

**Local Governance Principles in Nepal in Relation to Kautilya's
Saptanga Theory**

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Abstract

Local governance is the decentralization and dispersed subordinate authority that delivers public services at the local level. The present governance policy is based on rich Eastern philosophical principles. Modern political theories and systems are developed or modified versions of classical theories. This paper explores the relevance of Kautilya's concept of Saptanga theory and the governance system in the local governments of Nepal. I have employed a qualitative approach as the methodology to achieve the objectives. Data and information have been collected from policy documents, research articles, and books relevant to the area of study. The analysis of the literature reveals that the Saptanga model is relevant to the principles of local governance in Nepal. The concept of an Absolute King forwarded by Kautilya having sovereign power resembles the concept and practice of an elected mayor at the local level. However, the Absolute King was assumed to have absolute power without having any controlling mechanism, but the elected local-level representatives are controlled by the constitution as the guiding principle. Despite the differences, the comparison of Local governance with the Saptanga theory of Kautilya encourages the local leaders to govern the local governance effectively and efficiently.

Keywords: Local governance principles, Saptanga Theory, local government, good governance



Introduction

The local government (LG) is a core community-level organization in a small geographic area which is the most accessible institution to the local people (Acharya, 2018). In this regard, Badal (2019) also claimed that the local government is the closest government to the local people for their day-to-day life. Similarly, Awa (1981) focused on local government as a political authority by which political power is dispersed and decentralized in a nation or state as a subordinate authority. A state has many forms of public administrative bodies in which local government is the lowest tier of the organization under the state (UK Government, 2016).

Local governments are vital community-level public entities that govern the lowest tier of the government (Shah & Shah, 2006). They are the governments of the doorsteps and they are the nearest governments of the local citizens. In this context, Pradhan (2019) emphasized that local governments are the basis of democratic governance and they act as the government in the neighborhood. Thus, local citizens are in direct contact with the local government which provides many public services to the delineated territory. The structure of local government varies from nation to nation.

In the context of Nepal, the Constitution (2015) provisions three levels of government- national, provincial, and local. It includes Municipalities (293) and rural municipalities (460) that function as local governments mandated by the constitution of Nepal 2015. Local government units are further divided into 6,743 Wards in Nepal. The Constitution grants them a range of powers to be exercised with a degree of autonomy within their respective jurisdiction. Local Governments are committed to providing public services to the local citizens by executing 22 exclusive powers, and additional 15 concurrent powers in the constitution (Acharya, 2016). Such authorities are formed and conditioned especially by national-level provisions involving the separation of power, checks, and balances of legislative, executive, and judicial power.

Additionally, the provision of local government has been defined in the constitution that illustrates the major duties of Local Governments to deliver a range of specified services to the delineated territory. In developing countries, the existence of local government is considered for a two-fold purpose. First, they are playing key roles in funds, functions, and functionaries so that they deliver the services

(Mathew & Hooja, 2009); while next is that high level of public trust fosters to involve the citizens in democratic exercise, determining public needs, and maintain accountability (Sikhakane & Reddy, 2011).

In general, governance means the acts of leading, guiding, and making things happen process of decision-making and the process by which decisions are implemented. As Rhodes (1997), claimed governance is the new technique to govern the society or it is the new procedure of governing the community. According to Gerry stocker (1998), governance includes mainly five attributes - a set of institutions and actors, boundaries and responsibilities, the presence of power dependence involved in the interrelationship between different institutions, autonomy, and self-governing networks of actors, and the ability of government to guide different actors. Thus, governance is relevant to the duties and responsibilities of the state by which decisions are implemented effectively.

Good governance is about using power, authority, and resources in a method that maximizes the welfare of the people. Aryal (2011) states that good governance is related to control and rule of administration of the state based on the laws of the state. Similarly, Rijal (2011) also highlights that good governance is considered a system that is based rule of law and includes accountability, transparency, responsibility, equity, and inclusiveness. It helps to establish a welfare state and provides services effectively and efficiently to the citizens. Likewise, Dahal (2020) focused that good governance is the implementation of the laws by the state which is related to control, rule or administration. At present, the United Nations Development Fund (UNDF) provides a good governance model which includes eight principles: participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable, inclusive, and follows the rule of law.

These principles resemble Kautilya's concept that highlights the need for good organizations to look after the welfare of the people. Kautilya's Arthashastra is the art of all levels of government and management, the main duties of the king's ministers and representatives, the art of diplomacy, etc. The basic pointer of good governance is that the ruler must capitulate to his own interest before the public interest of the people. A king is expected to perform in a most virtuous manner. The happiness and pleasure of the king lie in the public's happiness and the good of the society alone makes the good of the king. In the happiness of his focusses lies his happiness; in

their welfare, his welfare, so on pleases him, he shall not deliberate as good, but whatever makes his subject matter happy, he shall contemplate well.

The very much relevant and contingent perception of good governance can be adjoined to Kautilya's definition that is "in the happiness of the subjects lies the happiness of the king and in what is advantageous to the focusses his own advantage. What is dear to the king is not beneficial to him, but what is dear to the subjects is advantageous to him" (Kautilya, 1998, p.31). Here, Kautilya means focusing on the noncombatants or the public. He proclaims that good governance is for the people, not the ruler or the ruler. His oriental perspective regarding the gist of good governance harmonizes the proposed intention of my study too. Against this backdrop, to some extent, Kautilya's definition of good governance addresses what the study wants to seek.

In this paper, an attempt is made to reconstruct a governance model that brings together the Saptanga model of Kautilya and the modern principles of good governance. The Saptanga theory of governance offered by Kautilya in Book 6, Chapter1, Verse 1 of Arthashastra, has seven elements such as, "Swami, Amatya, Janapada, Durg, Kosha, Danda, Mitra i.e. The king, the minister, the state, the encouraged city (robust infrastructure), the treasury, the army, and the ally. This very model acknowledges the plurality of actors and institutions that are involved in the process of governance which is also a core characteristic of the modern conception of governance. The present paper aimed at exploring the relevance of Kautilya's concept of Saptanga theory and the governance system in the local government of Nepal. Against this backdrop, this paper aims at exploring the relevance of Kautilya's concept of Saptang theory and the governance system in the local government of Nepal. I tried to seek the answer to the questions: what is the relationship between local governance and Kautilya's governing system? How LG principles reflect the tenets of Saptanga Theory?

Literature Review

Sharma (2005) analyses the Arthashastra of Kautilya, dealing with topics such as the relation of the king to the other factors of the national assembly, the plan of the prince's training on the foundation of simultaneous change of his intelligence and character, the employment and choice of the administrators, the technique of a king's

consultation with his ministers founded on a clear analysis of the value and requisites of counsel, and finally, the organization of the civil and the military administration based upon such considerations as the tendency of power to breed corruption and the danger of a unified military command from the standpoint of external security. In this paper, he focused on Kautilya's thoughts on war, diplomacy, and ethics.

Chandrasekaran (2006) compares Kautilya's concept with great philosophers like Plato and later ponders over why Machiavelli's work. Kautilya's task is then seen in the light of today's politics and ethics. Additionally, he decided that Machiavelli's task was harmless when equated to Kautilya's Arthashastra.

Acharya (2018) studied the capacity of local governance in Nepal. He claims that Local governments are units of government closest to the grassroots. The fundamental aspects of their responsibility constitute core goals in most governmental systems. In Nepal, however, as in many other countries, the goals are only partially pursued and met, despite relevant institutional arrangements have been put in place. Accordingly, as highlighted in the debate, there is much still to be done to confirm local governments have the necessary capacity to strategies, plan, and deliver services and infrastructure of immediate local significance.

Joshi (2018) believes that it is a pre-condition for human welfare and today has been hailed as the ultimate telos of the decision-makers. Kautilya is too suitable for a idea of governance that basically aims at Yogkshem of the people to be achieved through Sushashan (Good Governance), able and constant leadership or authority. This paper significances revisits the ideological and philosophical contributions of Arthashastra and tries to contextualize them with modern challenges, changes, and choices in the way of governing or may not governing.

Acharya (2018) focuses on local government restructuring in Nepal in which the Nepali community remains unsatisfied and displeased at the inhabitant level, and dishonesty in the domestic political and official domain as these characteristics have formed a high risk to the capacity development of the local governments. Against this viewpoint, the study aims to address a key research question: to what extent local governments are able to execute the constitutional granted excellent and parallel rights to transform the local peoples, which is a sign of governance transformation from the government to local government. Conclusions show that more capacity is essential to institutionalize the restructuring process of local governance, increase

citizen engagement in the local governance system, shape new firms in changing framework, boost methodological, managerial, and economic capacity for effective and efficient public service delivery, and make the necessary rule and regulations. Nonetheless, some main opinions such usefulness of local sovereignty, political differences primarily identity-based problems and issues, the creative role of outsiders, and democratization of governmental confidence has been remained to be responded.

Eke et al. (2018) studied good governance at the local level in Nigeria. The research method was fundamentally examined and so, depends on secondary data for the inspection of questions of local government management and good governance. The interest in good governance at the local level of government arose out of the continued hue and cry of the weak of the third layer of government which has attracted many meetings, seminars, workshops, and dialogues about the future of the local level of government. This paper explored good governance and create it to cover three essential elements-active citizen participation, accountability towards the people, and transparent information. Analysis of official, structural, and constitutional measures“ put in place to confirm good governance at the local level of government, using institutional theory advise that institutional differences-organizational and constitutional led to crises during the implementation of the measures. These crises have radically reduced the understanding of the three perceptions of good governance-accountability, transparency, and citizen participation.

Pradhan (2019) studies local government with constitutional vision and present practices. The constitution has not any provision for the opposition party but it has an executive, legislative, and judiciary power allocation system for the organs of a government. To explore the vision and practice of local governance in Nepal, a study has been conducted. The method includes examining primary and secondary sources. Primary sources (data) have been gathered through field negotiations with the respondent.

Similarly, Lamichane (2021) analyses the good governance in Nepal and evokes that the Constitution of Nepal 2015, the Commission for the Investigation of Abuse of Authority Act 1991, The Prevention of Corruption Act 2002, especially Public Procurement Act 2007 and Rules 2008, Good Governance Act 2008, Right to Information Act 2007 and Rules 2009, Local Government Operation Act 2017, etc.

are the primary legislative measures to guarantee good governance in Nepal. Further, the author explores the concept and elements of good governance and descriptively analyzes various laws, case laws, and principles developed by the Supreme Court of Nepal on the issue of good governance. This paper also measures the strengths and weaknesses of these laws and legal performance from the internationally recognized good governance values and norms.

Nepal has a three-tier governance structure with one Federal government, seven provincial governments, seven hundred and fifty-three local governments, and seventy-seven districts. The third tier is the local government, also known as the local level. There is a bicameral parliament at the federal level – the House of Representatives (HoR) and the National Assembly (NA). The HoR has 275 members, including 165 elected through First Past the Post (FPTP) and 110 elected through the Proportional Representation (PR) system (The Constitution of Nepal, 2015: 41). The National Assembly has 59 members (The Constitution of Nepal, 2015: 42). At the provincial level, there are unicameral assemblies in each of the seven provinces. Altogether there are 550 members in the provincial assemblies – 330 members elected through FPTP and 220 elected through the PR system (Election Commission of Nepal, 2018).

There are local legislatures in each of 753 local level units. There are Village Assemblies in the Rural Municipalities and Municipal Assemblies in the Municipalities. The Constitution has provided lawmaking authority to all three levels of legislatures. The Constitution provides for the formation of the structure of the Village Executive including the election of a chairperson, vice-chairperson, ward chairperson, and members. It also provides for the inclusion of four women members, and two members from the Dalit or minority community. (The Constitution of Nepal, 2015).

The Constitution of Nepal 2015 promulgated by the elected constituent assembly established the local level as full-functional local government units. Article 56 of the constitution states the structure of the state and designates three tiers of governance - federal, provincial, and local levels. Article 56 (2) states, "The state power of Nepal shall be exercised by the federal, provincial and local level as per this constitution and laws." According to the Constitution, there has been mentioned in Part 17 provisions for Local Executive; Part 18 of the Constitution provides for Local

Legislative; Part 19 of the Constitution provides for Local Financial Management; and Part 20 provides for inter-relations among federal, provincial, and local levels. The local level currently has Rural Municipal and Municipal Executive, which functions as the executive branch; Rural Municipal and Municipal Assembly which functions as the legislative branch; and Rural Municipal and Municipal Judicial Committees which functions as the judicial branch.

Likewise, the Constitution provides for the formation of the structure of the Municipal Executive including the election of the chairperson, vice-chairperson, ward chairperson, and members. It also provides for the inclusion of five women members, and three members from Dalit or minority

A separate Local Government Operation Act, 2018 (LGOA) was formulated in 2018 after the elections. It laid down clear provisions on the formation process of Rural Municipality and Municipality; their functions, roles, and responsibilities; their rule of procedure, planning, implementation, and coordination; and the formation and rights of the judicial committees. These provisions have established legislative, executive, and judicial functions at the local level. The LGOA has 121 Clauses that range from the number and delimitation of rural municipalities and municipalities to their formation, nature, and functions (Ministry of Law, Justice and Parliamentary Affairs, 2016). The LGOA states that the local level shall work in the spirit of cooperation, coexistence, and coordination to promote people's participation, accountability, and transparency in the delivery of quality service. It aims to ensure the proportional, inclusive, and judicious distribution of democratic dividends to consolidate the socialist-oriented federal democratic republican system from the local level. The main focus of the LGOA is on the development of local leadership to strengthen the local governance system through the exercise of local level executive, legislative as well as judicial powers. (The Constitution of Nepal, 2015: 99). They are expected to make laws in specified areas. Schedule 5 of the Constitution provides a list of 35 areas in which the federal legislature has the exclusive right to make laws (The Constitution of Nepal, 2015: 173). Likewise, Schedule 6 has provided a list of 11 areas where the provincial assemblies have the exclusive right to law-making (The Constitution of Nepal 2015: 175). Schedule 7 has provided a list of 21 areas where federal and provincial legislatures have concurrent rights for law-making (The Constitution of Nepal 2015: 176). Schedule 8 has provided a list of 22 areas in which the local legislatures have exclusive rights for law-making (The Constitution

of Nepal, 2015: 179). Schedule 9 has provided a list of 15 areas in which the federal, provincial, and local level legislatures have concurrent rights for law-making (The Constitution of Nepal, 2015: 181).

Schedule 8 of the Constitution describes the special rights of the local government. It states that there will be 22 areas under such local level jurisdiction. They include city police, co-operative, local taxes, management of local service, basic and secondary education, local-level development projects, basic health and sanitation, local road, distribution of land ownership credentials, farming and cattle managing, disaster management, and so on.

Methods

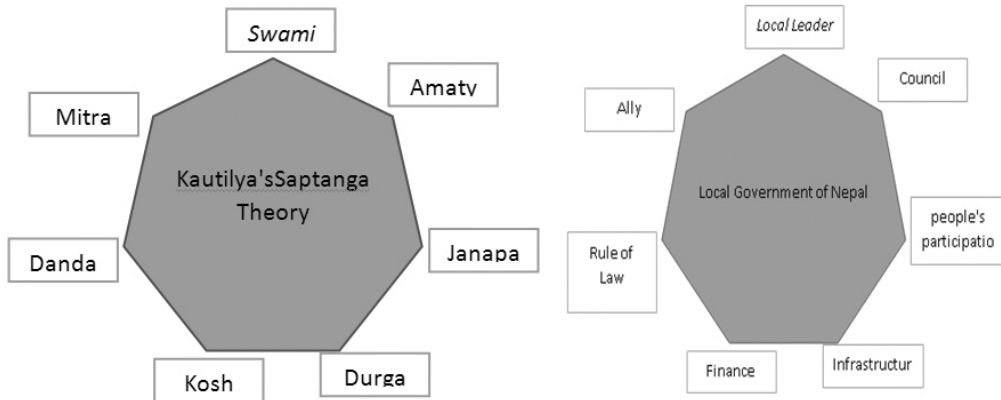
Fundamentally, this study is an academic and normative effort. In this paper, I have employed a qualitative approach following document analysis as the main tool of this research. Data and information have been collected from secondary sources i.e. two types of documents public records and personal documents (O'Leary, 2014) only. The Constitution and other laws, published research works, authorized books, journal articles, legal research databases such as Z-library, jstor, and various websites are retrieved from both printed and online sources. After collecting the list of documents, I interpreted the contents of the documents to give the meaning (Bowen, 2009). Due to the lack of time and constraints, I analyzed the limited sources 5 public records like policies of local governance and good governance of Nepal, and 17 personal documents regarding Kautilya's Saptang theory, practices of good governances in Nepal as a secondary resources for the triangulation of the study.

Results and Discussion

The administration of the society revolves around the public and judicial administration withheld by the government and judicial people. Kautilya discussed the varied elements for the working of a proper and justified administration. It has been observed that the elements of the administration have the same existence but with a change of concept and recognition in the local governance of Nepal. Thus, the elements that Kautilya's Saptang theory finds necessary for the proper working of the state are as follows:

Figure 1

Components of Saptanga Theory and Local Government of Nepal



Swami

Kautilya defined Swami as the head of the state and administration or king who occupies a prominent political position. Swami, the king, has the supreme power and all the activities revolve around him i.e., the king should have been a leader having the entire authority. The king has different powers and authority, being the principal of the whole governmental system. According to Kautilya, the king has used the Executive and Directorial Power, Legislative Power, Judicial Power, Financial Power, and Military Power as he was Commander in Chief of the army.

The king should have all the above authority and powers; indeed, the Kautilya's Head of the state resembles the modern Head of government, i.e., President, who is vested with all the power, authority, and duties. The difference exists concerning the elected head of the State. The President of Nepal is the head of the state who is appointed after the elections, not hierarchical, in a present condition that also has used the same powers, but the qualification is different. All the above qualifications are not compulsory for the present head. The swami actor is also relevant to the local government of Nepal as Joshi (2018) compares the swami as the leader, the provisions of the elected mayor and chairperson of the local bodies, and has entire executive authority to implement the legislative power (rules, regulations, policies, administrative) according to the constitution of Nepal. In this way, the first and most important elements of the saptang theory can be compared to the duties and responsibility of local elective representatives as the highest authority regarding administrative bodies.

Amatya

This is the second element of the state. Kautilya said that Amatya is the meaning of council of ministers. In Arthashastra, the Amatya create an organized team of service from which all top offices such as Chief vicars, ministers, collectors, representatives, and the administrator of various branches are to be employed. According to him, these people are the wheels for the king's administration. Amatya does not control the ministers only. Indeed, it comprises the other persons, too. The king cannot accomplish tasks without the support of these ministers, and he wants to assign them for their guidance.

According to Joshi (2018), elected ministers or appointed bureaucrats played the role of Amatyas, as Kautilya assigns the functions of the amatyas within the local governance. This ensures the quality of good governance. Appointed bureaucrats implement the plans and policies, programs, service delivery, developmental activities, etc., in an efficient and effective way.

Janapada

The third limb of Kautily's Saptanga model comprises the territory and population. Nevertheless, the Janapada is quite crucial for today's state, too. Definitely, the government has shifted the state into a state of well-being in which the ministers are the public employers and work for the advantage of the local government.

As Joshi (2018) claims, participatory Janapada is a crucial part of good governance, and civil society is another actor of Janapada. The third principle of the model is Janapada. The Arthashastra elaborates on how the Janapada should be organized. The Janapada in Saptanga model very well subsumes the modern ideal of people's participation through local actors like civil society organizations and voluntary or non-state actors. As the Local Government Act 2074 clearly states, the provision of the Janapada in the Constitution 2015, Article 295 (3), for the formation of rural municipalities and municipalities of Nepal. Thus, this Janapada is relevant to the local government, as stated in Saptanga's theory.

Durga

Both Kautilya and local governance believe in the creation of a robust infrastructure, which is the fourth significant actor in the Kautilian Model. I know that no one today really debates the critical importance of infrastructure, and its

development is a priority for all governments. Then, what is doubtful is how it is allocated by the government. Hence, the Durga (Infrastructure) wants to be informed and directed by the philosophies of Equity and inclusiveness. Both the local governance and Kautilian theory of governance highlight infrastructure, but the local governance models add the dimension of being equitable and inclusive. This limb of the Kautilya's saptang theory can be seen as the 'Durga' as the key components for the development of the local level as the local governance act.

Kosh

Finance is the number five important actor in the same model. All the developmental and state activities center around and depend on the finance and this is generated from the taxes and money collected from the people. Hence, the local governance model believes that the Kosha, i.e., the finance, has to be the most transparent and open aspect of governance. If there is any form of opaqueness in finance matters, they are unacceptable and disagreeable to local financial governance. This is also crucial to the survival of the rest of the elements like local bodies.

Danda

According to Kautilya, Danda is the law of punishment or science of government. In the local government, the defaulter public servants are also punished for their defaults under the legislation to maintain peace and decorum in society. The defaulters other than public servants are punished under Nepal's judicial system, which can be identical to Kautilya's Arthashastra regarding justice. However, the way of punishing is not the same as in ancient times due to violating human rights. Danda of the Saptang model is directed and guided by the principle of the rule of law, which finds a place at the local level. Local representatives have the authority to dissolve the other committees and subcommittees for their disobedience of the code of conduct. Thus, the Dand is relevant to the punishment provision in the local governance rules and regulations.

Mitra

The last important factor is the Mitra or the ally. The local governments must maintain relations with not only their neighboring municipalities, province, and central governments but also with the donor Non-governmental Organizations funding agencies. Hence, while working with them, the guiding principle should be

to reach a consensus and operate together to achieve peaceful co-existence. Each local body must maintain a relationship with the nearest local bodies and province, in some cases with the central government of Nepal.

Conclusion

Thus, local governance can be articulated as guiding principles of the seven essential actors of the Saptanga model and this study set the goal of recreating a governance model. The principles that guide the local governance can very well be compared with the seven-element model of Kautilya. Thus, they guide and inform each other to make it relevant to the current problem, challenges, and changes that shape the modern-day organization and local governance. This paper suggests that the local representatives and others reconceptualize their perception of the Saptang Theory which can inspire the newly elected representatives.

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