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PERSONALITY REVIEW

Chanakya as an International Legal Scholar

Introduction

Chanakya, also known as Kautilya or Vishnugupta was a great ancient Indian scholar, economist and politician- all rolled into one. People came to know about his works after the publication of *Kautilya's Arthashastra* by Dr. R. Shamasastri Mahamahopadyaya of Mysuru in 1909 (picture on the right). Apart from publishing, Dr. Sastry is also credited with discovering and translating Kautilya's work for the first time.



picture sourced from [here](#)

Historical accounts show that Kautilya was the mind behind uprooting Nandas from power and was also instrumental in placing Chandragupta Maurya on the throne of Magadha in 321 BC. The time of the composition of *Arthashastra*, is therefore, assumed to be somewhere falling in that part of the fourth century BC.

About *Arthashastra*

Arthashastra holds the distinction of being one of the earliest statecraft-based treatises authored on the diverse issues of diplomacy, war, peace, intelligence, security, and political economy. Originally written in Sanskrit, it was later translated by different scholars all over the world in many other languages.

Background

R.P.Kangle describes Kautilya's magnum opus as a work of science that lays principles for the acquisition and protection of the earth. He observes that *Arthashastra*:

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...is composed as a guide to acquire and secure this and the other world. In the light of this *Sástra* one can not only set on foot righteous, economical, and aesthetical acts and maintain them, but also put down unrighteous, uneconomical and displeasing acts. This *Sástra* has been made by him who from intolerance (of misrule) quickly rescued the scriptures and the science of weapons and the earth which had passed to the *Nanda* king.

‘*Artha*’ means the sustenance or livelihood issues of humans, which are fundamentally economic in nature. The term acquires a wider import when understood in the context of *Arthashastra*. In the ancient Indian philosophy, apart from *dharma* (truth or law) and *karma* (action), *artha* (wealth) is considered as one of the *trivargas* (the three goals) of human existence. Therefore, *Arthashastra* does two things: firstly, it guides the ruler about protecting his territory and effectively administering the State; and secondly, it lays down the principles of territorial acquisition as a matter of foreign policy.

Johann Jakob Meyer, the German ideologist and translator of *Arthashastra* from Sanskrit to German in 1927, saw *Arthashastra* as not just a book but a ‘library’ of ancient India and early Indian treatise on statecraft covering the issues of diplomacy, war, peace, intelligence, security, and political economy. According to Adam Watson, it contains a ‘major theoretical analysis of international relations’ as an integral component of the problems of statecraft, a fusion unparalleled in any extant literature’. Many Indian commentators are also convinced that a good part of Kautilya’s propositions remains relevant even today and that there is a need to understand and study his works in order to analyse and examine the contemporary world events.

The Text

Predating Machiavelli’s *The Prince* by more than 1500 years, *Arthashastra* continues as one of the most recognised works on political theology. It consists of 15 Books or *adhyakshanas*, 150 chapters, 180 sections and 6,000 *slokas*. The first five books deal with *tantra* or the internal administration of the States; the next eight with *avapa* or the relations with neighbouring States, and the last two cover miscellaneous topics.

International Law

Arthashastra, like the Vienna Convention on Diplomatic Relations, 1961 engages elaborately with the conduct of envoys, their qualifications and duties (Book I, Chapter XVI). It mentions that the State envoy should make friends with the enemy's officers, such as those in charge of wild tracts, boundaries, cities, and country parts. The envoy shall also contrast the military stations, sinews of war, and strong-holds of the enemy with those of his own master. Thus, the primary duties are:

Transmission of missions, maintenance of treaties, issue of ultimatum (*pratāpa*), gaining of friends, intrigue, sowing dissension among friends, fetching secret force; carrying away by stealth relatives and gems, gathering information about the movements of spies, bravery, breaking of treaties of peace, winning over the favour of the envoy and government officers of the enemy,--- these are the duties of an envoy (*dúta*).

Professor Ved P. Nanda points out in his work that if we consider the provisions of the Vienna Convention on the Law of Treaties, 1969 and compare them with Kautilya's masterpiece, one could be startled to see that *Arthashastra* also deals with in detail and explains the critical principles relating to treaty-making, treaty obligations especially (on the lines of) *pacta sunt servanda* and ramifications of a breach of the treaty.

The method of territorial determination is also covered. The king may construct a village either on a new site or on old ruins (*bhútapúrvamavá*). The lower cap for the population of each village should be not less than a hundred families. Boundaries of the villages will be denoted by geographical markers like:

a river, a mountain, forests, bulbous plants (*grishti*), caves, artificial buildings (*sétubandha*), or by trees such as *sálmali* (silk cotton tree), *samí* (*Acacia Suma*), and *kshíravriksha* (milky trees) (Book II, Chapter I).

Kautilya further touches vital areas of modern international trade and economic law such as the determination of forms of agreements; administration of legal disputes; non-performance of agreements; recovery of debts; rules regarding labourers etc. (Book III, Chapter II). He even attempted an exposition on the constituents of a sovereign. He notes:

the king, the minister, the country, the fort, the treasury, the army, and the friend are the elements of sovereignty (Book VI, Chapter I).

Many are aware that the premise of the United Nations today is based on the principles of respect and equality among sovereign nation-states. A part of the modern-day 'sovereignty' is based on classical Austinian understanding about the 'determinate human superior'. Religion has little or no role to play. It is interesting how Kautilya could isolate religion in his supposedly orthodox times to extract the determinate elements in the sovereign.

Arthashastra encompasses detailed discussions around war, encampment, the march of the camp, protection of the army in times of distress and attack, the politics of fighting and battle-fields, the work of spies in a siege and so on (Books X, XII, XIII, XIV). It is also submitted that Kautilya's counsel to the King regarding his duties during peace and war are reflected directly or indirectly in the International Humanitarian Law as we know it today. There are specific techniques recommended to end the war if in the interest of

the State: '*sama* (quiet), *sandhi* (agreement of peace), and *samadhi* (reconciliation)'" are some of them (Book VI, Chapters XIII and XVII). Kautilya exhorts the State to adopt six-fold State policies- peace (*sandhi*), war (*vigraha*), observance of neutrality (*asana*), marching (*yana*), alliance (*samsraya*), and making peace with one and waging war with another. These techniques, Kautilya argues would lead the King to pass from the state of deterioration to that of stagnation and from the latter to that of progress (Book VII, Chapter I). He advocates the nature of alliances in a way that one should prefer peace when the advantages of peace and war look the same. Also, war brings a lot of disadvantages such as the loss of power and wealth, sojourning and sin. Peace must be preferred. Alliance with a stronger State is preferred. In peace or war, when a king finds neither loss to his enemy nor gains to himself, he should observe neutrality (Book VII, Chapter II and III). In *Arthashastra*, Kautilya breaks down neutrality (as a legal concept) into three aspects and defines them as:

keeping quiet, maintaining particular type of policy is *sthana*: withdrawal from hostile actions for the sake of one's own interest is *asana*: and talking no steps or strategic means against the enemy is *upeksna*.

Finally, *Arthashastra* also covers dealing with providential calamities like fire, floods, and the epidemic (*maraca*). It also chalks the duties of a king with regards to appointing officials and superintendents in several departments along with adopting other necessary measures to cope with such calamities (Book VIII). This part of Kautilya's work is quite close to today's idea of disaster governance and management; and, international health and environmental law, which help provide mechanisms to tackle pandemics, environmental disasters, etc.

Final Remarks

The contribution of Kautilya to international relation theory (with significant international law overlapping) is so rich that a blog post can hardly do justice to his phenomenal work. He wanted his King to be endowed with all necessary capabilities to be in power and protect it from external interventions. There may be debates regarding Kautilya's propositions, but his inimitable contribution continues to be relevant in the present time.

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