

ISSN 0000000

*Bhartiya Manyaprad*

# *Bhartiya Manyaprad*

**International Journal of  
Indian Studies**

**Vol. I No. I  
June, 2013**

**Vol. I**

**No. I,**

**June 2013**

BHARTIYA MANYAPRAD is a call to bring closer all Indians at one mental meadow irrespective of them being Indian residents, NRIs or PIOs. Certain issues touch all of them with same concern. BHARTIYA MANYAPRAD is a new International Journal of Indian Studies aiming to bring the best of cultural studies to a diverse academic and non-academic audience. We feature research articles and features practices and conditions specific to contemporary popular culture, traditions, norms and societies etc. BHARTIYA MANYAPRAD shall include scholarly articles pertaining to the issues which are faced by Indians in any part of the world including India. It also invites books for review. It's a platform for all those who want to share the issues which need an attention and get the things changed for betterment. In fact it shall culminate into a dialogue bringing in a silent revolution amongst the people who are connected to India in any manner.

Though it is a research journal still it shall include the restlessness of an Indian as s/he faces in the society around the world. It is a multicultural journal inviting articles from all sectors of life. BHARTIYA MANYAPRAD shall contain socio-cultural-psycho issues as faced by Indians throughout the world including India.

Articles should borrow from semiotics, psychoanalysis, queer theory, and other academic disciplines associated with cultural studies and critical theory, while remaining accessible to a general audience. Ideally, articles should surprise and entertain, presenting smart, pithy analysis of familiar subject matter. Articles are liable to be published after peer review.

Each Volume shall have three issues in a year.

Publisher :

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Principal, Bhavan's Arts and Commerce College  
II Floor Rituraj Apartment,  
Opposite Rupal Flats,  
Near St Xavier's Loyola Hall,  
Navrangpura, Ahmedabad-380009  
Gujarat, India.

Published by :

**Bharatiya Vidya Bhavan**  
Ahmedabad Kendra  
Vidya Guri Nilkanth Marg,  
Khanpur  
Ahmedabad-380001  
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# ***Bhartiya Manyaprad***

*International Journal of Indian Studies*

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Vol. I- No.1

Triannual

2013

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## FORM-IV

1. Place of Publication : Bharatiya Vidya Bhavan,  
Ahmedabad Kendra
2. Periodicity : Triannual
3. Printer's Name : Dr Neerja A Gupta  
Nationality : Indian  
Address : II Floor Rituraj Apartment  
Opp. Rupal Flats, Nr St.  
Xavier's Loyola Hall  
Navrangpura, Ahmedabad
4. Publishers' Name : Dr Neerja A Gupta  
Nationality : Indian  
Address : II Floor Rituraj Apartment  
Opp. Rupal Flats, Nr St.  
Xavier's Loyola Hall  
Navrangpura, Ahmedabad
5. Editor's Name : Dr Neerja A Gupta  
Nationality : Indian  
Address : II Floor Rituraj Apartment  
Opp. Rupal Flats, Nr St.  
Xavier's Loyola Hall  
Navrangpura, Ahmedabad
6. Name and Address of the:  
Individuals who own the  
Newspaper and partners/  
Shareholders holding more  
than one percent of the  
Capital : Nil

I, Neerja A Gupta, hereby declare that the particulars are true to my knowledge and belief.

Sd.  
(Neerja A Gupta)

## ***Bharatiya Manyaprad*** *International Journal of Indian Studies*

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Vol. I, No.1                      Triannual                      2013

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## Editorial Note

Life is a composite of public, social, cultural and professional aspects. The spectrum is well defined in Indian scriptures. The role of an individual is defined, revised and well projected in the society. The word and concept Bharatiya is pragmatic enough to carry all connotations. The existence of this very ancient civilization has all shades across the centuries. At the same time the knowledge systems approved through centuries are proven at the scale of time.

With this purview Bharatiya Vidya bhavan's College for Arts and Commerce is surfacing this tri-annual journal from Ahmedabad . The issues shall target academic, social and scientific research articles. We need a fundamental reconfiguration of our worldview if we are to move away from fear. The crucial element is to ensure that we are rooted firmly in a consciousness of the unity of the human family. When our thinking is reconfigured around a sense of human solidarity, even the most implacable difficulties will not cause us to condone the use of force. Without this kind of shift, it will be difficult to extract ourselves from the quagmire logic of deterrence, which is rooted in mistrust, suspicion and fear.

The Sanskrit word for philosophy is darsan or 'seeing', which implies that *Bhartiya darshan* is not based merely on intellectual speculation but is grounded upon direct and

immediate perception. This, in fact, distinguishes Indian philosophy from much of Western philosophical thought.

The journal aims at deliberating different aspects of life which are pragmatically enriched with the local and global wisdom. The editorial team comprises of very learned scholars in respective fields.

The present issue is a generalized collection of articles while we aim at specialized and thematically rich journals in future.

To end with

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I pñujFkda uhr% dk uq gkfuLrrk/kdk**

(Chanakya Niti)

Improving lives, improving purpose of life, aspiring together let's celebrate the *Bharatiya Manyaprad.*

Dr Neerja A Gupta

*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 7-24

## **Indian Migrations: Global and Ancient**

**JAGAT K. MOTWANI**

Contrary to the common understanding that Indians started emigrating to overseas, first to European colonies (Africa, Mauritius, the Caribbean region, Fiji, Malaysia, etc.) as indentured labor in 30's of the 19<sup>th</sup> century and later to the developed world – U.S.A., Canada, Europe, Australia, Hong Kong, etc. – in 20<sup>th</sup> century for white collar professional jobs in medicine, engineering, education, technology, science, research, information technology, electronics space, business, trade, etc., this paper attempts to trace the global and ancient 10,000 year long history of the migratory adventures of ancient *Vedic Aryans* now known as Hindus or Asian Indians. This is based on a library-based Indian emigration-related research, covering a long period of over 10,000 years from today back to over 8,000 years B.C. when peoples of Asia of different ethnic and linguistic affinities crossed over a land bridge over the Bering Strait from Siberia to Alaska, then drifting southward to Canada, USA, and some South American countries, particularly Mexico.

The history of migration from India can be divided into seven waves:

1. Over 8000 B.C. From Asia, including India, to Americas
2. Around 2000 B.C. From India to Asia Minor and neighboring regions
3. 300-400 B.C. Hindu and Buddhist monks all-around the world
4. 1300 A.D. Emigration of Gypsies to Europe
5. 1832-1875 Indentured labor to European colonies
6. 1900 – 1965 Students and traders to developed world
7. 1965 – today Brain drain from India to America and the western world

There is little or no documented historical data to support my thesis about the earliest two waves of migration to Americas (8000 B.C.) and to the Asia Minor region (around 2000 B.C.). The first was too remote in pre-history ancient times for historians. For the second wave to Asia Minor, historians, in my opinion, were too obsessed with their ill-founded theory of “Aryan invasion of India” to accept the idea that the people of India could or did emigrate to other countries, particularly the region they thought Aryans came from to invade India in about 1500 B.C. It would, as a matter of fact, contradict their theory of Aryan invasion of India. But circumstantial evidences, as documented by history, would establish beyond any doubt two hypotheses:

1. Some of the immigrants, who came to America about 8000 year B.C, were from India
2. There were Vedic Aryans in Asia Minor and in its vicinity before 1500 B.C. when invading Aryans allegedly had invaded India.

ANCIENT INDIA WAS MUCH LARGER than today's India. It included Bangladesh, Pakistan, Baluchistan and Afghanistan; and perhaps Iran. The recent history, the ink of which has not yet dried up, tells that Pakistan was created in 1947 by partitioning British India into two major countries – India and Pakistan. In 1971, the latter was stripped of its eastern wing which became independent Bangladesh.

Henry Stierlin, in his “*Hindu India* (2002: 8), writing about geographic condition of ancient India, remarks

*India is often referred to as 'subcontinent'. There are two reasons for this: first, its immense size; and second, its almost total isolation from its neighbours. In the historical sense of the word, 'India' referred to the territory bounded by the Hindu Kush and the Himalayas, and extended from modern Afghanistan and Pakistan in the west, to Bangladesh in the east.*

Stierlin, on the same page # 8, mentions: “The Greek influence (in 3<sup>rd</sup> century B.C.) was particularly noticeable, for example, in the treatment of the human figure by the Buddhist sculptors of Gandhara.” Gandhara is Kandahar city of the present times in Afghanistan. The Muslim conquest of Afghanistan began in 7<sup>th</sup> century. The Buddhist statues could not be in Afghanistan in 2<sup>nd</sup> or 3<sup>rd</sup> century B.C., if it was not in control of Hindus/ Buddhists. Hindu Kush mountains in north of Afghanistan and ‘Hari Rud’ river are other examples of Hindu presence there in ancient times. Hari is the name of Hindu god. The Columbia Encyclopedia (Fifth edition, p. 27) mentions, “rich valley of HEART on the Hari Rud (Arius) River in the northwest corner of the country (the heart of ancient ARIANA). The words Arius and Ariana reflect Aryan/ Hindu presence there in Afghanistan. The ancient names of most of the rivers and towns have been changed due to change of the rulers, particularly from outside with different religio-cultural backgrounds. Max Muller, in his book “*India: What Can It Teach Us?*”, has remarked:

In the *Vedas* we have a number of names of the rivers of India as they were known to one single poet, say about 1000 B.C. We then hear nothing of India till we come to the days of Alexander, and when we look at the names of the Indian rivers represented by Alexander's companions in India, we recognize without much difficulty nearly all the old Vedic names. In this respect the names of rivers have a great advantage over the names of towns in India.

Historians, in many cases, have not given, in parentheses, ancient names of rivers and towns corresponding to their respective modern names. Thus history, particularly of ancient India, has been obscured and confused. This has been more adversely affected because of attitudes – indifference and secrecy – toward history on the part of ancient Hindu historians. Lieut. Col. F.

Wilford, in the Asiatic Society of Bengal's research series, led by William Jones (1746-94), section: "*On the Ancient Geography of India*" (Vol. XIV, pp.374-376), describes his observations and experiences:

In some of the *Puranas* there is a section called the *Bhawana-cosa*, or collection of mansions; ... there are other geographical tracts, to several of which is given the title of *Cshetra-samasa*, or collection of countries; ... There is also the *Trai-locya-darpana*, or mirror of three worlds; ... There are also list of countries, rivers and mountains, in several *Puranas* and other books; but they are of little use or no use, being mere lists of names, without any explanations whatsoever. ... These in general are called *Desamala*, or garlands of countries; and are of great antiquity; they appear to have been known to MEGASTHENES and afterward to PLINY.

Wilford describes his difficulties and frustrations in collecting relevant data:

Real geographical treaties do exist; but they are very scarce, and the owners unwilling, either to part with them, or to allow any copy to be made, particularly for strangers. For they say, that it is highly improper, to impart any knowledge of the state of their country, to foreigners, and they consider these geographical works as copies of the archives of the government of their country. Seven of them have come to my knowledge, three of which are in my possession. The two oldest are *Munja-prati-desa-vyavastha*, or an account of various countries, written by *Raja Munja*, in the latter end of the ninth century. ... I then applied to the late Mr. Duncan, Governor of Bombay, to procure these two geographical tracts, but in vain; his enquiries however confirmed their existence.

I believe if Wilford had received full cooperation as he was trying to, and if historians would have continued to give ancient names of the rivers and towns corresponding to their respective modern names, we would have been able to get much clearer picture of the geographical history of the ancient India. Wilford in the footnote on page 374 remarks: "It is my opinion in the times of Pliny and Ptolemy, they had a more full and copious geographical account of India, than we had forty years ago. Unluckily through the want of regular itineraries and astronomical observations, their longitudes and latitudes were only inferred; and this alone was sufficient to throw the whole of their geographical information,

into a shapeless and inextricable mass of confusion." The history of ancient India, therefore, has been erroneous and infected with several gaps of significant information. Despite my diligent efforts, I have been unable to know the pre-Afghan name of Afghanistan. John W. McCrindle, in his *Ancient India as described by Ptolemy* (p.82), seems to suggest that Afghanistan was the country of *Paktys* (Pushtus): "Skylax sailed from the country of Paktys, i.e. the Pushtus, as the Afghans still call themselves.

Dr. John W. McCrindle, in his *Ancient India as described by Ptolemy* (2000: xxvii-xxviii), suggests that more can be known about the ancient geography of India from:

- ♦ H. Yule's notes on Marco Polo and his map of Ancient India.
- ♦ Gerini's *Researches on Ptolemy's Geography*, published by the Royal Asiatic Society, London, deals with Ptolemy's account of Further India and the Indian Archipelago. Ptolemy's phrase "Further India" corresponding to the title of this chapter, "Vishal India" (Greater India).
- ♦ Prof. F. Pulle's cartography of India in the *Sudi Italiani di Filologia Indo-Iranica* (vol. IV and V).
- ♦ Cunningham's *Ancient Geography of India*.
- ♦ V. Smith's *Early History of India*.
- ♦ Contributions to this subject from the pen of several other scholars, such as Sir A. Stein, Raverty, Foucher, Sylvain Levi, Dr. Caldwell, etc.

Afghanistan: A Part of Vishal Aryavarta (Greater India)

Klaudios Ptolemaios<sup>1</sup> (in Latin "Claudius Ptolemaeus", affectionately known as "Ptolemy") was a celebrated astronomer, mathematician and geographer. He was a native of Egypt. He was the first systematic writer on Greek astronomy, based on the works of Hipparchus. His astronomical work is entitled *Megalesyntaxis Astronomais*, which is commonly known by its Arabic title *Almagest*, which means "great work." McCrindle<sup>2</sup> quotes Max Muller, from 'India: What Can It Teach Us?', clearly tells that Afghanistan was known as the land of the Paktys: "In the *Vedas* we have a number of names of the rivers of India as they were known to one single poet, say about 1000 B.C. ... The Indus was known to



early traders whether by sea or land. Skylax sailed from the country of the Paktys, i.e. the Pushtus, as the Afghans still call themselves, down to the mouth of the Indus.”

Dr. R. C. Majumdar (5<sup>th</sup> edition, 1988:246-248) talks about the extent of the ancient India and where the bulk of the *RigVeda* was composed. The *Rigveda* (VII, 24.27) describes India as “*Sapta-sindhuava*” meaning the country of seven rivers. Different scholars differ on which two rivers, in addition to the five rivers of the Punjab, the *Rigveda* was referring to. Max Muller was of the opinion, they were *Sindhu* (Indus) and *Sarasvati*, in addition to the five rivers of the Punjab. The word Punjab literally means Punj (five) + ab (water). Ludwig, Lassen, and Whitney substitute *Kubha* (Kabul) for the *Sarasvati* and think the Oxus (present, *Amu Darya*) also must have been one of the seven. Majumdar (pp.247-248) further states: “Considering that the *Rigveda* mentions the *Kubha* (Kabul), *Gomati* (Gumal), *Kruma* (Kurram), *Suvastu* (Swat), etc., which lie to the west of the Indus, it is possible that the *Rigveda* people knew of the existence of the Oxus.” On the basis of all this, Majumdar asserts: “We may thus conclude that the extent of the country as reflected in the hymns is, Afghanistan, the Punjab, parts of Snd and Rajputana, the North-west Frontier province, Kashmir, and Eastern India up to Sarayu.” The Columbia Encyclopedia (p. 27) mentions “the Amudarya plain, and the rich valley of HEART on the Hari Rud (Arius) River in the north-west corner of the country (the heart of ancient ARIANA).

The scholars differ as to the part of India where most of the *Rigveda* was composed. Max Muller, Weber, Muir, and some others held that it was the Punjab; Hopkins and Keith feel that it was composed some where near *Sarasvati* river south of Ambala city.<sup>3</sup>

Hertel Brunnhofer, Hertel Husing, and others, however, argue that the scene of the *Rigveda* is laid, not in the Punjab, but in Afghanistan and Iran.<sup>4</sup> V. Gordon Childe, in *The Aryans* (p. 32) writes: “Brunnhofer and others have argued that the scene of the *Rigveda* is laid, not in the Punjab, but in Afghanistan and Iran. In that case the occupation of India would be much later than is usually assumed. Now Brunnhofer relies mainly on the identification of peoples mentioned in the *Veda*, with tribes located in Afghanistan, in the inscriptions of Darius, or in later Greek authors.”

Such conflicting versions on the *Rigveda* by various scholars give rise to the questions about the authenticity of the place, age and authors of the *Rigveda*, as given by historians. The age of Vedas, thus changed, would challenge the authenticity of the two intertwined theories of Indo-European and Aryan invasion of India.

According to Vedic traditions and other historical, geological and archaeological evidences, it is true that Afghanistan was a part of ancient India before it became Afghanistan after its Muslim Afghans conquest in around 7th century. Kandhar was originally Gandhar after Gandhari of *Mahabharat*, (earlier than 1500 BC, R.C. Majumdar, Vol. 1, 1988). According to David Frawley (1991:83), a region in Afghanistan was known as Gandhara, whose name is mentioned in the *RigVeda*.

David Frawley (1991:82,83), wondering why the names of some rivers – *Sindhu*, *Kubha* (Kabul), *Gomati*, *Krumu*, and *Mehatmu* – in a Vedic hymn, rightly seem to have identified their relationship with the Vedic India, in other words historic relationship between India and Afghanistan. He remarks:

*Some scholars have used their designations to connect the Vedic people with some home in Afghanistan and Central Asia. Actually there is a more simple and obvious reason for their inclusion. They are the rivers of a region known as Gandhara, the western uplands of India. The name of this region can be found in the Rig Veda itself as associated with sheep (1.126.7). ... At the time of the Greek visits to India, which followed Alexander (Alexander the Great, 356-323 B.C.), Gandhara was inhabited by traditional Aryan peoples. They were not displaced until the Muslim invasion. Afghanistan itself was called 'the land of the Aryans' from ancient times*

*Encyclopedia Britannica* (1968, pp.21/ 479-480):

Swat is a state forming part of the Malakand Agency in the Peshawar Division of West Pakistan, in the valley of the Swat river. Swat was acceded to Pakistan soon after the partition of India. “Swat has great historical interest as a region bordering on Europe and Asia. It was one of the conquests of Alexander the Great and was also a remarkable stronghold of Buddhist faith. Recent archaeological excavations have revealed an old civilization possibly dating back to the 5th century B.C.

Hindu Kush, a range of mountains in Central Asia, nearly 600 miles long from its junction in the east with the Karakoram to a district some 80 miles northwest of Kabul, where it merges with

the ranges of Koh-i-Baba. ... The western Hindu Kush traverses Afghanistan for nearly 250 miles (E.B.11/ 513).

#### Global Migrations of Vedic Aryans Did Some of the Vedic Aryans Migrate to Americas?

Several characteristics of American Indians [Brandon (1969), Driver (1869), Parkes (1988)] similar to India's, such as Swastika, cremation, a priestly caste, brownish complexion, incarnated gods, sacrifice rituals, worship of nature gods (fire, rain, earth, trees, sun, etc), worship of serpent god (Nagdevta), pottery, textiles, half man-half animal god, carving of wood, blowing of conch (Shankh) in temples, carvings of pillars and elephant on one Maya temple, oral transmission of religious poetry from generation to generation, all support my hypothesis that at least some of the migrants from Asia to Americas were Vedic Aryans from India and/ or from Asia Minor, Europe etc. where they might have migrated and settled in very old ancient times. It is surprising to find, not only use of "datura" (Jimson weed) among Indians of Mexico, but also it is known as "datura."

William Brandon, in his "*Indians*" (1961:9), talks about native Indians crossing Bering Sea from Siberia to Alaska via a land bridge, even long before 8000 B.C.:

With this sort of antiquity, it is clear the first Indians must have arrived long before there were boats anywhere capable of ocean crossings. The only place of entry more or less accessible by land from the Old World was Alaska at Bering Strait. Two stepping-stone islands, the Diomedes, break the water distance into still shorter stages, the longer only twenty five miles. At times, furthermore, the Strait is frozen over and can be crossed on the ice; and times in the geologic past it has been dry land – more often than has the Isthmus of Panama.

Brandon talks about several other things which show more similarities of American Indians with Vedic Aryans, such as:

- ♦ Use of lunar calendar (p. 31)
- ♦ Use of zero (p. 31)
- ♦ Idolatry among Mayas (p. 42)
- ♦ Social classes and priests conducting a complex religious rituals (p. 27)
- ♦ Belief in "the death that brought new life" clearly shows their belief in rebirth/ reincarnation (p.37)
- ♦ The word "Maya" is a Sanskrit word.

Harold E. Driver (1969:4) talks about two land bridges in the late Pleistocene between Siberia and Alaska. He, on p. 4, writes: "Physically, Indians resemble Asians more clearly than they do any other major physical type in the Old World. ... The American Indians sprang from the ancestors of this marginal Mongoloid population, which at one time covered most of Asia north and east of India." Driver (p.404) talks about gods of Wind, Feathered Serpent (Nagdevta) and learning (Sarasvati). And also about Priesthood (Brahmanism). Driver, like Brandon, talks about use of "datura" (p.557), "zero" (p.51), incense (p.51), and lunar calendar (p.565). Driver (pp. 50-51) talks about zero from India:

The Mayan numerical system is remarkable in its use of a number of symbols for zero, which made a place-numeral system possible. This was never achieved by the Greeks or Romans; our modern Arabic system was derived, in the Middle Ages, from the Arabic people who, in turn, got it from India.

Driver (p.135) talks about the Mayan massiveness and elaborate sculpturing as of Hindu origin:

On the whole, the architecture of aboriginal Meso-America is impressive because of its massiveness and elaborate sculpturing. Some compare it with the massive and ornate architecture of Hindu origin in Southeast Asia at such famous sites as Angkor Wat and Borobudur, but few believe there is any historical connection between the two.

Henry B. Parkes, in "*A History of Mexico*" (1960: 7), talks about worship of different gods, such as those representing welfare of the tribe, powers of the nature and also of fertility, similar to gods Hindu worship. Some of them were treated as incarnate gods. On p.13, Parkes states:

Similarities between the culture of Mexican Indians and that of certain Asiatic peoples – the use of swastika, for example – can be found. There is moreover, a carving on one of the Maya temples which appears – at least in reproduction – to bear some resemblance to an elephant.

Swastika has been found among some Indian tribes in America.

#### Vedic Aryans in Asia Minor and in its Vicinity

It is being said that the invading Aryans, allegedly came from Asia Minor and its vicinity. My hypothesis is that, contrary, Some

warrior Aryans invaded Asia Minor long before 1500 B.C. and established their kingdom there. In order to substantiate, refute or understand the 'Theory of Aryan Invasion of India', it would be required to ascertain if the ancient natives of Asia Minor knew Sanskrit and had Vedic religious/ philosophical orientations before 1500 B.C. Quite a few encyclopedias and books of World History have been looked into to find out who the ancient natives of the Asia Minor region were and to know their linguistic, socio-cultural and religious affinities. It is also important to know the demographics of migratory movements – outward as well as inward – especially if there were any infiltrations of foreign elements.

My hypotheses in this research pursuit have been:

1. The invading Aryans were not the ancient natives of Asia Minor.
2. Most of the alleged invading Aryans were Indo-Aryans whose ancestors had invaded Asia Minor region before 1500 B.C.
3. Their linguistic, socio-culture and religious affinities were different from those of the natives of Asia Minor.

History tells that there have been migrations of both oriental and occidental peoples in and out of Asia Minor in ancient times:

In ancient times most Oriental and Occidental civilizations intersected in Asia Minor, for it was connected with Mesopotamia by the Tigris and Euphrates rivers and with Greece by the Aegean and Mediterranean seas. The Hittite established the first major civilization in Asia Minor about 1800 B.C. (Columbia Encyclopedia, 1993:163).

Some of the immigrants could be from India. There is mention of immigration of some people who spoke some Indo-European languages. Anatolian history has talked about a couple of royal families who ruled over some parts of that region. Some cities bear Sanskrit names. Those royal families, unlike the commons, cremated their dead dear ones.

V. Gordon Childe, in *"The Aryans"* (1926: 30), talks about Aryan presence in Palestine and Asia Minor region, the region of Mitanni kingdom:

In Palestine the Aryan names have totally disappeared by 1000 B.C., and even Mitanni region they leave scarcely a vestige behind them. Here at least Aryan speech succumbed to Semitic and Asianic dialects, and the small Aryan aristocracies were absorbed by the native population. Further east on the tablelands of Iran and India the Aryan languages survived and survive to-day. ...

The Indians' language approximates most closely to that of the Mitanni documents and has been preserved from a remote date in the hymns of the Rigveda.

The above Childe's statement talks about various inter-related historical events, such as (i) small Aryan aristocracies, (ii) Aryan names, (iii) antiquity of Rigveda, (iv) presence of Aryans, and (v) death of their language (I believe he is referring to Sanskrit) in the Asia Minor region which throw light on the legitimacy of the theory of "Aryan invasion of India." Any language would not die in the land of its origin and survive somewhere else. The same way, the names of any people would not disappear in the country of their native land and survive somewhere where a handful of them have migrated. If Asia Minor region was the native land of the Aryans who allegedly invaded India in 1500 B.C., their Aryan names and their native language would not have disappeared from there and survived in India some of them invaded. Childe clearly writes that the Aryan aristocracies were absorbed by the native population and so their speech. It is understandable that a tiny Aryan minority of warriors – who, in my opinion, had invaded the Asia Minor region and established their kingdoms – would not survive long, especially they were militarily overpowered by others. Langer, (1975:34) talks about the presence of Hurrian people in Asia Minor during 1700-1500 B.C. who seemed to be symbiotically related to Indo-Aryans:

The Hurrians, biblical Horites, began to drift south from the Caucasus and penetrated into whole of Mesopotamia, Syria and eastern Anatolia. ... Strange to say, that the ruling class of the Hurrians bore not Hurrian but Indo-Aryan names. Evidently the Aryans drove both the Hurrians and Kassites before them in the 17th century, overrunning the former and establishing themselves as an aristocracy. Probably they won their position as chariot warriors, since it seems likely that the horse-drawn chariot, introduced in the 18th century and widely used in the 17th century, originated among Aryan peoples. The symbiosis of Hurrian and Indo-Aryan elements at all vents is characteristic of Hurrian society wherever we come upon it.

Note, they were Indo-Aryans, not Indo-Europeans. An inference, speculative if not definite, can safely be drawn that at least some immigrants/invasers of Asia Minor with oriental orientations were originally from India who were rulers and chariot warriors. They were different from the masses of the region. It explains why their Vedic philosophy and literature couldn't survive. Their roots were in Vedic Bharat. It also explains that their chariot warfare expertise didn't originate in Asia Minor.

Langer (1975:34), talking about the kingdom of Mitanni, writes:

Small Hurrian principalities were united toward 1500 B.C. into the Kingdom of Mitanni with its capital at Washukkani on the Khabur. At its widest extent it controlled Alalakh and Qatna in Syria on the west, and Nuzu and Arapkha, as well as Assyria, on the east. The earliest of the great kings of Mitanni was Sudarna I (c.1500). His grandson Saushatar (c. 1475) is probably credited with the consolidation of the kingdom.

Chester G. Starr, in his "*A History of the Ancient World*, (1991:86), writes:

Far up along the great westward bend of the Euphrates other civilized states appeared in the third millennium. By the period considered in this chapter the area was already largely under the control of Hurrians. ... Thereafter Hurrian influence was consolidated in the large kingdom of Mitanni. The culture of this state was a fascinating medley from many sources. The Hurrian speech, like several other tongues of the mountain belt in the Near East, does not fit into any major linguistic group; but the rulers of Mitanni had names akin to those of the Indo-European invaders of India, as did such of their major gods as *Indra* and *Varuna*.

According to T. Burrow (1973:27, 28), talking about Aryans in the Near East, writes:

The presence of Aryans in this area is recorded principally in documents of the Mitanni kingdom of North Mesopotamia during the period 1500-1300 B.C. The list of royal names preserved in a variety of cuneiform documents has a distinctly Aryan appearance, even though their interpretation is not absolutely certain in all cases. The names of these kings are as follows: *Sitama*, *Parasastar*, *Saussatar*, *Artadama*, *Artasumara*, *Tusratha*, *Matiwaza*, i.e. Indo-Aryan form *Sutarana*- (cf. Ved. *Sitarman*-), *Parsastar*- 'director, ruler', *\*Suksatra*- 'son of *Suksatra*- (?); *Rtadhama*- (nom. *Rtadhama*) V.S., *Rtasmar*- 'mindful of right', *\*Tvisratha*-, cf. V. *ivesartha*- 'having rushing chariots', *\*Mziwaja*- 'victorious through prayer'. In addition there are found in private documents from this area written in Assyrian a number of proper names of local notables which can be interpreted as Aryan, e.g. *Artamna*, *Bardasva*, ...

This was a period of the expansion of Mitanni influences in the surrounding territories. Consequently we come across rulers of neighbouring principalities having similar Aryan names, and this extends as far as Syria and Palestine. The clearest examples of Aryan names among these are *Sivardata*: *\*svardata*- 'given by heaven', *Satuara*: *\*Satvara*-, a stem bearing the same relation to Skt. *Satvan*- 'powerful, victorious: a warrior', ...

Burrow (p.28) further writes about varied Aryan influence in the region:

#### Aryans in Mitanni Country

"The contemporary Hittite kingdom had close relations both of peace and war with Mitanni kingdom, and some of the documents from the Hittite capital provide important evidence for the presence of Aryans in the Mitanni country."

#### Treaty between Hittite and Mitanni

"The interesting of these documents is a treaty concluded between the Hittite king Suppiluliuma and the Mitanni king Matiwaza (c. 1350 B.c.). Among the divinities sworn by in this document there occur four well known Vedic divine names. They are *Indara*, *Mitras(il)*, *Natsatia(nna)*, *Uruvanass(il)*, which stripped of their non-Aryan terminations are unmistakably Ved. *Indra*-, *Mitra*-, *Nasatya* and *Varuna*."

#### Vedic Aryan Religion in the Region

"It is clear that not only Aryan language, but also Aryan religion in a form of closely resembling that known from the Rgveda, was current in this region of the Near East during this period."

#### Introduction of Horse and Chariot Technology in the Region

"The introduction of the horse to the countries of the Near East which took place during the early part of the second millennium B.C. seems to have been due to mainly to these Aryans. The usefulness of this animal in war soon made it popular in the neighbouring kingdoms, among them the Hittites. Among the archives of the Hittite capital there exists a treatise on the care and training of horses. This is written in the Hittite language, but the

author, who had charge of the royal horses was a Mitannian called Kikkuli. Furthermore some of the technical terms used in the work are Aryan words.”

Burrow is referring to the numbers used in the chariot training manual were Sanskrit, such as *ai* (one), *trea* (three), *panza* (five), *satta* (seven), and *nava* (nine). Burrow remarks: “The existence of these loanwords in the Hittite text shows clearly the priority of the Aryans in this field.” Burrow, referring to a few Aryan traces among the documents of the Kassite dynasty of Babylon (c. 1750-1170 B.C.), states: “The Kassites themselves were invaders from the East, from the Iranian plateau.” This clearly suggests that Aryans from the East invaded the Asia Minor region, not the opposite. Even the names of the colors of the horses, mentioned in the chariot training manual, are Sanskrit, such as *Bhooro*, etc.

If the Rig Veda was written not before 1000 B.C., why then the invading Aryans themselves would ignore mention of the arrival of their ancestors in the Rig Veda they created? It is also said that the Vedas were created after their arrival. Wolpert says that the Rig Veda records Aryan victories over the dark-skinned ‘dasas’. Why not even one Anatolian Aryan name is mentioned in those stories of their victories in the Rig Veda? If Sanskrit was brought to India by the invading Aryans from Asia Minor, why there is no mention of Sanskrit in the ancient history of Asia Minor? The presence of a few loanwords from Sanskrit should not be interpreted as the evidence of Sanskrit as an Anatolian language. Sanskrit is not mentioned even among its several extinct languages, its ancient history of 1800 B.C. and before has made mention of. It is also documented that the Aryan Kassites of the ancient Middle East worshiped Vedic gods, like Surya, etc.

The ancient archaeology (BE 1968, 11: 551) has failed to provide unequivocal ethnic data on ancient Hittite. It points to “an infusion of foreign elements plausibly connected with the arrival of the Indo-European Hittite.” On page 554, it has talked about “Increasing seepage of pronouncedly oriental influence into Hittite.” The history has not been able to determine the route of the migration, more inclined to an eastern route. The word ‘Indo-European Hittite’ suggests that immigrants/invaders were not the native Hittite and they had Indo-European affinities, and some of

them could be Indo-Aryans. History (BE 1968, 11:551) has talked about an eminent city state “Burushatum” (Hittite Purushanda), very close to Hindu name “Purushottam”. Hittite (BE 1968, 11:555) was essentially a feudal society and the ruling “gentry constituted a kind of higher warrior caste and provided the armed chariotry which formed the backbone of offensive military might.” On page 557, the encyclopedia talks about the burial practices of the Hittite: “Royal burial entailed cremation of the body on a pyre on the day or night of the death.” It should be noted that Royal families cremated, because they were Vedic Aryans, the Commons buried, because they were not Indo-Aryans.

All these things mentioned above, such as migration of Indo-Europeans, their eastern route, infusion of the foreign elements, oriental influence, Sanskrit names of city states, high caste chariot warriors, worship of Hindu gods by Royalty and their custom of cremation, all suggest that the warriors (Kshyatries) had migrated into Asia Minor long back and their descendants returned to Bharat around 1500 B.C. They had Vedic orientation and knowledge of horse-driven chariots. It is also quite clear that only the rulers, not commoners, had their names and gods akin to the Indo-European invaders of India who were none but Vedic Aryans, returning to the home of their ancestors. The Mitanni and Hittite kingdoms, as described earlier, vouch for Vedic influence in Mesopotamia including Asia Minor, at least over 3,500 years back from today.

#### Language and Religion of the Natives and Invading Aryans

The above mentioned encyclopedias, dictionaries and the world history books, included in the attached bibliography, have mentioned quite a few Indo-European Anatolian languages, such as Hittite, Hieroglyphic Hittite, Akhadian, Arzawa, Canaanite, Lydian, Lycian, Luwian, Palaic etc., almost all of them are dead. There were some non-Indo-European languages were spoken in ancient Asia Minor, such as Ligurian, Messapian, Illyrian, Thracian, Phrygian, all of which are dead. Garraty and Gay (1981:86) have said, “The grammatical structure of the Hittite language relates it to the Indo-European group, but the vocabulary is mainly that of the non-Indo-European indigenous peoples of Anatolia.” They

had adopted the cuneiform script, the use of which ceased after the fall of the Hittite Empire around 1200 B.C., no Indo-Aryan script. At present, it seems Turkish is the main language, prevalent in the region. Nowhere even a slight reference has been made to Sanskrit or any other Indic language as the language of Asia Minor at present or any time in the past.

#### Vedic Influence in Ancient Europe

Sacred Hindu Isles in England: The following statement by Captain F. Wilford (Sir William Jones' Researches, 8th Vol., 1787:246) would shed relevant light on the long-forgotten 'Sacred Isles of Hindus' in Europe.

"The sacred Isles in the West, of which *Swetadweepa*, or the White Island, is the principal, and the most famous, in fact, the holy land of the Hindus. The learned have little more to do with than to ascertain whether the White Island be England, and the Sacred Isles of the Hindus, the British Isles."

John Bently (Asiatic Researches, pp.377-497) talks about the influence of Vedas in Europe and Persia. Max Muller (1891:298) writes that the old name of Ireland is Eriu and the ancient name of Irish Celts is Er or Eri, as preserved in the Anglo Saxon name of their country Ireland. It is maintained by O'Reily that this "er" is used in Irish in the sense of noble, like the Sanskrit Arya.

#### Swastika: A Sacred Symbol of the Celts

The following quotation from the book, *"The Celts: Sacred Symbols"* (1995), would explain the influence of Hinduism among the Celts which spread in Europe, including British Isles and Germany:

"One of the great enduring symbols of the whole of the Ancient World, the swastika had wide currency as a sign of good luck and of solar beneficence. The motif occurs throughout the lands occupied by the Celts, sometimes on stonework in the company of images of the spoked wheel, another powerful sun symbol."

#### Mandala: A Potent Sacred Symbol of Humankind

The book "Mandala" (Thames and Hudson Inc., New York, 1995) describes the Mandala as a sacred symbol of humankind:

"Although most immediately associated with the religions and cults of India and Tibet, the mandala, literally 'circle', is one of the most potent symbols of humankind. Its circular form and concentric structure reflect the shape of the universe outside and the sense of perfection within. Concentration on its form and content is an aid to prayer and meditation, leading eventually to a complete at-oneness with the world."

#### Cabba at Mecca, Originally belonged to Hindus

On page 257, Wilford tells the story of two doves "found by Mohammed in the Cabba at Mecca; which they claim, with some reason, as a place of worship belonging originally to the Hindus."

#### Classical Wave

History has already forgotten "*Vishal Bhatal*" (Greater India) which extended itself without defined borders in all directions, especially in the far South-East touching Bali and in the North-West *Gandhar Desh* and *Avesthan* (Iran).

Rawson: "The Art of Southeast Asia" (1990:7-8):

"The culture of India has been one of the world's most powerful civilizing forces. Countries of the Far East, including China, Korea, Japan, Tibet and Mongolia owe much of what is best in their own cultures to the inspiration of ideas imported from India. The West, too, has its own debts. But the members of that circle of civilizations beyond Burma scattered around the Gulf of Siam and the Java sea, virtually owe their very existence to the creative influence of Indian ideas. Among the tribal peoples of Southeast Asia these formative ideas took root, and blossomed. No conquest or invasion, no forced conversion imposed on them. ... Of course, there were regions where Indian colonies seem to have met little or no response, and their settlements petered out – in the Malay Peninsula, for example, in Sumatra, and perhaps in Sarawak and North Borneo. But archaeology may yet reveal more about the history of Indian colonization in the more remote parts of the Southern Seas."

Classical wave starting in 5th century B.C. includes cultural colonialization of most of the region of South-East Asia by Indians (Hindus and Buddhists) and early traders.

#### Gypsies (Banjaras) of Europe: Forgotten Children of India

Many people don't know that scores of Banjaras fled from India (Sindh & Rajasthan) at the end of the first millennium AD to escape their threatening forced conversion into Islam. They made their way into Europe, via Persia and the Byzantine Empire. They drifted into several countries in Europe and former Soviet Union.

The New York Times (May 5, 1993) says: “for the majority of Europe’s estimated eight million Gypsies, who live at a bare subsistence level, the highest priorities are enough food for the day and shelter from the elements. ... Although their language, called Romany, originated in India a thousand years ago, it is spoken in widely varying dialects.”

#### Migration of Indentured Labor

Indentured labor migrated to various European colonies – Africa, Caribbean countries (Guyana, Trinidad & Tobago, Suriname, Jamaica, etc.), Fiji, Mauritius, Madagascar, Malaysia, etc., starting 1832 when slavery was abolished.

#### Brain Drain to the Western world

During 20<sup>th</sup> century, particularly from 1960’s, there has been heavy brain drain – migration of traders and white collar workers, such as, professionals of all disciplines – physical sciences, medicine, engineering, information technology, space, social sciences, etc. – to the western world, Australia, Japan, Hong Kong, Singapore, and gulf countries. Such migration, unlike that of indentured labor, has been voluntary.

### REFERENCES

1. Dr. John W. McCrindle, in “*Ancient India as described by Ptolemy*,” p. xiii.
2. Ibid, pp.81-82.
3. Majmudar, p. 248.
4. Brunnhofer, *Arische Urzeit*, 1910; Hertel, *Indo-Germ*; Husing, *MAGW*, xivi; Winternitz, *HIL*, I, pp. 63-4; and Childe, *Aryans p.32* (Taken from Majmudar, R.C. et al, p.248).

## **Limping Marriages and Holiday Wives**

**KAVITA SHARMA**

The issue of 'holiday wives' has been raised sporadically but a solution has yet to be found. Vijaya Pushkarna reports in "the Week" (Nov. 30, 2003).

"I encountered 'holiday wives' for the first time on a bleak January morning of 2001. I was in the office of Gaurav Yadav then superintendent of police of Jalandhar. Two young girls, accompanied by elderly men, came in to see him. While the girls sat with downcast eyes, the old men told him how they had been ditched by their NRI husbands. They sounded angry and anguished. A social activist later told me that Doaba region had many such unfortunate young women. NRIs married them while holidaying in their native villages and went back to foreign lands after using them. Many were ditched at the end of the holidays. Others were looked after for a while and then dumped unceremoniously. Some women had to witness their husbands gallivanting with new brides later".



The extent of the problem has been highlighted by Dr. Prit Paul Kaur in an unpublished paper presented at the 41st annual International conference of Women Police held at San Francisco Police Department. Dr. Prit Paul Kaur has pointed out that the majority of victims are women. In rare cases, they have approached the Indian courts as their 'husbands' have obtained decrees from foreign courts where they can be easily obtained. The issue is not a new one but of great immediacy in India as the law on it is not yet satisfactorily developed and India is not part of the international conventions on it, We the Hague Conventions.

Not too many cases reach the court but , the ones that do reveal only the tip of the iceberg.

One of the moot vital issues involved was the question of domicile as on it hinged where the suit for divorce could be filed. Indian Courts followed the old English Law according to which the domicile of the wife followed that of the husband although she may not have lived with him there even for a day. It caused great hardship as it enabled the husband to file a suit for divorce in a foreign country while the wife was left in India as legally her domicile was seen to be the same as the husband's. The Supreme Court of India relieved the women of this tyranny of this fiction as late as 1991 in 4. Narasimha Rao and others Vs. Y. Venkatalakshmi & Anr. (1991) S. Supreme Court Cases, 451. The term "limping marriage" was used by the Goa High Court in Pires Vs. Pires AIR 1967, Goa, Daman and Diu, 113. for situations where a couple was considered married in one country and divorced in another. In this case the court tried to lay down certain principles of Private International Law to be applicable in India as it interpreted S. 13 of the Civil Procedure Code (CPC) 1908.

The facts of Pires Vs. Pires were as follows :

A divorce decree was secured by the husband from the High Court of Uganda against his wife living in Goa with respect of his Roman Catholic marriage solemnized in Goa. The record shows that the divorce was sought and secured on the ground that the wife Joequina had been living in adultery. Joequina opposed the prayer for confirmation of the decree based on foreign judgement on two grounds. First, she pleaded that she had not been given proper notice of the proceedings instituted against her in the High Court at Kampala and second that she and her husband Pires, being Roman Catholics and their marriage having been solemnized in a church at Goa

where the law was and continued to be that such marriages or indissoluble, the decree obtained from Kaurpala could not be recognized in India.

The Court, making some definitive statements on Private International Law, said that all countries in the world had enacted statutory provisions with regard to how and under what circumstances could foreign judgements be implemented. In India the relevant law was to be found in sections 13 and 44-A of the CPC of 1908. Broadly speaking these provisions laid down two methods of implementing foreign judgements. One was to file a suit on the basis of the foreign judgement in an Indian court and then carry out the decree made by it.. The second was the execution of the decree of the foreign court straight away by a District Court in India if there were reciprocal arrangement between India and the country in which the foreign judgement was given. According to S.13, a foreign judgement was conclusive as to any matter directly adjudicated upon between the parties with six exceptions:

S.13. A. foreign judgement shall be conclusive as to any matter thereby directly adjudicated upon between the same parties or between parties under whom they or any of them claim litigating under the same title except.

- a) Where it has not been pronounced by a court of competent jurisdiction.
- b) Where it has not been given on merits of the case:
- c) Where it appears on the face of the proceedings to be founded on an incorrect view of international law or a refusal to recognize the law of India in cases in which such law is applicable;
- d) Where the proceedings in which the judgement was obtained are opposed to natural justice;
- e) Where it has been obtained by fraud;
- f) Where it sustains a claim founded on a breach of any law in force in India.

Thus Clause (f) of S. 13 almost corresponded to clause 6 of 1102 of the Portuguese Civil Code in force at Goa that enjoined that the foreign judgement the confirmation of the foreign judgement only if it did not contain any finding prejudicial to the principles of the Portuguese Public Order. The sixth case mentioned in S.13 of

the CPC, 1908, also covered within its ambit, S.23 of the Indian Contract Act which laid down that an agreement that was opposed to public policy shall not be enforceable. The expression 'public policy' was also used in S.1102 of the Portugese code and hence in a way, the provisions of S.1102 and of S.13 of Indian CPC, were identical.

The court refused to confirm the Kampala decree on grounds that it was opposed to state policy as enshrined in the Decree of 1946 which was the result of the Treaty between the Portugese Government and the Vatican. That Decree enjoined that Rom an Catholic marriages could not be dissolved. The Decree was still law at that time despite the liberation of Goa. Hence the Kampala decree of divorce was against public policy and against the Portugese Civil Code which enshrined the principles of Portugese Public Order and hence could not be confirmed.

The court conceded that it looked odd and astonishing that a divorce decree between two parties should be valid and binding between them in one state, in this case Uganda, and not in another, that is India: However, the court said that, was not an uncommon situation. It referred to the commentary of Cheshire, who described such marriages as 'limping marriages', that is marriages regarded as valid in one country but void in another. The only way out, was to have some uniform principles of Private International Law accepted throughout the world but this was a long way off, if at all.

Clauses (a), (b), (d) and (c) of Section 13 CPC once again came up for consideration in Maganbhai Chhotubhai Patel Vs. Maniben (1985) The issues were with regard to competence of the court, merits of the case, natural justice and whether there was any fraud.

Maganbhai aggrieved by the decision of the lower court that awarded Rs. 250/- per month as maintenance to his wife with effect from 2.4.1969 filed an appeal against it in the Gujarat High Court. The wife, Maniben, also came to the High Court dissatisfied aggrieved by the paltry sum awarded to her as maintenance for herself and her two children claiming at least Rs. 1000/- per month.

The facts of the case were as follows:

Maganbhai left his wife and two minor children and went to USA for further studies in Engineering. Since then, he neither came back to India nor did he care to maintain his family, so much so that even after the wife obtained

a decree for the paltry amount Rs. 250/- per month, he did not pay her anything at all. It was also proved that he had a one-sixth share in the joint family property situated in village Malekpur, District Bulsar, where his father lived. Maganbhai's father, Chhotubhai Patel also did not make any provision for the maintenance of Maniben and her children. Consequently she suffered immense hardships. Her husband, on the other hand, resorted to every technicality of law possible and fought her through his father, as his power of attorney to stall the claim of his wife. Chhotubhai also contributed to her miseries by not giving the due share to her from the valuable properties in which the defendant had one sixth share although the maintenance had been changed by the trial Judge on these properties.

Maniben was married to Maganbhai on 3.3.1952 according to the Hindu rites and customs of their caste. After marriage both of them lived in their matrimonial home at Malekpur, Taluka Palsana, District Bulsar during which time two children were born – a son Praful on 9.8.1956 and a daughter Daksha, on 2.9.1961. At that time, the husband, Maganbhai, was studying Engineering at the Engineering College at Baroda. It appears that after completing his course, he proceeded to USA for three years in Engineering school. While going to USA, Maganbhai had promised his wife that he would return to India at the end of three years or call all of them to USA. However, after settling down in USA, he seems to have lost interest in his wife and wrote a letter to his wife's father on 6.12.1966 demanding a divorce. He also threatened that in case his demand was not acceded to, he would obtain a divorce through US courts and would not give anything at all to his wife. His children would also lose their rights on him and on any of his properties. He further stated that he had become a citizen of US and so would be able to marry again.

However, Maganbhai's wife did not cave in to the pressure. But since she was not educated enough to get a job, she was completely at the mercy of her father. Finally she received a letter from him on 4.10.1968 that he had gone to stay in Mexico where he had obtained a decree of divorce against her through a Mexican court. Also, the court had also given him permission to remarry whenever he liked and that within a week she would get information of his marriage. He further said that she would not receive anything from him but that he was prepared to call the children to USA on 22.3.1972 Maniben got a letter from the Department of Justice, New Jersey, which stated that Maganbhai Patel had filed a petition

for naturalization and the Department wanted to confirm whether he had provided support for his wife and children as required by the divorce decree.

After the receipt of this letter, the wife lost all hope that her husband would return or that he would make arrangements for her and her children. Hence, she filed a suit of Rs. 1000/- per month for maintenance. Maniben made four points. One was that the decree passed by the Mexican Court was nothing but a collusive mail order divorce and hence could not be recognized in India. The second was that the husband was a resident of India or alternatively of USA and the Mexican Court which passed the decree had no jurisdiction to do so. The third was that the decree of the Mexican Court was nothing but a fraud upon the court and was also a violation of the principles of natural justice. It was, therefore, liable to challenge on all the grounds mentioned in S.13 of the Civil Procedure Code. The fourth was that the trial court had erred in awarding a maintenance of only Rs. 250/- per month as the settled legal position was that the wife was entitled to one half of the earnings of the husband. Since demand was very low, the court should have decreed her entire claim. In response, the husband raised two issues. One was that it was incorrect to say that the decree of the Mexican court was not binding on the wife. The second was that Rs. 250/- per month fixed by the trial court was excessive.

As stated earlier, the whole turned on the interpretation of S.13 of CPC.

The copy of the judgement showed that the wife had not been served the summons personally but only through the official gazette of the state of Mexico. Also, the judgement did not state for how long had the husband been domiciled in Mexico. Apparently, it seems to have been enough for him to produce a certificate of his residence for the Mexican court to assume jurisdiction.

In deciding the case, the court relied on the earlier landmark case of *Smt. Satya vs. Teja Singh*, AIR 1975 SC 105 in which Satya was married to Teja Singh according to Hindu rites. Both were citizens of India and domiciled in India at the time of their marriage. Two children were born to them and in 1959, Teja Singh went to USA for higher studies in Forestry in which he obtained a

Doctorate. After becoming affluent he did not return to India but filed a petition for divorce in the court of the State of Nevada in USA which was granted to him. Thereafter his wife filed a suit for maintenance in the Jullunder Court. Tejasingh resisted the suit contending that because of the divorce decree of divorce obtained by him in the Nevada court, Satya ceased to be his wife and hence was not entitled to maintenance from him. The trial court allowed the wife's suit and ordered the husband to pay her maintenance. The matter then went to the High Court of Punjab and Haryana which applied the old English rule that during marriage, the domicile of the wife followed that of the husband without exception. Thus, according to the High Court, since both Teja Singh and his wife would be considered as domiciled in Nevada, and hence the divorce decree of the Nevada Court was valid. The matter was then carried to the Supreme Court which observed:

"The answer to the question as regards the recognition to be accorded to the Nevada decree must depend principally on the rules of our Private International Law. It is well recognized principle that 'private international law is not the same in all countries'. There is no system of private international law which can claim universal recognition... .. It is implicit in that process that the foreign law must not offend against our public policy".

It went on to say: "We cannot therefore adopt mechanically the rules of Private International Law evolved by other countries. These Principles vary greatly and are moulded by the distinctive social, political and economic conditions obtained in these countries".

After discussing the various cases in respect of the decrees that were being obtained in Mexico, and which had a bearing on the case, the Supreme Court further observed:

"In determining whether a divorce decree will be recognized in another jurisdiction as a matter of comity, public policy and morals may be considered. No country is bound by another country to give effect to its courts to divorce laws of another country which are repugnant to its own laws and public policy. Thus, where a 'mail-order divorce' granted by a Mexican Court was not based on jurisdictional finding of domicile, the decree was held to have no effect in New Jersey State vs. *Nijjar* 2 NJ 3208. American Courts generally abhor the collusive Mexican mail-order divorce and refuse to recognize them, *Langner V. Langner* 39 NYS 2d. 918. Mail-order divorces are obtained by correspondence by a spouse not domiciled in Mexico. Recognition is denied to such decrees as a matter of public policy".

Hence, even American states have refused to recognize divorces obtained in Mexican Courts which were more notorious than those of Reno, Nevada. The Supreme Court as also observed that Mexican Courts granted divorces to all and sundry whatever be their nationality or domicile. The judgement neither stated that the husband was a domicile of Mexico State or that he had an intention to continue his residence there. It appears that even after a short stay in a hotel in Mexico, a certificate may be granted and such a certificate of residence might be granted and a divorce obtained on it.

Teja Singh was not found to be that he was not a bonafide resident of Nevada, much less domiciled there. The Supreme Court observed:

thus, from 1960 to 1964 the respondent was living in Utah and since 1965 he has been in Canada. It requires no great persuasion to hold that the respondent went to Nevada as a bird-of-passage, resorted to the Court there solely to found jurisdiction and procured a decree of divorce on a misrepresentation that he was domiciled in Nevada. True, that the concept of domicile is not uniform throughout the world and just as long residence does not by itself establish domicile, brief residence may not negate it. But residence for a particular purpose fails to answer the qualitative test for the purpose being accomplished the residence would cease. The residence must answer 'a qualitative as well as quantitative test', that is, the two elements of factum at animus must concur. The respondent went to Nevada forum-hunting, found a convenient jurisdiction which would easily purvey a divorce to him and left it even before the ink on his domiciliary assertion was dry. Thus, the decree of the Nevada Court lacks jurisdiction. It can receive no recognition in our Courts.

In the case of Maganbhai, there was no dispute that he was a domicile of India. Then he stayed in USA and hence was domiciled there. But nowhere did it state or prove that he was ever domiciled in Mexico. Domicile was a jurisdictional fact and hence if it could not be proved, the court of that region would not have the jurisdiction and its decree would not be accepted as valid. Therefore, Maganbhai had obtained the decree by fraud.

Hence, the Court did not recognize the Nevada decree of divorce.

Also, the judgement had not obviously not been given on the merits of the case. The husband appeared before the Mexican court only once at the time of filing of the petition. The summons

were not delivered to the wife but only published in the official gazette and this could not be considered proper service. Only the husband's counsel appeared before the Court and read the submissions. The husband neither deposed before the court nor gave any evidence. The wife, too, neither appeared before the Mexican Court nor submitted to its procedure. The decree for divorce was passed against her without recording any evidence after the alleged publication of the service in the official gazette. She also submitted no defence. This was against natural justice. The Court, after examining the income of the husband, granted Rs. 1000/- per month as maintenance and ordered the husband to also pay arrears together with interest at the rate of 6% per annum.

These issues once again came up in Y. Narasimha Rao and others vs. Y. Venkatalakshmi and Anr. (1991) 3 Supreme Court cases, 451. Narasimha Rao and Venkatalakshmi were married at Tirupati on February 27, 1975 and they separated in July 1978. The appellant Narasimha Rao filed an application for dissolution of marriage in 1978 in the sub court of Tirupati averring that he was a resident of New Orleans, Louisiana, USA and that he was a citizen of India. Meanwhile he filed another application of dissolution of marriage in the Circuit Court of St. Louis, Missouri, USA. In the petition he, besides alleging that he had been a resident of the State of Missouri for ninety days or more immediately preceding the filing of the petition, stated that his wife Venkatalakshmi had deserted him for one year or more by refusing to continue to live with him in the United States and particularly in the State of Missouri. However, from the averments made in the petition at the Sub Court of Tirupati, Narasimha Rao and Venkatalakshmi had last resided together at New Orleans, Louisiana and never in the State of Missouri. Venkatalakshmi filed a reply in the Missouri Court without prejudice to the contention that she was not submitting to the jurisdiction of the foreign court. The Court in the State of Missouri assumed jurisdiction on the ground that Narasimha Rao had been resident in the state of Missouri, ninety days before commencing action in the court. The Missouri Court passed a decree for the dissolution of marriage on February 19, 1980 in the absence of Venkatalakshmi only on the ground that the marriage was 'irretrievably broken'. The petition at Tirupati

was dismissed as Narasimha Rao did not pursue it. But he remarried and Venkatalakshmi filed a criminal complaint against him and his new wife for the offence of bigamy. They, however, argued for their discharge in view of the decree for the dissolution of marriage passed by the Missouri Court. The Magistrate discharged Narasimha Rao and his second wife on grounds that there was no prima facie case against them. But on revision, the High Court set aside the order of the Sub Court holding that a photostat copy of the Missouri decree was not admissible evidence.

Under the provisions of the Hindu Marriage Act, 1955, only that district court had jurisdiction within whose local limits civil – (i) the marriage was solemnized, or (ii) the respondent, at the time of the presentation of the petition resided, or (iii) the parties to the marriage last resided together, or (iv) the petition or was residing at the time of the presentation of the petition, in a case where the respondent was, at the time, residing outside the territories to which the Act extended, or had not been heard of as being alive for seven years or more by those persons who would naturally have heard of him if he were alive. Therefore, the Missouri Court had no jurisdiction to entertain the petition according to the Act under the Hindu Marriages Act which the parties were married. Further, irretrievable breakdown of marriage was not a ground recognized under the Hindu Marriages Act for dissolution of marriage and therefore, a decree on that ground could not be accepted as valid under S. 13 of the CPC.

Further, the decree could not be sustained because it had not been pronounced by a court of competent jurisdiction. Narasimha Rao had stated that he was a resident of Missouri State when records showed that he was only a bird of passage there and was ordinarily a resident of the State of Louisiana. He had, if at all, only technically satisfied the requirement of residence of ninety days with the sole purpose of obtaining the divorce. Relying on *Smt. Satya Vs. Teja Singh* (1975) 1 SCC 120, the Supreme Court said that it was possible to dismiss this case on the narrow ground that Narasimha Rao had played a fraud on the foreign court by representing to it incorrect jurisdictional facts. It had already been held in *Smt. Satya vs. Teja Singh* that residence did not mean a temporary residence or that which was intended to be permanent for future as well.

However, the Supreme Court did not dispose of this case on this ground alone as it said that there was nothing to show that the Missouri Court could not assume jurisdiction on the basis of a mere temporary residence. But it wanted to address itself to the larger question whether even in such cases, should the courts of India should recognize the foreign divorce decrees. It recognized that the rules of Private International Law were not codified in India but lay scattered in different enactments like the Civil Procedure Code, the Contract Act, the Indian Succession Act, The Indian Divorce Act, the Special Marriage Act and others. Some rules had evolved through judicial decisions. The problem in cases involving matrimonial disputes, custody of children, adoption, testamentary and intestate succession and others was compounded because they were governed by personal laws which were different for different sections of society and hence no uniform rules could be laid down for all the citizens.

The court said that other countries and legal systems distinguished between matters that concerned personal and family affairs from those dealing with commercial relationships, civil wrongs and other such matters. The law in the former area tends to be primarily determined and influenced by social, moral and religious considerations, and public policy played a special and important role in shaping it. Hence, in almost all the countries the jurisdictional, procedural and substantive rules which are applied to disputes arising in this area are significantly different from those applied to claims in other areas. This was because country could afford to sacrifice its internal unity, stability and tranquility for the sake of uniformity of rules and comity of nations that were important and appropriate to facilitate international trade, commerce, industry, communication, transport, exchange of services, technology, and other such areas. This had been recognized both by the Hague Convention of 1968 on the "Recognition of Divorce and Legal Separations as well as by the Judgments Convention of the European Community of the same year. Article 10 of the Hague Convention expressly provided that the contracting States might refuse to recognize a divorce or legal separation if it was incompatible with their public policy. The Judgments Convention of the European Community also expressly excludes from its scope

- (a) status or legal capacity of natural persons,
- (b) rights in property arising out of a matrimonial relationship
- (c) wills and succession
- (d) social security and
- (e) bankruptcy.

A separate convention was contemplated for the last of the subjects.

The courts in India had so far tried to follow the English rules of Private International Law in these matters whether they were common law rules or statutory rules. This dependence on English Law had however, often been regretted, but nothing much had been done to remedy the situation. The Law Commission in its 65th Report had made some recommendations on this subject in since April 1976 but nothing much had happened. Even the British were circumspect and hesitant to apply their rules of law in such matters during their governance of this country and had left the family law to be governed by the customary rules of the different communities. It is only where there was a void that they had stepped in by enactments such as the Special Marriage Act, Indian Divorce Act, Indian Succession Act and others. The legislature of independent India had enacted rules of Private International Law in this area and in their absence the court had been forced to fall back upon precedents taken from English rules. Even here there was no uniform in practice resulting in conflicting decisions.

However, the court emphasized there was a great need for definitive rules for recognition of foreign judgements in personal and family matters and particularly in matrimonial disputes. Men and women with different personal laws had migrated and were migrating to different countries either to live their permanently for temporary residence. Similarly nationals of other countries were also migrating. Increased communication and transportation had made it easier for individuals to hop from one country to another. It was also not unusual to come across people marrying foreign nationals either in India country or abroad or having married here, either both or one of them migrating to other countries. There were also cases where parties have married here were either domiciled or residing separately in different foreign

countries. This migration, temporary or permanent, had been giving rise to various kinds of matrimonial disputes destroying the family and its peace. A large number of foreign decrees in matrimonial matters was becoming the order of the day. A time had, therefore, come when the court felt to ensure certainty in the recognition of foreign judgements in these matters. The court then proceeded to lay down minimum rules of guidance to secure this through the interpretation of present statutory provisions, particularly S.13 of the CPC.

Clause (a) of Section 13 stated that a foreign judgement shall not be recognized if it has not been pronounced by a court of competent jurisdiction. Such a court could only be one which the Act or the law under which the parties were married recognized as competent to entertain the matrimonial dispute. Any other court should be held to be a court without jurisdiction unless both parties voluntarily and unconditionally subjected themselves to it. The expression "competent court" in Section 41 of the Indian Evidence Act had also to be similarly construed.

Clause (b) of Section 13 stated that if a foreign judgement was not given on the merit of the case, the Indian courts will not recognize it. This clause should be interpreted to mean (a) that the decision of the foreign court should be on a ground available under the law under which the parties were married, and (b) that the decision should be a result of a contest between the parties. The latter requirement was fulfilled only when the respondent was duly served and voluntarily and unconditionally submitted himself/herself to the jurisdiction of the court, contested the claim, or agreed to the passing of the decree with or without appearance. A mere filing of the reply to the claim under protest and without submitting to the jurisdiction of the court, or an appearance in it, either in person or through a representative for objecting to the jurisdiction of the Court, should not be considered as a decision on the merit of the case.

Section 13 © required that the Indian courts would not recognize a foreign judgement if it had been obtained by fraud. However, in view of the decision of the Supreme Court in *Smt. Satya vs. Teja Singh* the fraud need not be only in relation to the merits of the matter but may also be in relation to jurisdictional facts.

The second part of clause © of Section 13 stated that where the judgement was founded on a refusal to recognize the law of this country where it was applicable, the judgement would not be recognized by the Indian courts. The marriages which took place in India could only be under either the customary or the statutory law in force here. Hence, the only law that could be applicable to the matrimonial disputes was the one under which the parties were married. When therefore, a foreign judgement was founded on a jurisdiction or on a ground not recognized by such a law, it could not be treated as conclusive of the matters adjudicated under it and was therefore, unenforceable in India. For the same reason, such a judgement would also be unenforceable under clause (f) of Section 13, as it would obviously be in breach of the matrimonial law in force in this country.

Clause (d) of Section 13 made a foreign judgement unenforceable on the ground found that the proceedings in which it was obtained were opposed to natural justice. This was an elementary principle on which any civilized system of justice rested. However, in matters concerning the family law such as matrimonial disputes, it had to mean something more than mere compliance with the technical rules of procedures. In proceedings in a foreign court it was not enough that the respondent had been duly served with the process of the court. It was also necessary to ascertain whether the respondent was in a position to present or represent himself/herself and contest the case effectively. This requirement should apply equally to the appellate proceedings if and when they were filed by either party. If the foreign court had not ascertained and ensured such effective contest by requiring the petitioner to make all necessary provisions for the respondent to defend including the costs of travel, residence and litigation where necessary, it should be held that the proceedings were in breach of the principles of natural justice. This jurisdictional principle was also recognized by the Judgments Convention of the European Community. If, therefore, the Indian courts also insisted as a matter of rule that a foreign matrimonial judgement would be recognized only if it was of the forum where the respondent was domiciled or habitually and permanently resided, would the provisions of clause (d) be satisfied.

From this discussion the Court deduced the following rule for recognizing a foreign matrimonial judgement in India. The jurisdiction assumed by the foreign court as well as the grounds on which the relief was granted must be in accordance with the matrimonial law under which the parties were married. The exceptions to this rule might be as follows : (i) where the matrimonial action was filed in the forum where the respondent was domiciled or habitually and permanently resided and the relief was granted on a ground available in the matrimonial law under which the parties were married ; (ii) where the respondent voluntarily and effectively submitted to the jurisdiction of the forum and contested the claim based on a ground available under the matrimonial law under which the parties were married; (iii) where the respondent consented to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties.

The most important thing that the court attempted to do by clarifying the law was to give protection to women, the most vulnerable section of society to whatever strata they might belong. The court freed them from the bondage of the tyrannical and servile rule that the wife's domicile followed that of her husband and that it was the husband's domiciliary law that determined the jurisdiction and judged the merits of each case.

The exploitation of women married to men of Indian origin abroad came once again to light in 1994 in *Smt. Neeraja Sarpah Vs. Shri Jayant V. Sarpah and Amt.* (JT 1994, 6 S.C. 488) and the court once again tried to provide some safeguards for the woman as she was the more vulnerable party in a marriage. Neeraja Sarpah, an educated young lady with an M.A. and a B.Ed. degree to her credit, daughter of a senior Air Force Officer, employed as a teacher drawing a salary of three thousand rupees per month was married to Jayant Sarpah, a Doctor in Computer Hardware and employed in the United States. The marriage was performed with great gusto on 6.8.1989 and Neeraja was to join him after giving up her job. She ultimately resigned in November, 1989. Thereupon Jayant refused to have anything to do with her. In June 1990, Jayant's brother came to India carrying two letters. One was a petition for annulment of marriage in a US Court and the other was a letter

from Jayant's father expressing regret for what had happened. However there was no offer of compensation for the wrong done to Neeraja. Neeraja sued Jayant in forma pauperis and the suit was decreed in her favour for about twenty two lakh rupees or two million two hundred thousand rupees. Jayant filed an appeal against this in the High Court. The High Court stayed the implementation of the decree and, subject to Jayant depositing a sum of rupees one lakh or one hundred thousand rupees within one month of the order, permitted Neeraja to withdraw 50% of it; Jayant's father expressed his financial helplessness which prompted Neeraja to appeal to the Supreme Court.

The Supreme Court rightly pointed out that in cases like this "It is not the soothing words alone" which are "needed but some practical solution to the disaster." The Court ordered Jayant to immediately deposit a sum of rupees three lakhs or three hundred thousand rupees with the Registrar of the concerned High Court from which Neeraja would be entitled to withdraw rupees one lakh or one hundred thousand rupees without any security. The remaining rupees two lakhs or two hundred thousand rupees were to be deposited in a nationalized bank in a fixed deposit. The interest accruing on it was to be paid to Neeraja every month pending final decision of the High Court on the appeal against the initial money decree. The Supreme Court also stated that in case the proceedings were not decided within a reasonable time Neeraja would have the option to move an application for withdrawal of any further amount.

The Supreme Court opined that this was a problem pertaining to Private International Law and not easy to resolve but with change in social structure and rise of marriages with NRIs the Union of India may consider enacting a law like the Foreign Judgements (Reciprocal Enforcement) Act, 1933 enacted by the British Parliament under Section (1) in pursuance of which the Government of United Kingdom issued Reciprocal Enforcement of Judgement (India) Order, 1958. Apart from it there are other enactments such as the Indian and Colonial Divorce Jurisdiction Act, 1940 which safeguard the interests so far as the United Kingdom is concerned. But the rule of domicile replacing the nationality rule in most of the countries for assumption of

jurisdiction and granting relief in matrimonial matters has resulted in conflict of laws.

The Supreme Court suggested certain provisions which could be incorporated in a legislation safeguarding the interests of women:

- (1) no marriage between a NRI and an Indian woman which has taken place in India may be annulled by a foreign court.
- (2) Provision may be made for adequate alimony to the wife in the property of the husband in India and abroad.
- (3) The decree granted by Indian Courts may be made executable in foreign courts both on principle of comity and by entering into reciprocal agreements like Section 44-A of the Civil Procedure Code which makes a foreign decree executable as it would have been a decree passed by the court.

The latest case is that of *Vikas Aggarwal Vs. Anubha* (JT 2002 (4) SC 78) where the focus was on S.151 and Or.10 of the Civil Procedure Code. Vikas Aggarwal filed an appeal in the Supreme Court against the judgement and order of the Delhi High Court 18.10.2002 dismissing the appeal challenging the order by which the appellant's defence was struck off in the suit pending in the Delhi High Court.

The appellant Vikas Aggarwal and the respondent Anubha were married on 11.5.1999 after which they went to USA. They obviously did not manage to get along as Vikas filed a divorce petition in America as early as on 22.7.1999. The notice of these proceedings was served on the respondent Anubha. She, however, left America and managed to come back to India; she filed a suit on 6.9.1999 in the Delhi High Court for maintenance and expenses pendente lite. The Delhi High Court passed an interim order on 5.11.1999 as follows.

For the present in the interest of justice and since no permanent prejudice is likely to be caused to the defendant if the hearing in divorce case pending in the superior court, State of Connecticut, USA is deferred for a short period, I restrain the defendant from proceeding further in the superior court, State of Connecticut, USA for a period of thirty days from today.



The appellant Vikas, however, moved for a recall of the order on 12.11.1999 but the court was later informed on 16.12.1999 that the decree for divorce had been passed at Connecticut, USA. The learned single judge passed an order on 9.3.2000 directing the defendant to appear in person under Order 10 CPC. The defendant preferred an appeal against the order of 9.3.2000 before the division bench which was withdrawn with a statement that an application would be moved before the learned single judge for recall of the order. Ultimately by the order dated 24.8.2000, the court struck off the defence of the appellant, Vikas stating: "It is quite clear that despite several opportunities granted to the defendant to appear before this court, he has resolutely refused to do so. The defence of defendant is therefore, struck off."

An appeal in front of the division bench of the High Court against this order was also dismissed. Against that dismissal, the appellant Vikas appealed to the Supreme Court. The Delhi High Court wanted clarification from Vikas when it came to its notice that the court in America had passed the decree of divorce despite the order of restraint passed on 5.11.1999. The court doubted whether its order had been truly communicated to the American court. Vikas, in spite of several efforts of the court, did not appear before it. Instead his attorney stated that the Delhi High Court's order had been brought to the notice of the American court but the American court had refused to enforce the restraint as the Indian court had no jurisdiction over the American court. However, the Supreme Court pointed out, the restraint was not on the American Court but on Vikas. Since he had failed to comply with it, he had been ordered to appear in person. His failure to do that as well resulted in his defence being struck off.

*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 43-67

## **Financial Administration and Public Finance in the Arthashastra**

**SANJEEV KUMAR SHARMA**

### **Introduction**

Kautilya is considered the greatest political scientist, India has ever produced and because of this pre-eminence of occupying the highest place among the thinkers and writers of Political Science in Ancient India, he is generally looked at with great respect for his excellent work of statecraft and political wisdom, entitled as *Arthashastra*. This single treatise (*Arthashastra*) on the science of politics has been prepared mostly by bringing together the teachings of as many treatises on the science of politics as have been composed by ancient teachers for the acquisition and protection of the earth.

The monumental treatise is predominantly a work on public administration. There are other views also, particularly from Marxist Scholars like RS Sharma. On the one hand Sharma opines that on the basis of its contents 'the

*Arthashastra* of Kautilya cannot be regarded as a text book of political science in the modern sense of the terms. It is not exactly of the same types as the Republic of Plato or the Politics of Aristotle.<sup>1</sup> On the other hand in the immediately next paragraph he concludes that 'the *Arthashastra* is not only a treatise on the science of wealth as its name indicates but also a treatise on political science called *Dandaniti*.' This contradiction is reflected in Sharma's arguments elsewhere also. Again, any ordinary scholar of ancient Indian society or politics or history would agree that *Arthashastra* in ancient India did not at all mean the science of wealth what to talk of a renowned scholar like him. Some more confusion is manifested in his narrative when he argues that because 'Kautilya quotes from five schools and thirteen individual writers which shows that this branch was quite well established in his time. Some of these authors are also mentioned in the *Shanti Parva*.<sup>2</sup> At the same time, only after a couple of pages, Sharma argues that 'despite considerable theorizing in regards to rituals in later *Vedic* collection and the *Brahmanas* we neither find any definition of the state either in this literature nor in the early law-books the *Dharmasutras*'<sup>3</sup>

But few things about Kautilya and his path-breaking work may be undisputed. As Altekar comments that his reading, reference and contextualization of the earlier works in the field of systematic study of politics and administration besides presenting their views in contemporary perspective with necessary analysis and presentation of his own views often being different and distinct, make him peculiar. His faith in realism and readiness to face the mundane problems in the most practical way also make him special. His essential independence and emphatic inclination for a strong, centralized and all-powerful state administration coupled with necessary limitations of general welfare make him a philosopher par excellence. 'Whatever its age, the *Arthashastra* gives very detailed instructions on the control of the state, the organization of the national economy and the conduct of war, and it is a most precious source-book for many aspects of ancient Indian life.'<sup>4</sup>

Kautilya, in his *Arthashastra* at numerous places, makes mention of and discusses the various views of different other scholars of the science of polity such as Vishalaksha, Bahudantiputra, Brihaspati, Sukra, Manu, Bharadwaj, Gaurshira, Parasar, Pishuna, Kaunpadanta, Vatavyadhi, Ghotamukha, Katyayana, Charayana, etc.<sup>5</sup> According to RS Sharma, it is a pity that the works of the predecessors of Kautilya have not been discovered so far, and the few fragments attributed to them by Kautilya are too inadequate to form a clear picture of political beliefs of pre-Kautilyan times.<sup>6</sup>

Mehta finds the *Arthashastra* more of a treatise on administration than on politics and statecraft. He claims that administrative principles are discussed with such insight as to make us wonder whether there has been any real progress in the science of administration since then.<sup>7</sup> R.S. Sharma argues that the growth of a state apparatus was closely connected with the increasing supply of various taxes.<sup>8</sup> The ancient Indian political thinkers had very well realized that any stable and prosperous state essentially requires sound finances, sufficient reserve funds and abundant treasury. Altekar underlines that they understood the proposition that any deterioration in this connection would be one of the most serious national calamities. The sources of state finance were as many as should be devised by human ingenuity. The state also regulated trade, commerce, manufacture, labour, etc.

*Arthashastra*, according to Altekar, discusses the old topics with a remarkable thoughtfulness, referring to the views of the earlier writers and advancing its own theories. The *Arthashastra* is more a manual for the administrator than a theoretical work on polity discussing the philosophy and fundamental principles of administration or the Political Science. It is mainly concerned with the practical problems of government and describes its machinery and functions both in peace and war, with an exhaustiveness not seen in any later work, with the possible exception of Sukraniti. According to him ancient Indian theory of taxation was based on humanitarian considerations and on principles universally recognized as sound, applicable as much in

modern as in ancient times.<sup>11</sup> The *Arthashastra* of Kautilya opens a new chapter in this history of Indian finance as it does in many other aspects of the public life of the people. In it, we have the most comprehensive, and probably the world's most ancient theory of public finance. Since Kautilya thought of both peace and war economy, we find in his work a clear distinction between what may be called public finance designed for peace time and the public finance designed for war time. Both these two types of finance were governed by the same major principles the welfare of a strong and powerful state.<sup>12</sup>

In cases of meeting unforeseen calamities or financing public utility works involving high investments or the planning to execute ambitious expansion schemes, the state was considered to be within its power limits to levy extra taxes on the populace apart from regular taxes levied by the state for different purposes. There can be no doubt that the above principles will be universally recognized as sound, applicable as much in modern as in ancient times. Taxation and revenue collection comprise one of the most significant and important aspects of any system of administration and governance. The basic structures of taxes ultimately providing for revenue collection for the state machinery are the basis of state functioning. The plans of societal development and overall progress of the state could be materialized only when the condition of public finances is conducive to the state efforts in this direction. Obviously the treasury (*Kosha*) had been given much importance amongst the seven constituents (*parakratis*) of the state. Kautilya differs from earlier scholars of *Arthashastra* and gives *Kosha* (treasury) more importance than even the *Danda* (army) and explains that the *Danda* (army) could be raised and maintained only when there is a well-filled *Kosha* (treasury). *Kosha* also helps in the pursuit of *Dharma* and *Kama*.<sup>14</sup>

The ancient Indian political thinking has always considered the issue of public finance to be of prime importance and this is why *Arthashastra* of Kautilya provides for a detailed description of the ways and means of creating an abundant treasury (*Kosha*) which is the inseparable part of

the seven organs of state machinery (*Saptanga*). Kautilya discusses the methods of revenue collection along with describing the modes of taxation with specification of levying normal and additional taxes in different conditions and on different categories of citizenry. The importance of *Arthashastra* lies in the fact that it gives a clear methodical analysis of economic and political thought current at that time and more than that, its application to existing conditions.<sup>16</sup> Commenting on the classification of income and expenditure sources, Ghosal opines that 'the truth is that the classification is not that of a scientific theorist, but that of a practical administrator. The various groups under which the revenue items are arranged, it will be noticed, refer to convenient jurisdictions or centres of collection. The technical sense in which the separate items are used like-wise points to this nature of classification.'<sup>17</sup>

The present chapter tries to explain the nature and structure of taxation and revenue collection as narrated by Kautilya in his monumental classic *Arthashastra* with a perspective of public finance in ancient India. Undoubtedly the general policy of *Arthashastra* and that of the *Mauryan* state were very similar and the administrative system of the *Mauryas* was largely inspired by the ideas in the *Arthashastra*. Economic organization on such a detailed scale was a new feature in the politico-economic system of the country.<sup>18</sup> "Kautilya devotes a large part of his work to a description of finance and the financial administration, town planning and fortifications and the organization of a vast bureaucracy with thirty *Adhyakshas* who constitute as the head of a highly complicated hierarchy of departments controlling the entire social, economic and religious activities of the people, and crowned at the top by *Swamin*."<sup>19</sup> In the largest chapter of *Arthashastra*, Kautilya enumerates the heads of the departments of the state and prescribes the rules and regulations on their activities, functions and duties.

The second chapter of *Arthashastra* termed the *Adyaksha-Prachara* mentions various senior level officers and chiefs of different departments. The list is as follows:-

1. *Sannidhatri*- Director of Stores- In-charge of treasury, warehouse, magazine, store for forest produce, armoury,

- and peculiarly enough, he had to provide himself with a prison house, possibly because he employed convict labour.
2. *Samahartri*- Revenue Administrator- In charge of fort, the country, mines irrigation works, forests, herds and trade routes (for collection of customs and tolls).
  3. *Akshapataladhyaksha*- Chief of Account and Records- In charge to maintain large variety of specified records as well as to prepare revenue estimates, actual revenue receipts and to maintain accounts for outstanding revenue income and expenditure accounts, balance, etc.
  4. *Koshadhyaksha*- Treasurer -In charge to receive jewels and articles of value, as well as forest products like sandal aloe or incense, skins, woollens and various kinds of fabric.
  5. *Akaradhyaksha*- Director of Mines
  6. *Lohadhyaksha*- Director of Metals
  7. *Lakshanadhyaksha*- Mint Master
  8. *Rupadarashaka*- Examiner of Coins
  9. *Khanyadhyaksha*- Superintendent of Mines- For gems and of conch shell products
  10. *Lavanadhyaksha*- Salt Commissioner
  11. *Suvarnadhyaksha*- Superintendent of Gold Workshop
  12. *Koshthagaradhyaksha*- Superintendent of Magazine
  13. *Panyadhyaksha*- Director of Trade
  14. *Kupyadhyaksha*- Director of Forest Products
  15. *Ayudhgaradhyaksha*- Superintendent of Armoury
  16. *Pautavadhyaksha*- Superintendent of Weights and Standards
  17. *Manadhyaksha*- Superintendent of Land and Time Measurement
  18. *Shulkadhyaksha*- Collector of Customs and Tolls
  19. *Sutradhyaksha*- Superintendent of Yarns and Textiles
  20. *Stadhyaksha*- Directors of Agriculture
  21. *Suradhyaksha*- Excise Commissioners
  22. *Ganikadhyaksha*- Superintendent of Courtesans and Brothels

23. *Sunadhyaksha*- Supervisor of Animal Slaughter
24. *Nauvadhyaksha*- Controller of Shipping
25. *Godhyaksha*- Superintendent of Cattle
26. *Ashwadhyaksha*- Superintendent of Horses
27. *Hastadhyaksha*- Superintendent of Elephants
28. *Rathadhyaksha*- Superintendent of Chariots
29. *Patyadhyaksha*- Commander of Infantry
30. *Mudradhyaksha*- Superintendent of Passports
31. *Viveetadhyaksha*- Superintendent of Pasture Lands
32. *Nagarika*- City Superintendent

Kautilya's scheme of arranging departments and allocations of duties may be said to be his permanent contribution to ancient Indian administration.<sup>20</sup> Prosperous treasury and ample reserve funds were considered to be the essential element of the state by ancient India thinkers keeping in view the absolute necessity of sound finances for smooth and proper functioning of any state as any kind of deterioration in financial condition of the state would prove to be 'one of the most serious calamity'. 'All ancient Indian authorities on statecraft stress the importance of a full treasury for successful government and India had evolved a regular system of taxation before the Mauryan period'.<sup>21</sup> Altekar propounds that the taxation in ancient India was "to be reasonable and equitable. The king was never to forget that nothing exposed him to greater hatred than oppressive taxation. The criterion of equitable taxation was that the state on the one side and the agriculturist or the trader on the other should both feel that they have got a fair and reasonable return for their labours; in the case of trade and industry, the taxation was to be on net profits and not on gross earnings; an article was to be taxed only once and not twice; if increase in taxation becomes inevitable it should be gradual and not sudden and steep; and, extra taxation was to be imposed only in times of national calamity after taking comprehensive steps to explain the situation to the people with a view to ensure a willing response. The king was never to forget that if it was only an exceptional remedy to be adopted when there was no other alternative."<sup>22</sup> In our old economic theory the reorganization of the moral, political and

economic necessity for taxation goes side by side with the perception of the importance of financial self sufficiency.<sup>23</sup> It may even be claimed for the old Indian state that it anticipated and avoided some of the difficulties with which a modern state is often faced, because of the difference in their outlook.<sup>24</sup>

The management of finance, therefore, is crucial and inescapable for administration, and this was realized by the author of Arthasastra. As a matter of fact, financial operations affected the very structure of Kautilyan government and the nature and scope of its policies. The finance in planning was the life-breath of the state, was acknowledged by Kautilya much as it is accepted by the modern state. Sharma argues that although Kautilya's *Arthashastra* embodies a tradition different from the *Dharmasutras*, *Smritis*, epics and *Puranas* which is religious and out and out Brahmanical yet *Arthashastra* is more practical and less influenced by religious considerations. He also finds that because of its being the earliest and basic specimen of its type this text has given rise to an enormous corpus of literature perhaps no question in ancient India has been so hotly debated as the date and authenticity of this work.<sup>26</sup> Sharma concludes that 'what is further important is that Kautilya makes a deliberate and conscious attempt to free politics from the influence of religion and morality. Indeed he goes against their principles to achieve political goals.'<sup>27</sup>

Recognizing the extraordinary significance of finance, Kautilya states that all undervalues depended on finance and that the king should look to the treasury first. He underlines that when the receipts and expenditure are properly cared for, the king will never find himself in financial and military difficulties. Modern public finance deals with the government measures. It establishes a rational relationship between national income and expenditure. The main objectives of public finance are to true the financial position of the state on a sound footing and help the state achieve its aim and ideals through financial policies. The essential role of public finance is to achieve harmony between the state revenues and expenditures. Kautilya's perspective on public finance is similar to the modern one in several respects. The *Arthashastra*

has endured the test of time and withstood the test of credibility. When a thinker demonstrates vision and foresight, it is useful to understand the elements of his thought that have present applicability. It is a treatise that encapsulates in many ways the complexity of our current world. The problems that persisted then persist in a more widespread and magnified manner in the contemporary and magnified manner in the contemporary world.<sup>28</sup> It is because of the meticulous care which Kautilya deals with questions pertaining to finance that the *Arthashastra* is also known as a treatise on applied finance. Kautilya's *Arthashastra* is not merely a theory of political economy, but it is also a treatise on applied finance, and it embodies the best teaching and the best thought of the time on public finance.<sup>29</sup>

Kautilya's treatise judging even from modern standards is an authoritative text on public finance and perhaps the only work of its kind in classical antiquity, unique, brilliant, objective and far-seeing.<sup>30</sup> This embodies sound teaching and thought on public finance and is an authoritative text on the subject even by the modern standards. Nigam comments that the economic and administrative injunctions of the great master *Kautilya* had also stood the test of time, although the *Mauryas* remained no more in power. The descriptions of Greek writers, *Smritis* and also the epigraphic records tell us the potentialities of his laws and then political utility. India, even today, can learn much from these laws and the ways of their implementation.<sup>31</sup>

It has tremendous relevance to modern times and is perhaps the only work of its kind in classical antiquity—unique, brilliant, objective and foreseeing. We are indebted to Chanakya for a detailed description of the financial system as it existed in Chandragupta's time. In the earliest portion of Indian history, the state perhaps depended for its own support on the voluntary contributions of the people. But same method of compulsory contribution must have been found necessary in India as soon as a more improved form of government had come into existence. The early tax-system, however, was a very simple one, and the evolution of a

complex system of public finance was boltless a slow and gradual process. 'The *Mauryas* followed the policy of maintaining sufficient surplus in the treasury against emergencies. The normal taxes were not considered sufficient to meet all the needs of the state and hence the state undertook and regulated numerous economic activities, which formed profitable sources of income to it. These enterprises necessitated the employment of a vast, numerous bureaucracy, consisting of the superintendents and subordinate staff in some thirty department; this further burdened the state exchequer, which had to be replenished by new sources of taxes.<sup>32</sup> By the fourth century B. C. the system of public finance had reached a very advanced stage of development, as it is evidenced by Chanakya's *Arthasastra* and the Brahmamical and Buddhist religious works.<sup>33</sup> 'In *Maurya* times, we witness an unprecedented expansion of the economic activities of the state control of agriculture, industry and trade and the levy of all varieties of taxes from the people. Evidently the state was in dire need of a great amount of surplus in kind and each which had been rendered necessary because of several factors.<sup>34</sup>

In consulting the *Arthasastra* for evidence of economic organization during the *Mauryan* period and the administration of trade and commerce, it must be remembered that the picture presented by Kautilya is that of the ideal state. The *Arthasastra* suggested general policies and described various ways in which these policies could be implemented.<sup>35</sup> 'The *Mauryas* made an important contribution to the development of rural economy by founding new settlements and rehabilitating the decaying ones by drafting surplus settlers from overpopulated areas.<sup>36</sup> What strike as most modern and corresponds to the modern system of classification of revenues and constitutes as significant and an original contribution of Kautilya to the study of public finance is his conception of tax-revenue and non tax-revenue.<sup>37</sup>

#### Tax Revenue

Under the tax revenue are placed land revenue and taxes on commerce. The tax revenue included taxes that are fixed, one

sixth of the produce, provisions paid by the people for the army, taxes paid for religious purposes, subsidies paid by vassal kings, and half-yearly taxes *Bhadrapadika* and *Vasantika*, taxes paid on the occasion of the birth of the prince, presentations of the king, marginal taxes, compensations and taxes paid on land below tanks. The taxes on commerce included customs duties on sales, taxes on trades and profession and direct taxes.

#### Non Tax Revenue

The second head of non tax revenue included produce of crown lands, sale proceeds of grains and collection of interest in kind or grain debt termed *Prayogapratyadanam*, profitable exchange of grains, barter, grains collected by special request *Pramitayakam*, grains borrowed with promise to return the same *Apamitayakam*, profits of manufacture undertaken by the state, such as beverages, extraction of oil, manufacture of sugar cane, *Sakta-karma Kshara-karma*.<sup>38</sup>

#### Revenue Collection

The Collector-General shall attend to (the collection of revenue from) forts (*durgā*), country parts (*rashtra*), mines (*khanī*), buildings and gardens (*setu*), forests (*vaṇam*), herds of cattle (*vrāja*), and roads of traffic (*vanikpathā*).

The classification of revenue collection is as follows:-

#### *Durga*

Tolls, fines, weightage and measures, the town clerk (*nagaraka*), the superintendent of coinage (*kshara*), the superintendent of seals and passports, liquor, slaughter of animals, threads, oils, ghee, sugar (*Jakshanadakyasha*), the state gold-smith (*sauvarnika*), the warehouse of merchandise, the prostitutes, gambling, building sites (*vastuka*), the corporation of artisans and handicrafts men, the superintendent of gods, and taxes collection the gates from the people (known as) Bahirikas under the head of forks (*durgā*).

#### *Rashtra*

Produce from crown lands, portion of produce payable to the government (*bhaga*), religious taxes (*balī*), taxes paid in money merchants, the superintendent of rivers, ferries, boats

and ships, towns, pasture ground, road-cess (vartane), ropes (*rajju*), and ropes to find these (*chorrajju*) come under the head of country parts.

#### Khani

Gold, silver, diamonds, gems, pearls, corals, conch shells metals (*Jouha*), salt and other minerals extracted from plains and slopes come under the head of mines (*khan*).

#### Setu

Flower gardens, fruit gardens, vegetable gardens, wet fields, and fields where crops are grown by sowing roots for seeds (i.e. sugar- cane crops, etc.) come under *Setu*.

#### Vanam

Game forests, timber forests, elephant forests are *Vanam*.<sup>44</sup>

#### Vraja

Cows, buffaloes, goats, sheep, asses, camel, horses, and mules come under the head of herds (*vraja*).

#### Vanikpatha

Land and water ways are the roads of traffic.<sup>46</sup>

All the above stated heads form the body of income (*ayasariram*). The mouth from which income is to issue (*ayamukha*) is comprised of capital (*mula*), share (*bhaga*), premise (*vyaji*), gate- duty (*parigha*), fixed taxes, premia on coins (*rupika*) and fixed fines as several forms of revenue.<sup>47</sup>

#### Income

The receipts may be (a) current, (b) last balance, and (c) accidental (*anyojatah*= received from external sources).

- Whatever is received day after day is termed current (*vartamana*);
- What has been brought forward from year before last, whatever is in the hands of other;
- Whatever has changed hands is termed last balance (*paryushita*); and

- Whatever has been lost and forgotten (by others), fines levied from government servants, marginal revenue (*parshva*), compensation levied for any damage, presentations to the King, the property of those who have fallen victims to epidemics leaving no sons, and treasure troves –all those constitute accidental receipts.<sup>48</sup> Besides that investment of capital (*vikshepa*), the relics of a wrecked undertaking and the savings from an estimated outlay are the means check expenditure; which is also a form of income.<sup>49</sup>

In addition to that the rise in price of merchandise due to the use of different weights, and measures (attending to the difference between royal and market weights and measures) in selling is termed *Vyaji*; the enhancement of price due to bidding among the buyers is also another source of profit.<sup>50</sup>

#### Three types of works of Collector-General

He shall pay attention to the work in hand, the work accomplished, part of a work in hand, receipts, expenditure and net balance.<sup>51</sup>

#### Karniya

The business of up keeping the government (*samasthanam*), the routine works (*pracharaha*), the collection of necessaries of life, the collection and audit of all kinds of revenue –these constitute the work in hand (*karniya*).<sup>52</sup>

#### Siddham

That which has been credited to the treasury; that which has been taken by the king; that which has been spent in connection with the capital city not entered (into the register), or continued from year before last, the royal command dictated or orally intimated to be entered (into the register)- all these constitute the work accomplished (*siddham*).<sup>53</sup>

#### Sesha

Preparation of plans for profitable works, balance of fines due, demand for arrears of revenue kept in abeyance, and



examination of accounts These constitute what is called part of a work in hand (*sesha*) which may be of little or no value.

#### Expenditure

Expenditure is of two kinds – daily expenditure and profitable expenditure.

- What is continued every day is daily.
- Whatever is earned once in a paksha (fortnight), a month, or a year is termed profit.
- Whatever is spent on these two heads is termed as daily expenditure and profitable expenditure respectively.

The chanting of auspicious hymns during the workshop of gods and ancestors, and on the occasion of giving gilts, the harem, the kitchen, the armoury, the warehouse, the store house of raw materials, manufactories (*karmanta*), free labourers (*vishti*), maintenance of infantry, cavalry, chariots, and elephants, herds, of cows, the museum of beasts, deer, birds and snakes, and storage of firewood and fodder constitute the body of the expenditure (*vyayashariram*).

#### Net balance (*Nivi*)

That which remains after deducting all the expenditure already incurred and excluding all revenue to be realized is net balance (*nivi*) which may have been either just realized or brought forward. A wise Collector-General shall conduct the work of revenue-collection, increasing the income and decreasing the expenditure.

#### Superintendent of Accounts

The superintendent of accounts shall have the accountant's office constructed with its door facing either the north or the east, with seats (for clerks) kept apart and with shelves of account books well arranged.

#### Departments wise Account Books

- The number of several departments;
- The description work carried on and of the results realized in several manufactories (*karmanta*);

- The amount of profit, loss, expenditure, delayed earnings;
- The amount of vyaji (premia in kind or cash) realized;
- The status of government agency employed;
- The amount of wages paid;
- The number of free labourers (*vishti*) engaged pertaining to the investment of capital on any work;
- The gems and commodities of superior or inferior value, the rate of their price, the rate of their barter, the counter weights (*pratimana*) used in weighing them, their number, their weight and their cubical measure;
- The history of customs, professions, and the transactions of countries, villages, families, and corporations;
- The gains in the form of gifts to the king's courtiers, their title to possess and enjoy lands, remission of taxes allowed to them, and payment of provisions and salaries to them;
- The gains to the wives and sons of the king in gems, lands, prerogatives, and provisions made to remedy evil portents; and
- The treaties with, issues of ultimatum to, and payments of tribute from or to, friendly or inimical kings.

All these shall be regularly entered in prescribed registers.

#### Upkeeping and Presentation of Accounts

From these books the superintendent shall furnish the accounts as to the forms of work in hand, of work accomplished, of part of works in hand, of receipts, of expenditure, of net balance, and of tasks to be undertaken in each of the several departments.

#### Supervision

To supervise the works of high, middling and low description, superintendents with corresponding qualifications shall be employed.

### Secrecy

When the accountants of different districts present themselves with sealed books, commodities and net revenue, they shall be kept apart in one place so that cannot carry on conversation with each other. Having heard from them the totals of receipts, expenditure, and net revenue, the net amount shall be received.<sup>63</sup>

### Rewards and Punishments

By how much the superintendent of a department augments the net total of its revenue, either by increasing any one of the items of its receipts or by decreasing any one of the items of expenditure, he shall be rewarded eight times that amount.<sup>64</sup> But when it is reversed (i.e. when the net total is decreased), the award shall also be reversed (i.e. he shall be made to pay eight times the decrease).<sup>65</sup>

### Timeliness

Those accountants who do not present themselves in time, or do not produce their account books along with the net revenue, shall be fined ten times the amount due from them.<sup>66</sup>

When a superintendent of accounts does not at once proceed to receive and check the account when the clerks (*karnika*) are ready, he shall be punished with the first amercement. In the reverse case (i.e. when the clerks are not ready), the clerks shall be punished with double the first amercement.<sup>67</sup>

### Responsibility of Collection

All the ministers shall together narrate the whole of the actual accounts pertaining to each department. Whoever of these (ministers or accountants or clerks) is of undivided counsel, or keeps himself aloof, or utters falsehood, shall be punished with the highest amercement.<sup>68</sup>

### Procedural Adherence

When an officer does not facilitate, or prevents the execution of the king's order, or renders the receipts and

execution otherwise than prescribed, he shall be punished with the first amercement.<sup>69</sup>

### Upkeep of Records

Any clerk who violates or deviates from the prescribed form of writing accounts, enters what is unknown to him or makes double or treble entries shall be fined 12 panas. He who scrapes off the net total shall be doubly punished.<sup>70</sup> He who eats its up shall be fined eight times.

### Loss of Revenue

He who causes loss of revenues shall not only pay a fine equal to five times the amount lost, but also make good the loss. In case of uttering a lie, the punishment levied for theft shall be imposed. When any entry (lost or omitted) is made later or is made to appear as forgotten, but added later on recollection, the punishment shall be double the above.<sup>71</sup> The king shall forgive an offence when it is trifling, have satisfaction even when the revenue is scanty, and honour with rewards such of his superintendents as are of immense benefit to him.<sup>72</sup>

### Finance

All undertakings depend upon finance. Hence foremost attention shall be paid to the treasury.

### Financial Prosperity

Public prosperity, rewards for good conduct, capture of thieves, dispensing with (the services of too many) government servant, abundance of how best prosperity of commerce, absence of troubles and calamities, diminution of remission of taxes, and income in gold are all conducive to financial prosperity.<sup>73</sup>

### Replenishment of the Treasury

The king, who finds himself in a great financial trouble and needs money, may collect (revenue by demand). The king will have to suffer in the end if he curtails the fixed amount of expenditure on profitable works.<sup>74</sup>

### Additional Income by Taxes

In such parts of his country as depend solely upon rain for water and are rich in grain he may demand from his subjects one-third or one-fourth of their grain, according to their capacity. He shall avoid the property of forest tribes, as well as of Brahmans learned in the *Vedas* (*shortriya*).<sup>75</sup> But such demand shall be made only once and never twice. When such demands are not made, the Collector-General shall seek subscriptions (*bhikshate* beg benevolences) from citizens and country people alike under false pretences of carrying this or that kind of business. The measures of collecting additional taxes shall be taken only against the seditious and the wicked, and never against others.

### Rules of Revenue Collection

Just as fruits are gathered from a garden as often as they become ripe, so revenue shall be collected as often as it becomes ripe. Collection of revenue or of fruits, when unripe, shall never be carried on, lest their source may be injured, causing immense trouble.

### Exceptions

The king shall never demand of such of his subjects as live in tracts of middle or low quality; nor of people who are of great help in the construction of fortifications, gardens, buildings, roads for traffic, colonization of waste lands, exploitation of mines, and formation of forest preservers of timber and elephants; nor of people who live on the border of his kingdom or who have not enough subsistence.

### Rewards

The king shall, on the other hand, supply with grain and cattle those who colonise waste lands. Wealthy persons may be requested to give as much of their gold as they can. Those who, of their own accord or with the intention of doing good, offer their wealth to the king shall be honoured with a rank in the court, an umbrella,<sup>79</sup> or a turban or some ornaments in return for their gold.

### State Taxes

- One-fourth of their grain from cultivators;
- One-sixth of forest produce (*vanya*) and of such commodities as cotton, wax, fabrics, barks of trees, hemp, wool, silk, medicines, sandal, flower, franks, vegetables, firewood, bamboos, flesh, and dried flesh;
- One-half of all ivory and skins of animals;
- Fifty Kara's from merchants dealing in gold, silver, diamonds, precious stones, pearls, coral, horses, and elephants;
- Forty Kara's from traders in cotton, threads, clothes, copper, brass, bronze, sandal, medicines, and liquor.
- Thirty Kara's from traders in grains, liquids, metals, and carts;
- Twenty Kara's from those who carry on their trade in glass, and artisans off line workmanship;
- Ten Kara's from those dealing in articles of inferior workmanship as well as those who keep prostitutes;
- Five Kara's from those who trade in firewood, bamboos, stones, earthen pots, cooked rice, and vegetables; and
- Half the wages from dramatists and prostitutes.<sup>80</sup>

### Verification of Accounts

The table of daily accounts submitted by the accountants along with the net revenue shall be checked with reference to the regulated forms of righteous transaction and precedents, and by applying such arithmetical processes as addition, subtraction, inference, and by espionages. It shall also be verified with reference to (such division of) times as days, five nights, *pakshas* months, four months, and the year.<sup>81</sup> The receipts shall, on the *Vyushita*, the new year's day, be pertaining to them, the form of their collection (i.e. capital, share) the amount of the present and past produce, the person who has paid it, the person who caused its payment, the officer who fixed the amount payable, and the officer who received it.<sup>82</sup>

The expenditure shall, on the *Vyushita*, the new year's day, be verified with reference to the cause of the profit from any

source, in the place and time pertaining to each item, the amount payable, the amount paid, the person who ordered the collection, the person who remitted the same, the person who delivered it and the person who finally received it.<sup>83</sup> Likewise, the net revenue shall, on the *Vyushita*, the new year's day be verified with reference to the place time, and source pertaining to it, its standard of fineness and quantity, and the persons who are employed to guard the deposits and magazine (of grains, etc.).<sup>84</sup> According to the *Arthashastra* 'merchants travelling from place to place paid small road tolls which were collected by an officer called *Antapala*, who was responsible for the upkeep of the road and its safety. If we were to believe the text these taxes formed a form of insurance, for the *Antapala* was expected to make good any loss suffered by the merchants from thieves.<sup>85</sup>

The survey of economic policies and conditions of a great empire like that of the *Mauryas* or the *Guptas* or the imperial *Cholas* at their best, will show that however heavy the burden of taxation might sometimes have proved, it was borne by the different classes of the population because among other things that had the satisfaction that they obtained adequate protection against danger, internal and external, the service of an efficient administration presides over by sovereigns, who shared their belief in the direction of all human activity to the goal to a high moral purpose.<sup>86</sup>

The taxation in ancient India, thus, was fair, equitable and reasonable in actual practice.<sup>87</sup> 'In order to bring virgin soil under cultivation the cultivators were allowed remissions of taxes and other concessions by way of supply of cattle, seeds and money, in the hope that they would repay when they were in a position to do so.<sup>88</sup>

The general principles of taxation in Ancient India were:-

1. The taxation was to be based on reason and equity; the King was never to forget that nothing exposed him to greater hatred than oppressive taxation. (The gardener plucks fruits and flowers but does not harm the trees; the bee sucks the honey but does not damage the flower; in the same way the king should

collect his taxes but should not cause any sufferings on his subjects. One who kills the goat can at best get one meal; one who feeds it well can get milk for several years).

2. The criterion of equitable taxation was that the state on the one side and the agriculturist or the trader on the other should both feel that they have got a fair and reasonable return for their labours.
3. In the case of trade and industry, the taxation was to be on net profits and not on gross earnings.
4. An article was to be taxed only once and not more than once in any case.
5. If increase in taxation becomes somehow inevitable, it should necessarily be gradual and not a sudden and steep rise;
6. Extra and/or additional taxation was to be imposed rarely, only in times of national calamity after taking comprehensive steps to explain the situation to the people with a view to ensure a willing response. The king was never to forget that it was only an exceptional remedy<sup>89</sup> to be adopted when there was no other alternative.

### Conclusion

The above mentioned brief and sketchy description of the tax system and methods of revenue collection prescribed by Kautilya in his deliberately misinterpreted, partly analyzed and wrongly understood treatise on administration, *Arthashastra*, evinces some finest dimensions of public administration in ancient India. The inherent idea of public good, the apparent content of welfare state, the potential nature of strict state authority, the overwhelming presence of state sovereignty, the evident supremacy of the willing subordination of the people, the specific demarcation of functional responsibilities of different personnel, the vigilant hierarchical supervision, the minute observation of various occupations, and the humanistic assessment of their living conditions-all makes us believe that the state in ancient India

in general and in Kautilya's period in particular was more and more a well-organized welfarist mechanism aiming to achieve overall happiness and well-being of the populace through properly carved out structures of public administration. The whole trajectory of taxation system and modes, means and mechanisms of revenue collection in Kautilya's Arthashastra make it evident that the taxation in that period of history was considerate, humanitarian, strong, strict, based on prescribed rules and regulations and largely dependent upon the nature of requirements of the state of a particular period of time for the purpose of creating large scale facilities and opportunities for the people in general besides providing for the upkeep of the government machinery.

Therefore, there appears to be a well planned strategy of attaining legitimacy to the state functioning besides creating and completing ambitious construction projects for wide public use. Further systematic and scientific investigation into the details of public finance in ancient India through specified inquiry into the description of taxation and revenue collection system in ancient Indian Sanskrit treatises including literary works of different writers seems to be the need of the hour so as to enable the academic community to properly analyze, compare and contrast the modern political thinking with a perspective of impartial, normative and rational judgment on the contemporary relevance and academic significance of the valuable works of our forefathers. That will not only bring back into focus the excellent intellectual wealth of our ancient past but will also explode some of the formidable modern myths about civilization achievement of yore.

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*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 68-74

## **The Hijacking of Ethics: The Ethics of Hijacking**

NEERJA A GUPTA

Basic human instinct is to establish one's supremacy upon others. In order to capture the attention it overpowers the intellectual facet of others. Hijacking is the next stage of overpowering. While overpowering is the psychological submission, hijacking bears a physical criminal nuance.

In general hijacking leads to violence and tries to justify means to ends. A vital shape emerges out of this cult of bomb and it marks a unique phase infusing new meaning to hijacking when right along with the conscience, ethics are usurped. New dimensions and definitions are incurred upon ethics. Vigorously and incessantly tyranny is applied to hijack ethics to suit to the purpose of those who have the knack of imposing themselves on the weaker souls.

The field of ethics, also called moral philosophy, involves systematizing, defending, and recommending concepts of

right and wrong behaviour. Ethics is to guide about set social behavior widening up to all disciplines, which gives much space to co-existence. Many philosophers believe that morality consists of defined rules of conduct, such as "don't kill," or "don't steal."

While morals deal with individual dogma of being, ethics serve a mass purpose in an abstract form of an idea or a set of principles behaving like the guidelines to propagate the theory of co-existence, tolerance and set behaviour- leading to a systematic social, religious and political pattern but not limited to these spheres. Historically, virtue theory is the oldest normative tradition in Western philosophy, having its roots in ancient Greek civilization. Plato emphasized four virtues in particular, which were later called cardinal virtues: wisdom, courage, temperance and justice. Other important virtues are fortitude, generosity, self-respect, good temper, and sincerity. Values as pre Appaiah (2006) are inserted into social practices like music, poetry, and dance, marriage and the burial of the dead. The commonalities of our condition human a result in values like generosity and mutuality, politeness and hospitality, sexual restraint and that peaceful solution of social conflicts. This coupled with ideas of good and evil, right and wrong, parents and children, past, present, and future: the universality of values makes it possible for us to understand one another.

In addition to advocating good habits of character, virtue theorists hold that we should avoid acquiring bad character traits, or vices, such as cowardice, insensibility, injustice, and vanity. Forming and following the ethics confirm ultimate harmony and peace and negate the possibility of general conflict. Ethics help in creating a general consensus upon how to observe a worldly behaviour in the broader sense to strike the chord of humanity.

In addition to ethical egoism, ethical altruism, and utilitarianism, we also find an egoistic consequentiality strategy in social contract theory. Thomas Hobbes argued that, for purely selfish reasons, the agent is better off living in a world with moral rules than one without moral rules. For without moral rules, we are subject to the whims of other people's selfish

interests. Our property, our families, and even our lives are at continual risk. Selfishness alone will therefore motivate each agent to adopt a basic set of rules, which will allow for a civilized community. Not surprisingly, these rules would include prohibitions against lying, stealing and killing. However, these rules will ensure safety for each agent only if the rules are enforced. As selfish creatures, each of us would plunder our neighbors' property once their guards were down. Each agent would then be at risk from his neighbor. Therefore, for selfish reasons alone, we devise a means of enforcing these rules: we create a policing agency, which punishes us if we violate these.

An incident is defined as a hijacking rather than a commandeering if the captured object is in an in-belief status, that is, once the door of belief are closed enough to accommodate any other ethical conscience. Just like there is no distinction made between hijackings in which a plane does not divert from its flight plan and those which do, similarly there is no difference whether one gives in to the ethics of hijacking or one is hijacked for ethics by force. Hijackings are distinguished from other in-flight situations by the same criteria used to determine commandeering.

Incidents in this category include attacks against civil conscience and general social assets, such as soul navigational instincts and mass channelizing factors like religion, beliefs, customs etc., which are not included for the time being within the perimeter of defined notion. These targets are attractive because they are usually unguarded and/or easily accessible.

Politically motivated acts of hijacking are incidents carried out by perpetrators having known or suspected political motivation but conveniently combined with religion or economic demand. The following principles have been used to compile the list of incidents:

- ♦ In cases in which the motivation has not been conclusively established, but political motivation is a possibility, the incident has been included.
- ♦ Acts by insurgent groups in open conflict with government forces are included only if they occur outside the theatre of conflict and are able to establish

their own ethical ground in at least a given number of minds.

Since ethics deal primarily with human soul it becomes easy to outline ethics by religion, as basic objective of each and every religion is to guide the behaviour of soul. Religion is a binding that helps in designing ethics. It leads to the fact that each religion gives space to flexibility, which in the hands of fanatics becomes hijacking of liberal ethics. When religion walks out on streets crossing the boundaries of personal belief it portrays mass religious activity and the hijacking of religious ethics becomes effectively easy, which unfortunately has become another name of world terrorism. It has been proved beyond doubt that most of the terrorists operating are the mercenaries from religious groups and the fountainhead of inspiration for these revolutionary hijackers (some people call themselves Jihadis too) is the misunderstanding of religion. For example Jihad as Islam propounds is a struggle to know God has lost the meaning to a struggle to fight the unbeliever of Islam. Hindu militancy has recently taken a new dimension and Sri Lanka has faced turmoil for last 25 years.

To simplify the notion it is to be remembered that a number of religions are book - based and a common belief is based upon the understanding of the interpreter that might be an Imam or a Guru or a Priest claiming to be more knowledgeable than others. When religion does not allow an easy understanding of the text any tyrannical individual can overpower a whole race and can impose his own so called ethics hijacking the pious facet of humanitarian aspects. Hijacking and commandeering incidents are viewed within the context which defines piracy as any seizure or exercise of control, by force or violence or threat of force or violence, or by any other form of intimidation, and with wrongful intent. The Hijacking cannot be distinguished between an act of piracy and an attempted act of piracy.

It is difficult to solve the reasons of hijacking ethics since what is unethical for one shall be essentially ethical for the revolutionary. Hence culprits in one language are defined as freedom fighter in another. While hijacking ethics, only one



instinct works – selfishness. Ethics of hijacking is utter selfishness marred with blindness and nothing can be seen beyond physical overpowering for selfish motives.

A commoner has to depend upon this so assumed superior understanding of the interpreter. Vociferous interpretations with overpowering capacity and dominantly insisting attitude becomes lethal combination when a whole or near to whole race finds echoes of their emotional demands in such personality. The usurper can seize the common belief and keep a whole country for ransom claiming to be a thorough disciplinarian. This remains the spring of geographical problems of Kashmiris, Palestinians, Iraqis, Sudanese, Iranians, central Asians etc. It becomes extremely easy to mould mass thinking in narrow casket of selfishness. This is how tyrannical world leaders have been fulfilling their selfish motives by hijacking even the commonsense.

One of the cardinal points of Catholic social teaching is that the human person “is the foundation, cause, and end of all social institutions”. (John XXIII) While we must necessarily attend to the social fabric of our institutional structures, political administrations and judicial systems, we must recognise that all these social institutions are not so much the foundation or basis of ethical relations, but the consequences or “guardianships” of the more originary ethical relation that comes to us, not from our well constructed social theories or ethical codes, but from the fundamental relationship of the “I and the other”. If our social and political frameworks are not directed toward or inspired by this fundamental ethical relation, then our “collective measures lose their human meaning because they have forgotten or masked real faces and real speech. This forgetfulness is the beginning of tyranny.” (Adriaan)

The simultaneous emergence of so called leaders leads to the polarization of power. Economics and Geography remain decisive factors in endorsing mass participation as followers in this game of hijacking. Hijacking the ethics clubbed with economic demands creates polarization of the power groups and conflicts become constant. Let us not forget that the forces of globalisation and power groups seem to threaten a lot of

people in developing world. Somehow Islamic fundamentalists feel threatened more than others by these phenomena. But other fundamentalists constantly share same feeling that hold their doubts about globalisation and what they term as creeping onset of western culture.

It is obvious then that the religious ethics though remain the guiding force give way to the ethical hijacking of power politics. Interestingly, while religious ethics remain spiritual, ethics of economics rule the physical world. Both religious and economics related ethics are complementary in this sense. So a Karl Marx is to guide the Russian soul and a Bin Laden the fanatic Islamic terrorists.

This proves that an economically satisfied race shall not find solace in religion. From a socioeconomic point of view, we need to find out more about the hard factors in the structure of the society-the economy and law. If we want to use the argumentation here to found an international personnel management, in this understanding an expansion of the philosophical debate is necessary. As an economist, Amartya Sen (2006), who in Appiah's sense also argues for the centrality of difference, emphasizes inequality of the distribution of access to material resources. When Marks brings all individuals at the same platform under the name of socialistic communism and propagates the negation of specific benefits to individuals he basically creates the crisis of identity, hence initiating the hijacking of ethics of motivation and preferences.

A new code of ethics emerges out this definition that gives place to the theory of ethical hijacking. In this game, the inward war of energies and activities take higher seat with the bounds which the usurpers thrust conveniently upon others for their own comfort but colour in others' motives for otherwise they will be crushed for ever. Thus making the hijacking ethical.

“Napoleon's greatness does not lie in his words, his speeches, his writings, or any love of liberty, which he never had and never claimed to be establishing; he is great because he created a power... and above all because he owed everything to himself, and without any other authority but that of his genius made thirty-six millions subjects obey him in an age where no illusion surrounded a throne.” (Memoirs d'outré tombe)

With this view any conviction can be guided towards unique unifying sentiment and any conscience can be lead to psychic inertia where a powerful intellectual appeal calls for reaction that intensifies to portray hijacking of ethics ethical. It's amazing how equation works in this regard. The ethics deny any overpowering and the hijacking restricts any ethics. By whatsoever means socio economic and psycho sentimental issues are enough for cohesion, with a permanent drawback that however ethical hijacking of ethics may sound only cosmic sentiments are permanent and no hijacking can drive towards universality which can be claimed ethical. The ultimate is to be remembered, hijacker and the hijacked both are human conscience and as per the Asian poet Satyendranath:

Ra'ge anura'ge nidrita ja'ge  
 A'sal ma'nus prakat' hay  
 Varn'e varn'e na'hika vishes'  
 Nikhil bhuvan branamaya

(When love awakens in sleeping souls. Then true human beings will emerge. There is no difference between one person, one race and another. For the entire universe is pervaded by one infinite Consciousness.)

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*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 75-84

## **Indian Americans Role in India's Independence Movement**

**INDER SINGH**

Indians started coming to the United States either for higher education or for economic opportunities. In a short period of time, they quickly learnt the value of freedom and liberty. Many Indians wanted India to be free from the British slavery and some of them played a significant role in the struggle for independence of India. They imbibed the fire and zeal of revolutionaries and became the trail blazers of the freedom struggle for India. They may have been born as ordinary people and lived ordinary lives but they left an extra-ordinary legacy. On the 60th anniversary of India's Independence, Indian Americans salute their pioneers, the heroes of Indian American history, who sacrificed their careers and some even their lives, for the sake of liberty and freedom for India.

On April 5, 1899, four Punjabis who had worked in the British Royal Artillery in Hong Kong landed in San Francisco,

and they were allowed to stay in the US by the Immigration Service (*UC Berkeley website*). That grant of permission provided the signal to others to follow those four pioneers.

Many more Punjabis headed towards America in search of economic opportunities. The new immigrants found only menial jobs in factories, lumber mills and railroad construction. They were needy workers, accepted low wages, poor working conditions and many times traveled from place to place in search of work. The employers preferred the Indians to the whites, but the unions despised the immigrants. As the number of Indian workers increased within a span of few years, they started facing discrimination and hostility which sometimes led to racial riots, resulting in certain cases, loss of life and property.

In 1907, Indians became the victims of racial riots deliberately directed at them in Bellingham, a milling town in Washington State. A mob of about 500 men assaulted boarding houses and mills, forcibly expelling Hindus (Indians were called Hindus irrespective of their faith). The chief objective of the racial attack was to "scare them so badly that they will not crowd white labor out of the mills." The town had a small police force which was overpowered by the white mob. Indians became victims of violence, experienced bigotry, encountered discrimination and suffered humiliation. They had come in search of a chance for a better life for themselves and their families but the nightmarish incident forced about 200 Indians employed in various mills to leave the town in fear.

The Japanese and Chinese governments would negotiate compensation for life and property losses with the American government for race riots and similar discriminatory treatment perpetrated on their overseas nationals. But the British Indian Government did not make any representation to the U.S. Government for compensation for injuries or the loss of property of the Indian nationals. Indians soon realized the difference between the citizens of a "slave" country and that ruled by their own people.

Higher education in American universities was a powerful magnet for young people even then. The United States

welcomed qualified Indian students seeking admissions in the American universities. However, upon graduation, they were not able to get jobs commensurate with their qualifications. The discriminatory practices were against the very ideals of liberty and freedom they had experienced in their University environment. The Indian students attributed the racial prejudice and discrimination to their being nationals of a subjugated country. They were motivated to get rid of the foreign rule in India and were determined to fight for freedom for their motherland. They also started fostering feelings of patriotism and nationalism among their fellow Indian Immigrants who were already facing racial prejudice and discrimination at work.

Some Indian students formed organizations to collectively assert their birthright to independence for India and explored ways and means to attain self-rule. Taraknath Das, a student, began publishing the magazine *Free Hindustan* in 1907 in Seattle, advocating armed rebellion against the British rule as a means for achieving independence. He also established the East India Association in 1911. Har Dyal who had come from England after relinquishing his scholarship and studies at Oxford University, started *Bande Mataram* in 1909 for communicating his revolutionary ideas to the students and the Punjabi settlers.

In the United States, Har Dyal was identified with the nationalist activities. He had been a faculty member at Stanford University for about two years. He inspired many students studying at the University of California at Berkeley and channeled the pro-Indian, anti-British sentiment of the students for independence of India. Two of his student followers, Katar Singh Sarabha and Vishnu Govind Pingle, later played very prominent role in the Gadar movement. Dyal's fervor for India's freedom spread beyond the university campuses. A meeting of some patriotic and enlightened Indians was called on April 23, 1913, in Astoria, Oregon, where Har Dyal, Bhai Parmanand and others passionately spoke for throwing the British out of India and securing liberation by all means at their disposal. It was at this meeting that the Hindustan Association of the Pacific Coast was formed with a

major objective to liberate India with force of arms from the British colonialism, just as Americans had done more than a century ago, and to help establish a free and independent India with equal rights for all. Sohan Singh Bhakna was elected President of the Hindustan Association of the Pacific Coast while Har Dyal became the General Secretary. Har Dayal provided leadership for the newly formed association and was the central figure and the force behind the new organization.

Punjabis had come to the United States with the highest of expectations but they were equally disillusioned when they faced hostility and racial prejudice from the American people. When the Hindustan Association of the Pacific Coast was formed, they supported its objectives whole-heartedly, became its members enthusiastically and supported it financially.

The association began publishing the magazine *Gadar* to promote the aims, objectives and activities of the organization. *Gadar*, literally means revolt or mutiny. It was aimed at exposing the British imperialism and called upon the Indian people to unite and rise up against the British rule and throw them out of India. It carried articles on the conditions of the people of India under British rule and also on problems of racial attacks and discrimination against Indians in the United States.

*Gadar* was published in Urdu, Hindi, and Punjabi, among other languages and was distributed free. In a short period of time, the *Gadar* magazine became very popular and sought-after periodical for revolutionary and patriotic ideas. The magazine and similar publications from the Gadar headquarters, *Yugantar Asram* in San Francisco, were sent to the Indian revolutionaries in India, Europe, Canada, Philippines, Hong Kong, China, Malaysia, Singapore, Burma, Egypt, Turkey, and Afghanistan. Even if one copy reached India or a fellow revolutionary anywhere, multiple copies were reproduced for circulation. The visible effects of the *Gadar* publications started to manifest in India and abroad. The Gadar movement became the symbol of political consciousness of the overseas Indians. Many committed volunteers opened branches of the Gadar party in other countries and worked tirelessly to promote the objectives of the party. Thus, the seeds

of revolt that Har Dyal sowed developed into a formidable organization.

The British government got alarmed at the popularity of the Gadar movement and free accessibility and availability of the 'seditious' literature. They used every means to stop its circulation, particularly in India. They also tried to suppress the Gadar movement and had hired agents to penetrate the Gadar party and watch their activities. The British were convinced that removal of Har Dyal would bring an end to the revolutionary movement. At the behest of the British, the American government arrested Har Dyal in March, 1914, but later released him on bail. Upon the advice of some friends, Har Dyal jumped the bail and left for Switzerland from where he went on to Germany.

Soon after the formation of the Gadar party, World War I broke out in August, 1914, in which Germany fought against England. The Germans offered the Indian Nationalists (Gadarites) financial aid to buy arms and ammunition to expel the British from India while the British Indian troops would be busy fighting war at the front. The Gadarites started an energetic campaign to mobilize the overseas Indians in Singapore, Burma, Egypt, Turkey and Afghanistan and particularly Punjabis in Canada and the United States, and to inspire them to go to India to launch a revolution. They drew plans to infiltrate the Indian army and excite the soldiers to fight not for the British but against the British Empire, and free India from the shackles of British imperialism.

The German government had great sympathy with the Gadar movement because the German government and the Gadarites had the British as common enemy. In September 1914, Indians formed Berlin Indian Committee (also known as the Indian Revolutionary Society) members of which were, Har Dyal, Virendra Nath Chattopadhyay (younger brother of politician-poetess Sarojani Naidu), Maulvi Barkatullah (after his death, he was buried near Sacramento), Bhupendra Nath Datta (brother of Swami Vivekananda), Ajit Singh (uncle of *Shaheed-i-Azam* Bhagat Singh), Champak Ram Pillai, Tarak Nath Das (a foundation is named after him in Columbia University),

and Bhai Bhagwan Singh (he was the most wanted rebel by the British Government; his grandson S.P Singh lives in Atlanta). The objectives of the society were to arrange financial assistance from German government for revolutionary activities and propaganda work in different countries of the world, training of volunteer force of Indian fighters and transportation of arms and ammunitions to reach the Gadarites for a revolt against the British Government in India.

The Indian Revolutionary Society in Berlin successfully arranged substantial financial aid for the Gadarites from Germany. The German Embassy in the United States engaged a German national to liaison with the Gadar leadership in San Francisco. The society also commissioned several ships to carry arms and ammunitions and batches of about 6000 Indian revolutionaries to India.

The Gadarites also sought help from anti-British governments in other countries. In December 1915, they established a Free Hindustan government-in-exile in Kabul, Afghanistan, with Raja Mohinder Pratap as President, Maulavi Barkatullah as Prime Minister and Champakaran Pillai as Foreign Minister. The government-in-exile tried to establish diplomatic relationships with countries opposed to the British in World War I such as Turkey, Germany, Japan, and others. The Gadarites established contact with the Indian troops at Hong Kong, Singapore, and in some other countries and hoped for their participation in the uprising against the British.

Before leaving for India, the Gadarites were given the misguided impression that India was ready for a revolution. So when the World War I provided a golden opportunity for them to attain their goal, they hurried homeward for rebellion and to overthrow the British Government in India. They had hoped that the embers of freedom had caught fire in India too and expected the Indian revolutionaries to join them in rebellion to liberate India. The irony of that valiant effort was that while the Gadarites had gone to India to fight willingly for the freedom of their motherland, the Indian leadership openly and willingly co-operated with the British, thereby prolonging India's serfdom.

The traitors of the Gadar movement leaked out the secret plans to British spies. As a result, the ships carrying arms and ammunitions never reached India. Many Gadarites were taken captive upon reaching India. They were prosecuted and several were imprisoned, many for life, and some were hanged. According to one estimate, as many as 145 Gadarites were hanged, 308 were sentenced for longer than 14 years and many more for lesser terms. In the United States too, several Gadarites and their German supporters, were prosecuted in the San Francisco Hindu German Conspiracy Trial (1917-18) and twenty-nine "Hindus" and Germans were convicted for varying terms of imprisonment for violating the American Neutrality Laws. [[www.sikhpioneers.org/](http://www.sikhpioneers.org/)]

The Gadar Movement was the saga of courage, valor and determination of overseas Indians to free India from the shackles of British slavery. Although the movement did not achieve its intended objective, nevertheless it awakened a sleeping India and left a major impact on India's struggle for freedom. The heroism, courage and sacrifices of the Gadarites inspired many freedom fighters to continue their mission. The Gadarites wanted to liberate India by the force of the arms. Many years later, Subhash Chander Bose, a prominent Congress leader, organized Indian National Army (INA) under the leadership of General Mohan Singh to invade India, hoping that the serving soldiers of the British Indian army would defect and join to liberate India by force. The Gadar leaders were shocked at the Indian freedom fighters' co-operation with the British Imperialist government in their war efforts during World War I. However, the same leaders started Quit India Movement in 1942, which ensured lack of mass support for the war efforts during World War II. It was the conclusion that the overseas Indians were ready to "do or die" for India's freedom before the Freedom fighters in India were able to do so.

The Gadarites had a flame of liberty lit in their hearts, and did not hesitate to make any sacrifice for the cause of freedom, dignity and honor of their motherland. Some Gadarites such as Kartar Singh Sarabha and Vishnu Govind Pingle, had escaped arrests, and allied with Ras Behari Bose and other known

revolutionaries in India to continue their fight for freedom for India. In the United States too, there were many who still had the same burning desire to liberate India. Subsequently, many more joined them in their mission but the methodology was changed. They abandoned the power of sword of the Gadarites and adopted the power of pen instead.

Lala Lajpat Rai, one of the prominent leaders of India's Freedom Movement, who later became known as "the Lion of Punjab", came to the US in 1914 to elicit American support for the Freedom movement. He founded the Indian Home Rule League in 1917 in New York and in 1918, started publishing *Young India* as his organization's magazine. He made contacts with the leaders of the Gadar party but did not support their method of obtaining *Swaraj*. He started publishing articles in the American media, cultivated contacts with intellectuals and gained the support of wide audience of Americans sympathetic towards the cause of India's freedom. He departed for India in 1920, leaving the Indian Home Rule League in trusted hands. Unfortunately, neither the League nor the magazine *Young India* survived for long after his departure.

Dalip Singh Saund, who in 1956 got elected to the US Congress, had started his working life in America as a farm laborer after obtaining Ph. D. in Mathematics from University of California at Berkeley. He was an ardent nationalist and used the platform of his position as the national president of the student body, Hindustan Association of America, to expound on India's right to self-government. After he moved to the Imperial Valley of California, he joined the Toastmaster Club and continued to take advantage of every opportunity to speak about India's right for self-rule. He also started India Association of America and raised funds from the California Sikh farmers for the lobbying efforts in the United States Congress in Washington, DC for India and Indian causes. He engaged in several debates and spoke before many groups and organizations, presenting India's side, "a side of democracy and a side for humanity."

Mubarak Ali Khan who came to the US in 1913 and had become a successful farmer in Arizona, founded the Indian

Welfare League in 1937 and gained considerable support for India.

Anup Singh obtained his Ph.D in Political Science from Harvard University. He became very active in New York based India League of America, and later moved to Washington D.C and started The National Committee for India's Freedom. He also published a monthly magazine *Voice of India* to disseminate the message of India's nationalist movement.

J. J. Singh was a member of the Indian National Congress before coming to the United States. He established himself as a successful merchant in New York, and in 1940 he became president of India League of America. He started the League's mouthpiece *India Today* which was well-edited informative monthly bulletin. He also expanded its membership base to include Americans, including Nobel Prize winner author Pearl Buck who was Honorary President in 1944. For all practical purposes, J. J. Singh had become an unofficial lobbyist for India and Indians. His public relations campaigns and lobbying efforts convinced significant sections of the American public, including members of the United States Congress, that the time had come for India to be liberated.

Indian community activists J. J. Singh, Anup Singh, Haridas Muzumdar, Taraknath Das and Krishanlal Shridharani and some others had tremendous enthusiasm and abundant energy and used it all for the cause of India's freedom. They had embraced the force of ideas and used their writings, speeches and meetings with elected officials and people of influence to gain sympathy, support and endorsement of the American people, majority of the United States Congress and the President of America for the independence of India. For many years, these community activists provided dedicated and committed service for the cause of India and Indians and thus played the role of Indian community emancipators in the United States. Forgetting the legacy of their crucial role in the struggle for India's independence would be losing an anchor with the past.

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Other articles on Indian American heritage from the same author:

*Struggle of Indians for US Citizenship*  
*Dalip S. Saund, The First Asian in U.S. Congress*  
*Gadar – Overseas Indians Attempt to Free India from British Serfdom*  
*Bhagat Singh Thind: The Legacy of an Indian Pioneer*



*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 101-110

## **National Defence: Preserving India's Sovereignty and Democracy**

**VANDANA KUMAR**

### **Abstract**

India's national defence is one of the most powerful symbols of India as its armed forces have protected India's sovereignty and its democratic values for over six decades of Independence. India's defence has protected its territorial integrity from numerous military campaigns by its deviant neighbour Pakistan and thousands of brave and gallant soldiers as it received drubbing from China in 1962. This paper examines the various factors which have facilitated the vital contribution of Indian defence in preservation of India's fundamental values as enshrined in India's constitution; the institutional framework, the culture of the armed forces, strong democratic traditions and governance. The institutional framework in India has firmly established civilian control over the armed forces and the management of defence and centuries of warfare in

medieval and pre-independence modern era have established a culture of gallantry and sacrifice for the motherland among the armed forces. Study of civil military relations in some of other democratic countries, resonates a similar institutional framework and shows that inability to focus on preservation of territorial integrity as primary role of defence can lead to military transgressing that role and influencing or interfering with civic administration. To effectively handle the twenty-first century challenges and complex security scenario consisting of threats from neighbourhood, growing militarization of the Indian Ocean, growing involvement of the non-state actors, low intensity conflict and an increasingly multipolar world, the Indian Defence needs to build professional competence, use modern technology while preserving its institutions and culture.

### Introduction

Defence is one of the most powerful symbols of India. It is no surprise that the Republic Day celebrations of India include a parade which apart from celebrating India's culture, socio-economic and technological progress, emphasizes a display of military might and marching contingents of gallant soldiers of the Armed Forces, along with narration of stories of their valour, discipline and sacrifice to their motherland. Indian Armed Forces not only warded off many a challenge from external forces and deviant neighbours even while the nation was in its infancy and grappling with after effects of a colonial regime, they weathered the phase of the non-alignment and continue to help India emerge in the new world order which is increasingly multipolar and complex where threats are not just in form of a full scale war but also in the form of low intensity conflict from external state and non-state actors on land and the Indian Ocean and their role in influencing internal forces which have potential to destabilize India.

### Role of Armed Forces: A historical perspective

The role of the Armed Forces in pushing back Pakistan's military campaigns of 1947, 1965 and 1971 and more recently in 1999

has been earned them a very special place in the annals of history of Independent India. India had barely got over the joy of independence which was tinged with sadness of partition when a band of Pakistani tribesmen led by regular army men raided Jammu and Kashmir along its 500 mile border in October 1947. The Indian Government sent Indian Army to Kashmir to help the Maharaja following which he signed the accession instrument. In the months following January 1948, the Army under then Lieutenant General KM Cariappa, Army Commander, Western Command repulsed many raids of Pakistan and recaptured territories like Kot, Naushera, Jhangar and Rajauri. In 1965 Pakistan once again attacked, first with about 10000 guerillas into Jammu and Kashmir and followed up with full scale operation grand slam. Pakistan lost over 450 tanks and 4500 men while India lost about 125 tanks and 12000 men but the war resulted in a stalemate. Adopting an offensive posture in East Pakistan during the 1971 war, India captured about 75000 Pakistani prisoners of war and dealt a body blow to Pakistan leading to secession of East Pakistan as Bangladesh.<sup>1</sup>

Mao Tse Dong termed Tibet as palm of the hand with its five fingers as Ladakh, Sikkim, Nepal, Bhutan and NEFA.<sup>2</sup> He claimed these were Chinese territories which needed to be liberated and prepared China for war by constructing the strategic Aksai Chin Road, setting up military base in Tibet, penetrating intelligence into the border areas all while maintaining a peaceful overture with 'Hindi Chini Bhai Bhai'. India was caught unprepared and China annexed a portion of the north east before ending the campaign.

Although the Armed Forces played an invaluable role in the above mentioned campaigns, it is clear that the Armed Forces took directions from the political bosses on critical decisions.<sup>3</sup>

### Institutional Framework for defence to support democratic values

Why is it that the Indian Armed Forces not only have been instrumental in preservation of India's sovereignty, aided in its economic development by guarding its land and water frontiers, helped the civic authorities in disaster management

whenever called upon, they have remained apolitical and subordinate to the civilian authority? Answers to this question can be found in the institutional framework which has developed the democratic civil and military relations and defence management.

According to the Indian Constitution, the President, a civilian is the supreme commander of the Indian Armed Forces. The responsibility for national defence rests with the Cabinet discharged through the Ministry of Defence, which provides the policy framework and wherewithal to the Armed Forces to discharge their responsibilities. Ministry of Defence is led by the Union Cabinet Minister of Defence, another civilian, almost always an elected representative of the people. The Defence Secretary, an officer of the civil services coordinates the functions among the various wings of the Ministry of Defence and the financial control of Defence is provided by a dedicated finance wing within the Ministry of Defence and an accounts department which not only makes payments on behalf of defence, keeps accounts, audits all transactions but also provides financial advice in all expenditure and procurement matters. Independent oversight of the functioning of the Ministry of Defence and the Armed Forces is provided through the Parliament's Standing Committee on Defence, the Comptroller and Auditor General of India and the Central Vigilance Commission.<sup>4,5</sup>

#### Culture of the Armed Forces

History of Indian Armed Forces is dotted with soul stirring stories of valour, courage, determination, heroic leadership, loyalty and shining examples of how an officer sacrificed himself to save lives of his men or a soldier risked his life to rescue a wounded comrade or an officer. As the Army has been at the forefront of every war fought by Independent India, its traditions are epitome of and synonymous with the culture of armed forces in India. Lieutenant General Harbakhsh Singh, the commander of the North East Frontier Agency in 1962 and the commandant of the Western Command in 1965 war with Pakistan in his memoirs said, "Manpower is militarily our

greatest asset."<sup>6</sup>The culture of devotion to duty, selfless service and willingness to make sacrifices of any kind to keep the country out of harm's way has been deeply influenced by two notable features of the Armed Forces, one the 'Command culture' and the other, 'Esprit de Corps'. The first has been a result of professional training and education for commanding soldiers, inculcating discipline and displaying heroic leadership, the other, *esprit de corps* is an invaluable tradition which encompasses camaraderie, mutual confidence, deep empathy and fierce loyalty and is manifested in thirst for glory, pride in tradition and regimental colours.<sup>7</sup>

#### International Experiences

The idea that an institutional framework aids defence serves the values of a democracy is borne out by experience of another big democracy, the United States of America (USA) whose constitution like India's constitution provides that the President will be the commander-in-chief of the Army and the Navy of the United States. It also provides that Congress will have the power to raise and support armies and a navy.<sup>8</sup>The Department of Defence, responsible for providing the military forces needed to deter war and to protect the security of the country is headed by the Secretary of Defence who is the principal defence policy adviser to the popularly elected President. The Secretary of Defence exercises authority over the Joint Chief of Staff, the Military Departments and the Unified Combatant Commands among others, thereby completely vesting civilian control over the armed forces.<sup>9</sup>

Haley asserts that when political elite fails to ensure clear separation between the government and the military spheres, the functioning of democracy could get undermined.<sup>10</sup>South Africa's Defence Review undertaken in the nineties resonates this thought and defined that the primary function of defence would be to protect the country's sovereignty and territorial integrity. Non adherence to this principle can lead to politicization of the armed forces, by facilitating their entry into the realm of government and civil administration. It can also lead to development of a mentality which seeks to confront

the government, rather than remain subordinate to its dictates. It can also lead to the militarization of the society. Argentina, Chile, Brazil, Nigeria, Ghana, South Korea, Thailand and Pakistan among others demonstrate how entry of armed forces in the realm of governance can result in a high level of military influence within and over the decision making process within the civilian government.<sup>11</sup>

Evolving security challenges and defence needs  
India has land borders of 14000 kilometers with states including Pakistan in the northwest, Nepal and China in the north, Bangladesh in south east and Myanmar in the north east and a coastline of 7500 km in the Indian Ocean.

Over the last two decades the traditional warfare has given way to low intensity conflicts with greater involvement of the non-state actors, the most significant being attacks on the Indian Parliament, attacks in Mumbai in 2008 and serial blasts in several cities of India in 2009. Nepal is vulnerable to influence from China as its extremists have links with Peoples War Group which has a corridor in Andhra Pradesh, Madhya Pradesh, Chattisgarh, Orissa, West Bengal, Jharkhand and Bihar. China has also transferred nuclear weapons and missile technology to Pakistan which has kept India preoccupied. China is the second largest Defence spender in the world, building capabilities required not just to protect its own frontiers but designed to play a larger regional role.

India's long coastline into the Indian Ocean also needs protection from the hostile forces as has been proven by the Mumbai terror attacks where the terrorists used the sea route with impunity. Nearly half of the sea borne commerce of the world moves across the waters of Indian ocean. 75 percent of the cargoes in the Atlantic and Pacific oceans move between countries littoral to Indian Ocean of which 20 percent is oil and gas. Asia Pacific region is dependent on energy resources and safety of their movement. The sea lanes pass through narrow passages like Strait of Hormuz, Gulf of Aden, Suez Canal and Strait of Malacca making them vulnerable to forces capable of disrupting shipping.

*Being the largest stable country with strong democratic traditions and also being an emerging economy, India is a credible power in the region and has to protect her own interests in the region. Besides 3.5 million Indian citizens work in the Gulf countries contribute \$ 10 Billion annually and India's trade with ASEAN countries stands at \$12.5 Billion.*<sup>12</sup> *Stability in the region is of utmost importance to India's own interest particularly as 70 percent of India's oil import is from the Gulf and India has offshore assets in 48000 km area which need to be protected.*<sup>13</sup> Located between the two leading narcotics production centres of the world, the golden triangle of the east, the area between Myanmar, Laos, Vietnam, Thailand and Yunnan province of China and the golden triangle of the west, the mountainous region between Afghanistan, Pakistan and Iran, India is exposed to the threat of narcotics trade as well.

Indian Ocean has also seen militarization with many countries including Singapore, Malaysia, Iran and USA deploying ships laced with sophisticated missiles and aircrafts.

Arms and human trafficking across borders not only pose a serious threat to internal stability but also individual security and greater human rights issues some of which are a result of ineffective civic administration and governance. Today, the security challenges are therefore, multidimensional and arise from not only from external armed forces but other diverse sources as well- economic, governance, civil society, environmental, social and technological.<sup>14</sup>

**Staying focused on territorial integrity**

To ensure that Defence focuses on its primary role, it has to be ensured that civic administration is effective and deployment of military for non-military tasks is minimal. Samuel Huntington, one of the earliest proponents of conflict theory believed that military's power within the government must be minimized<sup>15</sup> and the view is supported by others like Eva Etzioni-Halevy and Roy. The propensity for using Army's manpower and infrastructure during natural disasters has to be resisted. Continued deployment of Army in Kashmir valley and the North East provinces necessitated by the inability of

the local civic administrations contributes to greater powers for the military and further weakening of civic institutions and eventually democracy.<sup>16</sup>

#### Defence Management

There is growing awareness that to tackle the complex security challenges, professional management of defence has to replace bureaucratic decision making and although defence planning began to evolve in the aftermath of the war with China with formulation of five year plans, shortcomings revealed by Kargil war in 1999 led to several reforms for national security including strengthening of defence planning and procurement to ensure availability of capabilities required.<sup>17</sup> Setting up of National Security Advisory Board too is a step towards holistically addressing security issues. Going forward, linkages have to be established between policy, planning, budgeting and decision making has to be analysis and data driven in an outcome focused system. Defence strategy and planning not only has to be integrated with the national development objectives but also driven by it so that it contributes to national economy and growth and also benefits from socio-political direction for preparation of national defence.<sup>18,19</sup>

#### Concluding Thoughts

India's Defence and its armed forces have valiantly defended India's security and preserved sovereignty. This has been possible due to a thriving democracy, focus on Defence's primary role of defending territorial integrity and a supporting institutional framework. In an increasingly complex security scenario which, externally is witnessing decline of the United States and rise of China and other emerging economies, greater activity of non-state actors, and internally faces challenges of socio economic development, for defence to continue focus on playing its role of preservation of territorial integrity, it has to be ensured that the civic administration is effective, institutions and implementation agencies function in a result oriented manner. For further sharpening its effectiveness, defence has to be integrated into the national planning process

and national development objectives. Finally, modernized armed forces laced with cutting edge technology, professionalism and a continued focus on rich and glorious traditions of *esprit de corps* will continue to remain a signature of Indian democracy.

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*Bhartiya Manyaprad*  
Volume 1, No.1, 2013, pp. 111-115

## **Book Review**

New Readings in the Literature of British India, c.1780– 1947 *Ed. Shafquat Towheed Stuttgart*. ibidem-Verlag, 2007 Pages 330. Price– not stated. By Dr. Indira Nityanandam, Smt. S.R.Mehta Arts College, Ahmedabad.

That colonial transactions need to be read and re-read in the light of post-colonial experiences is stating the obvious. The East-West categorization as well as the concept of the East as the 'other' are now being gradually replaced by a more holistic approach, by a moving away from a 'Eurocentric' approach. "When... . The European scientist studies the physical features of our land, when he measures our fields, trigonometrates our altitudes and undulations, investigates our animal, our vegetable, or our mineral kingdom the records of his study are accepted as true and authoritative. But the study of man belongs altogether to a different plane... . Here also the eye sees, the ear hears, but the real meaning of what is seen and heard is supplied not by the senses but by the understanding, which interprets what is heard or seen in the light of its own peculiar experiences and associations" (Qtd. Adesh Pal, 23). Hence, a reading and are-reading of well-known as well as lesser known texts become imperative as we move away from the earlier

colonial, maybe, colonized reading which was earlier accepted as the only possible reading. If *Sargasso Sea* gives us a new insight into *Jane Eyre*, so can each new re-reading of famous and favourite texts. Again, the readership intended at first publication may have changed drastically and this may again require 'new readings'. This volume encompasses in its gamut lesser-known texts too, thus giving the scholar interested in the period a wider scope than that available in the usual time-tested anthologies which totally neglected certain genres. As Shafquat Towheed says in the Introduction, "Brought together in one volume, these essays offer a small, but representative sample of the multi-faceted literary and cultural traffic between Britain and India in the colonial period. In the richness and diversity of the various contributors' strategies and interpretations, these new readings urge us to return once again to texts that we think we know, as well as to explore those that we do not, with a freshly renewed sense of their complexity, immediacy and relevance" (pp. 8-9).

The term literature has been interpreted more broadly and hence the demonstrates amply 'the rich, conflicting and often co-extensive diversity of interpretation' opened by the concept of 'new readings'. From women dramatists who "opposed the diffusion of a canonical, one-sided and politically dominated image of the Empire" (p.12) to a clergyman whose Gothic novel explores the theme of religious oppression of individual freedom, from an English wife's letters which chronicle Calcutta's Anglo-Indian social life to "the rhetoric of a female vagabond, the pilgrim wandering the colonial space" (p. 94) or the experience of the wife of a junior civil officer— each essay offers the interested scholar yet another representative sample of the 'multi-faceted literary and cultural traffic between Britain and India in the colonial period'. If the British women forced to live in India as they accompanied their husband here present one rung of the scale of the colonial period, yet another is provided by the Indian (Hindu) Maharanis who were more than mere objects of male desire. Angma Dey Jhala reveals a "picture of much greater cultural cosmopolitanism and paradox" (195) by examining the memoirs and biographies of five such

Maharanis. A look at *Annisa*, an early 20<sup>th</sup> century Women's magazine gives us an idea of the reform literature which began in the 19<sup>th</sup> century.

The Editor, Shafquat Towheed, Lecturer in the Department of English, University of London, has edited four volumes earlier and with research interest in Victorian Literature and Culture brings his wider range of reading and research to this collection. The contributors from the continents of Asia, Europe and America with their varied areas of interest of research have amply demonstrated the relevance of a reading of lesser known texts for a true understanding of any period, in this case 1780 to 1947.

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