



## Wisdom of Gita and interpretation of Dharma in terms of right to equality as a backbone of Indian legal system – A study from the perspective of education system in India

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**Abstract-** Gurkul systems of old days are very much similar to the boarding schools of modern time. Moreover, right to education to students of all the *varnas* were not equally guaranteed to all. Students belonging to top three varnas, namely Brahman, Kshatriya and Vaishya were allowed to get vidya from Gurus of those days. Gurkul in those times used to belong to Gurus only. There was no system of educational organization. Vedas and religious texts were the common books available for teachings. Spiritual and divine teaching was the base of education system along with *varnabhed*. Moreover, moral principles were considered as foundation of education system in Gurukuls.

Right to education was guaranteed to all those children who were belong to specific *Varnas*. Unfortunately, children who were belonging to lower Varnas were not allowed to take education with these Gurus.

**Keywords:** Gurkul system, Gita, Dharma

### I. INTRODUCTION

The Gita is a book which was first appeared in or was written into the frame of the Mahabharata. It is received as one of the great bodies of doctrine of dharma that most authoritatively govern religious thinking and its teaching acknowledged as of the highest value if not wholly accepted by almost all shades of religious belief and opinion. Its influence is not merely philosophic or academic but immediate and living, an influence both for thought and action, and its ideas are actually at work as a powerful shaping factor in the revival and renewal of a nation and a culture and law. The Mahabharata is undoubtedly one of the greatest works of the world, unique in many ways – unique for the deepest philosophic truths for the wide range of human life covered by the ethics and for the high spiritual stimulus provided in this epic. It is sometimes called the fifth Veda. Vedas are said to be Divine Revelations. The Mahabharata though not technically a revelation, is more than a revelation in the nature of its contents. For one thing it contains the greatest spiritual treasure ever known to the world, the Bhagvad Gita, which may be rightly called the scripture of the world. This alone will suffice to make the epic the greatest world of the world. Apparently it is the story of a war between two rival sections of a dynasty, but it is very much more. It is the story of evolution of all life, it is a treatise on cosmogony, a code of universal ethics; it is also a history of the human race in its most general sense. All life is rooted in the One Life; the Devas, Rishis, men, beasts, flowers, rocks, why everything in this manifested universe are all evolved from this one life and finally go back to and get merged in that One Life. This epic brings out very forcibly the great truth of the relativity of ethics.

### Meaning of Dharma

धर्मक्षेत्रे कुरुक्षेत्रे समवेता युयुत्सवः ।

मामकाः पाण्डवाश्चैव किमकुर्वत सञ्जय ॥१॥ (BG V.1)

Dharma is a word which has an ethical and practical, a natural and philosophical and a religious and spiritual significance, and it may be used in any of these senses exclusive of the others, in a purely ethical, a purely

philosophical or a purely religious sense. Ethically it means the law of righteousness, the moral rule of conduct, or in a still more outward and practical significance social and political justice, or even simply the observation of the social law. In the religious sense it means a law of religious and spiritual life.

As regards the term *dharma* was used by Hindu jurists in the most comprehensive terms which meant law, custom, usage, morality, virtue, religion, duty, piety, justice and righteousness. Dharma in the spiritual sense is not morality or ethics. Dharma is action governed by Svabhava, the essential law of one's nature. And this Svabhava is at its core the pure quality of the spirit in its inherent power of conscious will and in its characteristic force of action. There is the law by which we govern our out-going thought and action and our relations with each other so as to help best both our own growth and that of the human race towards the divine ideal.

Dharma is generally spoken of as something eternal and unchanging, and so it is in the fundamental principle, in the ideal, but in its forms it is continually changing and evolving, because man does not already possess the ideal or live in it, but aspires more or less perfectly towards it, is growing towards is knowledge and practice. And in this growth dharma is all that helps us to grow into the divine purity, largeness, light, freedom, power, strength, joy, love, good, unity, beauty and against it stands its shadow and denial, all that resists its growth and has not undergone its law, all that has not yielded up and does not will to yield up its secret of divine values, but presents a front of perversion and contradiction, of impurity, narrowness, bondage, darkness, weakness, vileness, discord and suffering and division, and the hideous and the crude, all that man has to leave behind in his progress. This is the *adharma*, not dharma, which strives with and seeks to overcome the dharma, to draw backward and downward, the reactionary force which makes for evil, ignorance and darkness.

Dharma, in the language of the Gita, means the innate law of the being and its works and an action proceeding from and determined by the inner nature. In the lower ignorant consciousness of mind, life and body there are many *dharma*s, many rules, many standards and laws because there are many varying determinations and types of the mental, vital and physical nature. The *Immortal Dharma* is one; it is that of the highest spiritual divine consciousness and its powers, *para prakrtih*. It is beyond the three *gunas*, and to reach it all these lower dharma have to be abandoned.. Alone in their place the one liberating unifying consciousness and power of the Eternal has to become the infinite source of our action, its mold, determinant and exemplar.

Dharma has two aspects. One of these is Sanatanadharma which means the Eternal Law. This holds good for all time and for all the Universe; it is the basic law of manifestation. But what is generally meant by Dharma is only the application of the Eternal Law to human life. The Eternal Dharma is unchanging but the application varies with individuals, their avocations, their stages in evolution, the particular epoch in which they live; their races, their nationality and so one.

### **Rule of Law and Law of Dharma**

In modern time law appear in the form of rules. Meaning of *dharma* is not different from rule of law. Rule of law provides that all are subject to law. Even king is bound by dharma. *SarvaDharmah raja dharma pratishthah*- all duties are implicit in the duties of the king. It became a matter of pride for the kings to excel in maintaining dharma. *Rajdharma*-duty of king was extended in ancient period to all that befell on the people over whom he ruled. Rule of law and dharma belongs to sovereignty and not to the king. In our society, democratic liberty is best expressed by subjecting the exercise of government to the law. Right to life guaranteed in our constitution includes all aspect of life which dignifies dharma. According to Neil MacCormick, "*Rule of law is that stance in legal politics according to which matters of legal regulation or controversy ought to, so far as possible, be conducted in accordance with predetermined rules of considerable generality and clarity in which legal relations comprise rights, duties, powers and immunities reasonably clearly defined by reference to such rules and in which acts of government however desirable teleologically must be subordinated to respect for such rules and rights*".

## The Right Action and Rule of Law

Gita explains, purpose of life is to surrender to God i.e. unification with nature; self-less action of conscious and fair mind. Dharma reflects righteous action. Dharma is a way of life; a way to achieve the goal of life. Dharma is rule of law, because it demands complete openness and self-surrender to the Eternal. Your body is not your own, it is the delegated image of God; your life is not your own, it is the delegated harmony of God; your life is not your own, it is the delegated harmony of God; your individuality is not your own, it is the delegated adaptability of God (BG verse/22).

It seems beyond doubt that ancient Indians evolved and observed the doctrine of rule of law –dharma both in letter and spirit. They attached absolute validity to law of dharma and all other rules and actions acted upon were null and void if it were in conflict with the said higher law. The King, the state, the Government and the *Praja( the People)* are all subordinate to law of dharma. It is the Law (dharma) which alone ruled and as already observed, the King was never above law but under law. The government of the ancient Hindus was therefore, a government of laws and not of man. Greek and Roman thinkers of ancient period also define law as a divine wish. Aristotle emphasized that *man is a part of nature in a twofold sense. On the one hand, he is a part of matter, part of the creatures of god; man is also endowed with active reason which distinguishes him from all other parts of nature( Aristotle)*. During this period, its appeal may have been religious or supernatural but in modern times it has formed an important weapon in political and legal ideology. Moreover, instead of being religious, it is closer to rule of fairness, equality, secularism and rule of law which guarantees right to free education to the children below the age of 14 yrs irrespective of his caste ( Varna)

Justice Coke defines rule of law as absence of arbitrariness. Ruler is also subject to law. He is not above the law. English Jurist Dicey defines rule of equality and supremacy of law as an integral part of rule of law. In the tune of Dicey's concept of rule of law, the Indian jurists had expounded the theory of rule of law and justice according to law. The ideal of *Rig Vedic* man is to become like Gods not only through worship but also by way of life. Virtue is obedience to the law of God which includes love of man also. Vice is disobedience to law. Much earlier to Greeks and Romans the early *Rig Vedic* thinkers were also deeply impressed by the forces and powers of nature. Law of Rita or dharma in ancient India made a bold attempt of building an organized social life wherein each individual realized his goals within the parameters of social norms or morality.

In 1947 India achieved political independence. With the commencement of the new Constitution, the natural law rights have been incorporated in the preamble, in Chapter III and IV concerning Fundamental Rights and Directive Principles of State Policy. With respect to the nature of these rights, several questions came before the Supreme Court as to whether a legislation which was alleged to be violative of Fundamental Rights could be upheld on the basis of Directive Principles of state policy. Court observed that, 'unenforceable Directive Principles cannot over-ride the enforceable Fundamental Rights. There were a series of cases where the government lost and these were also the decisions which were linked to enforcement of fundamental rights. The Supreme Court in all such cases adopted ideal, moral or natural law approach in order to invalidate the various legislative measures under the canopy of fundamental rights.

The Gita emphasizes that the activities of the world must go on. The good man does the tasks to which he is called and which appertain to his place in society. In all his activities, he does things like others outwardly; but inwardly he maintains a spirit of detachment. He does everything without selfish motive, and maintains equilibrium of mind in success and failure, pleasure and pain, joy and sorrow. Purified thus, the good man is qualified for further progress by constant meditation, prayer and devotion, and finally he "sees himself in everything and everything in god". There is true renunciation in right action. What we should renounce is not action, but selfish desire. We should liberate our activities from the bondage of selfish purpose. Work should be done in a spirit of duty done, and results should not be permitted to agitate the mind. This unselfish and detached attitude can and should be cultivated even while we are engaged in life's activities.

Modern law does not include ethical and moral aspect to its application. So the education system also does not include ethical and moral teachings. It does not consider it imperative to enforce these duties. Unless the duty or right is recognized by a civilized state as legal right, it will not be protected and enforced by state. Society regulates their action according to the norms of law. Right to education to children, is though a basic human right also needs recognition of law to enforce it. Consequently, in series of cases court have interpreted it within the meaning of Art. 21 of the Indian Constitution prior to amendment of 2002 by which

Art. 21A is expressly included as fundamental right to get free education upto the age of 14 years. Law influences society and society influences law. However, moral and ethical laws are subjective and differ from person to person. During ancient period, there was no difference between law and morals. Right action was considered as fundamental duty of human being. However, later on, it was contended that law and morals were distinct and separate and law derives its authority from state. Constitution of India, provides through its various articles that India will govern by rule of law. Though, the term rule of law is nowhere explained in the Constitution, but it is used by judiciary while interpreting various provisions in administration of justice. Rule of law is now backbone of Indian legal system and an excepted rule of all civilized countries in the world.

### Rule of equality and Gita

The equality which the Gita preaches is Divine Eternal. The divine eternal is the inhabitant in all existences; he is equal in all and the equal friend, father, mother, creatures. He is enemy of none and he is the partial lover of none; none has he cast out, none has he eternally condemned, none has he favored by any despotism or arbitrary caprice; all at last equally come to him through their circling in ignorance. The Equal Divine presence in all of us makes no other preliminary condition, if once the integral self-giving has been made in faith and in sincerity and with a fundamental completeness. All have access to this gate, all can enter into this temple; our mundane distinctions disappear in the mansion of the all-lover. There the virtuous man is not preferred, nor the sinner shut out from the presence; together by this road the Brahmin pure of life an exact in observance of the law and the outcaste born from a womb of sin and sorrow and rejected of men can travel and find an equal and open access to the supreme liberation and the highest dwelling in the Eternal. Man and woman find their equal right before God; for the divine spirit is no respecter of persons or of social distinctions and restrictions: all can go straight to him without intermediary or shackling condition. In Shloka 47, Gita says, your duty is but to act, never to be concerned with results; so let not the fruit of action be you motive. Do not let yourself be drawn into the path of non-action.

## II. SUGGESTIONS AND CONCLUSION

Mahabharata is not a mere epic; it is a whole literature in itself, containing a code of life, a philosophy of social and ethical relations, and speculative thought on human problems that is hard to rival; but above all, it has for its core the Gita, which is, as the world is beginning to find out, the noblest of scriptures. What is not in it, is nowhere. After twenty-five centuries, we can use the same words about it. The Gita is one of the most authoritative sources of Hindu doctrine and ethics, and is accepted as such by Hindus of all denominations. It is a matter for great regret that the new generation and students know very much less about Gita and the principles rooted in our culture. Teachings of Gita should be introduced to students from the student age. No Indian can consider himself as having attained a liberal education if he has not a sound knowledge of the principles of the great religious philosophy for which India is famous throughout the civilized world.

Though, teachings of Gita are not matching to the todays definition of rule of law, yet can be treated as code of ethics which can help people to regulate their action in a righteous way. People may say that the ideal of the Gita is good, but it is impracticable; ordinary men can never hope to attain it. What good is it then to men in this world of reality? This question may be asked not only in respect of the Gita teaching, but of every great religion of the world. All the faiths and all the scriptures present ideals that are impossible of complete attainment in the work-a-day world. The Bible, the Koran and the Gita are like lamps that light our paths in darkness. We cast our own shadows on our path in spite of the lantern in our hands; so, every besetting temptation, doubt, fear or difficulty throws its dark shadow, in spite of the light we carry; and the way is a chequered pattern of light and shadow. Still, holding the light firmly in our hands we may walk fairly safely. If we let the light go out, we should be lost in the jungle. Not everyone that swears by a book therein; but if everyone tries, society grows round the ideals. When a whole people revere certain ideals, life is furnished with standards of conduct that save men from becoming mere beasts of the field and they are held together.

*kula-kṣhayepraṇaśhyantikula-dharmāḥsanātānāḥ  
dharmenaśṭekulamkṛitsnamadharmo 'bhibhavatyuta|| 40|| (BG V.40)*

There is nothing like waste of effort in this, nor is there any danger of retrogression by reason of shortcomings in practice. Even a little of this Dharma saves men from the great evil. Though dharma and law are

not the same, yet the roots of both remain the same. It is an outcome of concept of dharma which provides that all should be treated equally. Part III of Indian Constitution includes all aspect of human rights which is an inspired by dharma. Following of rule of law is a part of good governance. Though Gita does not directly speak about the good governance and rule of law, but many of the verses relate to self-governance. Teachings of Bhagvad Gita is a universal in nature, its ideology can be interpreted in terms of rule of law which is an integral part of good governance. Since education is a subject in concurrent list, state as well center is bound to follow the constitutional mandate of free education to children. This right is not only a human right but also recognized as *Rajadharma* (duty of the king) in our spiritual text in the tune of rule of law. Moreover, neither spiritual text while speaking about importance of dharma, nor present legal system has given any justification for cutting the age at 14 Years for ensuring this fundamental right.

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