:

"And when thou prayest, thou shalt not be as the hypocrites are : for they love to pray standing in the synagogues and in the corners of the streets, that they may be seen of men. Verily I say unto you, they have their reward." (Matt. 6:5)

The first verses of the Gospel of St. John describe God as becoming the universe:

"In the beginning was the Word, and the Word was with God, and the Word was with God, and the Word was God.

The same was in the beginning with God.

All things were made by him; and without him was not anything made that was made.

In him was life; and the life was the light of men.....And the word was made flesh, and dwelt among us". (John 1:1-4,14)

The golden calf symbolized the Jewish fetish (which some say continues to this day) with money, wealth, and material security. Jesus himself said:

"He that loveth father or mother more than me is not worthy of me: and he that loveth son or daughter more than me is not worthy of me. (Matt. 10:37) He said also:

"All that ever came before me are thieves and robbers: but the sheep did not hear them". (John 10:8) Jesus obviously was not referring to the old prophets who came before him in time, for he also said elsewhere, "Think not that I am come to destroy the law, or the prophets: I am not come to destroy, but to fulfill." (Matt 5:17).

anyone even if he/she is a rakshasa. You have adopted the garb of a tapasvin (sage's cloth). Then you should also live in accordance with it. When we go back to Ayodhya, you can go back to the kshatriya dharma which you should follow there. This entire world is the essence of Dharma. Dharma grants one all the four<sup>33</sup> Arthas and man is granted peace if he observes Dharma. Man obtains everything he desires if he is strict in his observance of Dharma.

<sup>34</sup>Sage Valmiki in Ramayana expressed Sita's opinion with regard to possession of arm and its effect on human mind and killing of even devils/people (rakshasas) without commission of offence very eloquently said in Sanskrit, viz:

एवमेतत् पुरावृत्तं शस्त्रसंयोगकारणम् ।  
अग्निसंयोगवद्भेतुः शस्त्रसंयोग उच्यते ॥  
स्नेहाच्च बहुमानाच्च स्मारये त्वां शिक्षये ।  
न कथंचन सा कार्या गृहीत धनुषा त्वया ॥

बुद्धिर्वैरं विना हन्तुं राक्षसान् दण्डकाश्रितान् ।  
अपराधं विना हन्तुं लोको वीर न मंस्यते ॥

“Forgive me, Shri Ram, for trying to tell you what you should do. A woman's natural fear of the unknown has prompted me to say these things. You are the image of Dharma and it is not pertinent to talk to you about it. Consider what I have said with your brother, think it over and come to a decision.”<sup>35</sup>

33. Four arths are, dharma (righteousness), arth (finance), Kaam (sex) and moksh (salvation). Ancient Indians balances these four qualities in their life, for peace and prosperity in life.

34. *ibid.*

35. The principles flowing from opinion expressed by Sita seems to continue even after Ramayan followed by Manu and Kautilya. The principle not to punish anyone unless he/she commits an offence has been prohibited may be noticed in the Manusmriti and economics of Kautilya as well as the Yajurveda and illustrated smriti, to quote:

The various acts constituting the offence of Dandaparushya are illustrated by Smritis thus:

- (i) Raising hand to strike (Kautilya 785).
- (ii) Actual striking (Kautilya 782).
- (iii) Spitting on another (Manusmriti VIII-282).
- (iv) Holding the hair (tuft) of another (Manusmriti VIII 283).
- (v) Striking and causing pain (Manusmriti VIII 284).
- (vi) Injuring the limbs (Manusmriti VIII 287 and Yajurveda II 219).
- (vii) Injuring cattle and other domestic animals (Manusmriti VIII 297-298). Contd...
- (viii) Holding one's hand or foot (Yajurveda II 216).
- (ix) Pulling the leg, hair, clothes etc. (Yajurveda II 217).
- (x) Causing pain without shedding blood (Yajurveda II 218).
- (xi) Causing injury to eye (Yajurveda 220).
- (xii) Causing injury by which blood comes out (Manusmriti VII 284, Nar. 207-4).
- (xiii) Throwing impure substance on the body of another (Nar. P. 207-4).

Kautilya was precised but defined assault on others to quote.

मनुष्याणां पशूनां च दुःखाय प्रहते सति ।  
यथा यथा भवेद् दुःखं दण्डं कुर्यात्तथा तथा ॥

The offence of Dandaparyushya is committed when a person raises his hand to strike another or when he actually strikes another man or animal with a view to cause pain.

However, it may be noted that the quantum of punishment by passage of time became very soft with lenient view in proportionate to offence or misconduct. It may be because during period of Shri Ram in civilized society except the remote areas offence or misconduct was exception, hardly a crime was committed during that period as is evident from Sita's concern to the action of Shri Ram against rakshasas.

We may compare what Sita has said with Magna Carta<sup>36</sup> (1215 A.D.):

Shri Rama was pleased with the concern of Sita about him. He knew what was worrying her and he said: “Sita, I will never swerve from the path of Dharma, you know that. You are the daughter of Janaka, the greatest of saints, and it is not surprising that you should know all the nuances of Dharma. But I am sorry for these rishis. Consider these rishis, Sita. They have donned the garbs of mendicants. They have abandoned all the pleasures and all comforts of life with but one view: tapas. They are now distressed because of the rakshasas and they have come to me asking me to save them. They have lost their peace of mind which is essential for meditation. And such good people are tortured and eaten up by the rakshasas. These men have come to me and they asked me to protect them. When I heard them the only words I could speak were the ones you heard. They called me their only refuge and I have assured them that I will do what they have asked me to. Tapas (worship, meditation, yagya) is very difficult to undertake and they have done it. I consider it my duty to help them pursue their tapas. I cannot go back on my promise.

Ram while explaining the reason for killing rakshasas or devilish people informed Sita the plight of peoples residing in the forest. Valmiki in Ramayan quoted how Shri Ram explained Sita the complain of inhabitants of forests (Dandakaranya):

ते चार्ता दण्डकारण्ये मुनयः संशितव्रताः । मां सीते स्वयमागम्य शरण्यं शरणं गताः ॥  
वसन्तः कालकालेषु वने मूलफलाशनाः । न लभन्ते सुखं भीरु राक्षसैः क्रूरकर्मभिः ॥

भक्ष्यन्ते राक्षसैर्भीमैर्नरमांसोपजीविभिः । ते भक्ष्यमाणा मुनयो दण्डकारण्यवासिनः ॥  
अस्मान्भ्यवपद्येति मामूचुर्द्विजसत्तमाः । मया तु वचनं श्रुत्वा तेषामेवं मुखाच्च्युतम् ॥  
कृत्वा वचनशुश्रूषां वाक्यमेतदुदाहृतम् । प्रसीदन्तु भवन्तो मे हरीरेषा तु ममातुला ॥  
यदीदृशैरहं विप्रैरुपस्थेयैरुपस्थितः । किं करोमीति च मया व्याहृतं द्विजसन्निधौ ॥

36. Magna Carta, meaning ‘The Great Charter’, is one of the most famous documents in the world. Originally issued by King John of England (r. 1199-1216) as a practical solution to the political crisis he faced in 1215, Magna Carta established for the first time the principle that everybody, including the king, was subject to the law. Although nearly a third of the text was deleted or substantially rewritten within ten years, and almost all the clauses have been repealed in modern times, Magna Carta remains a cornerstone of the British constitution.

Although Magna Carta contained 63 clauses when it was first granted, only three of those clauses remain part of English law. One defends the liberties and rights of the English Church, another confirms the liberties and customs of London and other towns, but the third is the most famous: No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land.

To no one will we sell, to no one deny or delay right or justice.

This clause gave all free men the right to justice and a fair trial. However, ‘free men’ comprised only a small proportion of the population in medieval England. The majority of the people were unfree peasants known as ‘villains’, who could seek justice only through the courts of their own lords.

Buried deep in Magna Carta, this clause was given no particular prominence in 1215, but its intrinsic adaptability has allowed succeeding generations to reinterpret it for their own purposes. In the 14th century Parliament saw it as guaranteeing trial by jury; in the 17th century Sir Edward Coke (1552-1634) interpreted it as a declaration of individual liberty in his conflict with the early Stuart Kings; and it has echoes in the American Bill of Rights (1791) and the Universal Declaration of Human Rights (1948) and Constitution of India.

Always dwelling in the forest, eating roots and fruits, they are not getting happiness, O timid one, due to ogres of cruel activities. They are being eaten up by the terrible ogres living on human flesh. Being devoured by these, the sages dwelling in the Dandaka forest, the best among the brahmanas, asked me to show grace to them. I, for my part, having heard the words that had escaped from their mouth and having shown the desire to listen to their speech, made the following utterance- 'Be you gracious to me. Indeed it is a great shame for me that I have been approached by such brahmanas as are worthy of being approached'. I then asked the brahmanas as to what I should do.

सर्वैरेव समागम्य वागियं समुदाहृता । राक्षसैर्दण्डकारण्ये बहुभिः कामरूपिभिः ॥  
अर्दिताः स्म भृशं राम भवान् नस्तत्र रक्षतु । होमकाले तु सम्प्राप्ते पर्वकालेषु चानघ ॥

धर्षयन्ति सुदुर्धर्षा राक्षसाः पिशिताशनाः । राक्षसैर्धर्षितानां च तापसानां तपस्विनाम् ॥  
गतिं मृगयमाणानां भवान् नः परमा गतिः । कामं तपःप्रभावेण शक्ता हन्तुं निशाचरान् ॥

चिरार्जितं न चेच्छामस्तपः खण्डयितुं वयम् । बहुविघ्नं तपो नित्यं दुश्चरं चैव राघव ॥  
तेन शापं न मुञ्चामो भक्ष्यमाणाश्च राक्षसैः । तदर्द्यमानान् रक्षोभिर्दण्डकारण्यवासिभिः ॥

रक्ष नस्त्वं सह भ्रात्रा त्वन्नाथा हि वयं वने । मया चैतद्वचः श्रुत्वा कात्स्न्येन परिपालनम् ॥  
ऋषीणां दण्डकारण्ये संश्रुतं जनकात्मजे । संश्रुत्य न च शक्यामि जीवमानः प्रतिश्रवम् ॥  
मुनीनामन्यथा कर्तुं सत्यमिष्टं हि मे सदा ॥ अप्यहं जीवितं जह्यां त्वां वा सीते सलक्ष्मणाम् ॥

<sup>37</sup>Coming together, all of them made the following submission- "we have been greatly tormented in the Dandaka forest by many ogres assuming different forms according to their will. Ram, protect you us from them. When the time comes for pouring oblations into the sacred fire and also on holy occasions the flesh-eating, unassailable ogres attack us, O sinless one! You are the greatest asylum for us poor ascetics, who are seeking an asylum, assailed as we are by the ogres. Although we are able to kill the night-wanderers by virtue of our austerities, we do not desire to waste the power accumulated by us for a long time. O Raghava, austerities are beset with many obstacles and are always difficult to be performed. Therefore, though being eaten up by the ogres, we do not pronounce a curse. Hence, along with your brother, protect you us, oppressed as we are by ogres dwelling in the Dandaka forest. For, you alone are our master in the forest. And having heard this speech I promised complete protection to the sages living in the Dandaka forest, O daughter of Janaka! And having made a promise, I dare not as long as I am alive falsify the word given to the sages. For, truth is always dear to me. I can even give up my life or you together with Lakshmana, but not my plighted word given especially to the Brahmanas. Therefore, O Vaidehi, I am compelled to protect the sages even

if I had not given the word, much more so when a vow has been taken. You have uttered these words due to your love and goodwill for me.

The verses of Valmiki Ramayan (supra) indicate the plight of people residing in Dandakaranya, live ascetic life. After hearing their plight the kindful Shri Ram, by having helping nature of the people in distress rose to protect them and eliminate rakshakshas. Ram Said:

“I may give up my life, Lakshmana or even you. But I have to keep my promise to the rishis. Even if they had not asked me for it, I should have, on my own accord, offered to protect them since I am a kshatriya.<sup>38</sup>

During war when the question arose with regard to use of chariot by Ravan, Shri Ram spoke for righteous conduct and the strength to fight. Sage Tulsi Das in Ram Charit Manas dealt with it eloquently:

सौरज धीरज तेहि रथ चाका ।  
सत्य सील दृढ़ ध्वजा पताका ॥  
बल बिबेक दम परहित घोरे ।  
क्षमा कृपा समता रजु जोरे ॥<sup>39</sup>

The wheels (caka) of the chariot (tehi ratha) are valour (sauraja) and fortitude (dhiraja). Steadfastness in truthfulness and good character (satya sila dradha) are its flags of victory and safety (dhvaja pataka). The horses (ghore) of the chariot are strength, discrimination, self control and caring for others (bala bibeka dama parahita). Its reins are made up of the ropes of forgiveness, compassion, and equanimity (ksama krapa samata raju jore).

It is said that by following righteous conduct and looking at law a man can achieve his object. Lord Ram says :

सखा धर्ममय अस रथ जाकेँ ।  
जीतन कहँ न कतहुँ रिपु ताकेँ ॥

महा अजय संसार रिपु जीति सकै सो बीर ।  
जाकेँ अस रथ होइ दृढ़ सुनहु सखा मतिधीर ॥

“Oh friend, a person who has this chariot of dharma has no more enemies to conquer in this world. He alone is a great hero who destroys the enemy of samsara-very difficult to conquer, and who has firm abidance in these virtues is an intelligent person”

A person who has this chariot of dharma either conquers all his enemies or he becomes so friendly to everyone that there is no enemy to begin with. Of course, our real enemies are in our own heart. The important question is, have you won the battle of your own life? If we have qualities even to some degree, our life will be much more peaceful, efficient, and successful.

38. In today's concept maintenance of law and order by the state, as sovereign duty even if no one asks for.

39. Ram Charit Manas by Tulsidas.

The Lord says, “That person alone can be considered a great hero who is able to conquer the enemy of samsara which is almost unconquerable (maha ajay)”. “Oh, intelligent person (matidhira)”, says the Lord, “If you have this chariot of dharma and have firm abidance in these virtues (jakem asa ratha hoi drdha), you yourself can conquer this ego and ego created world of suffering.”

Righteousness was not confined only in peace but also it was adhered to during war. While the righteous conduct (law) which regulated the society in ancient India based on sayings and doings of great men and enforced by respective kings within their territory. Thus, conduct and practice were like codified law of present date whether it is peace or war, it was expected from all persons to adhere with righteousness conduct.

“I am charmed by your concern for me, Sita. I know that advice is given only to those in whom one is interested and you are interested in my welfare. It befits your birth and it is but right that Rama’s wife should be jealous of his Dharma. Sita, you are my Sahadharmachari, are you not? You should be concerned about my Dharma. But I have made up my mind to kill the rakshasas in Dandaka and make it a happy and safe place for the dwellers there.”

The anxiety of Shri Ram to punish the rakshasas on the request made by sages of Dandakarnya not because of representative of Bharat, the then king of Ayodhya but also because of the duty assigned to kshatriya (warrior) during those period seems to continue in later period of Indian administration of justice. Yajurveda, Manu, Kautilya and Dharmshastra deal with the duty of king and look after the people, his own friend, child and helper become the foundation of Rajdharma. It may be noticed from Atri Upnishad, Manusmriti speak in so many may be noted; some of them are :

इन्द्रियाणां जये योगं समातिष्ठेविनिशम् ।  
जितेन्द्रियो हि शक्नोति वशे स्थापयितुं प्रजाः ॥<sup>40</sup>

Day and night the king must strenuously exert himself to conquer his senses; for he along who has conquered his own senses can keep his subjects in obedience.

व्यसनस्य च मृत्योश्च व्यसनं कष्टमुच्यते ।  
व्यसन्यधोऽधो व्रजति खर्यात्यव्यसनी मृतः ॥<sup>41</sup>

On a comparison between vice and death, vice is declared to be more harmful because a vicious man sinks to the nethermost hell while he who dies free from vice goes to heaven.

दुष्टस्य दण्डः सुजनस्थ पूजा न्यायेन कोषस्य च संप्रवृद्धिः ।  
अपक्षपातोऽर्थिषु राष्ट्ररक्षा पञ्चैव यज्ञाः कथिता नृपाणाम् ॥<sup>42</sup>

To punish the wicked, to honour (protect) the good, to enrich the treasury (exchequer) by just methods, to be impartial towards the litigants and to protect

40. Yajurveda (1-309)

41. Manusmriti VIII 53.

the kingdom-these are the five yajnas (selfless duties) to be performed by a king.

प्रजासुखे सुखं राज्ञः प्रजानां च हिते हितम् ।  
नात्मप्रियं हितं राज्ञः प्रजानां तु प्रियं हितम् ॥  
तस्मान्नित्योत्थितो राजा कुर्यादधर्मानुशासनम् ।  
अर्धस्य मूलमुत्थानमनर्धस्य विपर्ययः ॥<sup>43</sup>

In the happiness of his subjects lies the king's happiness; in their welfare, his welfare; whatever pleases himself the king shall not consider as good, but whatever pleases his subjects, the king shall consider as good. The king shall ever be active and discharge his duties.

यथा सर्वाणि भूतानि धरा धारयते समम् ।  
तथा सर्वाणि भूतानि बिभ्रतः पार्थिवं व्रतम् ॥<sup>44</sup>

The king should support all his subjects without any discrimination, in the same manner as the earth supports all living beings.

एवं चरन् सदा युक्तो राजधर्मेषु पार्थिवः ।  
हितेषु चैव लोकस्य सर्वान् भृत्यान् नियोजयेत् ॥<sup>45</sup>

The king, conducting himself always in conformity with Rajadharma, should command all his servants to work for the welfare of his people.

क्षत्रियस्य पतो धर्मः प्रजानामेव पालनम् ।  
निर्दिष्टफलभोक्ता हि राजा धर्मेण युज्यते ।  
विक्रोशन्त्यो यस्य राष्ट्राद्धियन्ते दस्युभिः प्रजाः ।  
संपश्यतः सभृत्यस्य मृतः स तु न जीवति ॥<sup>46</sup>

The highest duty of a king is to protect his subjects. The king, who receives the prescribed taxes (from his subjects) and protects them, alone acts according to Dharma.

समोत्तमाधमै राजा त्वाहूतः पालयन् प्रजाः ।  
न निवर्तेत संग्रामात् क्षात्रं धर्ममनुस्मरन् ।  
संग्रामेष्वनिवर्तित्वं प्रजानां चैव पालनम् ॥<sup>47</sup>

When a king is challenged by the enemy, whether he be weaker, equal in strength or even stronger (than himself), he must not turn his back in the battle and fail to protect his people.

यद्यप्यस्य विपत्तिः स्याद्रक्षमाणस्य वै प्रजाः ।  
सोऽप्यस्य विपुलो धर्म एव वृत्ता हि भूमिपाः ॥<sup>48</sup>

A king should not hesitate even to lay down his life for the sake of protecting his subjects. This is the greatest Dharma of a king and therefore he should behave in this manner only.

42. Atri 28.

43. Kautilya P 39 (p. 42S; p. 50.K)

44. Manusmriti IX 311.

45. Manusmriti IX 324.

46. Manusmriti VIII 143-144.

47. Manusmriti VII 87-88

नृपस्य परमो धर्मः प्रजानां परिपालनम्  
दुष्टनिग्रहणं नित्यं न नीत्या ते विना ह्युमे ॥<sup>49</sup>

The highest Dharma of a king is the protection and welfare of the subjects and putting down the wicked.

प्रत्यहं देशदृष्टैश्च हेतुभिः।  
अष्टादशासु मार्गेषु निबध्दानि पृथक् प्रथक् ॥<sup>50</sup>

The king should decide causes one after another which fall under the eighteen titles, according to the doctrine of the sacred law and local usage.

यत्र कर्माणि नृपतिः स्वयं पश्यति धर्मतः ।  
तत्र साधुसमाचारा निवसेयुः सुखं प्रजाः ॥<sup>51</sup>

Where the king himself looks into the causes according to the dictates of Dharma, there the people conduct themselves well and live in happiness.

धर्मासनमधिष्ठाय संवीतांगः समाहितः ।  
प्रणम्य लोकपालेभ्यः कार्यदर्शनमारमेत् ॥<sup>52</sup>

Having occupied the seat of justice and having worshipped the guardian deities of the world, let him (king), with concentration of mind, conduct the trial of cases.

पिताऽचार्यः सुहृन्माता भार्या पुत्रः पुरोहितः ।  
नादण्ड्यो नाम राज्ञोऽस्ति यः स्वधर्मे न तिष्ठति ॥<sup>53</sup>

The king should not leave an offender unpunished, whatever may be his relationship with him. Neither father, nor a teacher, nor a friend, nor mother, nor wife, nor a son, nor a domestic priest should go unpunished for the offence committed.

ते देशकालौ शक्तिं च विद्यां चावेक्ष्य तत्त्वतः ।  
यथार्हतः संप्रणयेन्नरेष्वन्यायवर्तिषु ॥<sup>54</sup>

Having fully considered the time and the place of an offence, the strength and the knowledge of the offender, let him inflict a just punishment on those who act unjustly.

सर्वो दण्डजितो लोको कुर्लभो हि शुचिर्नरः ।  
दण्डस्य हि भयात्सर्वं जगद्भोगाय कल्पते ॥

It is difficult to find a man who behaves according to law voluntarily. The people behave as they should only on account of the fear of punishment.

यदि न प्रणयेद्वाजा दण्डं दण्येष्वतन्द्रितः ।  
शूले मत्स्यानिवापक्ष्यन् दुर्बलान् बलवत्तराः ॥

48. M.B. Shanti 58-23

49. Sukra 1, 27-28

50. Manusmriti VIII 3

51. Kautilya 14

52. Manusmriti VIII 23

53. Manusmriti VIII 335

54. Manusmriti VII 16, 22, 20, 19 and 27

If the king fails in his duty to punish the wicked, the stronger would roast the weaker, like fish on the spit.

समीक्ष्य स धृतः सम्यक् सर्वा राजयति प्रजा :।

असमीक्ष्य प्रणीतस्तु विनाशयति सर्वतः ॥

The punishment should be inflicted after due deliberation, which alone makes people happy. If it is inflicted without proper consideration, it would cause havoc.

तं राजा णयन् सम्यक् त्रिवर्गेणाभिवर्धते ।

कामात्मा विषमः क्षुद्रो दण्डेनैव निहन्यते ॥

The king who properly inflicts punishment prospers. But one who is voluptuous, partial and deceitful, would be destroyed as a consequence of the unjust punishment he inflicts.

The above verses recognized that the power to impose punishment was a primary and essential function of the king and it was his duty to protect the people. The guidance given regarding exercise of power is of great significance.

Thus in later period of Indian civilization what Sri Ram has done to rakshasas who were persecuting the peoples and sages residing in the forests and other places continues in one or other form but with soft punishment. The Western law makers being influenced by Jesus having kindness in heart even to monsters and offenders take a lenient view towards offender who violates law. All this had deteriorated the social order which we may notice in today's world. Penalty for rape and kidnapping or forceful prohibition keeping other's wife or molestation were serious offences, warranting execution that is why in those days the instances of rape and molestation were exception because of fear and exemplary punishment. Women were granted highest degree of respect. This shows that women were having highest degree of respect and equality in States.

### (I) RELATION TO MIDEAVAL CONCEPT

Aristotle said,

<sup>55</sup>“The cause cannot be prescribed exactly but must avoid excess and advocate the pleasure in doing virtuous acts is assigned with the disposition already acquired. A variety of consideration shows the essential action on moral virtue with pleasure and pain. The righteous conduct mean being in conformity with law and justice. In ancient India concept Dharma i.e. righteousness was the back bone of social order meant to uphold truth. Aristotle's happiness in true sense of noblest and best and most pleasant of human goods is the subject of righteous conduct. Happiness derived from unfair or misconduct is not virtue, just and lawful. Aristotle was right when he said to quote, “We see that everyone means by justice a state of character

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55. The Eudemian Ethics Oxford world's Classics-by Aristotle

such as to make people disposed to do what is just, and to make them act justly and to want what is just; and similarly by injustice a state that makes them act unjustly and want what is unjust. Let so much, then, be laid down as a first approximation. For there is a difference between sciences and abilities on the one hand, and states of character on the other. One and the same ability or science seems to embrace contraries, whereas a state that is one of a pair of contraries does not do so; health, for instance, is expressed only in healthy activity and not in its contrary: we say that a man's walking is healthy when he walks in the way a healthy man would".

Contemporary of Aristotle was Buddha who also while laying down eight-fold path towards deliverance from suffering deals with eight conditions, (eight fold path of conduct) to quote:-

1. Right views.
2. Right resolve.
3. Right speech.
4. Right conduct.
5. Right livelihood.
6. Right effort.
7. Right mindfulness.
8. Right concentration.

The eight-fold path of conduct in life provides purity of thought and means to achieve the ultimate goal of salvation.

Aforesaid principle of righteous conduct has been re-iterated in Jainism with different words, according to which the fate of earthly beings is a result of their actions. Souls are unborn and uncreated; they are also undying and equal. They exist in both animate and inanimate objects of the universe.

We will come to Christianity. The Jesus seems to re-iterate the principles underlying Budha and Jainism in kindness, open love and repentance for wrong done as the essence of Christianity. According to Christianity, the whole life should be devoted for the worship of God, expressed not only in ritual and prayer, but in how a Christian lives. The Christian is transformed by God's love and is a new person, redeemed by Christ and restored to God. The highest expression of that transformation is found in acts of love towards others, or love of neighbour.

Thus the righteous conduct towards which Sita had drawn attention of Shri Rama during exile seems to be guiding principle for generation to come and re-iterated by Prophets from time to time for the welfare of mankind.

Truth whatever name is called is the final imprint of justice. The purpose of entire mechanism with regard to administration of justice is to unearth the truth. Telling or exploring truth is definite act which falsifies crime or sin. Making a false statement, filing false affidavits is an offence under Section 181 read with Section 191 of the IPC. Suppression of truth in every manner has been treated to be a crime and not acceptable to the society as told by Sita (supra). Sita agrees with Shri Rama that he will never say untruth or make false statement. While

expressing her opinion, Sita was having no doubt that Shri Rama never tells lie.

## (II) RELATION TO MODERN LAW

False statement not only hits the credibility of a person but action taken in pursuance of false statement vitiates a proceeding, trial or punishment. Certain provisions contained in IPC seem to be well researched by Macalay while providing text of IPC (45 of 1860) and still continues in our panel system under the said code. It should be appropriate to quote some provisions to show how the law has been codified by the legislature under the IPC borrowed from common law being laid and applied in India keeping in view the ground realities of our country. Some of the statutory provisions of the IPC are :-

Sections 181, 182, 191, 192, 193, 194, 195, 195(a), 196, 197, 198, 199, 200, 201 and 202 of IPC are reproduced hereinafter as under to establish link with Sita's opinion:

“Section 181. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.—Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorised by law to administer such oath or affirmation, makes, to such public servant or other person as aforesaid, touching the subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.”

“Section 182. False information, with intent to cause public servant to use his lawful power to the injury of another person.—Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—

(a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, or

(b) to use the lawful power of such public servant to the injury or annoyance of any person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both

Illustrations.

(c) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed

the offence defined in this section.

(d) A falsely informs a public servant that Z has contraband salt in a secret place knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this section.

(e) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assistants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villages or some of them. A has committed an offence under this section."

Section 191. Giving false evidence.—Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence. Explanation 1.—A statement is within the meaning of this section, whether it is made verbally or otherwise. Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know. Illustrations:

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is

bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.”

“Section 192. Fabricating false evidence.—Whoever causes any circumstance to exist or 1[makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement], intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said “to fabricate false evidence”. Illustrations:

(a) A, puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z’s handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the Police are likely to search. A has fabricated false evidence.”

“Section 193. Punishment for false evidence.—Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine, and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Explanation 1.—A trial before a Court-martial is a judicial proceeding. Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice. Illustration A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence. Explanation 3.—An investigation directed by a Court of

Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice. Illustration A, in any enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.”

“Section 194. Giving or fabricating false evidence with intent to procure conviction of capital offence.—Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital [by the law for the time being in force in 2[India]] shall be punished with 3[imprisonment for life], or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; if innocent person be thereby convicted and executed.—and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.”

“Section 195. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.—Whoever gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which 1[by the law for the time being in force in 2[India]] is not capital, but punishable with 3[imprisonment for life], or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished. Illustration A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is 3[imprisonment for life], or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to 3[imprisonment for life] or imprisonment, with or without fine.”

“Section 195A. Threatening any person to give false evidence.—Whoever threatens another with any injury to his person, reputation or property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both; and if innocent person is convicted and sentenced in consequence of such false evidence, with death or imprisonment for more than seven years, the person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent

person is punished and sentenced.”

“Section 196. Using evidence known to be false.—Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.”

“Section 197. Issuing or signing false certificate.—Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.”

“Section 198. Prosecution for offences against marriage.

- (1) No Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 of 1860) except upon a complaint made by some person aggrieved by the offence: Provided that-
  - (a) Where such person is under the age of eighteen years or is an idiot or a lunatic, or is from sickness or infirmity unable to make a complaint, or is a woman who, according to the local customs and manners, ought not to be compelled to appear in public, some other person may, with the leave of the Court, make a complaint on his or her behalf;
  - (b) where such person is the husband and he is serving in any of the Armed Forces of the Union under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorized by the husband in accordance with the provisions of sub-section (4) may make a complaint on his behalf;
  - (c) where the person aggrieved by an offence punishable [under Section 494 or section 495] of the Indian Penal Code (45 of 1860) is the wife, complaint may be made on her behalf by her father, mother, brother, sister, son or daughter or by her father's or mother's brother or sister, or, with the leave of the Court, by any other person related to her by blood, marriage or adoption].
- (2) For the purposes of sub-section (1), no person other than the husband of the woman shall be deemed to be aggrieved by any offence punishable under section 497 or section 498 of the said Code: Provided that in the absence of the husband, some person who had care of the woman on his behalf at the time when such offence was committed may, with the leave of the Court, make a complaint on his behalf.

- (3) When in any case falling under clause (a) of the proviso to subsection (1), the complaint is sought to be made on behalf of a person under the age of eighteen years or of a lunatic by a person who has not been appointed or declared by a competent authority to be the guardian of the person of the minor or lunatic, and the Court is satisfied that there is a guardian so appointed or declared, the Court shall, before granting the application for leave, cause notice to be given to such guardian and give him a reasonable opportunity of being heard.
- (4) The authorization referred to in clause (b) of the proviso to subsection (1), shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by his Commanding Officer, and shall be accompanied by a certificate signed by that Officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.
- (5) Any document purporting to be such an authorization and complying with the provisions of sub- section (4), and any document purporting to be a certificate required by that subsection shall, unless the contrary is proved, be presumed to be genuine and shall be received in evidence.
- (6) No Court shall take cognizance of an offence under section 376 of the Indian Penal Code, where such offence consists of sexual intercourse the a man with his own wife, the wife being under fifteen years of age, if more than one year has elapsed from the date of the commission of the offence.
- (7) The provisions of this section apply to the abetment of, or attempt to commit, an offence as they apply to the offence. Prosecution of offences under section 498A of the Indian Penal Code.”

“Section 199. False statement made in declaration which is by law receivable as evidence.—Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.”

“Section 200. Using as true such declaration knowing it to be

false.—Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence. Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of sections 199 to 200.”

“Section 201. Causing disappearance of evidence of offence, or giving false information to screen offender.—Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false; if a capital offence.—shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if punishable with imprisonment for life.—and if the offence is punishable with [imprisonment for life], or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; if punishable with less than ten years’ imprisonment.—and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both. Illustration A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.”

“Section 202. Intentional omission to give information of offence by person bound to inform.—Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.”

A combined reading of the aforesaid statutory mandates of IPC undoubtedly shows that the misconduct or offence shall deem to be committed by a person as said by Sita with Shri Rama in case he or she makes a false statement or do something founded on falsity.

The importance of truthfulness explained by Sri Ram may be noticed from Ayodhya Kand of Ram Charit Manas when Sumantra had gone to bring back

Sri Ram from forest on the instructions of King Dasharath. When Sumantra persuaded him to return back, the reply given by Sri Ram to uphold the truth is all time guiding principle. Sri Ram said:

तात कृपा करि कीजिआ सोई । जातैं अवध अनाथ न होई ॥  
 मंत्रिह राम उठाइ प्रबोधा । तात धरम मतु तुम्ह सबु सोधा ॥  
 सिबि दधीच हरिचंद नरेशा । सहे धरम हित कोटि क्लेसा ॥  
 रंतिदेव बलि भूप सुजाना । धरमु धरेउ सहि संकट नाना ।  
 धरमु न दूसर सत्य समाना । आगम निगम पुरान बखाना ॥  
 मैं सोइ धरमु सुलभ करि पावा । तजैं तिहूं पुर अपजसु छावा ॥  
 संभावित कहूं अपजस लाहू । मरन कोटि सम दारुन दाहू ॥  
 तुम्ह सन तात बहुत का कहऊं । दिऐं उतरु फिति पातकु लहऊं ॥

Have passion, my darling, and take steps to see that Ayodhya is not left without a master.” Sri Rama raised the minister and thus admonished him, “Dear father, you have investigated the truths of religion in their entirety. Sibi, Dadhici and king Harishchandra suffered untold hardships for the sake of virtue. The wise kings Rantideva<sup>56</sup> and Bali upheld virtue even through many trials. There is no virtue equal to truthfulness: so declare the Agamas (Tantras), Vedas and puranas. That virtue I have found by an easy road; by abandoning it, I shall be reviled in all the three worlds. To a man who is highly esteemed, infamy causes agony as terrible as a million deaths. Father, what more shall I say to you? By urging something in reply I shall incur sin.

Under English law ‘Falsus in Uno, falsus in Omnibus’ was defence for ages while testing the veracity of a witness. A false statement was punished with more severe under English common law in case it is made during course of judicial proceeding and if given in any other case, the punishment could have been lesser.

The Supreme Court of India considered the essential ingredients and dictionary meaning of false.

<sup>57</sup>The dictionary meaning of word ‘false’ means that, which is in essence, incorrect, or purposefully untrue, deceitful etc. Thus, the word ‘false’ is used to

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56. King Rantideva was a most generous-hearted ruler. He gave away his riches every now and then. Having parted with all that he possessed, he and his family had to remain without food and water for full forty eight days on one occasion. He did nothing to earn his livelihood and depended on whatever he got unasked. Prolonged starvation had reduced him to a skeleton and he was lying in a semi-conscious state with his wife and children, counting his days. On the 49th day he got some rice boiled in milk, another sweet dish and water. He was just going to share it with his family when a stranger, who was a Brahmana by caste, appeared before him. The king gladly and devoutly gave away what was served before him to the Brahmana, and dividing the rest among themselves was about to partake of his own share when another newcomer, who happened to be a Sudra, turned up. The king entertained the Sudra as well out of the stock he had in hand. In the meantime a low-born man came with his dogs and asked food for himself and his dogs. The king gave away the remaining food to these strangers. He had now left with him water barely sufficient to slake the thirst of a single soul. As the king was about to quench his thirst thereby a pariah made his appearance and piteously begged for water. Moved by his entreaties King Rantideva parted even with his water and went without it himself.

57. Ravinder Singh vs Sukhbir Singh, 2013, Cri LJ 1123 (1128) (SC).

cover only unlawful falsehood. It means something that is dishonestly, untrue and deceitful, and implies an intention to perpetrate some treachery or fraud. In jurisprudence, the word 'false' is used to characterize a wrongful or criminal act, done intentionally and knowingly, with knowledge, actual or constructive. The word false may also be used in a wide or narrower sense. When used in its wider sense, it means something that is untrue whether or not stated intentionally or knowingly, but when used in its narrower sense, it may cover only such falsehood, which are intentional. The question whether in a particular enactment, the word false is used in a restricted sense or a wider sense, depends upon the context in which it is used.

<sup>58</sup>Complaint filed before the Court of Metropolitan Magistrate at Ahmedabad being ex facie an act of fraud by a fictitious person, and an abuse of the process of Court, every and any action taken pursuant to the said complaint gets vitiated. Therefore, the complaint and all actions taken thereon including the issuance of warrants against eminent persons, is liable to be declared ab initio void, hence, liable to be set aside.

<sup>59</sup>The maxim 'falsus in uno, falsus in omnibus' (false in one thing, false in everything) is neither a sound rule of law nor a rule of practice. Hardly one comes across a witness whose evidence does not contain a grain of untruth or at any rate exaggeration, embroideries or embellishments. It is, therefore, the duty of the Court to scrutinize the evidence carefully but it cannot obviously disbelieve the substratum of the prosecution case or the material part of the evidence and reconstruct a story of its own out of the rest. However it appears to be deviation from ancient law of Bharat (supra) (emphasis supplied).

<sup>60</sup>Falsity can be alleged when truth stands out glaringly and to the knowledge of the person who is making the false statement. Day in and day out in Courts averments made by one set of witnesses are accepted and the counter-avermnt are rejected. If in all such cases complaints under S. 199 IPC are to be filed not only there will open up floodgates of litigation but it would unquestionably be an abuse of the process of the Court.

<sup>61</sup>Where there was a deliberate attempt by the prosecution to rope in the Court innocent persons as accused with three assailants and that was done due to animosity, the Trial Court was right in judging the testimony of interested and inimical witnesses with great care and caution and without corroboration from independent evidence.

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58. Vijay Shankar vs Union of India, 2004 SCC (Cr) 1403: (2004) 4 SCC 666.

59. Ugar Ahir vs State of Bihar, AIR, 1965, SC 277: (1965) 1 Cr LJ 256.

60. Chandrapal Singh vs Maharaj Singh, AIR 1982 SC 1238:1982 SCC (Cr.) 249: (1982) 1 SCC 466: 1982 Cr LJ 1731

60. Chandrapal Singh vs Maharaj Singh, AIR 1982 SC 1238:1982 SCC (Cr.) 249: (1982) 1 SCC 466: 1982 Cr LJ 1731.

61. Yamanappa Goolappa Shirgumpi vs State of Karnataka, AIR 1981 SC 646: 1981 SCC (Cr) 271: 1981 Cr LJ 164: 1981 Cr App R (SC) 27:1981 Cr LR (SC) 56: 1981 UK (SC) 64.

There appears to be no room for doubt that foundation of the criminal jurisprudence begins from the period of Shri Rama or even earlier where false statement in a man's life was held to be crime prohibited by Dharma or law (supra). Fraud has been defined by Supreme Court of India:

“In the case of Mahanagar Telephone Nigam Limited vs. State of Maharashtra & ors, (2013) 9 SC C 92, the controversy before the Hon'ble Supreme Court was that in case a person does not approach the Court with clean hand, then whether some relief may be granted to him? Their Lordships of Hon'ble Supreme Court held that a person who has not approached the Court with clean hands concealing material shall not be entitled to any relief from the Court.”

In Dalip Singh vs. State of U.P.,(2010) 2 SCC 114, the Hon'ble Supreme Court considered the question whether relief should be denied to the appellant who did not state correct facts in the application filed before the prescribed authority and who did not approach the High Court with clean hands. After making reference to some of the precedents, it was observed:

“..... while exercising discretionary and equitable jurisdiction under Article 136 of the Constitution, the facts and circumstances of the case should be seen in their entirety to find out if there is miscarriage of justice. If the appellant has not come forward with clean hand, has not candidly disclosed all the facts that he is aware of and he intends to delay the proceedings, then the Court will not non-suit him on the ground of contumacious conduct.”

In Oswal Fats and Oils Ltd vs. Commr (Admn), (20P10) 4 SCCF 728 relief was denied to the appellant by making the following observations (SCC pp.738-39 paras 10-20):

“It is quite intriguing and surprising that the lease agreement was not brought to the notice of the Additional Commissioner and the learned Single Judge of the High Court and neither of them was apprised of the fact that the appellant had taken 27.95 acres land on lease from the Government by unequivocally conceding that it had purchased excess land in violation of Section 154(1) of the Act and the same vested in the State Government. In the list of dates and the memo of special leave petition filed in this Court also there is no mention of lease agreement dated 15.10.1994. This shows that the appellant has not approached the Court with clean hands. The withholding of the lease agreement from the Additional Commissioner, the High Court and this Court appears to be a part of the strategy adopted by the appellant to keep the quasi-judicial and judicial forums including this Court in dark about the nature of its possession over the excess land and make them believe that it has been subjected to unfair treatment.

If the factum of execution of lease agreements and its contents were disclosed to the Additional Commissioner, he would have definitely incorporated the same in the order dated 30.5.2001. In that event, the High Court or for that reason this Court would have none suited the appellant at the threshold. However, by concealing a material fact, the appellant succeeded in persuading the High Court and this Court to entertain adventurous litigation instituted by it and pass interim orders. If either of the courts had been apprised of the fact that by virtue of lease deed dated 15.10.1994, the appellant has succeeded in securing temporary legitimacy for its possession over excess land, then there would have been no occasion for the High Court to entertain the writ petition or the special leave petition.

It is settled law that a person who approaches the court for grant of relief, equitable or otherwise, it is under a solemn obligation to candidly disclose all the material/important facts which have bearing on the adjudication of the issues raised in the case. In other words, he owes a duty to the court to bring out all the facts and refrain from concealing/suppressing any material fact within his knowledge or which he could have known by exercising diligence expected for a person of ordinary produce. If he is found guilty of concealment of material facts or making an attempt to pollute the pure stream of justice, the court not only has the right but a duty to deny relief to such person”.

Generations after generation have been inspired while codifying law from Sita's comment and discussion with her husband Shri Ram to punish a person making false statement, though not admitted.<sup>62</sup>

### (III) MONOGAMY

Illicit relationship, molestation and rape, polygamy was common in society particularly in kings. It was Shri Rama who vowed to live a monogamous life with full loyalty to his wife Sita. The second crime towards which Sita pointed out to Shri Rama<sup>63</sup> committed by human beings is illicit relationship, molestation and rape. It was treated as so heinous in those days that the men were given death penalty to such acts. One of the main reasons for execution of Bali for Shri Rama was his conduct of keeping brother's wife Roma forcibly as concubine followed by rape etc. After marriage to Sita when Shri Rama came back to his kingdom Ayodhya the first gift given by him to Sita was assurance to lead a monogamous life. It was Shri Rama and Sita who laid down the principles of monogamy in human life for the cause of dignity of women. Sage Tulsidas said the same thing

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62. Chapter IX, Valmiki Ramayan, Geeta Press Gorakhpur.

63. *ibid*

in other words in Uttar Kand, to quote:

पर द्रोही पर दार रत पर धन पर अपबाद ।  
ते नर पांवर पापमय देह धरें मनुजाद ॥

Malevolent by nature, they enjoy other's wives and other's wealth and take delight in slandering others. Such vile and sinful men are demons in human garb.

Chapter 20 of the IPC deals with the subject whereby prohibition of marriage during life time of first wife has been held to be an offence. Section 493, 494, 495, 496, 497, 498 of the IPC are relevant, to reproduce:

“Section 493. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

“Section 494. Marrying again during lifetime of husband or wife.—Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(Exception) —This section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.”

“Section 495. Same offence with concealment of former marriage from person with whom subsequent marriage is contracted.—Whoever commits the offence defined in the last preceding section having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

“Section 496. Marriage ceremony fraudulently gone through

without lawful marriage.—Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

“Section 498. Enticing or taking away or detaining with criminal intent a married woman.—Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

If we take up the case of Bali, who forcibly kept Roma, his brother's (Sugriv) wife, it seems to commission of an offence under modern law and Shri Rama rightly executed him under the law of that time. The Indian law on the subject rather in Christian World, in the penal provisions, with regard to illicit relationship or bigamous life or polygamy seems to be borrowed from Ramayana or we may say customs, practices, and traditions of monogamy as the dharm (righteous conduct) begins during the dynasty of Shri Rama and spread all over the world directly or indirectly.

#### (IV) PUNISHMENT

The most serious crime which a man may suppose to commit in case a complaint of heinous nature is to hurt someone who has not offended anyway. Perhaps modern penology is also based on the principles that a person should not be punished on the complaint of anyone in case he/she has not committed an offence towards such person. It was the third nature of crime, punishable under the dharm (law) said by Sita, as heinous one.<sup>64</sup>

The condition precedent to all punishments is that the person or the accused must have committed some offence. Ordinarily dictionary meaning of the word ‘punish’ is ‘to cause the offender to suffer for the offence’ or ‘to inflict penalty on the offender’ or ‘to inflict penalty for the offence’ (Concise Oxford Dictionary, 4th Edition). Punishment can be otherwise defined (vide Law Lexicon by P.R. Aiyer, 1943 Edition) as penalty for the transgression of law, and the word ‘punish’ denotes or signifies some offence committed by the person who is punished.

<sup>65</sup>While considering word ‘punishable’ in statutory provision, the Supreme Court of India held that the legislature in penal law conferred discretion on

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64. *ibid*

65. *State of Maharashtra vs. Jugminder Lal*, AIR 1966 SC 940 (V 53 C 179).

the Court and because of use of that expression Courts have been conferred power to exercise discretion to punish guilty. The expression ‘punishable’ means liable to be punished. Liable to punishment only means that a person who has contravened a penal provision will have to be punished. Thus it does not mean anything different from ‘shall be punished. Punishment is obligatory in either case. But, as already observed, the nature of punishment must be ascertained by a consideration of the whole of the penal provisions.

Rajasthan High Court considered the dictionary meaning of ‘punishable and held, “<sup>66</sup>In my opinion the word has reference to the maximum punishment to which the offender is liable to be punished. According to Black’s Law Dictionary Fourth Edition Page 1398 ‘punishable’ means ‘deserving of or capable or liable to punishment, capable of being punished by law or right’. According to Websters Third New International Dictionary Volume II, page 1843, ‘punishable’ has been given the same meaning as mentioned above. In Oxford English Dictionary V. VII, Edition 1933, Page 1603 ‘punishable’ means liable to punishment; capable of being punished. The reference, therefore, is clearly to the maximum punishment awardable in a given case to a person found guilty of an offence.

The Supreme Court again considered the dictionary meaning of ‘punishable’ and held as under:-

A bare reading of Section 304-B IPC shows that whoever commits ‘dowry death’ in terms of Section 304-B IPC shall be punished with imprisonment for a term which shall not be less than 7 years but which may extend to imprisonment for life. In other words, the minimum Sentence is 7 years but in a given case sentence of imprisonment for life can be awarded. Put differently, sentence of imprisonment for life can be awarded in respect of an offence punishable under Section 304-B IPC. The proviso to sub-section (2) of Section 167 consists of three parts. The first part relates to power of the Magistrate to authorize detention of the accused person. This part consists of two sub-parts. In positive terms it prescribes that no Magistrate shall authorize detention of the accused in custody, under this paragraph [meaning sub-section (2) (a)] for a total period exceeding (i) 90 days where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than 10 years, and (ii) 60 days where the investigation relates to any other offence. The period of 90 days is applicable to cases where the investigation relates to the three categories of offences which are punishable with (i) death, (ii) imprisonment for life, or (iii) imprisonment for a term of not less than ten years. The question is whether Section 304-B is an offence ‘punishable’ with imprisonment for life. Strong reliance was placed by Mr D.K. Garg, learned counsel appearing for the appellant on *Rajeev Chaudhary vs. State (NCT) of Delhi*<sup>67</sup> in Appeal (Crl.) 606 of 2001.

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66. *Shivcharan Lal vs. The state of Rajasthan*, AIR 1973, 167 (V 60 C 51).

Reference is also made to the decisions of the Jharkhand, the Delhi and the Karnataka High Courts where the ratio in Rajeev Chaudhary case has been made applicable to cases involving offence punishable under Section 304-B IPC. The Jharkhand High Court's decision is *Sunil Kumar vs. State of Jharkhand*.<sup>68</sup> Contrary views appear to have been taken by the Rajasthan and the Himachal Pradesh High Courts in *Keshav Dev vs. State of Rajasthan*<sup>69</sup> and *State of H.P. vs. Lal Singh*<sup>70</sup>. The Punjab and Haryana High Court appears to have taken a somewhat different view in two different cases. In *Kuldeep Singh vs. State of Punjab*<sup>71</sup>, it was held that the period of 90 days, as has been held in the case at hand. But a different view (though in relation to some other offences) was taken in *Abdul Hamid (Crl. Misc. No. 40599 M of 2005 disposed of on 21.09.2005)*. A bare reading of *Rajeev Chaudhary*<sup>72</sup> case shows that the same related to an offence punishable under Section 386 IPC and the sentence in respect of the said offence is not less than 10 years. The Court held that the expression 'not less than' means that the imprisonment should be 10 years or more to attract 90 days' period. In that context it was said that for the purpose of clause (i) of proviso (a) of Section 167 (2) Cr PC the imprisonment should be for a clear period of 10 years or more. The position is different in respect of the offence punishable under Section 304-B IPC. In the case of Section 304-B the range varies between 7 years and imprisonment for life. What should be the adequate punishment in a given case has to be decided by the court on the basis of the facts and circumstances involved in the particular case.

The stage of imposing a sentence comes only after recording the order of conviction of the accused person. The significant word in the proviso is 'punishable'. The word 'punishable' as used in statutes which declare that certain offences are punishable in a certain way means liable to be punished in the way designated. It is ordinarily defined as deserving of a capable or liable to punishment, capable of being punished by law or right, may be punished or liable to be punished, and not must be punished.

In Bouvier's Law Dictionary meaning of the word 'punishable' has been given as 'liable to punishment'. In Words and Phrases (Permanent Edition) the following meaning is given:

"The word 'punishable' in a statute stating that a crime is punishable by a designated penalty or term of years in the State prison limits the penalty or term of years to the amount or term of years stated in the statute."

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67. (2001) 5 SCC 34: 2001 SCC (Cri) 819: AIR 2001 SC 2369

68. (2003) 2 Rec Cri R 135 : 2002 Cri LJ 2507 (Jhar)

69. 2005 Cri LJ 3306 (Raj)

70. 2003 Cri LJ 1668 (HP)

71. (2005) 3 RCR 599 (P&H)

72. *Bhupinder Singh & Ors vs Jarnail Singh and Another*, (2006) 6 SCC 277

Corpus Juris Secundum gives the meaning as :

“Deserving of, or liable to, punishment; capable of being punished by law or right; said of persons or offences. The meaning of the term is not ‘must be punished’, but ‘may be punished’, or ‘liable to be punished’.

Sociologists of the modern era are also of the opinion that consistency and continuity of punishment is necessary to control the crime.<sup>73</sup> A study by the National Academy of Sciences (quoted in Berkowitz, 1993) demonstrates that consistency and certainty of punishment are far more effective deterrents of violent behavior than severe punishment and do have a deterrent effect on violent crime. Similarly, in the realm of domestic violence, or, more specifically, wife-battering, mild punishment, consistently meted out, has been effective, at least in the short term. Domestic violence has been a thorny problem for the police, who traditionally have been reluctant to intervene in family disputes. In the past, when the police, who traditionally have been reluctant to intervene in family disputes whenever intervened in a wife-battering situation, they would almost never arrest the husband but instead would either give him on-the-spot counseling or ask him to leave the scene for a few hours until he cooled off.

How effective is this kind of intervention? Would arresting the violent husband be more effective? To find out, the Minneapolis Police Department conducted a simple but powerful field experiment (Sherman & Berk, 1984). In this experiment, police officers were randomly assigned to one of three conditions: In the first condition, they performed brief, on-the-spot counseling; in the second condition, they asked the perpetrator to leave the scene for eight hours; and in the third condition, they placed the perpetrator under arrest. Police reports were then carefully monitored over the next six months. The results indicated that, during those months, 19 percent of the perpetrators given counseling and 24 percent of those asked to leave the premises repeated their aggressive actions, whereby only 10 percent of those placed under arrest (and made to spend a night or two in jail) repeated their actions. These data show that when law enforcement officers demonstrate they are taking the offense seriously by hauling the perpetrator off to jail, domestic violence is diminished. The findings led the Minneapolis Police Department to revamp its policies regarding the arrest of perpetrators of domestic violence and have attracted national attention. Unfortunately, subsequent research reported by Langer (1986) and Sherman (1992) suggests that the deterrent effects of this procedure tend to diminish over time. More detailed research is needed to determine the ideal conditions for long term results.

Virtually Shri Ram has retaliated to the offenders of dandakarnya who were persecuting the common people and sages and punished them by execution and otherwise. Punishment and retaliation has been found to be correct approach to

73. Social psychology second edition (1987) E. Arrhson, T.D. Wilson, RM Akarti-Locegman, US.

control the crime.<sup>74</sup> It seems obvious that the fear of punishment or retaliation suppress the aggressive behavior. The kind of people described earlier by rational decision-making theories would certainly include such future consequences in their calculations about aggression and would avoid behaving aggressively if punishment seemed likely. Indeed, when “teachers” in shock-learning experiments were told that the roles would later be reversed, thereby making them “learners” and vulnerable to being shocked themselves, they reduced their own aggression (Wilson & Rogers, 1975). Consistent with these findings, younger children are consistently more likely to be victims of domestic violence than older children because they are weaker and less likely to retaliate (Straus et al., 1981).

But the threat of punishment or retaliation turns out not to be such a simple way of reducing aggression. As suggested earlier, children who are frequently punished for being aggressive turn out themselves to be more aggressive than normal (Sears, Maccoby, & Levin, 1957). As Box 11-5 indicates, they often even go on to be especially likely to abuse their spouses. Perhaps it is because they model themselves on an aggressive parent. Perhaps it is because frequent punishment, like any attack, generates a lot of anger itself. In any case, punishment of children’s aggressiveness does not result in a simple reduction of their aggressive behavior.

A second problem is that fear of punishment or retaliation seems to speak counteraggression. People who are attacked have a tendency to retaliate against their attackers, even when retaliation is sure to provoke more attacks (Dengerink, Schnedler, & Covey, 1978). Many lives have been lost on battlefields (and in presidential and royal palaces) because national leaders have felt that ‘national honor’ demanded counteraggression, even though it almost guaranteed further retaliation and bloodshed.

There is some evidence that this escalation of aggression can be halted by the judicious use of apologies. In one study by Ohbuchi and his colleagues (1989), a confederate made some errors that ensured that the subject would fail at an experimental task. Then the experimenter roundly criticized the subject for doing so poorly. The confederate either then apologized for causing the subject to fail, or did not. The subject then was allowed to rate the confederate in a way that might affect the latter’s grade. The apology significantly reduced the subject’s hostility in these ratings.

The effects of anticipated punishment or retaliation are not simple, then. Sometimes they simply suppress aggression, as the person quite rationally wants to avoid future pain. But sometimes the threats are simply interpreted as attacks and inspire even more direct or indirect aggression. A rebellious adolescent boy may interpret even the routine and uniform application of rules in a family or a school as a personal attack, and may become belligerent, surly, and uncooperative.

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74. Social psychology 7th Edn David O Seavrp; L.A. Peplan Shalley E Taylor Practice Hall, New Jersey 1998.

Even if punishment, or threat of retaliation, were usually temporarily effective in suppressing direct aggression, it is too expensive to be a general solution to the problem. There are too many people in too many places for all to be monitored constantly. As it is, many people who commit serious crimes, such as murder, are never caught and punished. It is simply impossible to depend on external controls to minimize violence, and anyway we would not want a society with such repressive control of individual citizens' behavior. Though sociologists (*supra*) are of the view that retaliation may be counterproductive seems to be true but in case law enforces agencies are capable of dealing with the situation with follow up action then retaliation to the crime by appropriate punishment as done by Shri Ram almost appears to be correct approach to provide peaceful and dignified social condition for a given society.

Thus the settled proposition of modern law towards the punishment is there must be an offender who had committed an offence under the law of land and commission of such offence must be held to be punishable by a sovereign through codified law or otherwise impliedly by practice, custom etc (Article 5 of Constitution of India). The opinion expressed by Sita to Shri Ram that even rakshasas (devilish peoples/monsters) should not be punished unless they cause injury to Shri Ram or someone, seems to be foundation of modern law or penology. Thus, the foundation of criminal jurisprudence seems to be borrowed, even operating today comes out from the mouth of Sita that no person should be punished unless he/she causes injury, seems to be back bone of our system.

### (V) DUTY OF KING/GOVERNMENT

It should be appropriate to consider the defence set up by Shri Ram to exercise his mighty power to punish rakshasas, who were persecuting the sages in Dandakarnya.

Even though Shri Ram was leading ascetic life to keep the word of his father King Dasharath but he was also representative of Bharat who was the ruler at that time responsible to maintain law and order and punish all those who were guilty of causing harm to anyone. Maintenance of law and order does not require waiting for commission of a crime. It is preventive in nature with duty to prevent crime and punish all those who break the law and interfere peaceful enjoyment of life by the citizens.

Parts III and IV of the Constitution of India meant for Socio Economic development of country on one hand and on other hand they are tool to break the citizens right for peaceful enjoyment of life. They cast duty on the State to ensure their compliance. The significance of the perception that Parts III and IV together constitute the core of commitment to social revolution and they, together, are the conscience of the Constitution is to be traced to a deep understanding of the scheme of the Indian Constitution. Granville Austin's observation brings out

the true position that Parts III and IV are like two wheels of a chariot, one no less important than the other. You snap one and the other will lose its efficacy. They are like a twin formula for achieving the social revolution, which is the ideal which the visionary founders of the Constitution set before themselves. In other words, the Indian Constitution is founded on the bed-rock of the balance between Parts III and IV. To give absolute primacy to one over the other is to disturb the harmony of the Constitution. This harmony and balance between fundamental rights and directive principles is an essential feature of the basic structure of the Constitution.<sup>75</sup>

For the establishment of just social order in which social and economic democracy would be way of life, inequalities be removed and every endeavour be made to eliminate inequalities in states through rule of law. In *D.A.V. College vs. State of Punjab*<sup>76</sup> challenge was made to certain provisions of Guru Nanak University, Amritsar Act (Act 21 of 1969) which made a provision for study and research for study and research on the life and teachings of Guru Nanak and their cultural and religious impact in the context of national and world civilizations on the ground that such a provision would propagate Sikh religion and would violate the rights of the writ petitioners therein guaranteed under Article 30 (1) of the Constitution. Violation of Articles 14 and 19 (1) (c) was also pleaded. The Constitution Bench repelled the challenge in the context of Section 4 (2) of the relevant Act which provided for study and research on the life and teachings of Guru Nanak and it was held as under:-

“Religious instruction is that which is imparted for inculcating the tenets, the rituals, the observances, ceremonies and modes of worship of a particular sect or denomination. To provide for academic study of life and teachings, or the philosophy and culture of any great saint of India in relation to or the impact on the Indian and world civilizations cannot be considered as making provision for religious instructions”.

It was the fundamental right of sages/people to enjoy the flora and fauna of the nature, to keep on meditation, practice, worship of God in their own way and live peaceful life without any disturbance. Interfering with it in any manner whatsoever constitute an offence. In a free democracy, the dignity of man is the supreme value. It is inviolable and must be respected and protected by the State. For the sake of his dignity, he must be guaranteed the largest scope for development of his personality. In the political social sphere, it is not enough for authority to look after the welfare of subjects, no matter how well. Rather, the individual should participate responsibly and to the largest extent possible

75. *Minerva Mills Ltd vs. Union of India*, AIR 1980 SC 1789 : (1981) 1 SCR 206; (1980) 3 SCC 625, as referred in *Municipal Corporation of the City of Ahmedabad vs. Jan Mohammed Usmanbhai*, AIR 1986.

76. AIR 1971 SC 1731 : (1971) 2 SCC 261 : 1971 Supp SCR 677, as referred in *P.M. Bhargava vs. University Grants Commission*, AIR 2004 SC 3478 (3484)(2004) 6 SCC 661 : (2004) Supp 1 JT 548.

in decisions concerning the entire community. The State must make it possible for him to do so; it can accomplish this and mainly by guaranteeing freedom of intellectual controversy and discussion of ideas.

The free democratic order also deduces from the idea of man's dignity and freedom the task of insuring that justice and humanity exist in relationships among citizens themselves. This duty includes preventing exploitation of one individual by another. But free democracy refuses to equate exploitation with the economic fact of hired labour in the service of private enterprise. Rather, liberal democracy considers it its task to prevent real exploitation, namely, exploitation of labour under degrading conditions and for insufficient wages. It is for this reason that the principle of the social state has been elevated to a constitutional principle.

Liberal democracy is imbued with the notion that it should be possible to develop freedom and equality of citizens, despite obvious conflicts between these two values.

In *Ramana Dayaram*<sup>77</sup> the Supreme Court considered the concept of rule of law and observed, whatever be the concept of the rule of law, whether it be the meaning given by Dicey in his "The Law of the Constitution" or the definition given by Hayek in his "Road to Serfdom" and "Constitution of liberty" or the exposition set forth by Harry Jones in his "The Rule of Law and the Welfare State", there is, as pointed out by Mathew, J., in his article on "The Welfare State, Rule of Law and Natural Justice" in "democracy Equality and Freedom," "substantial agreement is in justice thought that the great purpose of the rule of law notion is the protection of the individual against arbitrary exercise of power, wherever it is found". It is indeed unthinkable that in a democracy governed by the rule of law, the executive Government or any of its officers should possess arbitrary power over the interests of the individual. Every action of the executive Government must be informed with reason and should be free from arbitrariness. That is the very essence of the rule of law and its bare minimal requirement. And to the application of this principle it makes no difference whether the exercise of the power involves affection of some right or denial of some privilege.

Today the Government, in a welfare State, is the regulator and dispenser of special services and provider of a large number of benefits, including jobs contracts, licences, quotas, mineral rights etc. The Government pours forth wealth, money, benefits, services, contracts, quotas and licences. The valuables dispensed by Government take many forms, but they all share one characteristic. They are steadily taking the place of traditional forms of wealth. These valuables which derive from relationship to Government are of many kinds. They comprise social security benefits, cash grants for political sufferers and the whole scheme

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77. 1979 AIR 1628, 1979 SCC (3) 489

of State and local welfare.... Some of these forms of wealth may be in the nature of legal rights but the large majority of them are in the nature of privileges but on that account, can it be said that they do not enjoy any legal protection? Can they be regarded as gratuity furnished by the State so that the State may withhold, grant or revoke it at its pleasure? Is the position of the Government in this respect the same as that of a private giver? We do not think so. The law has not been slow to recognize the importance of this new kind of wealth and the need to protect individual interest in it and with that end in view, it has developed new forms of protection.... It is insisted, as pointed out by Prof. Reich in an especially stimulating article on "The New Property" in 73 Yale Law Journal 733, "that Government action be based on standards that are not arbitrary or unauthorized." "The Government cannot be permitted to say that it will give jobs or enter into contracts or issue quotas or licences only in favour of those having grey hair or belonging to a particular political party or professing a particular religious faith. The Government is still the Government when it acts in the matter of granting largesse and it cannot act arbitrarily. It does not stand in the same position as a private individual We agree with the observations of **Mathew, J., in V. Punnan Thomas v. State of Kerala** (1) that: "The Government is not and should not be as free as an individual in selecting the recipients for its largesse. Whatever its activity, the Government is still the Government and will be subject to restraints, inherent in its position in a democratic society. A democratic Government cannot lay down arbitrary and capricious standards for the choice of persons with whom alone it will deal". The same point was made by this court in *Erusian Equipment and Chemicals Ltd. v. State of West Bengal*(2) where the question was whether black-listing of a person without (1) AIR 1969 Kerala 81 giving him an opportunity to be heard was bad? Ray, C. J., speaking on behalf of himself and his colleagues on the Bench pointed out that black-listing of a person not only affects his reputation which is in pedantic terms an interest both of personality and substance, but also denies him equality in the matter of entering into contract with the Government and it cannot, therefore, be supported without fair hearing. It was argued for the Government that no person has a right to enter into contractual relationship with the Government and the Government, like any other private individual, has the absolute right to enter into contract with anyone it pleases. But the Court, speaking through the learned Chief Justice, responded that the Government is not like a private individual who can pick and choose the person with whom it will deal, but the Government is still a Government when it enters into contract or when it is administering largesse and it cannot, without adequate reason, exclude any person from dealing with it or take away largesse arbitrarily. The learned Chief Justice said that when the Government is trading with the public, "the democratic form of Government demands equality and absence of arbitrariness and discrimination in such transactions. The activities of the Government have a public element and, therefore, there should be fairness

and equality. The State need not enter into any contract with anyone, but if it does so, it must do so fairly without discrimination and without unfair procedure.” This proposition would hold good in all cases of dealing by the Government with the public, where the interest sought to be protected is a privilege. It must, therefore, be taken to be the law that where the Government is dealing with the public, whether by way of giving jobs or entering into contracts or issuing quotas or licences or granting other forms of largesse, the Government cannot act arbitrarily at its sweet will and, like a private individual, deal with any person it pleases, but its action must be in conformity with standard or norms which is not arbitrary, irrational or irrelevant. The power or discretion of the Government in the matter of grant of largesse including award of jobs, contracts, quotas, licences etc., must be confined and structured by rational, relevant and non-discriminatory standard or norm and if the Government departs from standard or norm in any particular case or cases, the action of the Government would be liable to be struck down, unless it can be shown by the Government that the departure was not arbitrary, but was based on some valid principle which in itself was not irrational, unreasonable or discriminatory.

The analogy of the concept of State action as developed in the United States may not, however, be altogether out of place while considering this question. The decisions of the court in the United States seem to suggest that a private agency, if supported by extraordinary assistance given by the State, may be subject to the same constitutional limitations as the State. Of course, it may be pointed out that “the State’s general common law and statutory structure under which its people carry on their private affairs, own property and contract, each enjoying equality in terms of legal capacity, is not such State assistance as would transform private conduct into State action”. But if extensive and unusual financial assistance is given and the purpose of the Government in giving such assistance coincides with the purpose for which the corporation is expected to use the assistance and such purpose is of public character, it may be a relevant circumstance supporting an extensive that the corporation is an instrumentality or agency of Government. The leading case on the subject in the United States is **Kerr v. Eneck Pratt Free Library** (1). The Library system in question in this case was established by private donation in 1882, but by 1944, 99 per cent of the system’s budget was supplied by the city, title to the library property was held by the city, employees there paid by the city payroll officer and a high degree of budget control was exercised or available to the city government. On these facts the Court of Appeal required the trustees managing the system to abandon a discriminatory admission policy for its library training courses. It will be seen that in this case, there was considerable amount of State control of the library system in addition to extensive financial assistance and it is difficult to say whether, in the absence of such control it would have been possible to say that the action of the trustees constituted State action. Thomas P. Lewis has expressed the opinion

in his article on “The meaning of State Action” (60 Colombia Law Review 1083) that in this case “it is extremely unlikely that absence of public control would have changed the result as long as 99% of the budget of a nominally private institution was provided by government. Such extensive governmental support should be sufficient identification with the Government to subject the institution to the provisions of the Fourteenth Amendment”.

It has been held in the United States in a number of cases that the concept of private action must yield to a conception of State action where public functions are being performed. Vide Arthur S. Miller: “The Constitutional Law of the Security State” (10 Stanford Law Review 620 at 664). It was pointed out by Douglas, J., in *Evans v. Newton* (3) that “when private individuals or groups are endowed by the State with powers or functions governmental in nature, they become agencies or instrumentalities of the State”. Of course, with the growth of the welfare State, it is very difficult to define what functions are governmental and what are not, because, as pointed out by Villmer, L.J., in *Pfizer v. Ministry of Health*,<sup>(4)</sup> there has been, since mid-Victorian times, “a revolution in political thought and a totally different conception prevails today as to what is and what is not within the functions of Government”.

Today<sup>78</sup> the Government in a welfare State, is the regulator and dispenser of special services and provider of a large number of benefits, including jobs, contracts, licences, quotas, mineral rights, etc. The Government pours forth wealth, money, benefits, services, contracts, quotas and licences. The valuables dispensed by Government take many forms, but they all share one characteristic. They are steadily taking the place of traditional forms of wealth. These valuables which derive from relationships of Government are of many kinds. They comprise social security benefits, cash grants for political sufferers and the whole scheme of State and local welfare. Then again, thousands of people are employed in the State and the Central Governments and local authorities. Licences are required before one can engage in many kinds of businesses or works. The power of giving licences means power to withhold them and this gives control to the Government or to the agents of Government on the lives of many people. Many individuals and many more businesses enjoy largesse in the form of Government contracts .....All these mean growth in the Government largesse and with the increasing magnitude and range of governmental functions as we move closer to a welfare State, more and more of our wealth consists of these new forms.

Robson in his ‘Welfare State and Welfare Society’ has stated at p. 11.<sup>79</sup>

“The ideas underlying the welfare state are derived from many different sources. From the French Revolution came notions of liberty, equality and fraternity. From the utilitarian philosophy of Bentham and his disciples came the

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78. *Som Prakash Rekhi vs. Union of India & Anr*, 1981 AIR 212.

idea of the greatest number. From Bismarck and Beveridge came the concepts of social insurance and social security

From the Fabian Socialists came the principles of the public ownership of basic industries and essential services. From Tawney came a renewed emphasis on equality and rejection of avarice as the mainspring of social activity. From the Webbs came proposals for abolishing the causes of poverty and cleaning up the base of society.”

Robson stated at p. 192

“The basic aims of the welfare state are the attainment of a substantial degree of social, economic and political equalities and to achieve self-expression in his work as a citizen, leisure and social justice”.

According to George Watson, quoted by Robson, welfare state implies a redistribution of incomes for the achievement of basic standard of living for all. M.P. Hall in his *The Social Services of Modern England*, has stated at p.303 of 1952 Edn. that :

“The distinguishing characteristic of the welfare state is that the assumption by the community, acting through the State, of the responsibility for providing the means whereby all its members can reach minimum standard of health, economic security and civilized living and can share according to their capacity in its social and cultural heritage”. S.G. Sturmev in his *‘Income and Economic Welfare’* has stated at p. 142 that “The welfare State should take positive measures to assist the community at large to be alive to a collective responsibility towards its weaker members and should take positive measures to assist them.”

In *Encyclopaedia Britannica*, Vol.23, p.389, social welfare has been defined as “System of laws and institutions through which a government attempts to protect and promote the economic and social welfare of its citizens are usually based on various forms of social insurance against unemployment, accident, illness and old age. “The welfare state is not alien to Indian soil. In Kautilya’s, *Arthashastra*, it was specifically provided that “In the happiness of the people lies the happiness of the king. What is good to the people is good (for the king). What is pleasant to the king is not good for him. What is good for the people alone is good for him.” In Vedas and Epics, the duties of the king have diversely been mentioned that the king acts more than paternal and paternalistic in attitude. King Ashoka, Chandragupta Maurya, Akbar, Shrikrishna, and other great men worked for the welfare of the people. Robert McNamara, President of the World Bank, quoted by Peter Singer in his *“Practical Ethics*, 1979, said that society has the moral obligation to raise above the absolute poverty level those who are in absolute poverty.”

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79. *Murlidhar Dayandeo Kesekar vs Vishwanath Pandu Barde & Anr*, 1995 SCC, Suppl (2) 549 JT 1995(3) 563

### Latin Maxims

The continuation of basic principles of law or righteous conduct prevailing during Ramayan may be noticed in Latin Maxim which are broadly followed in British common law and Indian Supreme Court. Some of the Latin Maxims which directly or indirectly may be inferred from the principles flowing from discussion and opinion expressed by Sita and Shri Ram in dandakaranya are reproduced hereinafter:

- (i) “*Aedificare in tuo proprio solo non licet quod alteri noceat*”: It is unlawful to build on one’s own land that which may injure another.
- (ii) “*Alterius circumvention alii non praebeet actionem*” : An action cannot be based upon a fraud practiced on another.
- (iii) “*Angliae jura in omni casu libertati dant favorem*”: The laws of England favour liberty in all cases.
- (iv) “*Argumentum a communiter accidentibus in jure frequens est*”: An argument based on things ordinarily happening is common in law.
- (v) “*Cessante causa, cessat effectus*” : When the cause ceases, the effect ceases also.
- (vi) “*Cessante ratione legis, cessat ipsa lex*”: When the reason of law ceases, so does the law itself.
- (vii) “*Confirmatio omnes supplet defectus, licet id quod actum est ab initio non valuit*”: Though when something was done it was not Balid, confirmation cures all defects.
- (viii) “*Consentientes et agents pari poena placentur*”: The abettor and the doer receive the same punishment.
- (ix) “*Corporalis injuria non recipit aestimationem de futuro*”: A personal injury does not receive satisfaction from a future course of proceeding.
- (x) “*Debile fundamentum fallit opus*”: When the foundation fails everything falls.
- (xi) “*Discretio est discernere per legem quid sit justum*”: Discretion means discerning what is just in law.
- (xii) “*Ex dolo malo non oritur actio*”: A right of action does not arise out of fraud.
- (xiii) “*Falsa demonstratio non nocet*”: False description does not make a deed ineffective.
- (xiv) “*Falsus in uno, falsus in omnibus*”: False is one, false is all.
- (xv) “*Fortior et potentior est dispositio legis quam hominis*”: Law is stronger and more powerful than any man.
- (xvi) “*Id possumus quod de jure possumus*”: One can do that which one can do lawfully.
- (xvii) “*In judicio non creditor nisi juratis*”: In law, unless one is on oath, he is not believed.

- (xviii) “*Multa conceduntur per obliquum quae non conceduntur de directo*”: Many which are not conceded directly are conceded indirectly.
- (xix) “*Multa in jure communi contra rationem disputandi pro communi utilitate introducta sunt*”: Many things in common law, which are contrary to reason, have been introduced because of utility to the community.
- (xx) “*Necessitas inducit privilegium quoad jura private*”: Necessity induces a privilege in rights which are private.
- (xxi) “*Necessitas publica major est quam private*”: Public necessity is superior to private.
- (xxii) “*Nemo debet bis puniri pro uno delicto*”: No one must be punished twice for the same offence.
- (xxiii) “*Nemo debet locupletari ex alterius incommodum*”: No one must become rich by the inconvenience of another.
- (xxiv) “*Nemo debet locupletari aliena jactura*”: No one must become rich by the loss of another.
- (xxv) “*Nemo de domo sua extrahi potest*”: No one may be dragged out of his own house.
- (xxvi) “*Nemo punitur pro alieno delicto*”: No one must be punished for the wrong of another.
- (xxvii) “*Neque leges neque senatus consulta ita scribe possunt ut omnes causas qui quandoque inciderint comprehendantur; sed sufficit ea quae plerumque accident contineri*”: Neither laws nor statutes can comprise all possible cases, it is sufficient if they comprehend all matters which occur ordinarily.
- (xxviii) “*Non videtur consensum retinuisse si quis ex praescripto minantis aliquid ammutavit*”: There is no consent when obtained through threats.
- (xxix) “*Nul prendra advantage de son tort demensne*”: No one shall take advantage of his own wrong.
- (xxx) “*Nulla practione effici potest ut dolus praesteur*”: You cannot agree to practice fraud.
- (xxxi) “*Nullum tempus aut laws occurrit regi*”: There is no limitation against the King.
- (xxxii) “*Omne jus aut consensus facit, aut necessitas constituit, aut firmavit consuetude*”: Every right springs from either custom, consent or necessity.
- (xxxiii) “*Omnium contribution sarciatur quod pro omnibus datum est*”: Everything that is given for the benefit of all is paid for by general contribution.
- (xxxiv) “*Pacta convent quae neque contra leges neque dolo malo inita sunt, omni modo observanda sunt*”: Agreements which are not illegal nor fraudulent have to be honoured.

- (xxxv) “Quando abest provisio partis, adest provisio legis”: When a party does not provide law provides.
- (xxxvi) “Quando duo jura in una persona cocurrunt aequum est ac si essent diversis”: When two rights concur in the same person, in law he is treated as two different persons.
- (xxxvii) “Quando jus domini regis et subditi concurrent, jus regis praeferri debet”: When the rights of King and subject are in conflict, the King’s right prevails.
- (xxxviii) “Quae in curia acta sunt rite agi praesumuntur”: Those things done in the king’s court are presumed to be correctly done.
- (ixL) “Quod contra legem fit, pro infecto habetur”: A thing done in all illegal manner is deemed not to be done.
- (xL) “Quod contra rationem juris receptum est, non est producendum ad consequentias”: A decision against the reason of the law cannot be a precedent.
- (xiL) “Quotiens dubia interpretation libertatis est, secundum libertatem respondendum est”: In matters doubtful interpretation should be in favour of liberty.
- (xiiL) “Quotiens idem sermo duas sententias exprimit, ea potissimum accipiatur, quae rei grenade aptior est”: In ambiguous matters that interpretation must be chosen which makes it better fitted for making the subject matter effective.
- (xiiiL) “Remoto impedimento, emergit action”: An action emerges when the obstacle to it is removed.
- (xivL) “Res perit domino suo”: A thing lost is lost to its owner.
- (xvL) “Rex non debet esse sub homine sed sub Deo et lege”: The king is under no man but only under God and the law.
- (xviiL) “Rex non potest fallere nec falli”: The King cannot cheat or be cheated.
- (xviiiL) “Rex non potest peccare”: The king can do no wrong.
- (xivL) “Rex nunquam moritur”: The king never dies.
- (xvL) “Roy n’est lie per ascum statute, si il ne soit expressement nosme”: The king is not bound by a statute unless expressly named therein.
- (xviL) “Salus populi est suprema lex”: The good of the people is the supreme law.
- (xviiL) “Semper in obscuris quod minimum est sequimur”: In all obscure matters, we follow the least obscure.
- (xviiiL) “Statutum affirmativum non derogate communi legi”: An affirmative statute does not derogate from the common law.
- (xixL) “Summum jus, summa injuria”: A strict law causes most harm.
- (xxL) “Talis interpretation simpler fienda est ut evitetur absurdum, et inconveniens, et ne judicium sit illusorium”: That interpretation must be chosen which avoids an absurdity or an inconvenience and which does

- not make a decision of court illusory.
- (xxiL) “Ubi cessat remedium ordinarium, ibi decurritur ad extraordinarium et nunquam decurritur ad extraordinarium ubi valet ordinarium”: When an ordinary remedy fails an extraordinary remedy be resorted to when the ordinary is effective.
- (xxiiL) “Ubi eadem ratio ibi idem jus”: When the reason is the same, the law is also same.
- (xxiiiL) “Ubi jus, ibi remedium”: When there is a right there is a remedy.
- (xxivL) “Via trita, via tuta”: The beaten path is a safe path.
- (xxvL) “Res perit domino suo”: A thing lost is lost to its owner.
- (xxviL) “Rex non debet esse sub homine sed sub Deo et lege”: The king is under no man but only under God and the law.

The aforesaid Latin Maxims at the face of record reflect the continuation of basic principles to regulate social order and prevention of crime flowing from reigns of Shri Ram.

## LAW AND ORDER & SECURITY OF STATE

**I**n a welfare state, liberty, equality and fraternity as the trinity and social welfare are close companions. They are complimentary and supplementary means to each other to create conditions for self expression and balanced growth so that every citizen becomes responsible and responsive for successful working of democracy.

<sup>80</sup>Maintenance of public order falls within the jurisdiction of a State in view of Schedule VII List II Entry 1 to the Constitution. But, the Union Government may deploy its Armed Forces in any State in aid of the civil power in terms of Schedule VII List I Entry 2-A to the Constitution. This has been the constitutional position ever since Schedule VII List I Entry 1 was amended by the Constitution (Forty-second Amendment) Act, 1976 and Entry 2-A was inserted in List I of the Seventh Schedule to the Constitution by the same Amendment Act. What is of importance is that deployment of the Armed Forces should only be in aid of the civil power. (Paras 174, 163 and 164 of Constitution of India)

Article 352 of the Constitution finds place in Part XVIII of the Constitution relating to emergency provisions. This Article was amended by the Constitution (Forty-fourth Amendment) Act, 1978 and the words

“internal disturbance” were substituted by the words “armed rebellion” in clause (1) of Article 352 of the Constitution. The impact of the above substitution of words is that though an internal disturbance is cause for concern, it does not threaten the security of the country or a part thereof unlike an armed rebellion which could pose a threat to the security of the country or a part thereof. Since the impact of a Proclamation of Emergency under Article 352 of the Constitution is rather serious, its invocation is limited to situations of a threat to the security of the country or a part thereof either through a war or an external aggression or an armed rebellion, but not an internal disturbance. To put it negatively, an internal disturbance is not a ground for a Proclamation of Emergency under Article 352 of the Constitution. However, a Proclamation of Emergency could be made in the event of an internal disturbance (not covered by Article 352 of the Constitution) by resort to Article 356 of the Constitution. There is, therefore, a clear distinction between an armed rebellion that threatens the security of the country or a part thereof and an internal disturbance. The former comes within the purview of Article 352 and Article 356 of the Constitution while the latter

80. Constitution of India

comes within the purview only of Article 356 of the Constitution and not Article 352 of the Constitution. (Paras 165 to 168 of Constitution of India).

However, an “internal disturbance” by itself cannot be a ground for invoking the power under Article 356(1) of the Constitution, if it is not intertwined with a situation where the Government of a State cannot be carried on in accordance with the provisions of the Constitution. At this stage, it is also important to refer to Article 355 of the Constitution. This Article makes it the duty of the Union Government to protect a State from external aggression and internal disturbance. By necessary implication, an external aggression for this purpose includes a war and an armed rebellion that threatens the security of the country or a part thereof. (Paras 168 and 169 of the Constitution of India)

There are, therefore, four situations: war, internal aggression, external aggression and armed rebellion, all of which can threaten the security of the country or a part thereof and fourthly, an internal disturbance. In providing protection against an internal disturbance, the Union Government is entitled and empowered to deploy the Armed Forces of the Union under Schedule VII List I Entry 2-A of the Constitution “in aid of the civil power”. The conclusion therefore is that in the event of a war, external aggression or an armed rebellion that threatens the security of the country or a part thereof, it is the duty of the Union Government to protect the States and depending on the gravity of the situation, the President might also issue a Proclamation of Emergency. That apart, the Union Government also has a duty to protect the States from an internal disturbance. However the President cannot, in the event of the latter situation, issue a Proclamation of Emergency except by using the drastic power under Article 356 of the Constitution, which has in-built checks and balances. In providing protection to the States in the event of an internal disturbance, the Armed Forces of the Union may be deployed “in aid of the civil power”.

<sup>81</sup> The foremost duty of the Central Government is to defend the borders of the country, prevent any trespass and make the life of the citizens safe and secure. The Government also has a duty to prevent any internal disturbance and maintain law and order. Kautilya in his masterly work “The Arthashastra” has said that a king had two responsibilities to his State, one internal and one external, for which he needed an army. One of the main responsibilities was raksha or protection of the State from external aggression. The defence of the realm, a constant preoccupation for the king, consisted not only of the physical defence of the kingdom but also the prevention of treachery, revolts and rebellion. The physical defensive measures were the frontier posts to prevent the entry of undesirable aliens and forts in various parts of the country (Para 51).

It is for the State to maintain law and order situation in the State and, therefore, the State should maintain it effectively and potentially. Once the

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81. Extra Judicial Execution Victim Families Assn v. Union of India, (2016) 14 SCC 536.

Board has cleared the film for public viewing, screening of the same cannot be prohibited in the manner as sought to be done by the State in the present case. (Para 27 of Constitution of India).

<sup>82</sup> There is a clear-cut and well-demarcated sphere of activities in the field of crime detection and crime punishment. Investigation of an offence is the field reserved for the executive through the Police Department, the superintendence over which vests in the State Government. The executive is charged with a duty to maintain vigilance over the law and order situation. It is obliged to prevent crime. If an offence is committed allegedly, it is the State's duty to investigate into the offence and bring the offender to book. Once it investigates through the Police Department and finds an offence having been committed, it is its duty to collect evidence for the purposes of proving the offence. Once that is completed, the investigating officer submits report to the court requesting the court to take cognizance of the offence under Section 190 CrPC and his duty comes to an end. (Para 26)

<sup>83</sup> An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant of preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e. to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime,

thus, is equally entitled to a fair investigation. When serious allegations were made against a former Minister of the State, save and except the cases of political revenge amounting to malice, it is for the State to entrust one or the other agency for the purpose of investigating into the matter. The State for achieving the said object at any point of time may consider handing over of investigation to any other agency including a Central agency which has acquired specialization in such cases. (Para 28).

<sup>84</sup> Any indication of the violation of the right to life or personal liberty would put all the faculties of the Supreme Court at high alert to find out the truth and in case, the Court finds that there has, in fact, been violation of the right to life and personal liberty of any person, it would be the Court's bounden duty to step in to protect those rights against the unlawful onslaught by the State. Therefore, there is no reason not to examine the matter directly but only vicariously and secondhand, through the agency of NHRC (as submitted by the State of Manipur). (Para 4).

It is pleaded that the present writs should be tagged with two fake encounter cases of other States. There is no relevance of the two fake encounter cases referred to. The plea that these two writ petitions should only be heard along with those two fake encounter cases is meant to detract from consideration the grave

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82. Prakash Jha Productions v. Union of India, (2011) 8 SCC 372.

83. M.C. Mehta (Taj Corridor Scam) v. Union of India, (2007) 1 SCC 110.

84. Sarbananda Sonowal v. Union of India, (2005) 5 SCC 665, 85. *ibid*.

issues raised in the writ petition. (Para 5).

There is no denying that the State of Manipur is facing the grave threat of insurgency. But, citing the number of the policemen and the security forces personnel and the civilians killed and injured at the hands of the insurgents does not really answer the issues raised by the writ petitioners. In 1997, in *People's Union for Civil Liberties, (1997) 3 SCC 433* the Supreme Court, dealing with the case of killing of two persons in the State of Manipur had cautioned the State against "administrative liquidation". But, after 15 years, in this case, there are similar allegations on a much larger scale. It is not open to the State Government to cite the numbers of policemen and security forces personnel killed to justify custodial deaths, fake encounters or what the Supreme Court has called "administrative liquidation". It is simply not permitted by the Constitution. And in a situation where the Court finds a person's rights, specially the right to life under assault by the State or the agencies of the State, it must step in and stand with the individual and prohibit the State or its agencies from violating the rights guaranteed under the Constitution. That is the role of the Supreme Court and it would perform it under all circumstances. Therefore, the plea raised in this regard is equally without substance. (Paras 6 to 9).

The better concept of duty of sovereign Government explored by Supreme Court of India (*ibid*) fulfilling into the justification or reason is assigned by Shri Ram<sup>85</sup> while giving reply to Sita with regard to his onerous duty to eliminate the rakshashas or devilish people, who were obstructing the life of sages in the Dandakarnya. It may be compared with the terrorists and members of ISIS who with intention to expand their fanatics across the border causing irreparable loss and injury to the society across the border. To eliminate and punish such offenders, it is not necessary for the sovereign of the Government to wait for commission of a crime but as a preventive measure, such hard core criminals are liable to be eliminated and in such a situation, the rule of law or principles of natural justice is not attracted. Personnel declared hard core criminals causing harm to society by collective group of people against civilized society must be eliminated instead of allowing them to face trial or prosecution. The reason assigned by Shri Ram seems to suit to the present scenario of the world. Keeping in mind this principle, the action taken by United States of America against Osama Bin Laden to eliminate him by interfering with sovereign right of Pakistan is perfectly in order and correct.

Thus, we may notice that not only the nature of crime and punishment but nation's duty to secure its boundary by surgical strike across or attack in enemy territory for justified cause as done by Shri Ram is still continuing and practised all over the world. Execution of Ravan by Shri Ram was not only on account of kidnapping of Sita by him but it may assign to some other good reasons like

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85. *ibid*

persecution and killing and harassment of citizens by spy soldiers representatives of Shri Ram in the Indian territory like attack in the Ashram of Sage Vishvamitra, Khar Dushan's persecution and peoples of Dandakaranya (supra) and alike incidents. However, one of the difference between those period where Shri Ram punished Ravan while invading Shri Lanka, the aim was to punish not to extend the territory. That is why after killing Ravan Shri Ram handed over the territory to brother Vibhishan which is an instance of highest degree of idealism, pious mind and fair thought of Indian civilization.

Virtually Shri Ram while eliminating the criminals/rakshashas during exile along with brother Laxman was doing his duty falling under the state subject which he is also the role of sovereign countries. The punishment awarded at individual stage or in collective form to a nation or its aggressive group may be noticed even in to-days world. Some of these instances are :-

Osama Bin Laden. The USA carried out surgical strike to eliminate Osama Bin Laden, the dreaded leader of Al-Qaeda. Osama Bin Laden, the founder and head of the Islamist group Al-Qaeda, was killed in Pakistan on May 2, 2011, by United State Navy SEALs of the U.S. Naval Special Warfare Development Group (also known as DEVGRU or SEAL Team Six). The operation, code named Operation Neptune Spear, was carried out in a CIA-led operation, with Joint Special Operations Command, commonly known as JSOC, coordinating the special Mission Units involved in the raid. In addition to SEAL Team Six, participating units under JSOC include the 160th Special Operations Aviation Regiment (Airborne), aka "Night Sealkers," and operators from the CIA's Special Activities Division, which recruits heavily from former JSOC Special Mission Units. The operation ended a nearly ten years search for Bin Laden, following his role in the September 11, 2001 attacks on the US.

The raid on Bin Laden's compound in Abbottabad, Pakistan, was launched from Afghanistan. US military officials said that after the raid, US forces took Bin Laden's body to Afghanistan for identification, and then buried him at sea within 24 hours of his death in accordance with Islamic tradition. According to Carlotta Gall, a Pakistani official (to whom she later clarified that she did not speak, the information coming through a friend), told her that a senior US official had told him that the united States had direct evidence that Inter Services Intelligence (ISI) chief, Lt Gen Ahmad Shuja Pasha, knew of Bin Laden's presence in Abbottabad, but ISI, Pasha, and officials in Washington all denied this.

Al-Quaeda confirmed the death on May 6 with posts made on militant websites, vowing to avenge the killing. Other Pakistani militant groups, including the Tehrik-e-Taliban Pakistan, also vowed

retaliation against the US and against Pakistan for not preventing the operation. The raid was supported by over 90% of the American public, was welcomed by the United Nations, NATO, the European Union, and a large number of governments, but was condemned by others, including two thirds of the Pakistani public. Legal and ethical aspects of the killing, such as his not being taken alive despite being unarmed, were questioned by others, including Amnesty International. Also controversial was the decision not to release any photographic or DNA evidence of Bin Laden's death to the public.

Surgical Strike by India. On 29 Sep 2016 i.e. 10th day after terrorist attack in Army Camp of Uri which claimed the lives of 18 Indian jawans, India carried out surgical strikes in Pakistan Occupied Kashmir, inflicting heavy casualties on terrorists and those protecting them and indicating a change of stand on the rules of engagement on the disputed line of control.

Indian DGMO Lt Gen Ranbir Singh announced that Pakistan had been informed about the strikes and that India has no intention of continuing the operations but is ready for any reaction from the Pak side. The response first of its kind across the Pakistani border during peace time, was based on specific intelligence, claim reports. In operation near about 38 terrorists and 2 Pakistani soldiers were killed but there was no casualty on Indian side. The option of surgical strikes was taken in the wake of increase in infiltration bids, the DGMO informed. Terrorists had begun gathering in large numbers along the LoC (Line of Control) with the objective of crossing the border and targeting locations in Jammu and Kashmir, as well as other metros. In such a scenario surgical strikes was considered the best option to deal with the threat.

Surgical Strike by Israel. Terrorists killed sportsmen of Israel Olympics held at Germany. The Israeli intelligence in later few years eliminated all the terrorists who were involved in killing of Israeli players. Israel's 1981 bombing of the Iraqi nuclear reactor at Osirak is considered a prime example of a surgical strike. Its 1976 commando operation at Entebbe in Uganda, through which Israeli passengers were freed from a hijacked plane, is also mentioned as a successful surgical strike. Even though it did not involve taking out targets, striking deep inside foreign territory, covering 5,000 miles from start to finish without engagement with any other forces, qualified it to be 'surgical'.

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## NATURAL JUSTICE

**S**ita was kidnapped by Ravana. Shri Ram was not only her husband but as a representative of Bharat who was adorning the principal seat at Ayodhya with the Khadau of Rama, to punish the guilty i.e. Ravana. After reaching Lanka Shri Ram inspected the troops who were armed with sticks and rocks and took their assigned positions. Ram adhering to Raj Dharma (righteousness) and to comply with the principles of natural justice before punishing Ravana called Angad and said to him to meet Ravana without fear and give him the following message:

“You who have in your arrogance harmed Risis, Devas, Gandharvas, Kings and others, and have caused me great agony by abducting my wife! I stand at the portals of Lanka, ready to punish you. Your arrogance due to the boons that you got from Brahma will be crushed. You stole Sita by tricking me into going away from the ashram. Show me your strength in person, your scum of a rakshasa! If you do not return Sita and surrender, I shall get rid this world of all rakshasas. Righteous Vibhisana shall rule Lanka. You, who surround yourself with foolish advisors, cannot enjoy the kingship. I challenge you to fight. There is no way you can escape me! Have your funeral rites performed.

“Vile and despicable fellow, come out and fight against me! I shall kill you and all your kinsmen, and the world will heave a sigh of relief. When you are dead, Vibhisana will become the king. If you wish to avoid all this, surrender and give Sita back”.

Angada at once leapt into the sky and landed where Ravana and his ministers were. He said to Ravana, “I am the messenger of the righteous king Rama. You might have heard of me, I am Angada, the son of Bali. Then Angada conveyed to him Rama’s message.

Ravana became furious and his eyes became red with anger. He ordered his ministers to capture Angada. Four rakshasas caught hold of Angada. Brave Angada allowed himself to be caught so that it would give him an opportunity to demonstrate his power. Suddenly, with the four rakshasas clinging to his arms, he leapt to the balcony of the palace and threw the rakshasas down in full view of Ravana. He then destroyed the dome of the palace, and leapt into the air with a cry of victory that all could hear, and landed near Rama.

Ravana sighed, overcome by great anger and expecting calamity to himself. The monkeys burst into cheers. Rama was delighted and got ready for war.

Virtually, Shri Rama followed long standing practice of Indian Civilization

and culture, the basic concept of rule of law in compliance of natural justice while giving warning to Ravan to surrender and return Sitaji or face consequences. Thus, even in those days in India i.e. Bharat, fair play was part of public policy and guaranteed for justice not only to citizen but even to rulers of other or enemy countries. The development of rule of natural justice gradually strengthened with the growth of civilization and became rule of law. Even by implication larger Benches of Hon'ble Supreme Court right from *Meneka Gandhi vs. Union of India*, AIR 1978 SC 597 held that even if some statutory decision affects the compliance of principles of natural justice even then it must be complied with while affecting civil rights of the citizens. The subject of natural justice on larger scale that too for alleged enemy like Ravana was formulated and complied with by Shri Rama before entering into war. Such was the Indian tradition and culture followed since thousands of years and was adopted by West in modern jurisprudence now followed by Indian judicature.

Basic principles of modern punitive law is principle of *audi alteram partem* which means that every quasi-judicial process and the rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. In the era of Ram, king was conferred with wide power to punish the guilty, even at later period of democratic polity powers were vested in king. The king was empowered to punish.

It is well settled principle of law that principle of natural justice are meant to prevent miscarriage of justice and is applicable not only to domestic inquiries but also to administrative proceedings, vide *A.K. Kraipak and others vs. Union of India & Ors*, AIR 1970 SC 150, and *AIR 1976 SC 2228 Dr. G Sarena vs. University of Lucknow*.

The purpose of Rules of natural justice is to prevent miscarriage of justice and it is applicable to administrative orders if the orders affect the right of citizen. Arriving at the just decision is the aim of both quasi-judicial as well as administrative decision and unjust decision in administrative matter, may also have far reaching consequences, than the decision in a quasi-judicial matter. Generally, the principle of natural justice requires, opportunity of hearing should be given against whom an administrative order is passed or action is taken. The application of principle of natural justice and its sweep depends upon the nature of rights involved, having regard to the State and context of statutory provision.

Where a vested right is adversely affected by an administrative order or where civil consequence ensue, the principles of natural justice apply even if the statutory provisions do not provide for and the persons concerned, must be afforded opportunity of hearing and show cause before the order is passed, vide 1991 3 SCC 38, *Union of India vs. E.G. Nambudiri*; AIR (1967) 2 SCC 625, *State of Orissa vs. Dr. (Miss) Binopani Dei*; 2001 (1) SCC 182, *Kumaon Mandal Vikas Nigam Ltd vs. Girija Shanker Pant and others*; 2008 14 SCC 151, *Sahara India (Firm) vs CIT*.

It is trite law that rules of natural justice are not embodied rules. The phrase “natural justice” is also not capable of a precise definition. The underlying principle of natural justice, evolved under the common law, is to check arbitrary exercise of power by the State or its functionaries. Therefore, the principle implies a duty to act fairly i.e. fair play in action. In *A.K. Kraipak*, it was observed that the aim of rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice.

Once we understand the soul of the rule as fair play in action and it is so we must hold that it extends to both the fields. After all, administrative power in a democratic set-up is not allergic to fairness in action and discretionary executive justice cannot degenerate into unilateral injustice. Nor is there ground to be frightened of delay, inconvenience and expense, if natural justice gains access. For fairness itself is a flexible, pragmatic and relative concept, not a rigid, ritualistic or sophisticated abstraction. It is not a bull in a China shop, nor a bee in one's bonnet. Its essence is good conscience in a given situation : nothing more but nothing less. The ‘exceptions’ to the rules of natural justice are a misnomer or rather are but a shorthand form of expressing the idea that in those exclusionary cases nothing unfair can be inferred by not affording an opportunity to present or meet a case. Text-book excerpts and ratios from rulings can be heaped, but they all converge to the same point that *audi alteram partem* is the justice of the law, without, of course, making law lifeless, absurd, stultifying, self-defeating or plainly contrary to the common sense of the situation.

In *Swadeshi Cotton Mills vs. Union of India*, R.S. Sarkaria, J. speaking for the majority in a three-Judge Bench, lucidly explained the meaning and scope of the concept of “natural justice”. Referring to several decisions, His Lordship observed thus:

“Rules of natural justice are not embodied rules. Being means to an end and not an end in themselves, it is not possible to make an exhaustive catalogue of such rules. But there are two fundamental maxims of natural justice viz. (i) *audi alteram partem* and (ii) *nemo iudex in re sua*. The *audi alteram partem* rule has many facets, two of them being (a) notice of the case to be met; and (b) opportunity to explain. This rule cannot be sacrificed at the altar of administrative convenience or celerity. The general principle—as distinguished from an absolute rule 65 (1981) 1 SCC 664 5 of uniform application—seems to be that where a statute does not, in terms, exclude this rule of prior hearing but contemplates a post-decisional hearing amounting to a full review of the original order on merits, then such a statute would be construed as excluding the *audi alteram partem* rule at the pre-decisional stage. Conversely if the statute conferring the power is silent with regard to the giving of a pre-decisional hearing to the person affected and the administrative decision taken by

the authority involves civil consequences of a grave nature, and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as excluding the duty of affording even a minimal hearing, shorn of all its formal trappings and dilatory features at the pre-decisional stage, unless, viewed pragmatically, it would paralyse the administrative process or frustrate the need for utmost promptitude. In short, this rule of fair play must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands. The court must make every effort to salvage this cardinal rule to the maximum extent possible, with situational modifications. But, the core of it must, however, remain, namely, that the person affected must have reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise.”

It is thus, well settled that unless a statutory provision, either specifically or by necessary implication exclude the application of principles of natural justice, because in that event the court would not ignore the legislative mandate, the requirement of giving reasonable opportunity of being heard before an order is made, is generally read into the provisions of a statute, particularly when the order has adverse civil consequences which obviously cover infraction of property, personal rights and material deprivations for the party affected. The principle holds good irrespective of whether the power conferred on a statutory body or Tribunal is administrative or quasi-judicial. It is equally trite that the concept of natural justice can neither be put in a strait-jacket nor is it a general rule of universal application.

Shri Ram complied with natural justice, before taking final decision to attack Ravan.

## VIOLATION OF CHASTITY OF A LADY

**B**ali, the king of Kishkindha (Karnataka) was falsely annoyed with his brother and expelled him from his kingdom. Sugriv was living in exile and his wife Roma was forcibly kept by Bali. Ram created offensive with Sugriv and both agreed to help each other. Apart from helping his friend Shri Ram was not pleased from Bali since he has forcibly abducted and kept his brother's wife Roma with him. Ram asked Sugriv to challenge Bali. On assurance of Shri Rama that he will kill Bali, Sugriv went to Kishkindha. Valmiki has given his emotional description on protection of honour of a lady by Shri Ram to punish the guilty.

When they had come near the gates of Kiskindha, they again concealed themselves behind trees. Sugriva wanted to be assured that Rama would kill Bali; Rama assured him that he would do so, since Sugriva was distinguishable by the creeper that he wore. Sugriva summoned up anger against Bali and let out a roar challenging him to a fight. But Bali did not come out of the gates of Kiskindha at once. Then Rama urged Sugriva to roar even more loudly to make Bali come out. Sugriva then roared very loudly.

Bali became furious when he heard Sugriva's roar. His wife Tara tried to pacify him. She said to him, "I do not like your rushing out to fight your brother. If he has come again to fight with you after he had been beaten and wounded, it means he has come with a powerful ally in whose strength he has confidence. Our son Angada reported that Sugriva has enlisted the help of Rama, famous for his prowess in battle. Rama is invincible and you should not have him as your enemy. Please hear me without getting angry; what I am saying is for your welfare. You should cease your hostility against your brother; instead you should consecrate him at once as Yuvaraja. Please heed my advice.

Bali replied to Tara: "Why should I tolerate the insolent roaring of my brother who is challenging me to a fight? You should not worry about Rama. He knows what is right and what is wrong. (He will not fight with me without cause). As for Sugriva I shall take away his pride but not his life.

Then Bali came out of the gates of Kiskindha in a towering rage. Seeing Sugriva, he raised his fist and said angrily: "This fist will deprive you of your life!" His words kindled Sugriva's anger too and he said that his fist would deprive Bali of his life. Then Bali struck Sugriva with great force, making him vomit blood. Sugriva then violently uprooted a huge saal tree and struck Bali on his limbs. It made Bali lose his balance and totter like an overloaded boat at sea. In the battle

that followed, Bali's limbs were broken, but Sugriva remained agile although he felt weak.

Then Rama and Lakshmana came close to him. Bali, in a speech full of sarcasm and accusation, said to Rama : "What on earth did you gain by killing me when I was fighting with someone else and was not looking at you? You come from a respected family and are reported to be virtuous compassionate and so on; that is why I engaged in battle with Sugriva in spite of Tara pleading with me not to do so. I had the idea that you would not attack me if I did not look at you and was fighting with someone else. Now I see that you are a sinful villain pretending to be virtuous. I did not commit any sinful act in your country; nor did I offend you in any way. You are acting capriciously, with no regard for what is right and what is wrong, and acting without authority in an area outside your jurisdiction. Why would you kill me, an innocent forest-dweller who was fighting with someone else? Conciliation, generosity, forgiveness, righteousness, truthfulness, courage and punishing only the wrong-doer—these are the qualities of a virtuous ruler. We monkeys are forest-dwelling animals living on fruits and roots. Humans seek gold and silver. You have nothing to gain by killing us monkeys. How can you justify your action to the virtuous men of the world? My hair, skin and flesh and bones are all forbidden for virtuous men! You are treacherous and dishonest, unworthy of being a son of Dasharatha. If only you had fought with me openly when I was looking at you, I would have dispatched you to Yama's realm. Wishing to please Sugriva you killed me. I could have tried a rope around Ravana's neck and brought him to you; and wherever Sita might be hidden, I would have rescued her and brought her to you. It is only right that Sugriva should get the kingdom when I am dead. But how are you going to justify your action?

Hearing the harsh words of Bali which appear to be consistent with righteousness, Rama gave an excellent reply as follows, consistent with true righteousness and answering all the points raised by Bali.

Rama said: "Without consulting your elders and teachers you accuse me. This world, with its mountains and forests, belongs to the Ikshvaku, and is protected by righteous Bharata. Ordered by him, I and other princes go about punishing whosoever strays from the path of virtue. You have violated kingly dharma. A younger brother as well as a virtuous pupil should be looked upon as one's own son. You do not understand righteousness, for you consult with only ignorant and frivolous monkeys.

You are accusing me out of anger; let me tell you why I shot the arrow to kill you. In total disregard of eternal law, while your younger brother is still alive you are living in sin with his wife, Rama."

In slightly different words Rama again gave the reason why he shot the arrow at Bali : "Out of lust you have acted most sinfully, for you are living in sin with Roma, whom you should regard as your daughter-in-law.

Then Rama drove home the point for the third time as to why he shot the arrow at Bali : “In acting according to your desires and in violating your brother’s wife, you have acted most unrighteously. That is why the corporal punishment was meted out to you. Death is the prescribed punishment for one who violates the chastity of his daughter, sister, younger brother’s wife or an unmarried girl.

In Ram Charit Manas, Tulsi Das in his eloquent Awadhi chaupai, said:

अनुज बधू, भगिनी, सुत नारी सुन सठ ये कन्या सम चारी ।  
इनहि कुदृष्टि विलोकै जोई ताहि बधे कछु पाप न होई ॥

I did not act capriciously, but was following the orders of Bharata who is the ruler of all this territory and I cannot overlook your violation of dharma. Bharata is keen on violators of decency being punished. And I am only following his command as sacred law and am bound to punish those who like you, violate the boundaries of decency.

Besides, I had promised to punish for having taken over your brother’s wife.

My alliance with Sugriva is just like my friendship with Lakshmana (and has nothing to do with recovering Sita).

You said you were only an animal, a mere monkey. Even the most virtuous kings and royal seers, go hunting in the forest. So monkey, I could shoot you with an arrow whether you were fighting with me or not.

Therefore the punishment meted out to you is proper. Your death was decided upon quite justly. Other kings have committed sinful actions, and have been purified by repentance and paying the penalty for their actions. Therefore, enough of your self-pitying! The punishment meted out to you was just. I was not acting on my own, but on behalf of Bharata. It is a pity that you, who do not understand dharma and simply follow your desires and passions, reproach me.

Bali realized that what Rama said was right and was sorry for having made all sorts of accusations against him. His love and affection for Sugriva also returned to him and he regretted that he had mistreated his younger brother. He confessed to Rama, “Indeed, I am known to be a flagrant violator of dharma. I regret that drunk with power, I have behaved very badly.” And, begging Rama to forgive him for the harsh words he had said to him, Bali requested him to show the same affection to Angada (his son) as to Lakshman and Sugriva.

Rama consoled Bali, saying that Bali, by accepting his punishment, had become free of his sins.

Tara came out of Kiskindha to see her husband Bali who lay wounded by the arrow, and with his limbs shattered, having been beaten by trees and stones with which Sugriva had struck him. Her mind tortured by grief, Tara wept piteously by his side.

As she wept, she said to Bali, “This is the fruit you reap for exiling Sugriva and taking over his wife. I offered you good advice, but you foolishly rebuked

me.” She sat by her dying husband and kept weeping.

Then Hanuman came and tried to console Tara. He pointed to her also that she should take steps to see that Angada is made the king of Kiskindha as soon as possible, after Bali is cremated.

Bali was not yet quite dead, but was breathing with difficulty. Sugriva and Angada were standing close to him. Bali said to Sugriva, “Sugriva, please do not judge me harshly for what I have done to you, carried away as I was by perversity, caused by fate. Dear brother, we were not destined to be happy and together at the same time, and the brotherly affection we should have had turned out to be quite otherwise. Now, I want you to accept the kingship of Kiskindha today itself. As for me, I shall be going to the abode of Yama today itself.

Then Bali added, “Sugriva, I want you to do the following for me. My son Angada is still a child, though not childish. He has led a protected life. Please treat him alike your own son and protect him in every way, as I have done. And Sugriva, accept how itself this divine garland that I am wearing, for its glory will leave when the wearer is dead.” So saying, Bali gave Sugriva the golden garland given to him by Indra. Finally he advised Angada to be disciplined and obedient to Sugriva, then he died.

Tara wept a long time by Bali’s side. Nila, Sugriva’s general, pulled the arrow out of Bali’s chest. Angada saluted his father who lay dead.

Sugriva too was steeped in sorrow. Rama consoled him, telling him that all that had happened was due to fate; he told him also that because Bali had realized his errors and had also died in battle, he would go to heaven and so Sugriva should not be sunk in grief.

Then Angada and Sugriva, sharing the same pain and grief, cremated Bali.

Knowing that Bali himself wanted Sugriva to assume the kingship as soon as possible, Bali’s ministers surrounded the grieving Sugriva with reverence and they all looked up to Rama with folded hands. Hanuman said to Rama, “Through your grace, Sugriva has obtained this kingdom. With your permission he will now enter Kiskindha and be crowned king. He will then specially honour you with garlands and jewels. You should therefore please proceed to Kiskindha.” Rama replied, “Following my father’s command, I will not enter any town or village. Let Sugriva enter Kiskindha and be consecrated as king.” Then Rama told Sugriva, “Angada too should be consecrated, as Yuvaraja. When the rainy season which is about to start is over, you should exert yourself to help me in my project to kill Ravana, as we agreed upon.”

*(taken from the Ramayana of Valmiki by M.R. Parameswaran)*

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## GENDER EQUALITY

**I**t could be seen that the participation of woman and man forms the basis of human life, not only from the philosophical and spiritual point of view, but also from the social and cultural view point. Women have been bestowed with a very exalted position in Indian Literature from the spiritual stand point. Women have acquired greatness in social life for the role they play in the family and society and as a mother. Even in the Bible, Habba is believed to be the inspiring force for Adam. Like this, women, who play a pivotal role in life, have achieved a very important place in world literature, and other arts. More than half of our world literature center around women and women problems. She occupies an exalted position for having bestowed with pleasing manner, charming personality and an outlet of human emotions.

Sita, who has been portrayed as a woman of lofty ideals by the ancient poet Valmiki, is befitting model to be emulated by every Indian woman even today. The character of Ram is undoubtedly superb, but Sita's character plays a much greater role in transforming the later as an ideal for the society and culture. The phrase 'Seethaayaa Charitham Mahath' (great is Sita's Character) echoes like a prophecy even today. Scholars belonging to different Languages in India have taken special care and utmost faith to portray the greatness of Sita's character in their Ramayan epic. Among them, in Hindi Tulsidas and Kamban in Tamil occupy an incomparable position.

In TAMIL literature, from Sangam period till nearly the 12th century, the portrayal of women clearly indicates that she had the privilege of enjoying rights relating to marriage, thinking, education and religious practices and there were no special changes in this outlook with the passage of time in the later period. Few footnotes regarding women could be obtained in rare places.

If we go back to the period of Shri Ram, we may notice the highest degree of gender equality among men and women with mutual respect to each other. The place of woman in the society during the period of Shri Ram was realistic not only with regard to mutual respect but women were given highest degree of security by major penalty of execution to a man, if it is a case of kidnapping, molestation and rape.

The three mothers- Kausalya, Sumitra and Kaikeyi stand respectively for modesty, magnanimity and determination. Other women – Characters like Adhlya, Anusuiya, Sabri, Tara, Mandodari and Svayamprabha also have their own

philosophy of life which can educate the modern world if properly understood. Svayamprabha is a character neglected by most authors; but she is most mystic, magnificent yet modest character who helps Hanuman and his friends searching for Sita in getting out of a critical situation. She literally leads them from utter darkness of a closed cave to the broad daylight illuminating the inquisitive waves of the ocean which bridges the gulf between Rama, the mission, and Sita the vision.<sup>86</sup>

Even an ordinary woman named Trijata visualize the ultimate victory of Sita and cautions her fellow watchwomen against thinking ill of her as the future of Lanka depended on her mercy. Her words come true. Her narration of the dream she saw in the early hours of the day sounds like the sacred mantra, Gayatri. The semantic similarity between the two words-Trijata and Gayatri-is also worth our attention and contemplation.<sup>87</sup>

Ramayana places man and woman (particularly Rama and Sita) on the same pedestal, giving them equal status, dignity and importance, but this was not just a jugglery of words that Valmiki played with. He meant what he hinted at in the coinage of the word Ramayan as a highly suggestive and comprehensive title for his composition.

Sita excels Rama, Rama became great because Sita was greater. Her readiness to leave for the forests along with her husband, and the forbearance she showed towards all atrocities committed on her not only by the evil minded enemies but also by her own well-meaning husband, reflected her guiding principle in life – silent suffering with strong determination to stick to the path of righteousness. This attitude towards life did reward her and her husband and made not only their characterization immortal, but more importantly, their message universal and eternal. This is what Sumantra says while consoling King Dasharatha and the grief-stricken queen Kausalya :

न सोच्यस्ते न कर्म ते सोच्योनपि जननधीपः ।  
इदं हि चरितं लोके प्रतिस्थास्यति शाश्वतं ॥

(There is nothing to worry about your dearest son and devoted daughter-in-law. They are quite happy because they have invited this course of suffering on their own. They are treating pleasure and pain alike. Therefore, neither you nor the king should be distressed at this turn of events which is bound to be a landmark in the history of mankind while endurance takes the trivial troubles and turmoils that we are facing now, in its stride.)

These words of Sumantra have a mantrik (enchancing effect, not only on the aged parents, but also on the age old humanity as they provide strength-mental and spiritual- to the majority of the suffering community in the world. Suffering is not a curse, but a crude form of penance, gifted to a selected few

86. Sakshi, Issue-5, page 211

87. Ibid, page 211

who are designed and destined to distinguish themselves as the commissioned counselors for human dignity Pratistha.<sup>88</sup>

It was common in those days that wishes of women were having primacy over the men in relation to marriage. Women were given first right during course of Jaimaal to garland a man of her choice. When Shri Ram broke the bow of Lord Shiva, it was Sita who had first chosen him as her husband.

The genesis of Ram's exile to forest for about 14 years is based on two boons, which King Dasharath gave to Kaikai. According to epic Ramayan during war between Devas and Asuras sometime in past King Dasharath joined Devas to defeat Asuras (demons). During war Kakai accompanied her husband Dasharath. One of the wheels of Chariot of Dasharath suffered some problem, which was appropriately dealt with by Kaikai, saving the life of King Dasharath from Asurass (demons). Having pleased with the bravery during war Dasharath had offered two boons, which Kaikai kept for future use. The said two boons were used by Kaikai to make Bharat 'King' and Shriram be banished to forest for 14 years to lead the life of hermit, wearing bark of trees and deer skins. It shows that during those days the women were equally trained and educated to defend themselves and participate in war, if necessary, helping husband or the male counter part. In the entry of women in Armed Forces in modern world, United States have turned pioneering in different sectors with regard to women in the Armed Forces. There are approximately two lacs women on active duty in U.S. Forces, constituting 20% of its total strength. Women participated in Iraq operation in a large number albeit in support functions as they are forbidden to be placed in direct ground combat with enemy but they are assigned combat support duties on voluntary basis. In United States before 1975 women were given option to terminate pregnancy or seek discharge. However, a number of steps were initiated during Clinton's regime in United States of America. Women were permitted to join as combat Air Craft Pilots and could also be assigned duty on combat naval ships. Israel has conscription for women, where a large number of them are exempted for various reasons. Women are generally not allotted active battle field duties though things are gradually changing. In Britain there was a major enlargement of women in Britain Armed Forces in 1990 and number of new duties were assigned to them. According to a report now 71% of all jobs in the Navy, 67% in Army and 96% in the Air Force are tenable by women in Great Britain. In Britain they constitute 9.1% of the total strength, out of which 11.2% are Officers and 8.7% are of other ranks. Servicewise Navy women population is of 9.4%, Army 7.1% and Air Force 11.9%. In Germany it was only in 2001 women won the right and Bundeswehr allowed the women to join medical units and musical bands in 1975. Today there are more than 12,000 German women in Uniform on voluntary basis as compulsory military service

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88. Ibid, page 203-204

for women is banned by law. Women constitute 6% of the total strength. In Australian Army women are not allowed in battle field. In Russia they generally serve in nursing, communication and logistic support. Their number is close to 95,000. In Slovenia, which became independent in 1971, women constitute 18% of total strength in the Army. Islamic states ordinarily do not permit women in Army. There are complaints of sexual harassment in the Armed Forces of different countries. In India role of women in Armed Forces is ordinarily limited to Doctors and Nursing staff. In 1992 the doors were turned open for women's entry as regular entry in Logistic field and executive cadres. Thousands of women applied against the advertisements, who chose the new field, by which they had painstakingly paved the path for others to follow. Recently, women have been admitted in Indian Armed Forces under Short Service Commission (SCC) Officers where they can serve for a period ranging from 5 to 14 years. In Navy they serve in all the branches, except marine and diving branch. In Air Force women are flying Air Force Planes, working in technical and administrative branches. In coast guard they are serving in almost in all the branches. In Army the services of women are increasing day by day, particularly in Engineering, EME, Signals, Army Educational Corps, Army Medical Corps, Army Service Corps, Intelligence and Judge Advocate Branches.

What India was possessing almost seven thousand years before as a major change in the form of gender equality has seen the light of the day in modern world only in 20th Century.

It was Sita who invited attention of Shriram during exile in Jungle to 3-4 offences, prohibited by law viz; uttering a falsehood, desire to possess of other's money and hunting someone who has not offended any one in any manner. This shows the equality in education, knowledge and equal treatment among men and women.

Thus, gender equality in Ramayan is apparently not only in theory but also in practice.

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## TRUE RELIGION

**S**ince ages the earth soaked with millions of gallons of blood because of war broadly for three counts; land, religion, wealth and women. Religion has been the main issue of conflict among the human race from time eternity and every religion or sect has been trying to establish it better than other.

The religion appears to possess in four stages:-

<sup>89</sup>Man has passed through four ways of approach to the universe around him. The first was the animistic one where he attributed to everything around him, to gods, demons, and inanimate things alike, his own whims and caprices, his own lust, anger, greed, illusion, intoxication and competition. The legends in the Hindu epics and puranas, and in Greek, Roman, Egyptian, Sumerian, Babylonian, Chaldean, Persian and Chinese books of the gods as well, abound in cruel and lustful stories illustrating this. It is the approach of the child or savage who hits the door or rock which hits him, worships the mountain, the river and sea, snake, eagle, tiger and rat, as gods, and propitiates the spirits and devils with timely offerings. The spirit of an old drunken British colonel in India is even now offered libations of brandy and whisky on his death anniversary day. Of course, as in everything else, the remnant of this belief persists in the most civilized men and women, like the primitive ape or caveman in them. Cringing prayers and debasing terms used towards himself, like worm, dog, etc., are survivals of that stage, equally with offerings of drinks and intoxicants, and devil-scaring and devil-squaring. They show man's idea that the gods are, something like his bosses, beings with feet of clay.

The second stage is where the gods are considered to be not moved by mere cringing without sacrifice. So, a quid pro quo is offered when favours are asked for. The offer of her flowing hair to the god of Tirupati by a woman in return for the life of her husband, and the offer of jewels in return for the life of a child are examples. The belief here is that nothing can be got for nothing, and that some sacrifice is required for getting a greater good. Goat sacrifices, etc, belong to this stage.

The third stage may be called the rational or scientific stage. Here man believes that God is good, and will be moved only by good acts and that He will

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89. A Layman's Bhagvat Gita Vol-I by ASP Ayyar, Bharatiya Vidya Bhawan, Kulapati Munshi Marg, Mumbai-400007.

reward the virtuous and punish the wicked and will pay scant regard to praise or offering. This is the stage of morality and the law of Karma, but is wholly on a mundane plane and unsatisfying to bhaktas, being wooden and mechanical.

The last stage is the mystic stage where man believes that there is a sacred and indefinable communion between God and man, that God is always with him and gives amply of His grace, not looking too strictly at his lapses and shortcomings provided he has surrendered himself wholly into His hands, leaving off his former ways, and making himself wholly an instrument of God for selfless acts for lokasangraha. This is the stage of the Gita, the Sermon on the mount, and other lofty gospels of deep meaning and import.

It has been said by believers in ceremonies and rituals that Karma covers 99 per cent and Dharma and Brahma only 1 per cent of life. That is so, but it is well to remember that this 1 per cent is the essence of life, and, therefore, infinitely more important than the other 99 per cent even as life, which is not even a fraction of one per cent of the weight of the body, is by far the most valuable portion of the body. In most gold mines, gold is only half an ounce in every ton of quartz, or far less than one per cent. It is the duty of the miner to grind the quartz and get at the gold. The quartz is only valued for the gold. So too it is the duty of a human being to train his body and get at the soul. The body is only valued by the man of realization for the soul whose abode it is.

Though in the present book broadly we are concerned with administration of justice but keeping in view the fact that still whole world is suffering from evils of conflict of religion, it shall be appropriate to mention how Shri Ram interpreted the practice of religion/devotion to God in life.

Sage Tulsi Das in his most celebrated epic “Ram Charit Manas” dealt with the meeting of Shri Ram with lady sage Sabri belonging to lowest rung of the society leading ascetic life in dandakarnya. Sabri was disciple of Sage Matang who was a Brahmin. In today's context as we understood she may be called a dalit. After killing a monster Kabandha, Shri Ram moved on. Sabri met him in dandakarnya, bowed her head and asked that she was waiting to meet worshipping Shri Ram since very long period in view of directions of her Guru Sage Matang.

Tulsidas in Ram Charit Manas very eloquently narrated the meeting of Sabri with Shri Ram.

ताहि देइ गति राम उदारा ।सबरी के आश्रम पगु धारा ॥  
 सबरी देखि राम गृहं आए । मुनि के बचन समुझि जियं भाए ॥  
 सरसिज लोचन बाहु बिसाला । जटा मुकुट सिर उर बनमाला ॥  
 स्याम गौर सुंदर रोज भाई । सबरी परी चरन लपटाई ॥  
 प्रेम मगन मुख बचन न आवा । पुनि पुनि पद सरोज सिर नावा ॥  
 सादर जल लै चरन पखारे पुनि सुंदर आसन बैठारे ॥

When Sabari saw that Shri Ram had called at her abode, she recalled the

words of the sage Matang and was glad of heart. With lotus-like eyes, long arms, a tuft of matted hair adorning their head like a crown and a garland of wild flowers hanging upon their breast, the two brothers (Shri Ram and Laxman) looked most charming-the one dark of hue and the other fair; Sabari fell prostrate and embraced their feet. She was so overwhelmed with love that no words came to her lips. Again and again, she bowed her head at their lotus feet. Presently she took some water and reverently laved their feet and then conducted them to a seat of honour.

कंद मूल फल सुरस अति दिए राम कहूं आनि ।

प्रेम सहित प्रभु खाए बारंबार बखानि ॥

She brought and offered to Shri Ram the most delicious bulbs, roots and fruits. The Lord partook of them again and again.

Sabri was full of emotions with tears in his eyes offered the fruits after tasting it herself. On the request of Sabri, Shri Ram told nine forms of devotion and enlightenment and pleasing of God which seems to be eye opener to the peoples of the day who are fighting for their religion.

The nine forms of devotion to God Almighty are the nine ways to avail the blessing and kindness of God. Out of nine, even one is enough to achieve the highest devotion leading to contented peaceful life. They are:-

“(i) The company of sages or learned good people, (ii) Passion to listen the stories of Shri Ram, (iii) Surrendering in the feet of God repeating the name or mantra, (iv) Chanting or muttering the name of God with unwavering faith and devotion, (v) Self control means control of mind and virtue (by yoga), (vi) desisting from manifold activities (since it deviates the mind more to worldly affairs), (vii) Following the righteous conduct provided by sages or law, (viii) Live a contented life whatever earns from rightful means without detecting others’ fault and (ix) Lastly a person should be guileless and straight in one’s dealing with everybody with faith in God they exulted or deprived.

Shri Ram said, “Whoever possess of these nine forms of devotion may achieve the blessings of God, attain salvation.”

Some people raises objection to an incident narrated in Ramayan (Uttar Kand) with regard to Sambuk who was killed by Shri Ram since he was chanting mantras while hanging on a tree. This was done by Shri Ram on the complaint of Brahmins and sages of that time who appreciated the killing of Sambuk. On comparing the alleged killing of Sambuk and the nine forms of devotion told by Shri Ram to Sabri undoubtedly the Sambuk Badh seems to have been added in later period by tampering the historical fact. It appears that by passage of time because of illiteracy in Indian society to the extent of 90% or more and life being regulated by practice, tradition and culture, Indian manuscripts were tampered/ doctored by mischief mongers to fulfill their wishes and keep command over

society. Such incidents should be separated or excluded while reading the great Indian epics like Ramayan, Ram Charit Manas, Geeta and Vedas with cautious approach. The foundation of Indian civilization is equal behavior and equal rights to all with equal opportunity in life and treatment.

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## MAIDEN JUSTICE

**I**ndian civilization survived for about seven thousand years because of knowledge, temptation to acquire spiritualism, justice to all with different facet of fair and peaceful life, which it carried on from generation to generation. The King or Rulers were supposed to be men of impeccable character leading spiritual life, serving the people without securing the personal or vested interests. Kings were supposed to work round the clock with their ministers to redress the people's grievances and for upliftment of standard of life. Delivery of justice has been the prime concern of Kings treating everyone equally, men, women, animals and all the creatures. The King was supposed to ensure the maintenance of nature's flora and fauna and award punishment proportionate to the offence committed by the accused.

In 'Ram Rajya' the country was passing in a state securing justice and the interest of every creature. When Ram arrived Ayodhya after completing the fourteen years of forest living, he asked Bharat with regard to welfare of people. The reply of Bharat shows the state of affairs during 'Ram Rajya'. To quote:-

"Being which do not claim their descent in Adam's line, speak again and again like men, under your reign, O Balian One, having a divine soul! Only more than a month has elapsed since you took the scepter in your hand, O Raghava! And mortals have become strangers to disease, death does not overtake even men worn out with age, women undergo no labour-pains during parturition and human beings are well-built indeed. An abundance of joy has fallen to the lot of every citizen dwelling in the town, O King! Pouring down nectarine water clouds rain at the proper time. Even the very winds which blow here are capable of giving a delightful touch, and are pleasing and healthful. People living both in the cities and in the country, arriving in the capital, declare, 'May such a sovereign be our ruler for long', O King!"<sup>90</sup>

The golden age of Ram enjoyed by the people of the country was because the King and his associates were honest by core of heart and committed to their duties to serve the people with utmost sincerity. Krishna in Geeta says:-

<sup>91</sup>"(9) Save work done as and for a sacrifice this world is in bondage to work. Therefore, O son of Kunti (Arjuna), do thy work as

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90. (Valmiki Ramayan, Uttarkand, Page 817, Part II, Geeta Press, Gorakhpur)

91. P. 154 The Bhagavadgita by S. Radhakrishnan.

a sacrifice, becoming free from all attachment.”

<sup>92</sup>(15) Know the origin of karma (of the nature of sacrifices) to be in Brahma (the Veda) and the Brahma springs from the Imperishable. Therefore the Brahma, which comprehends all, ever centers round the sacrifice.

Action is rooted in the Imperishable. But for the action of the Supreme, the world will fall into ruin. The world is a great sacrifice. We read in the Rg Veda (X, 90) that the One Purusa was offered as a sacrifice and his limb were scattered to all the quarters of space. By this great sacrifice, the world's pattern is kept up. Action is moral as well as a physical necessity for embodied beings.<sup>93</sup>

<sup>94</sup>(16) He who does not, in this world, help to turn the wheel thus set in motion, is evil in his nature, sensual in his delight, and he, O Partha (Arjuna), lives in vain.

In these verses the Vedic conception of sacrifice as an interchange between gods and men is set in the larger context of the interdependence of beings in the cosmos. The deeds done in the sacrificial spirit are pleasing to God. God is the enjoyer of all sacrifices *yajno vai Visnuh*<sup>95</sup>. Sacrifice is the Supreme. It is also the law of life. The individual and the cosmos depend on each other. There is a constant interchange between human world is in progress because of this co-operation between the human and the divine. Only the sacrifice is not to the deities but to the Supreme of whom the deities are varied forms. In IV, 24, it is said that the act and the materials of the sacrifice, the giver and the receiver, the goal and the object of the sacrifice are all Brahman.

<sup>96</sup>(21) Whatsoever a great man does, the same is done by others as well. Whatever standard he sets, the world follows.

Common people imitate the standards set by the elect. Democracy has become confused with disbelief in great men. The Gita points out that the great men are the pathmakers, who blaze the trail that other men follow. The light generally comes through individuals who are in advance of society. They see the light shining on the mountain heights while their fellows sleep in the valley below. They are, in the words of Jesus, the ‘salt’, the ‘Heaven’, the ‘light’ of human communities. When they proclaim the splendour of that light, a few recognize it and slowly the many are persuaded to follow them.<sup>97</sup>

<sup>98</sup>“He has no act to be done; but He exerts Himself in all actions so that

92. P. 156 The Bhagavadgita by S. Radhakrishnan.

93. P. 157 The Bhagavadgita by S. Radhakrishnan

94. Shridhara says: Yajamanadi Vyapararupam karma brahma vedah; karma tasmat pravrttam.

95. Taittiriya Samhita, I,7,4

96. P. 160 The Bhagavadgita by S. Radhakrishnan

97. (page 160, chapter II, Geeta by S. Radhakrishnan)

98. (page 139, A Layman's Bhagavat Gita, Vol I by A.S.P. Ayyar

men may have a model and the universe and Dharma may prosper. Such indeed is the nature of the Lord,” says Bhishma in Santiparva of the Mahabharata.

Shri Rama abandoned Sita for this reason. Meenakshi married Shiva to set a standard for men and women; so her wedding is celebrated every year at the Panguni Uttiram festival in Madura temple, and many couples marry then. All avatars are for setting examples to men and women.

“He who works but is selfless, who is omniscient, who wishes for nothing, being full, who acts un-urged by any, who teaches man through Himself sticking to the Path, to that Lord, the Promoter of all Dharma, do I surrender myself!” Manu in the Bhagavata Purana”.

In case, leaders are crooked, corrupt, incompetent, dishonest, visionless and characterless, substantial number of the people shall adopt same nature and country may ultimately go to self destruction. That is why Lord Ram was conscious and transparent in his personal as well as official capacity while serving the country. Dispensation of justice during Ram’s period was at highest pedestal and no one was deprived from his or her lawful right for any reason whatsoever.

Even prior to Lord Rama, his forefathers had also maintained an ideal state of affairs while serving the people. In Raghuvansham, in canto 4, while describing the conduct and policies of King Raghu, the Kalidas writes:

‘Like the soothing breeze blowing during Vasanta that please everyone because it neither scorches nor makes people shiver in cold, Raghu was neither harsh nor soft on his subjects. He punished the criminal in proportion to his crime. The public was extremely happy with his fair and judicial approach.....His ministers, the masters of politics and the art of administration tried to reach him how to administer harshly as well as justly. However, Raghu chose to walk on the straight path of justice and gave up being devious’.

‘Like the moon that delights everyone and thus proves the truth of his name, Chandra (happiness), like the Sun providing heat to the universe and thus proving the truth of his name, (Tapan), Raghu too, taking care of the welfare of his subjects, proved that he was really a raja’.<sup>99</sup>

Contemporary records show that the Kings, and the rich as well as the common people were of a charitable disposition. Kalidasa has written several episodes of such piety and charity. One of the most well known occurs in Raghuvansham (Canto 5). Kauts, a disciple of Rishi Varatantu, approaches King Raghu for charity so that he can offer Gurudakshina to his teacher at the end of his education. The King has already donated all his wealth in charity. Yet, Raghu cannot refuse. He invades Alkapuri so that some wealth can be forced out of

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99. Excerpts from Kalidasa by Kumarasambhavam translated by Dr. Rajendra Tandon.

Kubera, the God of wealth. In the meantime, there is a shower of gold in his treasury. The King offers everything to Kauts while the latter insists that he will take only the minimum required.

There is no reason to disbelieve that quite a few Kings were men of principles like Raghu, and that they were the ideals of Kingship in Kalidasa's times. This view finds support from the guidelines for Kings laid down by Bhartrihari in *Nitishatakam*.

The lesson and teachings of Raghu were later carried out by Rama and from generation to generation by Indian Kings serving the people while dispensing justice without vested interests, ill-will or malice.

People in general were content and patient. A person could move about the country without any restriction. The highways were provided with rest houses which had comfortable accommodation for travelers. According to Fa-Hien, rooms, with beds and mattresses, food and clothes were provided for residents and travelling monks without fail, and this was the same in all the places. Indian society has always placed the atithi, the guest arriving without intimation, on a high pedestal. Atithi devo bhava—the guest is god- has been our mantra. His welcome is one of the sacred duties of the householder.

A.L. Basham in *The Wonder that was India* (Sidgwick & Jackson, 1954, London), writes, 'In the best days of the Gupta Empire, Indian (325 B.C.) culture reached a perfection which it was never again to attain. At this time, Indians were perhaps the happiest and most civilized region of the world, for the effete Roman Empire was nearing its destruction, and China was passing through a time of troubles between the two great periods of the Hans and the T 'angs'. Fa-Hien found ordinary people to be highly cultured, reasonably wealthy and prosperous. They led a highly moral life and practised their dharma. He writes, "Throughout the country, no one kills any living thing, nor drinks wine, nor eats onion or garlic'.

One unique feature of Ram Rajya was justice towards animals and birds. In India, for the first time, Parliament enacted Prevention of Cruelty to Animals Act, 1960, in short 1960 Act. Even custody of animal during prosecution under the 1960 Act is to be decided subject to fulfillment of certain conditions.<sup>100</sup>

Supreme Court held that the following relevant factors are to be dealt with:

- (i) The nature and gravity of the offence alleged against the owner.
- (ii) Whether it is the first offence alleged or he has been found guilty of offences under the Act earlier,
- (iii) If the owner is facing the first prosecution under the Act, the animal is not liable to be seized, so the owner will have a better claim for the custody of the animal during the prosecution.
- (iv) The condition in which the animal was found at the time of inspection and seizure.

100. (1998) 6 SCC 520, *Pinjrapole Deudar v. Chakram Moraji Nat.*

- (v) The possibility of the animal being again subjected to cruelty.
- (vi) Whether the pinjrapole is functioning as an independent organization or under the scheme of the Board and is answerable to the Board, and-
- (vii) Whether the pinjrapole has a good record of taking care of the animals given under its custody.

Thus, we may see that the mind set of ancient India under its culture and religion was to protect the animals, birds or even plants and trees as far as possible. Persons doing injustice or harm to animals or birds are liable to be punished.

It may be noticed that the principle of natural justice as envisaged by Article 14 of the Constitution of India was complied with while awarding punishment on the complaint of dog (*supra*). Belatedly Government of India issued notification under 1960 Act, prohibiting exhibition and training of animals, like deers, tiger, panthers and lions.

Supreme Court while considering committee notification had also taken into account the Wild Life Protection Act, 1972 and held that welfare of animals is of paramount consideration and if Government is satisfied on the basis of material on record that unnecessary pain or suffering is inflicted on an animal, then Government may issue proper notification to provide safe guards.<sup>101</sup>

Supreme Court also considered while interpreting 1960 Act, the subject of compassion for living creatures enshrined in Article 51-A (g) and held that protection and compassion to animals is based on background of rich culture of India.

The land of Mahatma Gandhi, Vinoba Bhave, Mahatma Budha, Guru Nanak and others, it is held that no religion or holy book in any part of the world teaches or encourages cruelty against animal. The cattle, which is a source of human being, is entitled to compassion in its old age and his services rendered should not be forgotten. It is to be remembered that weak and meek need more of protection and compassion than others.<sup>102</sup>

Keeping in view the spirit (*ibid*) the Supreme Court decided to interfere in the matter of Jalli Katu for providing some certain safe guards Supreme Court repeatedly held that every species has right to life and security subject to law of land. Supreme Court extended the word life and expended definition of animals subject to certain conditions necessary for human life protected by Article 21 of the Constitution of India. Supreme Court ruled that life needs something more than survival or instrumental for value human being but to lead a life with some intrinsic material honour and dignity. Every species has an inherent right to live and shall be protected by law subject to exception provided out of necessity. Animal has also honour and dignity, which cannot be arbitrarily deprived of its

101. (2001) 6 SCC 84, *NR Nair v. Union of India*, (2007) 15 SCC 588, *State of M.P v. Islam*.

102. (2005) 8 SCC 534, *State of Gujrat v. Mirzapur Moti Kureshi Kasab Jamat*, (2010) 1 SCC 234, *Bharat Amratlal Kothari v. Dosukhan Samadkhan Samadkhan Sindhi*.

right and privacy and have to be respected and protected for un-lawful attacks. Supreme Court shows deep concern that there is no international agreement, which may ensure the welfare and protection of animals that there are so many conventional law and resolution for protection of environment. Supreme Court held that right carrying under statutory provision read with Article 51 A(g) and Article 51 A(h) of the Constitution is a magna carta of the animal right, the object sought to be achieved by Parliament must honour Article 48 and 48 A of the Constitution. It is the fundamental duty of every citizen to have compassion for living creatures.<sup>103</sup>

The Supreme Court opined that pain and suffering are biological traits. Pain informs an animal which specific stimuli, it needs to avoid and suffering informs it about a situation to avoid a situation. Indian Supreme Court appreciated the Animal Welfare Act, 2006.

The Universal Declaration of Animal Welfare (UDAW) is a campaign led by World Society for the Protection of Animals (WSPA) in an attempt to secure international recognition for the principles of animal welfare. UDAW has had considerable support from various countries, including India. WSPA believes that the world should look to the success of the Universal Declaration of Human Rights (UDHR) to set out what UDAW can achieve for animals. World Health Organization and Animal Health (OIE), of which India is a member, acts as the international reference organization for animal health and animal welfare. OIE has been recognized as a reference organization by World Trade Organization (WTO) and, in the year 2013, it has a total of 178 member countries. On animal welfare, OIE says that an animal is in good state of welfare if (as indicated by scientific evidence) it is healthy, comfortable, well nourished, safe, able to express innate behavior and if it is not suffering from unpleasant states such as pain, fear and distress.

Chapter 7.1.2 of the Guidelines of OIE, recognizes four internationally recognized freedoms for animals, such as : (i) freedom from hunger, thirst and malnutrition; (ii) freedom from fear and distress; (iii) freedom from physical and thermal discomfort; (iv) freedom from pain, injury and disease; (v) freedom to express normal patterns of behavior. Food and Agricultural Organization (FAO) in its “Legislative and Regulatory Options for Animal Welfare” indicated that these five freedoms found their place in Farm Welfare Council 2009 UK and are also called “Brambell’s Five Freedoms”. These freedoms find a place in Section 3 of the PCA Act and they are for animals like the rights guaranteed to the citizens of the country under Part III of the Constitution of India. Right to hold on to a property which includes animals also, is now only a legal right and not a fundamental right. The rights of animals have to be seen in that perspective as

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103. (2011) 14 SCC 34; (2012) 3 SCC (Cri) 1279, *Animal Welfare Board of India v. A. Nagaraja*.

well. Rights guaranteed to the animals under Sections 3, 11, etc. are only statutory rights. The same have to be elevated to the status of fundamental rights, as has been done by few countries around the world, so as to secure their honour and dignity. Rights and freedoms guaranteed to the animals under Section 3 and 11 have to be read along with Article 51-A (g) and 51-A (h) of the Constitution, which is the magna carta of animal rights.

Thus, the foundation with regard to compassion, safety and security laid down during Shri Ram's period has been belatedly accepted by present world but it is still far behind which was being possessed before 7000 years.

In Uttar Kand sage Valmiki narrated an instance of justice dispensing system of Ram Rajya which seems to be first, in known history is narrated hereinafter :-

'On a day when Rama alongwith his ministers were busy with routine work, hearing and discussing with the people in his Darbar (Royal Counsel Chamber) Lakshman arrived. Ram asked to Lakshman whether there is anyone on that day who approached for justice against misconduct of anyone?. Lakshman hurriedly called a barking dog in front of Lord Ram and invited attention about its arrival. Ram said, "O Dog tell me what do you want to say?, you need not to fear".<sup>104</sup> The dog whose skull was shattered with seepage of blood has made a glance over the Rama, said with due respect, "The King is the creator of all living beings and the King is the leader of men. The King protects the subjects. The King, who is the protector of all, protects Dharma (law and order, duty) by pursuing right policy. When the King does not protect, the subjects perish soon. The King is the creator, protector and father of the entire world (country). The King is the time (sets the trend of the times) and the 'Yuga' (a particular age of the world). The King is the whole world. They call it 'Dharma, for it sustains (the world). The created beings are sustained by 'Dharma'. King supports the three worlds together with all the movable and immovable things. He sustains (even) his enemies, puts them on the right path and delights his subjects by 'Dharma' (law and duty). O King Shri Rama, this is the highest 'Dharma' which yields reward after death. My view is that nothing is unattainable by 'Dharma' (law & order, spiritualism and sacrifice). Charity, compassion, honouring noble men, straight-forwardness in behavior, O Rama! This is the 'Dharma' in this life and the life hereafter that accrues from protecting the subjects.

The dog while praising Lord Rama had ideally presented further and said, "You are the authority par excellence. You are conversant with the 'Dharma' (law and duty), which is practised by good people. You are the supreme abode of 'Dharma (Duties) and an ocean of

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104. (Valmiki Ramayana P 852) Geeta Press, Gorakhpur, U.P. (India).

virtues, as it were. I spoke out of my ignorance. Bowing my head I pray. You should not get angry on this account”. In reply Shri Rama told the dog:- “Tell me fearlessly what I should do for you. Do not delay”. After hearing Rama’s words, the dog said, “The King should acquire territory by ‘Dharma’ (law, duty and spiritualism) and should protect it by ‘Dharma’. The King comes to be recognized as a refuge and dispels all fear. The dog proceeded to bring into notice of King his grievance in respect of injuries caused to it. The dog said that mendicant, named Sarvarthasiddha, who lives in the house of a Brahmana, without any cause struck at me though I was not at sin i.e. done nothing wrong. On hearing this, Shri Rama sent the gatekeeper, who brought the learned Brahmana Sarvarthasiddha by name. The imminent Brahmana bowed down and made a request as to why he has been brought in the Darbar?

Then Rama said, “O Brahmana! You hurt the dog. What ill did it do to you, for which you struck it with a stick? Anger is a deadly enemy; anger is a friend-faced enemy. Anger is a highly sharp sword. Anger takes away everything (destroy all virtues). Whichever sacrifices a person performs and whatever in charity he gives, all that he destroys by anger. Therefore, one should give up anger and control like a charioteer, one’s senses, running forth towards their objects like very wicked horses, after turning them away from their objects. A man should do good to the people around himself by thought, by action and by speech. He should not hurt anybody including animals. In case, he lives like this no sin will attach to him. The harm, which is wrought by evil thoughts, is not done by a sharp sword or a serpent trampled by foot or an ever wrathful enemy. One who has learnt discipline, even his temperament cannot be changed. Even if someone conceals his evil nature, it is surely betrayed by his action. No one is entitled to take law into his/her own hand to punish or harm anyone.

After hearing these kindful words of Rama the Brahmana Sarvarthasiddha said, “While I was going about for begging food the appropriate time for begging had passed, I was overpowered by anger, so beat it. The dog, which was standing on the road blocked my way, barking, was asked by me to move away. Not moving at all it stood in the middle of the road in an odd manner, keep on barking. Overtaken by hunger, O Rama! I beat it angrily. O King of Kings! Punish me, a guilty person. O chief of Kings! Having been punished by you, I would not be afraid of hell”. On this Rama asked all the members of the assembly (Darbar), “what punishment should be awarded to him” If proper punishment is given to the guilty the subject are protected. Bhargu, Angira, Kutsa and others, Vashistha alongwith Kasyapa, eminent teachers of laws, ministers and interpreters of the Vedas etc. and many other scholars were present there. All addressed Rama saying, “A King holds sway over everyone. O Shri Rama! Especially you, who is the eternal God Vishnu, are the ruler of the three worlds”. On this Rama asked the dog to express its views then dog replied,” If you are pleased with me, O Rama, and if you are to bestow

on me a boon (then listen to me) O Valiant One! You asked me what you should do for me, and promised (to do what I would request you to do). Therefore, make the accused Brahmana the 'Kulapati' of Kalanjara (Mathadheesh)". On hearing this Shri Rama consecrated him as a Kulapati (Mathadheesh) (head of temple and its properties). Brahmana feeling it to be an honour went away riding an elephant back with all band baja and became Mahant of temple/Mathadheesh. Ministers present in the assembly (Darbar) alongwith sages were smiling with astonishment and said to Rama, "The accused Brahmana has been given boon. O resplendent one. This is not a curse (punishment)". Then Rama said, "You do not know the truth about the course of actions where the dog knows the reason as to why the Brahmana has been made Kuladhipati".

On being asked by Shri Rama the dog addressed the assembly and said, "I (in my previous birth) was the Kulapati of the same place i.e. Kalanjara Matha partaking of the remains of sacrificial food, O Rama! I was engaged in worshipping Gods and Brahmanas and gave to the male and maid-servants their due. I had a log for good things. I used to protect the property dedicated to Gods. I was modest and well behaved and was engaged in doing good to all living beings. Even then I have been reduced to this wretched state and the lowest position (Dog). O Rama! Therefore such a Brahmana, who is irascible, who has given up his 'Dharma' and who is engaged in harming others (taking law into own hand), who is hot-tempered, ruthless, harsh, foolish (ignorant) and irreligious, will lead to the downfall of fourteen generations.

Therefore, one should not in any circumstances become a Kulapati (Mathadheesh) (head of temple, religious places). Only, he should be made to look after Gods, cows and the Brahmanas, whom one would wish to condemn going to hell along with sons, cattle and relatives. Such person perishes along with one's all dear ones and goes to the fearful hell known as 'Avici'. One who takes away monetary property belonging to Gods goes down from one hell to another.

On hearing the speech/reply of dog, Shri Rama and the persons present in the assembly, opened their eyes widely due to wonder, the dog, too possessed of luster, went to place from where it had come. It was a high minded soul in its former birth but on being born (as a dog) it has been spoiled. The illustrious one sought death by abstaining from taking food in Varanasi to meet Almighty after death.

The incident shows that the law and justice was equal to all in Ram Rajya and animals were also treated equally and whosoever may torture or injure animals they were liable to be punished by the King. Justice imparted by Rama seems to be first known judgment in the whole available texts of humanity wherein animal (dog) was granted justice without any discrimination calmly and equally showing the highest degree of the standard of justice delivery system, expected from Ministers, Chief Ministers, Prime Minister, bureaucrats, members of judiciary and all persons holding office in government. But it can be done only by persons

having impeccable character, knowledge, wisdom and zeal to serve nation and society.

Causing injury to animal was prohibited in later period of Indian Civilization though none of the subsequent authors referred to justice imparted by Sri Ram to the dog injured by a beggar. Manu holds that causing injury to animals also amounts to the offence of Dandaparushya and punishment by way of fine is prescribed for it. The offences against animals and the punishment prescribed were as follows:-

श्रान्तांस्तृषाटान्क्षुधितानकाले वाहयेन्नरः ।  
खरगोमहिषोष्ट्रादीन्प्राप्नुयात्पूर्वसाहसम् ॥ <sup>105</sup>

A person who makes his bullocks, buffaloes, camels and the like to carry burden at an improper time, or when they are tired or oppressed with thirst or hunger, should be punished with the first amercement.

Kautilya in 321 B.C. intended to prevent cruelty to animals even at the hands of masters of the owners, according to the rule masters were prevented from using an animal at improper time or when the animal was tired or thirsty, it was obligatory for the master to provide food and water to the animal with sufficient rest. Violation was punishable. Killing of animal and other creatures was prohibited by Kautilya, to quote:

द्विपणो द्वादशपणो वधे तु मृगपक्षिणाम् ।  
सर्पमार्जारनकुलश्वसूकरवधे नृणाम् ॥  
प्रमाणये प्राणभृतां दद्यात्तत्प्रतिरूपकम् ।  
तस्यानुरूपं मूल्यं वा दद्यादित्यब्रवीन्मनुः ॥ <sup>106</sup>

Killing of animals like deer, birds, snakes, cats, mongers, dogs, pigs, etc. (belonging to a person), the fine shall be 2 panas to 12 panas (depending upon the kind of animal) and further, on killing such an animal the offender should give to the owner another animal of the same kind or its proper price.

Thus, in later period of Ramayan, the Indians were having kindness and compassion to the animals and other creatures and cruelty to them was prohibited by decree of king.

105. Kautilya 789.

106. 106. Kautilya 792 and 798