

Written by By A.N.Kandasamy

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"merchants and pirates were for a long time one and the same person. Even today mercantile morality is really nothing but a refinement of piratical morality."



When Nietzsche, the German philosopher, uttered these words in the nineteenth century, he was actually echoing the views of that Kautilya of Arthashastra held on the same matter about 2,250 years before him. For Kautilya in his Fourth Book of the Arthashastra entitled the Removal of Thorns has devoted the entire second chapter of the book to the protection of the people from the avarice and trickeries of the trading classes. In fact the name of the chapter itself is Protection against Merchants. By the use of the carefully chosen word "Protection," Kautilya clearly suggests to us that he considers the merchant as an enemy of society and that people should be afforded protection against his onslaughts on them in the same way you provide protection against pestilences, famines and fire.

While one may hesitate to endorse either Kautilya or Nietzsche completely in their considering the trader as an enemy of the people or a pirate, no one would disagree in classifying the hoarder, the blackmarketeer, the smuggler, the adulterator and the swindler who uses short weights and measures among them as No.1 enemies of the public and treat them as such. These public enemies become the more odious when they practice their hateful activities in the field of essential stuffs especially in the field of trade in food materials.

If one analyses recent history it would be found that it was the avarice of the hoarder and the blackmarketeer more than natural causes that had caused food shortages leading a severe famine in which people have perished like flies in many countries. One such famine was the pre-independence famine of Bengal in India. This was an entirely man-made famine and one cannot fail to recall the depth of indignation with which the late Jawaharlal Nehru called upon the British Raj to hang the hoarders by nearest lamp posts.

No civilized nation can countenance of the hoarder with equanimity and, in fact, the severest punishment is called for the suppression of such enemies of the people, if society is to thrive and flourish. The profit motive throughout the ages had made man a heartless brute and he doesn't for a moment hesitate to indulge in the most unhumanitarian activities in his desire to

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accumulate wealth. Only the strong arm of the law could stop him and that is why legislative enactments against the trickeries of the traders become necessary.

Many of us today believe that the penal laws enacted against the evil practices of the merchant classes are of recent origin and bequeathed to us by the imperialists who ruled over us during the last two or three centuries. But that is not so. A study of our ancient books on law and politics such as the Manudharma Sastra, Kautiliya's Arthasastra and Yagnavalkya's Dharma Sutra clearly shows us that penal enactments to punish hoarders, blackmarketeers, adulterators, smugglers, price-cheats and offenders in the field of weights and measures were enforced in ancient India with great severity and efficiency. In fact even a system of price control existed with the Superintendent of Commerce being in charge of it. Even the idea of a state trading corporation in local produce is discernible especially in the Arthasastra where its author as follows in his Chapter No. 6 of book No. 4.

"The merchandise of the king which is of local manufacture shall be centralised. Imported merchandise shall be distributed in several markets for sale. Both kinds of merchandise shall be favourably sold to the people."

Now coming to the other laws, Kautiliya has the following to say about the treatment that is to be meted out to hoarders of grain. This particular law is found in a chapter named "The remedies against calamities such as floods, pestilences and famines"

"During famines he may either do such works as are usually resorted to in a calamities; he may show favour by distributing either his collection of provisions, or the hoarded provision of the rich among the people... or the policy of thinning the rich by exacting excessive revenue (Kassanam). or causing them to vomit their accumulation may be resorted to."

The policy of price control is clearly explained by Kautiliya in the Second Chapter of book No. 4 where he also mentions the punishment to be meted out to the offender. The pertinent reference is as follows:

"The Superintendent of commerce shall fix a profit of five per cent on local commodities and ten per cent on foreign produce. Merchants who enhance the price or realise profit even to the extent of half a pana more than the above in the sale or purchase of commodities shall be

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punished with a fine ranging from 100 panas to 200 panas."

Here we find a very good feature of price control which is not found even in our modern laws and that is the forbidding of buying things at a lesser price of goods that come under the purview of the price control scheme. The absence of such provision in our laws leads to the malpractice of traders taking advantage of poverty-stricken people who are sometimes prepared to sell the things which they bought at a higher price for a lower price when they require spot cash for some emergency need of theirs. Here we see that the laws of ancient India were more comprehensive than the laws of our own 20th century.

But the ancient Indian laws reserved their highest finest for Blackmarketeers who usually bought and sold commodities at very much higher prices than those fixed by the Superintendent of Commerce under his price control scheme. This is what Kautiliya says about the punishment to be meted out to them:-

"Merchants who conspire either to preserve the sale of merchandise or to sell or purchase commodities at higher prices shall be fined 1,000 panas."

Manu Dharma Sastra too deals with the subject of Price cheats and has the following law included in it pages:_

"But that man who behaves dishonestly to honest customers or cheats in his prices shall be fined in the first or in the middlemost amercement."

Adulteration is another offence the avaricious trader practices upon his innocent customers. The following law pertaining to adulteration is found in the Arthasastra:'

"Adulteration of grains, oils, alkalis, salts, scents and medicinal articles with similar articles of no quality shall be punished with a fine of 12 Panas."

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Manu too has law against adulteration. He says:-

"For adulteration unadulterated commodities and for breaking gems or for improperly boring them, the fine is the first or lowest amercement."

Regarding the offences in the field of weights and measures the Arthasastra makes the following points:-

**The Superintendent shall charge 4 mashas for stamping weights and measures; a fine of 27 Panas shall be imposed for using weights and measures without proper stamping.*

**Differences of a Karsha on the balance called Tula is no offence. Difference of two Karshas shall be punished with a fine of 6 panas.*

CHEATING of other kinds were also not forgotten. For example here is one of Manu's laws:-

"He who sells for seed corn that which is not seed corn shall be punished with mutilation."

Another offence which was dealt great severity was smuggling of forbidden goods. Manu's law regarding smugglers is as follows:

"Let the king confiscate the whole property of a trader who out of greed exports goods of which the king has a monopoly or the export of which is forbidden."

The punishment for smuggling in Arthasastra is a little different. It says:-

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"Those who smuggle a part of merchandise on which toll has not paid as well as those who with a view to smuggle with one pass a second portion of merchandise after breaking open the bag shall forfeit the smuggled quantity and pay as much fine as is equal to the quantity so smuggled."

India is today a land of vegetarianism and has been so for many centuries. But this is only so, from the time of Ashokavardhana who enacted laws forbidding the slaughter of animals after having come into contact with the teachings of the Buddha. But during the time of Chandragupta and Kautiliya, things were different and Arthasastra devotes a whole chapter to the proper running of slaughter-houses and sale of meat of various description. Here are some of the sale of meat as found in Arthasastra:-

- *Butchers shall sell fresh and boneless flesh of beasts (MRGAPASU) just killed.
- *If they sell bony flesh they shall give an equivalent compensation (PRATIPAKAM).
- *If there is any diminution in weight owing to the use of a false balance they shall give eight times the diminution.
- *The flesh of animals which have been killed outside the slaughter house and rotten flesh shall not be sold. Otherwise a fine of 12 Panas shall be imposed.

The above sampling gives us an idea of the type of laws that existed in India to safeguard the interests of the people from the trickeries of the trades 2,200 years ago. Times have changed, but the traders attitudes have not. The fault is not in man, but in the system. Morality is a product of material environment and as long as private profit remains the main motive of trade neither hoarding nor adulteration will cease.

The traders of Kautiliya's times were not very much different from those of Nietzsche's time. Nor are they now.

Perhaps society would soon move forward to material environments where private profit will cease to be the motive of trade and where a people's state would handle trade completely. In the meantime however, punitive laws alone can give some protection at least to the people against the evils of private trade.

Courtesy: Tribune, December 4,1965 (SriLanka)