



RELEVANCE OF KAUTILYA'S ARTHASHASTRA TO CONTEMPORARY LEGAL THOUGHT

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ABSTRACT

This paper examines the ancient Indian work on law and justice, the Arthashastra by Kautilya, and how its understanding of these two important elements of a society can be applied to the Indian legal system today. The Arthashastra by ancient Indian philosopher Kautilya is a manual not only of governance but also of the ethics of governance that implies the maintenance of justice for all, while stressing the path of the ruler towards their moral obligations. The political leaders are concerned with the business of state governance, and part of that business is the balance between governance and justice (rights and wrongs) that belong, judicially, to every person in the state. With particular regard to this latter issue, this paper considers some of the lessons of the Arthashastra and uses these to inform an evaluation of contemporary Indian law and politics. In particular, it explores the manifestation of two little-examined aspects of the text: (1) the effort to achieve a balance between state power and individual interests, and (2) the persistent, and sometimes shockingly explicit, concern for the well-being of the people. This paper argues for an interdisciplinary marriage between ancient knowledge and contemporary thought on law. Together, these different types of knowledge may create a much more powerful legal system (legally, ethically, and in terms of governance) than exists today.

KEYWORDS: Arthashastra, Kautilya, Ancient Indian Law, Justice and Ethics, Governance, Legal Reform, Indian Legal System.

INTRODUCTION

Profound insights have long been offered by Indian thought on the subjects of law, justice, and ethics. These are often found in texts that mix the practicalities of governance with moral philosophy. Among them, the one that perhaps has the most authority is the Arthashastra, notated by the ancient scholar Kautilya. The Arthashastra by Kautilya is recognized as a comprehensive guide for rulers. It not only speaks about the kinds of things that should concern a ruler (and serve as a warning to those who might be tempted to lead by unjust means), but it also speaks to the kinds of ethical dimensions that should be a part of the ruler's toolbox in order for him to serve justly.

One of the most important texts of ancient Indian literature, the Arthashastra, evolved during a critical time in Indian history:

The Arthasāstra, which was probably originally called the *Danḍanīti*, was composed around the first century BCE and redacted by Kautilya around the third century CE. (McClish).

The placement of Kautilya, as the chief advisor of Chandragupta Maurya, in the 4th century BCE is based on tradition, but recent textual scholarship, such as McClish's, reveals a highly intricate later redaction that extends into the early centuries CE. Keeping a global perspective on the text and its enduring importance, despite the chronological disagreements, Liebig notes:

In fact, it cannot be seriously disputed that in the history of political theory Kautilya has the status of a classic on a par with Thucydides, Aristotle, Machiavelli, Sun Tzu. The characteristic feature of classics is that they have a meaning beyond the historical context of their origination: they remain inspiring and thought-provoking across time. Classics also have an indirect effect; their ways of thinking and their figures of thought exert a latent influence on the subsequent history of thought. Also, it cannot be seriously denied that the Kautilya-Arthashastra is one significant politico-cultural resource of India, which has a wide range of such resources. (99)

Kautilya's Arthashastra was composed during a time of considerable political and administrative development in ancient India. The Mauryan Empire was one of the earliest attempts to create a centralized administration over a large part of the Indian subcontinent. The historical context had shaped the scope of the Arthashastra's discussions as well as its practical application as an account of ancient Indian statecraft and administration. Kiranjit Kaur mentions, "Kautilya's Arthashastra is not a theoretical treatise on political science. It does not directly concern itself with the question of the origin of the state. The entire teaching of Arthashastra is addressed to the king, the single ruler of a state" (59).

The Arthashastra shines in its reach and depth, covering a broad swath of material essential to rulers and their governance. At its centre, the text serves as a manual for kings, dealing with all manner of detail required for the effective running of a polity. But that is not all. The Arthashastra also addresses way more than could possibly be dealt with in a simple manual. It tackles subjects sometimes in a straightforward way and sometimes in a more roundabout manner, covering only the necessary details to make a polity operational but way too many necessary details to be strictly operational.



Another essential facet is military strategy, which deals with forming and organizing an army; tactics of war and peace; defense and fortification systems; and gathering, valuing, and storing intelligence. The Arthashastra is organized into fifteen books (*adikaranas*), with 150 chapters, 180 topical sections (*prakaranas*), and 6,000 verses. The first set of books revolves around the internal workings of a kingdom, with instructions to a king on the appointing of officials, training of civil servants, and governance in accordance with law, order, and rights. The next sections focus on matters of foreign policy, notably the renowned "Mandala Theory" of foreign relations, which expounds on the nature of international relations—defined, basically, as concentric circles of allies and enemies. The last few books in the series cover domestic security matters in detail, including discussions of various kinds of warfare (e.g., siege operations) and whole sections devoted to security via intelligence.

The Arthashastra presents many influential ideas, but one of the most well-known and foundational is the *Saptanga* theory, which identifies and discusses the seven vital components of a state: the ruler, ministers, terrain and people, fortress, treasury, army, and allies. This framework for understanding state power is still used today, and rightly so, since it has a certain timeless quality. Another aspect of the Arthashastra that attracts attention is its sophistication, even in discussions that many may consider stale today, like the six methods of foreign policy or other diplomatic strategies. Another reason the Arthashastra is considered a classic is its detailed discussion of economic issues, from trade regulation to monopolies to extraction of mining and forest resources to urban planning. Manrai and Goel mention:

Sustainable economic governance requires effectual rules and policies and their effective implementation. Arthashastra written by Kautilya more than two thousand years ago discusses various best practices on governance of markets, economics and trade to ensure happiness and wellbeing of the subjects. Most of the wisdom of Arthashastra are still relevant and are being adopted knowingly or unknowingly by present day governments. (241)

The Arthashastra has a notably systematic and analytical literary style. It consists of *sutras*, concise statements that are methodically worked out in detailed explanations and lively examples. This combination of types of discourse makes the text both a theoretical work of political philosophy and a manual of sorts for practical governance. The text's wide-ranging concerns and straightforward manner of addressing them have led some to compare the Arthashastra with "The Prince" by Machiavelli and the "Art of War" by Sun Tzu.

Kautilya's Arthashastra is of great importance and impact in history. It has deeply influenced the political ideological framework and the governance systems in which we have lived for millennia in India. Unlike many of its contemporaries, it still sees regular use. Scholars and practitioners from various fields, ranging from political science to international relations, continue to dissect its millennia-old wisdom for the sake of understanding contemporary statecraft, diplomacy, and human polity. Indeed, despite the world having sprung forth many seemingly more sophisticated texts since the Arthashastra's composition, there are few works that rival it in either depth of content or breadth of reached subject matter, and even fewer that offer as many direct insights into the minefield that is human political behavior and its emergent properties. According to Ashok Chousalkar,

Kautilya represented the mature stage of development of Political Science in ancient India, hence he tried to steer middle course...He sought to fuse together 'arthashastra' and 'dharmastra' ideals as well as local tribal traditions because he wanted the 'arthashastra' ideal to be relevant in the Indian context. (71)

This study takes a qualitative approach, using historical-textual analysis to understand how the Arthashastra might bear upon current Indian legal matters. It looks closely at the ancient text to find its silent answers on the modern-day themes of state accountability, the dispensing of justice, public ethics, and governance. Because the study lies at the intersection of ancient and modern law, it attempts to bridge the two by staying firmly rooted in the post-independence Indian legal context.

Foundations of Law and Justice in the Arthashastra

Kautilya's Arthashastra contains a sophisticated understanding of law and justice that speaks to the political order and tries to make this order just. It has two major sections, the first being moral principles which the ruler must follow (or attempt to follow) and the second a very practical discussion of what kind of rule produces a better outcome for the people.

On the ethical side, Kautilya emphasizes the importance of dharma, the moral and ethical order that the ruler must strive to maintain. Yet there is also an important sense in which Kautilya's governance advice helps add up to a sort of dharma for the state.

Kautilya firmly places the sovereign as the custodian of justice and the primary legal authority. But the sovereign is not a mere puppet. He must punish wrongdoers and reward good citizens. His "dharma", roughly translated as "law" or "legal authority", is to ensure the welfare and security of his subjects. The Arthashastra makes clear that the sovereign ought to endeavor in his personal and political life to be a paragon of virtue. Yet there is a tension here, one familiar from many political systems: the sovereign must sometimes make hard, sometimes even nasty, choices in the service of what he deems to be the greater good. It is observed that:

Chanakya places great emphasis on the king's duty to preserve law and order in the realm and to protect dharma, or righteousness. The book emphasizes how important it is to have a strong legal system that upholds moral standards, administers justice in an unbiased manner, and protects the safety and well-being of the state and its citizens (Reddy).



Core Principles of Justice and Governance in the Arthashastra

The Arthashastra's method of dealing with justice involves several main components that are very pertinent to today's Indian legal system.

State Responsibility and Welfare

The Arthashastra's core idea is that the ruler must ensure the people's well-being and security. The relationship between the ruler's interests and the welfare of the people is stated explicitly in Book 1 in the text: "A king's happiness lies in the happiness of his subjects, and his welfare in the welfare of his subjects" (Kautilya 94). This statement provides one of the clearest foundations for the welfare-oriented dimension of Kautilya's political thought. Kautilya posits that justice must serve social welfare and public good, and the text detailed guidelines for the provision of food security, disaster relief, and public health. That welfare-oriented governance, indeed, anything resembling it, sounds alien to most ears today. We think of the state-society relationship as one in which the society must claw upward in order to extract rights from the state. But in what seems like a direct line from the Arthashastra to contemporary times, the Indian National Food Security Act guarantees "the right to food," and welfare-oriented health jurisprudence is in vogue.

These citizen-friendly policies demonstrate the basic nature of the Arthashastra, which is looking out for the "welfare" of the populace. If Kautilya stated anything clearly, it was that the governing authority had to look out for the welfare of its workers and citizens. Kautilya was not a monarchist in a modern sense. He advised a strong state but balanced that with a surprisingly enlightened view of safeguarding individual interests. He emphasized centralized control but with clear and predictable procedures that anyone could understand. And he gave a lot of peace of mind to individual property holders. Today, our legislation bears conceptual parallels to Kautilyan principles of state accountability, as seen in the contemporary Right to Information Act of 2005.

Punishment and Rehabilitation

Arthashastra calls for a punishment system that should be proportionate. Kautilya thought the severity of the punishment should be proportionate to the crime as well as be a deterrent. This philosophy of criminal justice aligns with current prison reform trends in India, which emphasize restorative justice. As a case in point, the principle of proportional or corrective punishment in the Arthashastra is reflected in the introduction of community service sentences as an alternative to jail sentences, and the greater emphasis laid on vocational training and counselling for prisoners. These reforms aim to reintegrate offenders into society, and do not only seek punishment, like the philosophy of Arthashastra.

Values in Governance and Social Harmony

Ethical governance has been a frequent theme in the Arthashastra, with Kautilya stating that the ruler is expected to be moral and to have to serve the public interest rather than his own interests. He felt that respecting the interests of individuals and social peace was vital to just and sustainable governance. The idea of an ethical leader and administrative transparency is very much relevant in the Indian context of the debate on good governance. Ethical governance and curbing corruption in the power of the ruler is evident in laws that afford people a voice against government abuse, such as the Right to Information Act and the Lokpal and Lokayuktas Act, which establish anti-corruption bodies. These reforms are intended to bring the policies of the government closer to the aspirations of the common people in line with Kautilya's notion of justice and harmony of the people.

Application of Arthashastra Principles in Modern Indian Law

The essential teachings of the Arthashastra can be seen in different parts of the contemporary Indian legal structure. This is particularly evident in the principles that govern public administration, corporate responsibility, and penal reform.

Public Administration and State Accountability

The present-day public discourse on accountability and good governance in India finds a useful interpretive framework in Kautilya's perspective on the state as a protector and provider for its citizens. Kautilya's emphasis on the duty of the ruler to serve the public interest has had a long-standing and substantial impact. His ideas provide a comparative framework for formulating some contemporary policies that aim to bolster the reigning principle of "maximum governance, minimum government." For instance, the Arthashastra's principles of statecraft inspire the development of certain types of administrative laws and regulations, like the Citizens' Charters that mandate various government agencies to set service standards and grievance redressal mechanisms.

Corporate Responsibility and Ethics

The Arthashastra's clear communication that both rulers and merchants have a moral obligation to conduct themselves in an ethical manner and act for the community's best interests strikes a chord with the modern Indian concept of corporate social responsibility (CSR). For Kautilya, economics and politics were inseparable. His concern for what we would now label as "economic resilience" extended well beyond the welfare of the Mauryan Empire. He exerted as much scrutiny upon the rulers and merchants for their illicit and unethical practices as he did for the hitmen and spies he recommended for clandestine operations in his well-known manual on statecraft.



Penal Reform and Rehabilitation

A recent push to reform India's criminal justice system seems to align quite well with the ancient text of the Arthashastra, which was written by the scholar Kautilya. Kautilya was not only an accomplished royal advisor but also a well-respected philosopher, and his thoughts on the justice system seem to fit quite well with what many contemporary officials are now wanting to see happen in India. His push for proportional punishment and rehabilitation, ruling out excessive forms of both types of actions, seems to parallel the wishes among many contemporary officials to reduce the problem of prison overcrowding in India. On the whole, Kautilya's ideas appear to create a more humane and rehabilitative approach to the criminal justice system in India. For example, the Probation of Offenders Act and development of parole system in the context of India. The idea of punishment as a means of reform is expressed in these laws. These legal changes were more human and rehabilitative in their approach to criminal justice. But these laws are in accordance with Kautilya's view on the purpose of punishment.

Ethical-Political Balance in the Arthashastra and Its Relevance Today

One of the perennial moral-political dilemmas that both ancient and modern states should address is to balance the state's power with individual moral rights. The Arthashastra is a classic piece of literature on ethics and governance and provides an ancient South Asian view on the perennial issue. It is a strong and good governance that it advocates for, and its author, Kautilya, sees the need for a strong state, but also insists that power is tempered with morality and justice always goes hand-in-hand with the commonweal. Thus, 'Kautilya's principles of State administration' as enunciated more than 2000 years ago have similarities with the 'welfare state' in terms of ideology, function, task, duty, and administration structure and organization. India today has to find a balance between the interests of the public, the liberty of its citizens, and the issue of security. The Arthashastra offers insights into this challenging and occasionally controversial endeavor, and its relevance to today's society is immense. Take, for example, the many challenges to our legal system, which have to do with the rights of individuals and the security of the state—the kinds of challenges that reflect the age-old "really small world" ethical-political conundrum about public interest versus private interest; about "path of least resistance" problems that just do not go away; and about the equilibrium, if there is one, that should be sustained between the authority of the state and the rights of its individuals.

The Arthashastra's Influence on Modern Indian Legal Philosophy

The Arthashastra gives us insight into justice, politics, and ethics that are fundamental and constitute a legal compass for a society that desperately needs somewhere it can lay claim to the otherwise intangible idea of the rule of law. It doesn't usually happen that ancient texts serve as sources of inspiration in modern-day legal practice.

Incorporating the Arthashastra into the legal syllabus brings about a more sophisticated understanding of justice than retributive justice. Legal students learning Kautilya's political and social philosophy are more knowledgeable and discerning lawyers. They understand that there are ethical and social ramifications to what we could refer to as "the legal system", and frequently they rethink it. This conception is crucial since it influences professionally and personally what our students will think and do after they are out of our classrooms. A legal education, filtered and jumbled by the all-knowing lens of the Arthashastra, can provide our future lawyers with the tools to address ethical quandaries, social problems, and complex problems of seeming and being that are part and parcel of our contemporary legal system.

The principles of ethical governance and just, welfare-oriented administration preached by the Arthashastra can only enrich the policymaking and judicial judgment of modern India. According to the ancient text, rulers were enjoined to lead with not just might but right. By that, the ruler was required to have a moral responsibility. As modern Indian citizens navigate the often cloudy waters of policy and law, the moral element can elevate all sorts of decisions, from those of policymakers to those of judges, in the direction of enhancing the welfare of the citizens and good governance. The Arthashastra emphasizes the importance of the rule of Righteousness. This principle should and must be the basis for the formulation of policies and laws in contemporary India, which are geared towards the welfare of the citizens and have a high level of competence and transparency. Kautilya's document also provides a helpful middle-ground approach to dealing with the inevitable conflict between the power of the state and the rights of its citizens that can be useful to judges in interpreting the Constitution and the principles of "justice and good governance" it contains.

Conclusion: Bridging Ancient Wisdom with Contemporary Jurisprudence

The Arthashastra offers a comprehensive description of the concept of justice, government, and state responsibilities, which can contribute to the legal and justice system in India. When we think of the past giving advice to the present, we don't normally think of texts from such distant times making a relevant contribution to present day societies. The past lives and worlds of the past can provide lessons that are of great value to the present and to the future. A lot of the issues raised remain pertinent even today. In fact, today there are numerous societies around the world that are still struggling with the same issues.

India can have a traditional yet modern strategy to jurisprudence by weaving in the fine nuances of the law, morality, and welfare of the state, as understood by Kautilya, into the fabric of the law. This ancient wisdom may contribute to the Indian legal system and be a new way to solve the thorny ethical and practical issues that plague it. For instance, the Arthashastra of Kautilya stresses the role of a ruler in maintaining social harmony, the rights of individuals, and justice. In this context, one can ask what



significance the ancient teachings have in the contemporary Indian legal system, and how they can be re-interpreted and adapted to make them more accessible to the marginalized communities, how they can assert their rights and have them respected, and how they can focus on the "well-being" of the "Subjects".

In addition, the cool, insightful command of the complexities of governance in the Arthashastra at times requires functional decisions that do not always reflect the rule of law or notions of right and wrong, which can help illuminate issues being debated in today's legal arena trying to apply the rule of law with consistency and fairness. This perspective can be useful for more complex legal issues like formulating comprehensive sentencing policies or for creating a more acceptable regulatory framework that can be conducive to economic development while also protecting the environment.

The text sets out a blueprint for an ideal form of justice that offers solutions which are achievable in the present world. The text understands that the law is not autonomous but is part of the political, economic, and social context. The principles of consistency, predictability, and proportionality within its legal framework can serve as a guiding light for the modernization of Indian judicial processes. That, in turn, can help to ensure greater transparency and accountability in the implementation of laws, as they will have more dimensions that are relatable. If a few more ideas from the Arthashastra are added to the template of an ideal restraining order, it will add richer bones to the Indian jurisprudence and, in a practical way, restrain no one without due cause but at the same time prevent any and all impunity.

The opportunity for India is to look back at their own history and blend in with their needs the wisdom of their ancestors, along with their need for modern laws that will be worthy of the admiration of the founding fathers. A legal framework that is as firmly anchored in its traditions as it is pliable to meet the needs of a dynamic global world that was very much part of Kautilya's vision years ago. The use of the principles of Arthashastra in thoughtful ways with the mechanisms of modern governance can result in 'faster, fairer and more effective' justice, which can be a return to the legal principles of 'Kautilyan efficiency'.

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