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POLICE ADMINISTRATION IN
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K. K. MISHRA

Foreword by
UPENDRA THAKUR

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To
My Gurujee
Sri Sri 108 Sri Swāmījee
Maharaj jee



Foreword

There have been very few studies worth the name on police administration in ancient India. It is therefore gratifying to note that Dr. Kamal Kishore Mishra has for the first time, made a comprehensive and analytical study of many of the obscure problems relative to in early periods.

The story of the birth of policeman in India is as thrilling as the emergence of the early man who in the course of centuries used his power of reasoning and thought to tide over the vicissitudes and sufferings over thousands of years which ultimately helped him to develop the society as it is today. The ability of the society to confront successfully the various challenges both from nature as well as from internal and external forces is more or less dependent on its power to maintain its internal order, which in turn depends on how its police system functions. An organised police force is therefore only a projection of the society which is nothing but the sum-total of the proper functions of all individual members of the society. Organised police no doubt helps the individual in discharging his duties and carrying out his own construction work uninterruptedly. But, all told, the fact remains that the main source of strength remains the people and it is from them that the organised police force must draw all their sustenance.

It is interesting to note that in ancient India, local responsibility and mutual co-operation constituted the main principle on which the police system was based. The village formed the basic unit of administration, security and peace involving collective responsibility, shared by every resident, of which we have a graphic description in Kautilya's *Arthaśāstra*.

The present work is the latest study in the series and Dr. Mishra has tried to examine the various aspects and

succeeded in presenting an interesting study. We may or may not agree with all the views advanced by him, but it can be denied that the book will make a positive contribution to the administrative history of the early period, and the new researchers in the field would undoubtedly be greatly benefitted.

Magadh University
Bodh Gaya.

—UPENDRA THAKUR

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—KAMAL KISHORE MISHRA

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Abbreviations

Agni	: <i>Agni Purāṇa</i>
Ait. Br.	: <i>Aitareya Brāhmaṇ</i>
Amar	: <i>Amarakoṣa</i>
Aṅga Nikāya	: <i>Anguttara-Nikāya</i>
Arth or A.S.	: <i>Arthaśāstra of Kauṭilya</i>
Asta	: <i>Aṣṭādhyāyī of Pāṇini</i>
A.B.O.R.I.	: <i>Annals of Bhandarkar Oriental Research Institute</i>
Apas	: <i>Apastamba Dharma Śūtra</i>
Atri	: <i>Atri Smṛti</i>
BPJ	: <i>Bombay Police Journal</i>
Bhavisya	: <i>Bhavisya Purāṇa</i>
Bṛhas	: <i>Bṛhaspati Smṛti</i>
C.I.I.	: <i>Corpus Inscriptionum Indicarum</i>
Chan. Up.	: <i>Chāndogya Upaniṣad</i>
D.C.	: <i>Chāndogya Upaniṣad</i>
E.I. or E.P. Indi	: <i>Epigraphia Indica</i>
Gaut	: <i>Gautama Dharmaśūtra</i>
H.C.	: <i>Harṣa Carita</i>
H.O.P.	: <i>History of Orissa Police</i>
H.D.S.	: <i>History of Dharmaśāstra</i>
H.B.	: <i>History of Bengal</i>
I.A.	: <i>Indian Antiquary</i>
I.P.J.	: <i>Indian Police Journal</i>
Jat.	: <i>Jātaka</i>
JAHS	: <i>Journal of The Andhra Historical Research Society</i>
JBRs	: <i>Journal of the Bihar Research Society.</i>
JNSI	: <i>Journal of the Numismatic Society of India</i>
JOS	: <i>Journal of The Oriental Society</i>

JRAS	: <i>Journal of the Royal Asiatic Society</i>
JRASB	: <i>Journal of The Royal Asiatic Society of Bengal</i>
Kam	: <i>Kāmandakīya Nītisāra</i>
Manu	: <i>Manusmṛti</i>
Matsya	: <i>Matsya Purāṇa</i>
Mṛccha	: <i>Mṛcchakaṭikam</i>
Mudra	: <i>Mudrārākṣasam</i>
Nār	: <i>Nārada Smṛti</i>
O.P.M.	: <i>Orissa Police Magazine</i>
Raghu	: <i>Raghuvamśam</i>
R.T.	: <i>Rājataranṅinī</i>
Sat. Br.	: <i>Satapatha Brāhmaṇa</i>
S.B.E.	: <i>Sacred Books of the East</i>
S.B.H.	: <i>Sacred Books of the Hindus</i>
Vinaya	: <i>Vinaya-Piṭaka</i>
Yāj	: <i>Yājñavalkya Smṛti</i>



Introduction

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Nature endows every animal with certain instincts of self-preservation and continuation of its species. Hunger, sleep, fear and sex are common to both the man and the animal. In the animal, these are all instinctive urges, and, as soon as the urge is satisfied, the animal is relaxed and does not act till the next urge.

Man has also got all these instinctive urges. But, he developed power of reasoning and thinking with the help of which he slowly emerged from animalhood. With this power of analysis, he learnt to modify his instinctive urges and even to conquer them entirely. Once man came to be endowed with the power, he could no longer be kept fastened by his animal instincts to a pre-determined path of life and he started making his own experiments to improve both himself and his conditions of living. One of his earliest discoveries which man made was the necessity and utility of collective life. Physically he was one of the weaker animals, and he realised that he could survive only if he could group himself with others of his kind. The first grouping took place in the form of family. But, this unit was not enough, and man soon learnt that what he could not do alone, several men acting together could do. He also found that he not only could pool strength but could also pool knowledge and experience. In this way the germs of the original society, in which man working in groups, pooling strength and knowledge, profiting by experience and using imagination and thoughts could at last overcome his physical handicaps and assert his supremacy in the animal kingdom and also control

nature to some extent. He realised that collective functioning was the only way in which he could maintain his superiority and progress.

However, in spite of all his cultural progress, man remained basically an animal and his animal instincts continued to pull him back. He realised that he must repress his animal instincts, otherwise they would lead him to destruction. Thus, whenever his desires forced him to do a particular work, his reason put a brake on him and he asked himself if such an action were good for him, for his family and for the society. Thus, started the eternal struggle between man's desires and his reason, between man the animal and man the human being, between man's impulses directed by nature and man's discretion created by his power of reasoning and between man's hatreds and his higher feelings. In this way man developed in himself his conscience and he started acting as his own watchman or police. This continual analysis and introspection led a man to develop his moral qualities and allowed him also to develop his moral philosophy, which ultimately flowered in the sublimest forms of the great religions of this world.

In the social life, also, man continually questioned his actions as to whether they were right for his family or the society, and thus he developed his civic sense or he developed his own watchman or policeman on behalf of society and he analysed and found out which actions were good for the society, kept it united and progressive, and which were destructive. In this way he developed conventions which ultimately formed into social codes, and thus came to be laid down in India the *Manusmṛiti*, probably the earliest code of human conduct in the world. In other civilised areas of the world similar codes came to be written.

Thus religion and social code were the twin forces which guided every action and thought of the civilised man. Religion helped him to improve himself and social code kept him in society, and man himself observed all the social conventions and work collectively for securing and continued progress. This continuous analysis and eternal vigilance in respect of every action or thought, in other words, his conscience developed into his Police consciousness or the man developed his own police man both to keep a watch on his own ideas and desires

and also on transgressors in society. Thus every time his desires forced him to a particular course of action, impulse took him to a direction which on analysis was found to be destructive for himself. This police man in him came to his rescue and drew him away from the path of wrong and set him on the path of right. In the social field also, every time he wanted to do some work and [he analysed whether it would be good for the society. He thus developed in himself his social police man, which not only checked the transgressions but advised, helped, directed and guided in every possible way. A father restraining his son, a mother advising the daughter, a teacher teaching students in a class; a preacher teaching religion are all acting as social policemen on behalf of the family or the society.

It is the conscience in personal life or the civic sense in his social life which acts as the eternal policeman in man. It is this policeman in man which eternally stands at cross-roads of the right and wrong barring the path to the wrong and pointing the path to the right. Without the constant vigilance and the directing hand of this policeman, man would degenerate into an animal and society would disintegrate; and without the policeman's guiding influence, man could not conquer the animal in him and the society could not prosper as a corporate body.

Hence the birth of policeman in man is to be traced to the earliest times when man started emerging from his savage animalhood and, using his power of reasoning and thought, realised the need for self-implement and the benefits of family and corporate life. It is the policeman in man which has guided him through the vicissitudes and sufferings over thousands of years and helped him to develop both individually and as an integral part of the society.

As family groups expanded, the covered larger and larger areas, coalesced with other groups expanding from different directions and formed themselves into tribes. These tribes expanded sometimes by coalescing with others or by fighting and absorbing forcibly till races grew with different languages. These further expanded into nations and marked out particular areas which they called their countries. Usually the nations went by languages. As man went on expanding, he went on driving the

mild animals before him and ultimately the only safe place for the animals was in sanctuaries. This absolute supremacy in animal kingdom was won by virtue of collective action lasting over thousands of years. Similarly, man progressed gradually in harnessing the forces of nature and made tremendous progress. This was also possible by pooling strength, skill, experience and knowledge, *i.e.*, by collective action.

All collective actions pre-suppose that different persons in a group would perform different tasks required for the group as a whole. When the groups were small, it was possible for each person to do all that was needed for existence. He could hunt, roast the meat, draw water, cut trees, light the fire, etc. But, when it came a controlling force of nature, more specialised skill was necessary and people had to be kept at particular jobs to develop special skills. Then it became necessary to develop codes and conventions of conduct in society and give them more rigidity either by force or religion or of law.

However, moral compulsion alone could not succeed as life became more complex and it was difficult for each person to carry out his police functions in respect of others, however good he himself might be. And yet, if codes were not enforced, the society would disintegrate. So the tribe ultimately elected a leader who became king and assumed in himself both religion, and temporal powers. The king could not do all that was necessary and he appointed certain persons to give him advice other to try offenders on his behalf and a still third group to carry out the executive functions on his behalf. These were the beginning of the legislative, judicial and executive functions of the State. However, whatever the leader did, either himself or through the agencies which he set up, he was only carrying out the police functions which each individual had to do both for himself and on behalf of the society. The rules etc., which the leader or the king enforced were those which had been accepted by the tribe after centuries of experience. And, though the people at large relaxed a little after handing over certain of their powers to the king, the people ultimately remained the source of all police powers of the state and whenever a ruler turned oppressive and disobeyed the people's mandate, the people saw to it that he was changed by one way or the other.

An organised police force is, therefore, only a projection of the police functions of the society which is but the sum total of the police functions of all individual members of the society. Organised police relieves every individual member of the society from having to discharge his police duties in his day to day life so that he can carry out his own constructive work uninterruptedly. But the source of strength remains the people, and it is from the people that the organised police must draw all their sustenances.

The ability of society to confront successfully the innumerable challenges every day from nature and from internal and external sources is entirely dependent on its power to maintain its internal order, that is on the way its police functions are performed. If a society becomes corrupted, it loses its internal cohesion and hence its power of resistance and will collapse when a succession of challenges threatened its existence. If the internal cohesion can be maintained, the society will overcome hundreds of challenges and endure. Without the protection of the police, society will encounter heavy whether from hundreds of external enemies. Without the guiding hand of the organised police, it will be impossible to maintain the cohesion of a growing and complex society; and without the restraining hand of the police groups forming the society will fall apart and the society will disintegrate. Police in society is like grammar to language. Just as words by themselves do not make any sense and they have to be held together and given direction by grammar, without which no thoughts can be properly expressed and it is only through grammar that the loftiest ideas can be fully developed in prose or poetry, similarly it is the police which holds the individuals together in society, gives them direction in their works and helps them along their path of development. Just as language without grammar would be only a jumble of words or sounds without any meaning, similarly a society without the unifying and directing influence of the police will be a jumble of individuals, each minding his own interests and driven by his own instincts as in the case of savage animals. Thus police in one form or another has existed in the society from the earliest times and the police must remain in the society so long as society wants to remain civilised and progressive.¹ States are formed by taking over police functions of the

individuals and directing the force of the community for the good of the people at large. The State is but an amplification of the original idea of the triple leader or king. The state sets up a legislature to legislate on its police functions; the state sets up a judiciary to try transgressions in the execution of its police functions; and a large body of executives to carry on its day to day executive police functions. In fact, every branch of work which a state does on behalf of the people is a police function which the state does on behalf of the people by exercising the power which the people have delegated to the state to keep themselves free. In reality a state can exist only so long as it continues to perform its police functions; and when a state is unable to do so, it fails. In other words, therefore, the state is inseparable from its police functions and hence becomes inseparable from the body of executives which is, set up to carry out these police functions on behalf of the police.

The field of executive functions of police is enormous and covers every branch of civil administration. In whatever direction human conduct has to be regulated, it comes in the sphere of police function. It has to protect human life, property, honour, religion and every thing that man has created out of his constructive genius. It has to restrain everything which degrades or destroys its progress. And it has to unite various forces to form into a smooth stream leading to find realisation of happiness and prosperity.

The police is, therefore, the primary constitutional force in a state for protecting the individuals in the exercise of their fundamental, legal and economic rights and for protecting and upholding the constitution, the country and the nation. Just as the origin of the police goes back to the earliest stages of human development from the savage stage, similarly the police will exist so long as man decides to live in an organised and cultured society.

Whenever there is a complex society in advanced stage of civilization, when men and women are living together in large cities, we can only expect that there would be all sorts of people, some good, some bad and some of an indifferent character, some active and aggressive, others passive and non-resisting. All these would lead to conflict in society, when the rights and interests of individuals or groups would be

transgressed. In such a situation, in every stable form of government, there is bound to be some arrangement for the keeping of the peace and protecting of the basic rights and interests of everybody. It is in this way that apart from the army the institution of the civil police came in. The king in ancient India as in many other countries was theoretically responsible for the maintenance of peace. It was his duty to punish wrongdoers, the breakers of law and to protect the harmless and the peaceful citizens. The police as an institution arose in cities both in the East and the West. The European word "Police" means "a force for the city" and in ancient India one of the titles for the chief police officer was "Nagara Pāla" or the "protector of the city".

The organisation of a police department was one of the important aspects of administration in ancient India. It was the duty of the state to maintain peace, law and order and protect all by deterring evil-minded persons from commission of crime and deviation from the normal path of duty.² The department of police helped the state in maintenance of public order and protection of persons and their property.

The organised administrative system and judiciary was based on efficient police system. Śukra is of the opinion that punishment was introduced to prevent the wicked from commission of unlawful acts.³ It is essential for any system of administration by codified laws to have at its disposal some kind of a machinery to enforce law and prevent breaches thereof.

The ancient police system in India was based on the principle of local responsibility and mutual cooperation. In the village which formed the basic unit of administration, security and peace was a matter of collective responsibility and shared by every resident of the village. The most common activities of police forces embrace uniformed patrol, criminal investigation and identification, prevention and detection of crime.⁴ With the growth of larger kingdoms, stringent laws came to be framed for detection and punishment of criminals. Whereas the police organisation in the rural areas of India from ancient times was based on the traditional system of local responsibility another system was designed for towns where whole time

regular and salaried police were employed.⁵ We get glimpses of a city police organisation in the *Arthaśāstra* of Kautilya.⁶

Rights from the Vedic period the Indian Political Philosophers, the Writers of Dharma Sūtras and Śāstras are found to be anxious for maintenance of an institution for preservations of peace and order and for protection of the weak against rapacity of the strong. They have propounded various social political theories on the basis of theological speculation to depict the origin of an orderly state out of a society of chaos and confusions. The hypothesis regarding the origin of the state has been propounded by modern political philosophers in Europe like Hobbes, Locke and Rousseau. But the political thinkers of ancient India, who are without doubt the earliest to devote their mind and intellect to this subject, have given a trend of philosophy for the origin and existence of an orderly state which is to them an expression of the all pervading universal order in the cosmic system. Like the ancient Greeks and Romans, Indians too had a play of fancy in bringing the gods to the level of the mortals to work hand in hand with them to bring perfect peace on to the earth. Gods are also represented as determining the destiny of mankind, and sometimes as guiding and encouraging men to achieve the spiritual end. The Vedic literature gives a very interesting account of how man and gods worked together to bring about peace and order in this earth which was considered to be a very difficult task owing to predominance of rapacity and propensity. The *Aitareya Brāhmaṇ*⁷ states that when gods and men together failed to bring mankind to order and control through benevolent activities the gods as if out of disgust disappeared. Prajapati who was responsible for the maintenance of peace, order and security of the universe was vexed at the conduct of the gods and asked them, "you all having disappeared who will protect people in the world? The people being unprotected will be unrighteous and will deviate from the right path. We are to give them the proper way of life". Realising the anxieties of Prajapati, the gods replied that they would create a king in the form of a man by taking different qualities from different deities viz., appearance from the Moon, energy from the Sun, strength from Indra, victory from Viṣṇu, sacrifices from Vaisravana and self-control from Yama. Thus, according to this Brahmanical

account the king, the protector of mankind, combines in himself the divine attributes of the moon, the sun, Indra, Viṣṇu, Vaisravana and Yama. This is put a symbolical representation of the institution of state responsible for order, control and security in human society.

In *Mahābhārata* Bhīṣma says to Yūdhishthira: "Listen, how the state came into being first in the Kṛitayuga. Then there was no kingdom or king; *daṇḍa* or *daṇḍika*. It was a state of nature when all people without exception pursued the path of dharma and conducted one another in an absolutely righteous manner but in course of time, poverty and delusion possessed the minds of the people and this led to embarrassment and afflictions of all kinds. Covetousness (लौभ), lust (काम), and desire (राग) preponderated in the minds of people. In such a state there was no distinction between right and wrong, between what is moral and the opposite, people yielded to all sorts of unhealthy feelings, spoke what should not be spoken, ate all kinds of food prescribed or prohibited. It appeared that king Dharma, was completely dethroned. Devas become subjected to fear and appealed to Brahmā for help and grace. The *greater* composed a science for the social advancement and well being of the world in a hundred thousand chapters".⁸

The epic writer has pointed out have that the state of nature was a state of perfect bliss and that people became unrighteous in advancement of time. The state of nature was the rule of law (dharma) and when in course of time law fell into *desuctude* Brahmā himself composed the code of law for the maintenance of peace and order in the world.

But some author of *Śānti Parvan* in another place⁹ presents just a contrary speculation by describing the state of nature as a state of war, in which every man's hand was raised against every other man. These two views of the *Mahābhārata* are said to be based on ancient traditions in which speculations regarding the origin of the law and order under a sovereign power flow in two such divergent channels. One¹⁰ of it depicting the state of nature as an ideal state of peace, centres round the installation of Prithu as the first king of the world, and the other¹¹ describing the state of nature as a state of war extols Manu as the first king. It may be pointed out that these two schools of thought correspond to those of Locke and Hobbes

respectively, the two famous English political thinkers of the modern world.

A Third School representing the views of Jaina and Buddhist thinkers presents interesting speculation. According to it¹² in the early days of cosmic cycle mankind lived in idyllic felicity in a sort of fairy land, where there was no need of private property, government or law. But the process of the cosmic cycle underwent gradual decay and subsequently the primeval freedom gave place to the fetters of the world. Mankind then felt the need of food and shelter, and impelled by necessity entered into agreement with one another for respecting the institution of private property and family. But this agreement brought further miseries and worries as with this theft, adultery and such other crimes began to increase. So people met together and chose a person who represented the general will—(*Mahāsammata*). He maintained order and retained power with the consent of the people. This speculation, more or less, corresponds to the theory propounded by the famous philosopher Rousseau who is generally regarded as the father of democracy.

Thus, ancient Indian political thinkers were eager to find out the knowledge about the origin of the institution of law; order and justice and they propounded various theories which in recent times were expressed in more or less similar ways by famous political thinkers of the modern world.

Mātsya Nyāya

The most interesting political concept which drew the attention of the Indian political philosophers was expressed in the term *Mātsya Nyāya* which stood for widespread lawlessness, chaos and confusions and reflected a craving for peace and protection. It literally means the law of the greater fish devouring the smaller ones which may be rendered as the law of "Might is right". The concept seems to have been initiated by Kauṭilya in his famous *Arthaśāstra* where he puts it in the mouth of one of the spy propagandists as—"the people selected Manu Vaivasvata to be their king to save themselves from *Mātsyanyāya*."¹³

The author of the *Śānti Parvan* has also elaborated this concept while describing the state of *Arājaka* or state with no

government. During the period between the decline of the Mauryas and the rise of the Guptas (Cir. 200 B.C.—400 A.D.) a chaotic state of affairs prevailed in the political and social life of India. The Sakās, Yavanās, Pahlavās, Kushanās and Murūndas swooped down upon India from Central Asia and even penetrated far into the heart of this country. It gave rise to internal disorder and anarchical condition resulting in widespread lawlessness and riot. It was in such an age when people were badly in need of a strong machinery of administration for peace and protection that the concept of *Mātsyanyāya* gained great political significance. This concept was also found in general use then in the medieval period and the Khalimpur Copper Plate¹⁴ declares that Gopala became king to put an end to *Mātsyanyāya*. The ideology of *Mātsyanyāya* embodies in itself 'the State of Nature' of Hobbes, 'the survival of the fittest' of Darwin and 'the class struggle' of Marx. It may be said here that this political concept was responsible in bringing about rigourism of law and the importance of the police system in ancient and medieval India.

Daṇḍanīti

Associated with the concept of *Mātsyanyāya* is found the concept of *Daṇḍanīti* or the law of regulating human conduct by punishment. Man being dictated by inborn instinct may prove detrimental to society and hence the necessity of a coercive power is felt with the express object of guiding and regulating the human conduct for social good. The basic idea of the concept of *Daṇḍanīti* is, therefore, to make each individual a healthy member of the society by defining and safeguarding its relation to it. In the words of Fichte it is the principle of 'to live and let live' and in the words of Śukra it is the dictate of dharma emanating from the primordial concept of moral order. *Daṇḍanīti*, therefore, is meant not only to eliminate *Mātsyanyāya* but also to furnish opportunity for leading life to perfection. It not only brings free scope for the fruition of the police system but also aims at the realisation of the state to be more than mere police. It, therefore, presents a very important idealism for ancient Indian political philosophy and

it serves as a guiding principle for achieving the object of social state.

Dharma

In its broad and general meaning *dharma* is understood as righteousness, but it is expressed as a political concept representing universal law. Buddhist philosophers regards *dharma* (*Dhamma*) as the ultimate reality, put in Hindu political philosophy it stands for the sacred law.

The *Aitareya Brāhmaṇa*¹⁵ declares the king as the defender of *dharma* while the *Satapatha Brāhmaṇa*¹⁶ states that *Daṇḍa* is necessary to maintain *dharma*. According to Kauṭilya¹⁷ the king as dandadhara upholds *dharma* and thereby attains happiness both here and hereafter. Radha Kumud Mukherjee¹⁸ interprets king as *daṇḍa*, and *dharma* as the law and constitution of the realm. But *daṇḍa* stands for the sceptre of royalty symbolising sovereign power of the king and not the king himself. Śāntiparva of the *Mahābhārata* also differentiates the king from *daṇḍa* and calls the king dandika which is the same as dandadhara of the *Arthaśāstra*. *Dharma* as has been pointed out means the law for the maintenance of peace, order and justice. Ancient Indian law-givers as known to have composed various manuals of human conduct which are known as *Dharmaśūtras* along with *Śrauta Sūtras* (Manual of scriptures), and *Griha Sūtras* (Manual of domestic life). The *Dharma Sūtras* are the most important legal literature in ancient India and they are in fact the sources of Hindu laws. The famous *Dharma Sūtra* writers are Gautama, Baudhayana, Vasistha and Āpatambha who flourished between the sixth and second Centuries B.C.

In later period the *Dharmaśūtras* gave place to *Dharmaśūtras* which embodied elaborate discussion of the sacred law. Numerous *dharma śāstras* (*Smṛtis*) were written during the early christian centuries, important among which were that of Manu, Yājñavalkya, Viṣṇu and Nārada. *Manava Dharma Śāstra* (*Dharmaśāstra* of Manu) is considered to be the earliest among these works and is regarded as the most authentic. It is popularly known as the 'Manusmṛiti'. It played a very important role in reorganising Hindu society on the basis of a moral

order which was more divine than secular. It was not a purely legal text-book but was more of a philosophical discourse and being regarded as a revealed literature had great sanctity and authenticity.

Arthaśāstra

Side by side with *Dharmaśāstra*, there developed in ancient India another branch of literature—called *Arthaśāstra*. *Artha* in the modern parlance means money and so some regard *Arthaśāstra* as science of money or economics. But in ancient Indian concept economics was represented by the term *varta*, and *Artha* devoted politics. Hence, *Arthaśāstra* is science of politics or government. *Arthaśāstra* may also be distinguished from *Dharmaśāstras* as the latter are legal-cum-religious treatises while the former are political and secular treatises. *Arthaśāstra* is also known as *Rājaśāstra* or *Nītiśāstra*. The author of the *Śānti Parvan* of the *Mahābhārata* presents a list of *Rājaśāstra* writers viz., Bṛhaspati, Vasaluksha, Vsanas, Mahendra, Sahasraksha, Manu, Prachetasa, Bharadvaja and Gaurasiras. The most important work *Arthaśāstra* is that of Kauṭilya who was the minister of Mauryan emperor Candragupta and flourished in the 4th century B.C. Kauṭilya is neither a sage nor a pandit but an astute politician and his work is neither a gazetteer nor a philosophy but a science of administration. He recommends methods of political success which may be immoral or amoral. Deception, bribery, treachery, inhuman practices and secret methods and recommended for the interest of statecraft for which he is sometime called the Indian Machiavelli.

The *Arthaśāstra* of Kauṭilya covers all spheres of administration of state, i.e., Executive, Legislative, Judiciary, Police and military and it may be said that ancient Indian system of government till the establishment of the Muslim rule was to a great extent influenced by the ideology of the *Arthaśāstra* and hence, for a historical discussion of any aspect of administration in India it is relied upon as an essential ground work. We have examined the *Arthaśāstra* norms of police administration in ancient India in detail. It will suffice here to point out the secret service system advocated by this famous work as a healthy basis of administration. The institution of spies is

considered to be one of the most important organisation of the state long before Kauṭilya in India. Spies are described even in the Vedas¹⁹ and they find frequent mention in the early Buddhist literature. It is learnt from the *Artha Kathā* that Brahmana Vassakara, the Prime Minister of Ajātsatru sowed the seeds of dissension among the Vaisalians by means of the secret service and ultimately brought about the downfall of that mighty and powerful tribe.²⁰ Kauṭilya in his *Arthaśāstra* follows the footsteps of the state's men who preceded him in this respect.

The *Arthaśāstra* describes two types of espionage²¹ i.e., Sanstah or stationary spies and sancharah or wandering spies. The stationary spies consist of the fraudulent disciples (*Kapatikas*), recluses (*Udasthitas*), house-holders (*Grihapatika*), merchants (*vaidehakas*), and ascetics (*Tapasas*), while the wandering spies include students (*satris*) desperados (*Tikashnas*) and Poisoners (*Rasadas*). Women are specially recommended as spies in the wandering group and they are to use as mendicants (*Bhikshukis*), wandering nuns (*Parivrajikas*), Shavelings (*Mundas*) and Courtesans (*Vrishalis*). Kauṭilya recommended the employment of spies under the guise of persons endowed with supernatural power, persons engaged in penance, ascetics, world trotters (*chakrachara*), bards, buffoons, mystics (*Prachhandaka*), astrologers, prophets foretelling the future, persons capable of reading good or bad time, physicians, lunatics, the dumb, the deaf, idiots, the blind, traders, painters, carpenters, musicians, dancers, vintners and manufacturers of cakes, flesh and cooked rice, and send them abroad into the country for espionage.²²

The spies were meant not only against enemies within and without but also for ascertaining the loyalty of the citizens and the allegiance of the high officials and dignitaries. Manu²³ describes five classes of spies with their various guises and according to him the spies are responsible for the detection of crimes, keeping watch on the conduct of officials, and ascertaining the strength of the king as well as that of his enemies. In the epic and post-epic literature spies are declared as the eyes of the king and the *Udyogaparva*²⁴ of the *Mahābhārata* aptly remarks that "the cows see by smell, priests by knowledge, kings by spies and other men through eyes".

Later Smṛiti and Nītiśāstra Literature

During the Gupta period and the middle age a mass of *Smṛiti* and *Nītiśāstra* literature were written on state-craft and human conduct giving instructions in the sacred law. Many of them borrowed the political and social thoughts from Kauṭilya and Manu but some of the writers attempted to deviate from the old authorities and showed tendencies of dismissing the philosophical aspects of politics. Yān and Nārada made improvements on Manu and contributed to Hindu law with purely legal and human point of view. The medieval jurist Vijñaneśvara who flourished in the court of famous Chālūkyā monarch Vikramāditya VI (1075—1127 A.D.) wrote a learned commentary called *Mitākshara* on the *Smṛiti* text of Yān and this work is regarded as one of the most important text on civil law in India. Other important jurists of medieval India who worked on Yān, Nārada, and Viṣṇu were Hemādri and Jimutavāhana and the latter is famous for his treatise on *Dayābhāga* which has also greatly influenced the Hindu Law of India. Thus side by side with the political treatises important legal texts were composed in medieval India to impose righteousness, good conduct as well as, the royal ordinance and the social customs on the people. The most important *Nītiśāstra* of the period is that of Kāmandaka who probably belonged to the Gupta period. His *Nītiśāstra* closely follows the *Arthaśāstra* and hence he is sometimes regarded as a disciple of Kauṭilya. He is without doubt one of the great political guru of India and is honoured as an authority on Dharma (sacred law) and Arth (Politics). He defined *daṇḍa* as the repression of crime and states that using to the possession of this virtue the king himself is known as *daṇḍa*. It is with this vein that he defines *Daṇḍanīti* as the administration of the king and considers the institution responsible for the eradication of crime as the most important one in the state.

Vishnuśarmā the writer of the *Pañchatantra*²⁵ gives salutary instructions in *Nīti* not only for the ordinary man but also for the kings and statesman. The *Pañchatantra* presents the Indian legal lore in the most fascinating manner in the form of stories which have wandered from nation to nation in Asia, Europe and African coast. The Persian king Khosrau Ansherman (531-

579 A.D.) got it translated into Pehlevi in 570 A.D. and the Syrian Christian monk translated the Pehlevi version into Syrian with the little *Kalilog* and *Damnog*. This was translated into Arabic about 750 A.D. under the title "*Kalila Wa Dimna*." Ph. Wolff, the German translator of the Arabic version has rightly remarked that "next to the Bible it had been translated into most of the languages of the world" and according to him this work "had inspired whole nations, and to this kings and princes paid attention and honour".

In the 10th century A.D. the Jaina writer Somadevasuri wrote a very important treatise on Nītiśāstra (politics) called 'Nītivākyamṛta' which is a precious source book for the then politico-religious life of India. The Nītiśāra of Śūkarāchārya who probably flourished in the late medieval period is not a mere borrowing from Kauṭilya, and the writer exhibits remarkable novelty and originality which are seldom found before. Śukra²⁶ compares the state to a tree of which the king is the root, the ministers the trunk, the Generals the branches, the army the leaves and flowers, and the people and territory the fruits and seeds respectively. He regards the headman as the mother and father of the village and makes him entirely responsible for protecting the villagers from robbers, the enemies of King as well as from wicked officers of the king.²⁷ Śukra lays great emphasis on the village police and attributes great responsibilities and duties to it. One of his primary thoughts was the security of life and property of the people and the repression of theft and such other crimes in the country. His Nītiśāstra is without doubt, an outstanding work for political and social well being of the country and it is a manual of guidance to statesmen and citizens of all time and clime. K.K. Sarkar²⁸ rightly remarks that "this text is at once the work of a Machivelli and to a certain extent of Rousseau".

Though, there have been considerable scholarly works on different aspects of administration of ancient India, viz., *Some Aspects of Ancient Hindu Polity* by D.R. Bhandarkar; *Crime and Punishment in Ancient India* by R.P. Dasgupta; *A History of Hindu Public Life* by U.N. Ghoshal; *The Principles of Hindu Law* by J.C. Ghoshe; *Hindu Polity* by K.P. Jayaswal; *History of Dharmaśāstra* by P.V. Kane; *Studies in Ancient Indian Polity* by N.N. Law; *Local Government in*

Ancient India by R.K. Mookerji; *Corruption in Ancient India* by Upendra Thakur; *Polity in Agni Purāṇa* by B.B. Mishra; *Judicial Administration in Ancient India* by B. Nath; *Hindu Law and Its Sources* by G.N. Jha; *Political Ideas and Institutions in the Mahābhārata* by B.P. Roy; *Crime and Punishment in Ancient India* by Sukla Das and others, none of these works, however, enlightens us on police administration in ancient India. It is surprising that upto this time no work dealing exclusively with the police administration has been written in any language. We have stray references and a few Chapters, but these lack scientific treatment in the context of police administration of ancient India.

To have a clear idea of the subject we have divided it into several chapters. The first chapter is introductory and deals with the sources of the work and remaining chapters deal with Police Organisation, Police and Public Life, Police and Economic Life, Police and Judiciary, Law and Order, Detection of Criminals, Corruption, Crime and Punishment.

NOTES AND REFERENCES

1. IPJ, *Police through the Ages*, p. 7.
2. *Manu*. VII, 14, 18, 22; *Matsya*, 227.9.
3. *Śukra*, IV, Sec. 6.
4. *Ency. Soc. Sci.*, XI-XII, p. 185.
5. *RBPC*, p. 64.
6. Chatterji S.K., *The Police in Ancient India*, p. 11.
7. *Ait. Br.*, 1.350.
8. *Mbh. Santiparva*, Ch. 59.
9. *Ibid.*, Ch. 67.
10. *Ibid.*, Ch. 59.
11. Kautilya's, *A.S.*, Book I, Ch. 13.
12. *Vide* Basham, A.L., *The Wonder That Was India*, p. 82.
13. *A.S.*, Book I, Ch. 13.
14. *E.P.*, Indi IV, 248.
15. *Air. Br.*, VIII, p. 26.
16. *Sat. Br.*, XIV, 4, 2, 23.
17. *A.S.* Book I, Chs. 3, 4.
18. *Chandragupta Maurya and His Times*, p. 51.
19. The RgVeda speaks of the spies (Spasah) of Varuna. They sit down around him (1.24.13). They behold the two worlds (VIII, 87. 3). They are undeceived and wise (VI. 67.5) in the *Atharvaveda* (VI. 16.4) it is stated that Varuṇa's spies descending from heaven

- traverse of world, "thousand eyes they look over the earth". Besides Varuṇa spies are also attributed to Mitra (VIII. 61.3) to Agni (VI. 4.3) to Soma (IX. 73.4) to demons combated by Indra (I. 37.8) and to the gods in general (X. 10.8). P.C. Chakravarti, *The Arts of War in Ancient India*, Ch. VIII.
20. H.C. Roychoudhary, *Political History of Ancient India* (4th edn.), pp. 173-74 ; also *Modern Review*, July 1919, pp. 55-56.
 21. Ray Choudhary, *op. cit.*, pp. 238-39.
 22. A.S., Book IV, Ch. 4.
 23. *Manu.*, VII. 154; IX, 262.
 24. *Mbh. Udyoga Parva*, 33, 34.
 25. M. Winternitz, *Indian Literature and World Literature*, Calcutta Review, Jan. 1924, Calcutta.
 26. *Śukra*, V, 12.13.
 27. *Ibid.*, II, 172.
 28. B.K. Sarkar, *The Positive Background of Hindu Sociology*, Book I (1937), p. 16.

We have little knowledge of police organisation in ancient India. Unfortunately the records do not clearly distinguish between the police and military officers. Sometimes military officers did the duty of the police officers and *vice-versa*. The organisation of a police department was considered as one of the most important functions of the state in order to protect the society from evil-minded persons. It has been said that the most common activities of police force embrace uniformed patrol, criminal investigation and identification, prevention and detection of crime.¹ The Hindu theory of punishment being deterrent it was the duty of the state to maintain peace and protect all by deterring evil-minded persons from commission of crime and deviation from the normal path of duty.² Śukra rightly observed that punishment was introduced to prevent the wicked from commission of unlawful acts.³ The department of police helped the state in the maintenance of public order and protection of person and property.

The village chief appears to be mainly responsible for the preservation of law and order in the village. In case of murder or theft inside the village he had to trace out the culprit, perhaps with the help of the village people and hand him over to the king. A tax was levied upon villagers to meet the expenses connected with the visits of soldiers and officers with their peons and attendants; a tax was levied upon the villagers for meeting the expenses of soldiers quartered on the village, and a fine imposed upon it for giving shelter to cheats and bad

characters and a tax was levied at the entry of regular and irregular troops.

Thus we see that village councils were required to detect crimes committed within their jurisdiction.⁴ The smallest administrative unit being the village the policing arrangements of villages were under supervision of the headmen.⁵

Kautilya in his *Arthaśāstra* mentions 18 great officers of the state and calls them *Ashtadaśa tirthas*.⁶ These officers are: (1) *Mantrin*, (2) *Purohita*, (3) *Senāpati*, (4) *Yuvarāja*, (5) *Dauvarika*, (6) *Antarvansika*, (7) *Prasasta*, (8) *Samāhartā*, (9) *Sannidhātā*, (10) *Pradeshta*, (11) *Nāyaka*, (12) *Pauravyavaharika*, (13) *Karmantika*, (14) *Mantri parishad-Adhyaksha*, (15) *Dāṇḍapāla*, (16) *Durgapāla*, (17) *Antapāla*, (18) *Atavika*, out of these 18 officials many were discharging police and military function. The *Dauvarika*, who was the warden of the police was keeping strict vigilance in the management of the royal palace and was considered a very important officer. His salary was 24 thousand *paṇas* as against the first four officers mentioned above who were getting 48 thousand *paṇas*. The *Antarvansika*, *Prasasta*, *Samāhartā* and *Sannidhātā* were officers of the same grade as *Dauvarika* and their salary was also the same. *Antarvansika* was the overseer of the harem and this officer was quite likely a lady. Her function was of very intricate and responsible nature as she was to guard against the intriguing women who were in close association with the king. Harem was one of the most risky and dangerous place for the king and many ancient Indian monarchs are known to have been murdered there. Thus, while *Dauvarika* was responsible for the maintenance of law and order of the outer life of the palace the *Antarvansika* was in-charge of the peace and security in its inner life. The *Prasasta* was a military-cum-police officer and he was in-charge of the munitions. Officers like *Samāhartā* and *Sannidhātā* were in-charge of the revenue department, the former being the collector general and the latter the treasurer general. The *Pradeshtas* were the subordinate revenue official working in the districts and decides the collection of revenue. They were also maintaining the local peace and sometimes functioning as judicial officers. Their salary was 8 thousand *panas*. The *Senāpati* and the *Nāyaka* were military officers. The *Senāpati* was the commander-in-chief equal in status to

the queen, crown prince and the prime minister receiving like them, a salary of 48 thousand *paṇas*. The *Nāyaka* was below the *Senāpati* but was drawing only 12 thousand *paṇas*. The *Daṇḍapāla*, the *Durgapāla* and the *Antapāla* were the military officers but were discharging a good deal of police functions, they being in-charge of the peace and order of the country at large. The *Daṇḍapāla* in latter times was known as *Daṇḍapārīka* when he became out and out a police officer; so also was the case of *Durgapāla*, who in later times became known as *Kotapāla*, and subsequently as *Katuala* (or *Kotwal*). *Durgapāla* was the same as *Purapāla* who was the head of the city-administration with the duties of collection of revenue and maintenance of law and order by means of police, secret agents and watchman. The *Antapāla* was not only the warden of the frontier but also was the guardian for the safe up-keep of the roads. He was responsible for making the roads free of robbers and as such, was collecting road tolls from merchants travellers. These road tolls as known from the *Arthaśāstra* were a sort of insurance because if the merchants would suffer any loss from the robbers or highway-men the *Antapāla* was to compensate the loss. The salary of the *Antapāla* was 12 thousand *paṇas*. The *Ātavika* were the forest tribes who were a source of great strength for the army, as well as, for the police. When recruited into army they made fearless soldier, and while employed in police they put up efficient nocturnal operations, as well as, day light service. But left to themselves, they were great danger to public safety and a menace to the state and government. By mentioning *Ātavika* as a high official Kautīlya probably means the *Ātavipāla* who was in-charge of controlling the *Ātavikas*. The *Pauravyavahārīka* was of the same grade as the *Antapāla* and the special Kalinga edicts of Aśoka call this office as *Nagaravyavahārīka* meaning the city judge. The other two officers—*Karmantika* and *Mantripariṣāḍa Adhyakṣha* had no police function to perform. One was the mining superintendent and the other was the superintendent of the affairs of the council of ministers.

Kautīlya describes the administration of criminal law as *Kaṇṭaka Sodhaṇa* the cleaning of thorns, which means the eradication of the dangerous elements by criminal laws and police regulations. Merchants and artisans who cheat their

customers, physicians who neglect the patients, dishonest musicians and dancers, thieves in the guise of gentlemen and such other persons committing crimes for forcible entry, poisoning, coining and fraud are branded as dangerous elements (*Kantakas*). Both revenue and police officers were entrusted with the task of dealing with these criminals and their duties were to trace them out with the assistance of spies and agents provocateurs and to punish them severely. While arresting a person some direct evidence was considered and arrest on mere suspicion was not always allowed.

Kautilya⁷ states that a suspect should not be put under arrest after a lapse of three days from the commission of the offence when no direct evidence was found about his crime. If the suspected person was considered to be an agent of an enmical state he was to be arrested then and there. Undesirable persons of suspicious appearance who had suspicious wounds on their bodies or who carried harmful implements or some load beyond their capacity or who were found sleeping beyond time were being watched upon. Strangers frequenting holy places, forests and crematories were also considered as suspicious persons and were speed out in the house of the outskirts of the town, in factories, liquor shops, restaurants, gambling house and in the abode herelics. Wine sellers, restaurant keepers and prostitutes were required to send regular reports about suspected persons and they were instructed to consider those persons as suspicious who were extravagant in expenditure and exhibiting dangerous tendencies. The managers of inns or *Dharmaśālas* were also required to send regular report to city police about the travellers who stayed in them.

Kautilya has furnished a long list of persons to be considered suspects, which is quoted below:⁸

"Persons whose family subsist on slender means of inheritance; who have little or no comfort; who frequently change their residence; caste and the names, not only of themselves; but also of their family (*Gotra*); who conceal their own avocations and calls; who have taken themselves to such luxurious modes of life as eating flesh and condiments, drinking liquor, wearing scents, garlands, fine dress and jewels; who have been squandering away their money; who constantly move with profligate women, gamblers or vintners; who frequently leave their

residence; whose commercial transaction, journey, or destination is difficult to understand; who travel alone to such solitary places as forests and mountainous tracts; who had secret meeting in lonely places near to, or far from their residence; who hurry or to get their fresh wounds or boils cured; who always hide themselves in the interior of their house; who are excessively attached to women; who are always inquisitive to gather information as to the women and property of others, who associate themselves with men of condemnable learning and work; who loiter in the dark behind walls or under shades; who purchase rare or suspicious articles in suspicious times or places; who are known for their inimical dealings; whose caste and avocations are very low; who keep false appearances or put on different caste signs; who change their ancestral customs under false excuses; whose notoriety is already marked, who though in-charge of village are terribly afraid of appearing before the prime minister and conceal themselves or go else where; who pant in fear while sitting alone; who show undue agitation or palpitation of heart; whose face is pale and dry while the voice is indistinct and stammering; who always move in company with armed men or who keep threatening appearance, these and other persons may be suspected to be either murderers or robbers offenders guilty of misappropriation of treasure trove or deposit or to be any other kind of knaves subsisting by foul means secretly employed”.

No citizens were allowed to move outside in the night after the announcement of the trumpet by the curfew police. But in case of doctors or persons carrying dead bodies, persons going to attend the call of the government, persons going to meet emergencies like outbreak of fire etc., the curfew rule was not necessary, people were, however, allowed to move unchecked for attending—theatrical performances or other entertainments when those were recommended by the Censor. In ordinary circumstances no person was considered guilty if he travelled at night even after curfew hour with a lamp in his hand.

As regards seizure of criminals Kautilya has placed great emphasis on circumstantiale vidences which he has elaborated as follows:⁹ “In case of house-breaking and theft the circumstances such as entrance and exit effected through other than doors, breaking the door by means of special contrivances,

breaking the windows with or without lattice work or pulling off the roof in house consisting of upstairs, ascending and descending—upstairs breaking the wall, funnelling, such contrivances as are necessary to carry off the treasure secretly harded, information about which can only be gathered from internal sources, these and other accessory circumstances of wear and tear cognisable in the interior shall tend to indicate the concern of internal hands in the crime, and those of reverse nature, external agencies. The blending of these two kinds of circumstances shall indicate both internal and external agencies”.

Regarding crimes suspected to be the work of internal agencies Kautilya gives interesting suggestions. “Any person of miserable appearance, present on the occasion, associated with rogues and thieves and possessed of such instruments as are necessary for theft; a woman who is born of a poor family; or has placed her affection elsewhere; servants of similar condemnable character; any person addicted to too much sleep or who is suffering from want of sleep; any person who shows signs of fatigue or whose face is pale and dry, with voice stammering and indistinct and who may be watching the monuments of others or bewailing too much; any person whose body bears the signs of scaling heights; any person whose body appears to have been scratched or wounded with dress torn off; any one whose legs and hands bear the signs of rubbing and scratching; any one whose hairs and nails are either full of dirt or freshly broken; anyone who has just bathed and daubed his body with sandal; any one who has smeared his body with oil and has just washed his hands and legs; any one whose footprints can be identified with those made near the house during ingress and egress; any one whose broken fragments of garlands, sandal or dress can be identified with those thrown out in or near the house during entrance or exit; any person the smell of whose sweat or drink can be ascertained from the fragments of his dress thrown out in or near the house, these, and others persons shall be examined”.

“A citizen or a person of adulterous habits may also be suspected. A commissioner (Pradeshta) with his retinue of Gopās and Sthānikas shall take steps to find out external thieves and the officers in-charge of a city (Nāgaraka) shall,

under the circumstances sketched above, try to detect internal thieves inside fortified towns”.

In the Mauryan system of administration which was based on rigorous police and espionage organisations was now introduced the buddhist spirit of piety and non-violence. Aśoka started exploring various ways for the realisation of the ethical and rational principles of Buddhism in his administrative machinery in which he tried to develop both spiritual and extra-national outlook. The idealism of a *chakravartī* depicted by the Buddhist canonical literature became his guiding principles. The *Anguttara Nikāya* aptly describes such idealism in its simple and meaningful verses as follows—“I am the *chakravartī* king, the lord of Jambudvīpa, the anointed Kshatriya and the overlord of men. I have conquered the world without the rod (of king) and without weapons; and I am ruling over this world with the principles of piety promulgating the law without conceit and with piety and equity”.¹⁰ Such was the idealism of Aśoka after the conquest of Kalinga and his change of policy became manifest in his administrative reforms. In his special Kalinga edict he declares, “All nuns are my children. As I desire for my children that they all should enjoy peace and happiness in this world and in the other world, so also I desire for all my men”.¹¹ This paternal spirit surcharged the imperial structure of government under this great emperor. No doubt there was a well organised bureaucracy and the officers working both in the centre and in the provinces had well defined duties and responsibilities.

India under Aśoka witnessed an intensive paternal spirit of administration due to political necessity. The Maurya viceroy who was *Kunāra* of the royal blood was stationed at Tosali (Modern Dhauli) and was assisted by a council of ministers and by judicial and police officers, while an executive officer who was to implement the verbal directives of the emperor (*Rāja vachanika*) was stationed at Somapa (modern Jaugada) along with a few ministers. In the special Kalinga Edict Aśoka imparts directives and advices for the officials in telling words as follows: “In affairs of administration there might be some persons who would get imprisonment and coercion, there also might occur accidental death in prison and many imprisoned persons might suffer long. In that case you must strive to deal

with all of them impartially, the attributes which are not conducive to impartial dealings are malignity, irascibility, harshness, hastiness, lack of practice, indolence and weariness. You all must strive, so that these attributes may not be in you. At the root of all impartial dealings lie the absence of anger and the avoidance of hurry. . . . The judicial officer of the capital (Nagara *i.e.* Toshali) must strive at all times for this; and they should not inflict sudden imprisonment or sudden coercion on people. For this purpose I would be sending on quinquennial tours the Mahāmātras who would not be harsh and irascible and would be soft and gentle in dealing".¹² This proclamation reveals that immediately after the conquest the people of Kalinga were under a martial rule and many of them were subjected to sudden arrest (*Akaśmā vandhana*) coercion and long imprisonment. Aśoka with his usual paternal spirit is proclaiming herewith a complete suspension of such a rule and recommending the officials the virtuous conduct for just and benevolent administration. No doubt the Mauryan pattern of administration was imposed on this province in some modified form indicating the eagerness of the emperor for consolidation of his new conquest. The important officials were the *Mahāmātras*, the *Rajjukas*, the *Pulias*, the *Pradeśikas*, the *Yūtas*, the *Āyutas*, the *Vachabhumikas*, the *Prativedakas*, the *Lipikāras* and the *Dūtas*. The *Mahāmātras* or the high-ministers were of various categories and those employed in Kalinga were of the cadre of the Anta *Mahāmātras* meaning ministers in the outlying provinces. The *Dhamma Mahāmātras* created by Aśoka in the 13th year of his coronation were a class of very important ministers and they were working as censors of public moral. They along with *Dhammayūtas*, who were subordinate to them, were employed to look after the spiritual and moral benefits of the people and were given a protective mission. They worked among servants and masters, brāhmins and *Nirgranthas*, the helpless and the aged and helped all to free themselves from worldly cares. They may thus be regarded as spiritual police officers working under the department of law of piety—a unique experiment of the righteous emperor. These officers were also empowered to revise the sentences of imprisonment or execution and to reduce penalties or grant release on humanitarian consideration.¹³ The *Rajjukas*¹⁴ were in-charge of the welfare of the Janapadas and

were endowed with absolute powers in matters of rewarding and punishing the people. Like *Dhamma Mahāmātras*, the Rajjukas were also a novel experiment of Aśoka in his administrative reforms and these officers besides their executive, police and judicial duties had also the concerns of the establishment of the law of piety. By instituting this special class of affairs Aśoka expresses his satisfaction by proclaiming that, "As parents are relieved by leaving their children in the custody of educated nurses saying that the nurses would be able to safeguard the happiness of our children, in the like manner I have appointed the Rajjukas to take charge of the welfare and happiness of the Janapadas".¹⁵ But Aśoka being a practical statesman did not remain quiet by expressing such political idealism. He was eager to know whether the Rajjukas were discharging their responsibilities according to his moral directives or not. It was for this purpose that he appointed the pulisas who were on active vigilance of the affairs of the Rajjukas and other officers. These pulisas were no doubt the *Pūrūshas* or the *gūḍha Purūshas* (Spies) of the time of Candragupta Maurya and they may be taken as the imperial agents in the provinces. Thus Aśoka does not seem to have done away with the institution of spy system. The praderikas were the same as pradestri of the *Arthaśāstra* of Kauṭilya and they were discharging judicial, revenue and police powers. As revenue officers they were assisting the Samāhartrī the chief revenue collector and as judicial and police officers they were assisting the Rajjukas. They were entrusted with the work of maintaining peace and order by tracking thieves and putting down riots. For discharging various functions of their office, they were being helped by *Yuktas* and *Āyuktas*. The special Kalinga Edict No. II indicates that the *Āyuktas* were village officers responsible for the execution of King's order and for maintenance of peace in the villages. They very probably discharge the work of the village police. The *Vachabhumikas* were in-charge of veterinary and agricultural departments and hence, had little to do with the police functions, but the *Prativedakas*¹⁶ who were an important class of officers, were closely associated with the police and intelligence department. These officers were unknown, in the days of Candragupta Maurya and therefore, Kauṭilya does not mention them in his *Arthaśāstra*, Aśoka created this class of officers to

know about the affairs of the people throughout his empire. These officers were not spies as, they were not working incognito and their duties were to report wants and difficulties of the people in general to the emperor to whom they had full access. They were empowered to meet the emperor with their reports at any time and at any place whether the emperor would be taking his meals or would be in the harem or would be taking rest or travelling on the road or loitering in the garden. By creating this special class of welfare police like the *Dhamma Mahāmātra* and the *Rajjukas* Aśoka was aiming at a higher type of socialistic state which yet remains an idealism for the modern time. The *Lipikāras* were in-charge of the records department and the *Dūtas* were probably the imperial envoys employed in the neighbouring territories outside India and also in independent states inside India and it was through these officers that Aśoka was carrying on his religious and cultural missions in the then known world. The *Dūtas* were also stationed in the territory of the *Ātavikas* whom Aśoka was particularly eager to appease. The *Ātavika* territory which comprised the hilly tracts to the west of the coastal plain of Kalinga was left unconquered and remained an outlying region. The fierce and war-like people of this land were a source of constant anxieties for Aśoka and the emperor was inclined to conquer the hearts of those people by his policy of piety and love. In the special Kalinga Edict No. II he gave those people to understand that it was his sincere desire that they should not have any anxiety because of him and they should expect happiness not sorrow from him. It may be pointed out that his policy towards the *Ātavika* people was the beginning of his great idealism of *Dhamma Vijaya* (conquest by piety) for which he stands unparallel in history.

The Police system under Aśoka may be summarised as follows: The *Mahāmātras* who were the highest executive officer in the province were responsible for the over all peace and order. Under them the *Pradesikas* were employed for the work of collection of revenue, maintenance of peace and order and administration of justice. The *Rajjukas*, came next to the *Pradesikas* and were in-charge of the welfare and happiness of the *Janapada* (an administrative division of the province) with absolute powers in matters of reward and punishment. The *Rajjukas* were under the vigilance of the *Pulīsas*. The *Āyuktas*

were a sort of village police and were probably working under the *Rajjukas* and were to some extent responsible to the *Pradesikas*. The *Prativedakas* were a special class of officers empowered to report the affairs of the people to the emperor at any place and time. Besides all this the emperor widely employed a special class of high officers named *Dhammahāmātras* for censorship of public moral and spiritual upliftment of the people. On the whole the police organisation under Aśoka was quite novel and unique in history and it aimed at the creation of an advance type of socialistic state which was the idealism of a *chakaravartī* monarch as envisaged in the Buddhist canonical works. It may, however, be pointed out that Aśoka did not altogether suspend the spy system which he used in a more complex and rigorous form during his grand-father. Offenders were arrested and were punished by the courts of law, which used to sentence them to various terms of imprisonment. Aśoka, however, introduced some lenient measures for lenient treatment of the prisoners. He was setting free certain class of prisoners on his birth day and the *Dhammahāmātras* were also empowered to extend special favour to prisoners who were quite aged or had many dependents. Death sentences were not unknown but Aśoka was giving a respite of three days to persons sentenced to death. Thus, under Aśoka the routine work of the police for maintenance of law and order was in full operation and rigorism of temporary regulations went hand in hand.

H.C. Roychoudhary remarks, "The influence of political thinkers (*Arthachintakas*) on Indo-Scythian policy is evident. The ablest among the princes of the time assiduously studied the science of polity (*Arthavidya*); and the care taken to train the occupant of the throne, the employment of officers endowed with ministerial qualifications (*Amātyaguna*), classification of ministers and other high officials (*Sachivas*), abstention from oppressive imposition of *Praṇaya* (Benevolences), *Viśhṭi* (forced labour) etc., and the solicitude for the welfare of the Puras and Janapadas, people of cities, as well as country parts, clearly shows that the teaching of the writers of treatises on polity (*Arthaśāstra*) was not lost upon the Scythian conquerors of India. There was no great cleavage with the past, and the references to *Mahāmātras*, *Rajjukas*, the *Samcharamtaka* or *Sarchārin* spies, indicates that the official machinery of the

Maurya period had not ceased to function at least in southern India.¹⁷ Important officers of the period performing military and police functions were *Mahāsenāpati*, *Daṇḍanāyaka*, *Mahādaṇḍanāyaka*, *Senāgopas*, *Gaulmika*, *Arakshādhikritas*, *Aśvāvarikas*, *Bhaṭamanushyas* etc. H.C. Roychoudhary¹⁸ translates *senāgopas* as captains, *gaulmikas* as commanders of platoons, *Arakshādhikāritas* as guards, *Aśvavārikas* as troopers and *Bhaṭamanūshyas* as mercenaries. These military officers were greatly responsible for peace, order and security of the realm and as such they had important police duties to perform. The *Sanchāramtakas* were wandering emissaries and they correspond to the *Gudha Purūshas* of Kauṭilya's *Arthaśāstra*. The village administration was not very much influenced by the Scythian system and it continued in the traditional line of ancient village organisation of India. The *Grāmiṇī* or the *Grāmika* continued to be the chief controller of the affairs of the village and he was being assisted by the *Gahapatīs* or the *Grām Vridhdhas*. Thus the Scythian rule appears to have retained the Indian system of administration and infused into it a practical spirit of discipline and cooperation to some extent.

During the period of imperial Gupta the administrative institutions attained considerable development and political concepts underwent important changes. The remarks of Manu that the king is the great god appearing in human form was realised in politics during the days of the Guptas. The great Maurya king Aśoka never ventured to call himself God and at best he went to the extent of declaring himself as the beloved of the God (*Devānam Priya*). The first finger-post towards apotheosis of kingship in India is found during the rule of the Kuṣānas as a result of direct influence of political concepts of the Roman and Chinese empires existing side by side during that period. Kaniṣka declares himself not only as Kaiser but also as Devaputra, the son of God. But Samudragupta the great Gupta emperor declares that he is God himself. In his Allahabad Pillar inscription¹⁹ he compares himself with Dhanada, Varūṇa, Indra and Antaka and calls himself as an incomprehensible Being (*Achintya Purūsha*) and as God dwelling in this world (*Lokadhāma Deva*). This ideology is quite distinct from that of Aśoka and of early Buddhist canonical literature as discussed above.²⁰ The administrative institutions under the

Guptas were, therefore, considered sacrosanct and they carried with them the reflection of the divine ideology of the king. But the administration of the country was highly efficient and was running in the line of Aśokan paternalism. The Chinese pilgrim Fahien who visited India during the period 403-411 A.D. has left interesting accounts about the working of the administrative system. Speaking of the middle kingdom he says, "the people were numerous and happy, they have not to register their households, or attend to any magistrate and their rules ; only those who cultivate the royal land have to pay a portion of the gain from it. If they want to go ; they go ; if they want to stay on ; they stay. The King governs without decapitation or other corporeal punishments. Criminals are simply fined, lightly or heavily according to the circumstances of each case. Even in case of repeated attempts at wicked rebellion they only have their right hands cut off. The King's body-guards and attendants all have salaries. Throughout the whole country the people do not kill any living creature not drink intoxicating liquor, nor eat onions or garlic. The only exception is that of the Chandālas. In buying and selling commodities they use cowries.²¹ This is a picture of efficient and benevolent administration without state intervention in individual right and liberty. The criminal laws were more human than the period of the Mauryas and the absence of passport regulations indicates the maintenance of *laissez faire* in political and commercial sphere. Fahien in particularly struck at the complete safety of the travellers on the high roads and he himself was never molested by robbers or highway man during his long travels. It eminently speaks of efficient working of the police and vigilance department of the period.

From the inscriptions of the period we find various departments and offices of state and it is known from those records that some of the high posts were hereditary in character while civil and military officers were very often held by the same persons. Provincial governors and district officers were being helped by officials like *Daṇḍika*, *Chauroddharanika*, *Daṇḍapārika*, *Nagara Sreṣṭhi*, *Sārthāvāha*, *Prathamakulika*, *Prathama Kāyastha*, *Pustapāla* etc. Out of these officials the dignitaries like *Daṇḍika*, *Chauroddharanika* and *Daṇḍapārika* were without doubt police officers. *Daṇḍika* probably had both

judicial and the police functions while *Chauroddharanika* and *Danḍaparika* had only police duties and they were apparently serving under the *Danḍika*. The city guild played an important role in the economic and political life of a city and the *Nagara Sreṣṭhī* who was the president of the city guild had been entrusted with the peace and security of the city. *Sārthavāha* was the leader of the caravan of Merchants and he was commanding over large number of private police. *Prathama Kūlika*, *Prathama Kāyastha* and *Pustapala* had nothing to do with police functions but the *Mṛchhakaṭika* indicate that *sreṣṭhin* and the *Kāyastha* were helping the judicial officers. The *Mudrārākshasa*, a drama written by Visākhaḍatta makes mention of *Kayastha* and *Danḍapārīka* as village functionaries placed under officials of the *vishaya* or district. We also know about offices like *Nagara rakshādhikarana*, and *Vinayaśthitisthāpakadhikarana*, the former being the city police office and the latter the offices of the censor. Basak²² takes *Vinayaśthiti* in the sense of law and order. But Raychoudhary²³ thinks that *Vinavasthitisthāpkas* was the officer in-charge of Censorship.

Inscription of the later Gupta period refers to police officers like *Chātās* and *Bhātās* who were also probably working as soldiers during the time of war. The Khoh Copper Plate²⁴ inscription of 475 A.D. mentions these two types of officers who were considered as oppressive to villagers even in the eyes of the ruler. Another Khoh inscription of 497 A.D.²⁵ mentions a tax levied on the people which was known as *Chorā Varjjam*. It was something like choukidāri tax and the revenue coming out of it was being spent through the police department for eradication of thieves and burglars and as such, maintenance of peace and security.

About the office of the *Chātās* B.B. Desai remarks : "The words *Chātā* has been usually translated as "irregular troops". But etymology would, be think, help us in arriving at a better and more correct meaning of the term, *Chāta* according to Lexicographers means "a rogue, cheat, swindler" etc. This, however, cannot be applied with any propriety to the military or police force, constituting the irregular section. The word *Chhātra* is substituted for *chāta* in some earlier inscriptions in a similar context. For instance the Rithapur Plates of Queen Prabhavati Gupta (at the time of Pravarasena II) has the term

abhata chhatra praveśya".²⁶ After addressing the *bhātas* and *chhātras* among the royal officers, the Chāmmak copper plate records of the same king introduce the phrase *abhata chhatra praveśyah*.²⁷ Thus we may be justified in equating *chāta* with *chhatra*. The word *chhatra* seems to have been originally derived from the root *chhād* meaning conceal, hide. It would hence mean 'One who is concealed or disguised' in other words, 'a member of the secret service'. If *chāta* in a variant of *chhatra* it would also mean the same".²⁸ Vogel has however shown that the office of the *chāta* still exists in the Chamba state where the corrupt form *chara* is used and it means 'the head of a praganā' while *bhatta* is taken in the sense of 'an official subordinate to the head of praganā'.²⁹

In the later Gupta period a new officer came into being. He was known as *Rahasika* or *Rahasaga*. The Kesari Veda³⁰ plates of the Nala King Arthapati (of Koraput region, in the 5th century A.D.) states that *Rahasyādhikārita* chulla ordered for the registration of the said plates. It appears that confidential and secret matters were being dealt with by the department headed by *Rahasyādhikritā*. This officer is called *Rahisika* in the Terāsingha Plates³¹ of Tushtikāra (king of Kalahandi region in the 4th century A.D.) and *Rahasya* in the Almanda grant³² of the Gangā King Ananta Varman.

The records of the eastern Gangas and the Sailodbhavas reveal a highly organised system of police administration during the early medieval period. The political philosophy enunciated in Kamandika's *Nītiśāstra* and *Yājñavalkya Smṛti* was accepted as the high ideal of government by the rulers of this period. According to these authorities the body politics of a Kingdom consisted of seven limbs viz., King, the Minister, the People, the Fort, Treasury, Army and the Allies.³³ They insist upon the fact that a kingdom under a strong monarch must have an efficient bureaucracy and a strong army for the maintenance of order and good administration, within, and prestige without.

In the copper plate charters of the Sailodbhava Kings we find a large number of officers belonging to higher or lower ranks entrusted with different branches of administration of kongoḍa maṇḍala officers like *Rājanaka*, *Rājaputra*, *Antaraṅga* and *Daṇḍanāyaka* occupied important position in the hit list of officials. *Rājanaka* was probably feudatory chief given to status

of an official dignitary and *Rājaputra* may be taken to be the prince of the royal blood although according to some scholars³⁴ he may be an ordinary soldier known in later period in the Prakrit form *Rāut*. *Antaraṅga* was probably the privy councillor of the king and *Daṇḍin* in his *Daskumāracharita* suggests that the king used to give the responsibility of administration in the custody of *Antaraṅga* when he was out of station. The *Daṇḍanāyaka* was the commander-in-chief of the Army.

The police department was run by the *Dandapasikas* who in some records³⁵ is known *Daṇḍodharanikas*. This officer is found in the charters of many important dynasties of India, namely the Pālas, the Pratihāras and Paramāras etc. They were entrusted with the functions of maintaining peace and order in the country and to catch thieves and other criminals and to punish them according to their crimes. Serious offences were, however, tried in the court (*Rājasthāna*) by the judicial officer called *Rājasthāniya*. The *Rājasthāniya* was being helped by the *Vyavahārins* in administration of justice, the *Daṇḍāpāsika* had a large number of officers under him employed in the district (*Vishaya*) as well as in village (*grāma*). The *Chātas*, the *Bhātas*, the *Vallabhas* and *Vaisvasikas* were all engaged in some sort of police duties and were relied upon by the monarchs for the good administration of the realm. Elaborate discussions have already been made about the *Chātas* and *Bhātas*. These officers owing to the nature of their work were often disturbing the even tenor of the civil society and were, therefore, considered a source of annoyance in medieval times.

The *Vallabhas* and the *Vaisvasikas* were so named probably because of their having the confidence of the monarch. They were very likely the personal attendants of the king and were discharging intelligence duties. One *Bhavanāga* was working as *Vaisvarika* under king Sri Lokavigraha Bhaṭṭāraka who was ruling over Toshali in about 600 A.D. D.C. Sircar³⁶ is of the opinion that the *Vaisvasika* may indicate a privy councillor or one incharge of secret or confidential communications. The *Dūtaka* was an executive officer in-charge of the registration of records but sometimes he was also required to look after the work of police and patrol. It is known from the Buguda Copper Plate Charter³⁷ that one Gangabhadra, a *Dūtaka* under King Mādhava Rāja II was given the charge of *Pratihārin* due

to his sincere service. The *Pratihārin* was the high-chamberlain and his duty was to look after the royal household and to maintain peace and discipline in the palace. After the *Pratihārin* was attending the person of the king and was discharging the function of an Aide-de-camp. The Gwalior inscription³⁸ of King Bhoja declares that Lakshmana was *Pratihārin* of Rāma and from this the high position enjoyed by the *Pratihārin* may well be understood.

Thus from ancient Indian literatures and inscriptions we come to know the names of many police officials of various designations. These officials occupied posts of different status, in the administrative hierarchy of the police department.

Daṇḍin also throws welcome light on the activities of the Urban Police Departments. We are told that watchman usually wandered about the town on routine rounds and also in search of thieves³⁹. Roads and highways were carefully watched⁴⁰ and ladies of suspicious character were seized by them while on duty⁴¹. Besides the important places, cemeteries were also guarded by them in order to detect the criminals and anti-social elements.⁴² The account of *Daṇḍin* is corroborated by *Śūdraka*.⁴³ Kalidasa also refers to frontier guards who often oppressed simple and innocent travellers.⁴⁴ They were also given military assistance if and when required⁴⁵, which is also corroborated by Hiuen-tsang who informs that in the seventh century sometimes soldiers were requisitioned to perform police duties to maintain internal order and security. These troops not only guarded the frontiers, but punished the refractories and mounted guards kept strict vigilance at night⁴⁶.

The spies (*gūḍhapuruṣas* or *cāras*)⁴⁷ conducted much of the police control and also acted as agents and provocateurs. The role of the spies in the field of politics has been greatly stressed by Kauṭilya who has devoted much of his attention to this aspect of general administration⁴⁸. Since early times detection of criminals has been one of the main tasks of the Police or Vigilance department. Persons once convicted and men living in improper places, concealing their caste, name and the like, exhibiting addiction to gambling, women and wine, showing symptoms of nervousness, making inquiries about others' wealth and houses, continuing suspicious movements and spending beyond their means and selling lost articles were the main

objects of their observations.⁴⁹ But, it was common belief that very often the police or night guards had some sort of association with thieves and other criminals as well as public women and gambling houses from whom they received regular pecuniary advantages with the result that the criminals instead of being detected and punished were often protected and left free to indulge in their pastimes. The Mitākṣarā, commenting on Yājñavalkya, says that gambling houses should be kept under strict vigilance in order to detect thieves and criminals because gamblers generally came from that particular section of the society who amassed vast wealth through corrupt practices and unlawful means⁵⁰—a view which is also shared by *Bṛhaspati*⁵¹ and *Nārada*⁵². The watchmen and neighbours who were entrusted with guarding an area were treated as accomplices if they remained neutral at the time of an attack.⁵³ In other words, their connivance was purchased by the criminals by bribing them. Sometimes, however, the policemen were very ruthless in their dealings with persons with suspicious movements and tried to extort confession by showing enormous cruelty which sometimes resulted in the death of the criminal.⁵⁴

Coragrāha was probably a thief catcher. The term occurs in *Nārada's* and *Kātyāyana's* works.⁵⁵

Corarajjuka was an officer who arrested robbers and fettered them.⁵⁶

Cauraddhraṇika was the designation of an officer in-charge of the recovery of stolen property or detection and extermination of thieves. The term occurs in several inscriptions of the western and eastern part of our country. The Valabhi grant⁵⁷ and the Palitana plate of Dharasena II⁵⁸, Khalimpur plate of Dharmapāla⁵⁹, the Bhāgalpur plate of Nārāyaṇa Pāla⁶⁰, the Naihati plate of Ballalasena⁶¹ and a grant of Lakṣmanasena⁶² are to mention a few.

Cauroddhartṛ was another denomination of a thief catcher.⁶³

Caurika found mention in the Kalvan Jain plates of Yasovarman of the time of Bhoja Paramara to denote a police officer in-charge of thieves and robbers.⁶⁴

Daṇḍanāyaka is a term which dates back to the Kuṣāṇa period.⁶⁵ Different scholars have interpreted it in different ways. Aurel Stein has translated it as a "Prefect of Police"⁶⁶

and R.S. Pandit as a "Commissioner of Police".⁶⁷ Some have interpreted it as General or Magistrate.⁶⁸

Harisena, the composer of Allahabad pillar inscription was designated as *Mahādaṇḍanāyaka*.⁶⁹ The Partāpgarh inscription mentions one *Mahādeva*, the chieftain of Ujjayinī with the epithets *Mahāsāmanta Daṇḍanāyaka* and one *Tantrapāla* as *Mahāsāmanta Mahādaṇḍanāyaka*.⁷⁰ It appears that they were great feudatories connected with the army⁷¹ and their assistance was needed in civil administration.⁷² Probably they were persons of military unit stationed in different districts to help the local authorities in maintaining law and order. The title seems hereditary⁷³ and kings often established matrimonial relations with these officers.⁷⁴ Varāhamihira places the queen the crown prince and the *Daṇḍanāyaka* on the same footing in connection with the staff (*Daṇḍa*) to be prepared for them.⁷⁵ They were thus high rank officials. A number of seals of the *Daṇḍanāyakas* have been found from *Bhiṭa* sites.⁷⁶ Seals of these officers often bear emblem of a standing policeman with a staff in his hand.⁷⁷

Daṇḍapāsika was a police officer who held the fetters or noose of punishment. Inscriptions abound in references to this particular term.⁷⁸ Besides, the *Mudrārāksasa*,⁷⁹ the *Yaśas-tillaka Campu*⁸⁰ and the *Kathāsaritsāgar* make mention of this post. It seems that the officer of this designation actually executed the sentence. Many seals of the *Daṇḍapāsikas* have been unearthed from Basarh.

Daṇḍabhogika, according to P.V. Kane, held the same position as that of the *Daṇḍapāsika*.⁸¹ The term occurs in the Wala plate of Guhasena along with other officers.⁸²

Daṇḍika was another police official whose name appears in the Deo Baranark inscription of Jivitagupta II,⁸³ the Bhāgalpur plate of Nārāyana Pāla⁸⁴, the Nālanda plate of Devapāla⁸⁵ and a host of other contemporary inscriptions.

Daśāparādhika was probably the designation of a class of officers who were in-charge of ten specified kinds of criminal offences or *Aparādhās*. The term occurs in several inscriptions of the period under review.⁸⁶

Dauhsādhāsādhhanika, though a vague term has generally been accepted as a group of officers whose duty was to catch dangerous robbers and culprits ordinarily difficult to arrest.⁸⁷

A few Pāla inscriptions make specific mention of the word *Mahādayāsādhāsāghanika*.⁸⁸

Dauhsādhika perhaps bears the same meaning as mentioned above.⁸⁹

Daṇḍādhikarin was one of the chief officers of the police department. The word occurs much in the *Rājatarangīni* of Kalhaṇa.⁹⁰

Sthānādhikaranika seems to be in-charge of the *Sthānās* or police stations.⁹¹

Ārakṣika was a mere watchman in-charge of vigilance. The Sunao Kala plates of Sangamasimha of 540-41 A.D. from Broach refer to this designation.⁹²

Cāta-Bhāta are two terms and often occur jointly in different inscriptions.⁹³ They were perhaps officials in-charge of the investigation of crimes. The Surat plates of Maharaja Vyaghrasena of 490-91 A.D. throw welcome light on their scheduled duties. It records that the small piece of land that was granted to the donee should not be entered by the *Cātas* and *Bhātas* except to arrest robbers or persons guilty of high treason.⁹⁴ These officials were notorious for their cruelty and malpractices. Yājñavalkya pointed out that royal duty consisted in protecting people from the undue harassment caused by these officials along with other corrupt persons.⁹⁵ *Brhaspati* has also expressed poor opinion about the *Cātas*.⁹⁶ H.M. Bhandarkar thinks that similarity of the word *Cāta* with *Catū* (flattery) is so close that they can be regarded as flatterers, a group of royal officials misusing their position by being harmful to others.⁹⁷ The fact that they tried to please the king is revealed in an epigraphic evidence also.⁹⁸ Perhaps they appeased the king by their flattery and cheated his innocent subjects in the same way. Bāṇa has recorded their unpopularity among people.⁹⁹ Like the enjoyment of the privilege of obtaining a rent-free holding, the royal declaration prohibiting the entrance of *Cāta* and *Bhāta* to the donated land seems to be greatly prized in those days.¹⁰⁰

Rājasthānīya is an expression whose actual function is almost vague. It occurs in the Mandasor inscription of Yasodharman and Viṣṇuvardhana¹⁰¹, the Banskhera inscription of Harṣa¹⁰², Palitana plate of Dharasena,¹⁰³ Bhāgalpur grant of Nārāyaṇa Pāla¹⁰⁴ and a host of others. Kalhaṇa refers to the

term to denote a judicial designation¹⁰⁵ while Buhler interprets the term that also occurs in Ksemendra's *Lokaprakāśa*¹⁰⁶ thus, "who carries out the object of protecting subjects and shelters them is called a Rājasthaniya."¹⁰⁷

Nāgarika is a term which frequently finds mention in contemporary literary works to denote a chief of the police.¹⁰⁸

Daṇḍasakti was also a police officer, though nothing in particular is known about his office.¹⁰⁹

Mahāpratīhāra was the chief of the door-keepers. According to R.C. Majumdar he was a high official in the police and military department.¹¹⁰ Besides inscriptions¹¹¹ the word also occurs in the *Kādambarī* of Bāṇabhaṭṭa and the *Rājatarāṅgiṇī* of Kalhaṇa.¹¹²

Khola has been interpreted by R.C. Majumdar as an officer in-charge of the intelligence department or a spy.¹¹³ The Khalimpur inscription of Dharmapāla makes mention of this designation.¹¹⁴

Gudhapuruṣa was a secret service man.¹¹⁵ The lexicographer Amrasimha specifically mention his functions.¹¹⁶

Cāra was a simple spy.¹¹⁷ "A kingdom", declares the Śānti Parvan, "is said to have its roots in spies and secret agents, and its strength is said to lie in the counsels of policy".¹¹⁸ Manu points out that the wind moves everywhere and penetrates all created beings. Just so should the king penetrate everywhere by means of his spies.¹¹⁹ Spying is a very ancient institution and references to it are found as far back as the *RgVeda*.¹²⁰ In the *Atharva Veda*, [Soma is said to have rays like spies which never close their eyes and are present everywhere.¹²¹ They were numerous enough to be considered by Megasthenes a special class in society.¹²² Kauṭilya records an elaborate system of espionage prevalent in his time,¹²³ a practice well-maintained by Hindu rulers of India not only for political purposes but also for detecting criminals and restraining criminal tendency among people.

NOTES AND REFERENCES

1. *Ency. Soc.*, XI-XII, p. 185.
2. *Manu.*, VII. 14, 18, 22; *Matsya*, 227.9.
3. *Śukra*, IV, Sec. 6.

4. Nār.
5. A.S. Altekar, *The Rastrakutas*.
6. R.K. Mookerjee, *Chandra Gupta Maurya and His Times* (1952), p. 123.
7. Shamasastri, A.S., *Book IV*, Ch. 81.
8. Shamasastri, A.S., *op. cit.*, Ch. 6.
9. *Ibid.*
10. *Anguttara Nikāya*.
11. *Kalinga Edict*.
12. *Kalinga Edict*.
13. R.E. V.
14. R.E. III.
15. *Aśoka Pillar Edict-IV*.
16. R.E. VI.
17. H.C. Roychoudhary, *Political History of Ancient India* (4th Edn.), pp. 431-32.
18. *Ibid.*, p. 437.
19. *Corpus Inscriptionum Indicarum*, Vol. III, p. 6.
20. Chapter II.
21. Legge, *Travels of Fahien*; also see, H.A. Coiles, *The Travels of Fahien* (1923), pp. 20-21.
22. R.G. Basak, *The History of North Eastern India*, p. 312.
23. H.C. Roychoudhary, *Political History of Ancient India* (4th Edn.), p. 474.
24. *Corpus Inscriptionum Indicarum*, Vol. III, pp. 93-100.
25. *Ibid.*, pp. 121-125.
26. N.S., Vol. XX, pp. 59, Text, 1.18.
27. C. II, Vol. III, No. 55, 11, 22-26.
28. E.P. Ind. XXVII, pp. 287-91.
29. Jph. Voge, *Antiquities of Chamba*, Part-I, p. 130ff. D.C. Sircar (*Select Inscription*, p. 371, n. 6) comments on *Chāta* and *Bhāta* as follows: "*Chāta*=swindler; irregular troops. *Bhāta*=soldier; an outcast or barbarian; a *Bhatta* (professional genealogist usually working as a spy) *Brahmana*, Cf. of later records. The entrance of undesirable persons like the above into the gift village was prohibited. Fleet translates, "not to be entered by the regular or irregular troops", while Indrajī points out (*Bom. Gaz.* I, i, p. 81f) that according to the Kumarapala Charita Siddharaja despatched *Chātas* and *Bhātas* to apprehend the fugitive Kamurapala and refers to the *Bhāta* community of western India.
30. Ep. Ind. XXVIII, p. 12.
31. Ep. Ind. XXX, p. 274.
32. *Ibid.*, III, p. 17.
33. Yājñavalkya, *Rajadharma Prakarana Vers.* 353, Kāmānduka also states.
34. *Journal of the Department of Letters*, Vol. XVI, p. 30.

35. *EP. Ind.*, Vol. IX, p. 6.
36. *Ep. Ind.*, Vol. XXVIII, p. 329.
37. *Ibid.*, Vol. III, pp. 41-46; IV, p. 144.
38. *Annual Report of the Archaeological Survey of India* (1903-04), pp. 280, 283.
39. *Daśakumāracaritam* (Ryder), p. 96.
40. *Ibid.*, p. 196.
41. *Ibid.*, p. 129.
42. *Ibid.*, pp. 178, 63.
43. *Mṛcchakaṭika*, I, VI.
44. *Mālavikāgnimitram*, V.
45. *Sāka*, VI.
46. *Life*, p. 191.
47. *Amarakośa*, II. 8.13.
48. *Arth.*, I. 13, 14, IV. 4.5.
49. *Yāj.*, II, 266-68.
50. *Yāj.* II, 203.
51. *Brh.*, XXVI, 2.
52. *Nār.* App. 9-12.
53. *Ibid.*, App. 15; Narada quoted in *Vivadaratnakara*, p. 337.
54. *Daśakumāracaritam* (Ryder), pp. 89, 96, 129, 176-77; *Sakuntalam*, VI. For other details regarding Police Administration in early times, see Sukla Das, *op cit.*, pp. 83-90.
55. *Nār.*, App. 18, *Kāt.*, quoted in *Aparārka*, p. 844.
56. *A.S.*, 2.6, 4, 13.
57. *I.A.*, XV, p. 187.
58. *El.* XI, p. 80.
59. *Ibid.*, IV, p. 263.
60. *I.A.*, XV, p. 364.
61. *El.* XIV, p. 156.
62. *Ibid.*, XI, p. 6.
63. *Yāj.*, II, 271; *Kāt.* quoted in *Aparārka*, p. 844.
64. *El.* XIX, p. 69f.
65. B.N. Puri, *The Gurjara Pratihars*, Bombay, 1957, p. 111.
66. *RT.*, VII, p. 951.
67. *Ibid.*, tr. by R.S. Pandit.
68. *El.* VII, App. No. 291, 292, 296.
69. *CII*, III, p. 213, 216.
70. Proceedings of *IHC*, Aligarh, p. 90.
71. *El.* VI, p. 92; *CII*, III, p. 10.
72. *IA*, V. 49.
73. *CII*, III, p. 10; *El.* VI, 92.
74. *El.* XX, p. 1ff.
75. *Brhat.* 72, 4.
76. R.C. Majumdar, and A.S. Altekar, *The Vakataka Gupta Age*, Lahore, 1946, p. 108.
77. *ASI*, 1903-04, p. 108.

78. *El*, III, p. 323; VI, p. 253; IX, pp. 1-10; XI, p. 83; XII, p. 9; XIX (I), p. 55ff; *IA*, XV, pp. 187, 304.
79. *Mūdra*, I, 22.
80. *Y.C.*, p. 50.
81. *KSS*, Taranga, 4.
82. *El*, XIII, p. 339.
83. *CII*, III, pp. 213, 216.
84. *IA*, XV, p. 304.
85. *El*, XVIII, p. 321.
86. *Ibid.*, XVII, p. 321; *IA*, XV, p. 304.
87. *El*, IV, p. 211.
88. *IA*, XV, pp. 304, 306; *El*, XVII, pp. 310-21.
89. *El*, XII, p. 9.
90. *RT*, VII, 591, VIII, 640.
91. *El*, III, p. 323. The Ganesgad plates of Dhruvasena I, 526-27 A.D.
92. Beni Prasad, *The State in Ancient India*, p. 192.
93. *El*, III, p. 258, 261; IV, pp. 208, 211; XIV, p. 156; *CII*, III, p. 106.
94. *El*, XI, p. 221.
95. *Yāj.* I, p. 336.
96. *Brhas.* quoted in *Aparārka*, p. 792.
97. *El*, XI, p. 176.
98. *Ibid.*, XII, p. 157. The Talcher grant of Kulastambha.
99. *H.C.N.S.P.*, pp. 205-211.
100. *CII*, III, pp. 242, 249; *El*, XI, p. 176.
101. *CII*, III, p. 158.
102. *El*, IV, p. 208, 211.
103. *Ibid.*, XI, p. 83.
104. *IA*, XV, p. 306.
105. *RT*, VIII, 2618.
106. *Lokaprakāsa*, IV.
107. *IA*, V, p. 207.
108. *Sāk.*, VI; DC. Ryder, p. 96.
109. *El*, IV, p. 253.
110. R.C. Majumdar (ed.), *History of Bengal*, I, Dacca, 1943, p. 286.
111. *Ibid.*, p. 286; *CII*, III, p. 218; *El*, XXII, p. 117.
112. *RT*, IV, 142.
113. *History of Bengal*, pp. 278, 286.
114. *El*, IV, p. 250.
115. *Ibid.*, XXII, p. 156.
116. *Amar.* II, 8.13.
117. *El*, XXVI, p. 199.
118. *Maha.*, *Santi Parva*, 83, 50.
119. *Manu.*, IX, 306.
120. *RV*, I, 25.13.
121. *AV.*, IV, 16.4.
122. J.W. McCrindle, *Ancient India as described by Megasthenes and Arrian*, pp. 85-86.
123. *AS.*, I, 11, 12, 4, 5, 6.

The theoretical framework of the judicial machinery is provided by the law books of Nārada, Bṛhaspati and Kātyāyana. The constitution of the *dharmadhikaraṇa* (Court of Justice) laid down by Kātyāyana is of the traditional *smṛti* type, but he adds some new features. According to the old rule the king personally is to attend the *Sabhā* (Court of house) for deciding cases¹ and is to be assisted by a body of adviser, *Prad-Vivaka* (judge), *āmātya* (minister), *Pūrohita* (family priest) and assessors (*Sabhyas*) but Kātyāyana adds *Vanija* (merchants) to this list.² He says that when the king is unable to try cases, he shall appoint a learned brahmaṇa as his substitute.³ Manu⁴ and Yājñavalkya⁵ hold the same view. Kātyāyana states that if a brāhmaṇa is wanting, either a Kṣatriya or Vaisya should be appointed as a judge, a śūdra should be carefully avoided.⁶ This view was also upheld by Bṛhaspati in the appointment of Sabha.⁷ Yājñavalkya suggests that the king should appoint as judge persons who are well-versed in the Vedas and other branches of learning, and those who are truthful and impartial towards friends and foes.⁸ Bṛhaspati also holds the same view.⁹ Nārada declares that the person who is fully acquainted with the eighteen titles of laws and is skilled in logic and other branches of science is called the chief judge.¹⁰

Manu¹¹ and Nārada¹² state that the king should associate with himself at least three *sabhyās* in the disposal of suits. But the *Bṛhaspati smṛti*¹³ lays down that the *Sabhyas* may be seven, five or three. As in the case of chief judge, the *Sabhya* should be preferably a brāhmaṇa.

The topics which give rise to law suits are grouped under eighteen titles, namely, recovery of debts, deposit and pledge, sale without ownership, resumption of gifts, non-payment of wages, non-performance of agreement, rescission of sale and purchase, disputes between owners of cattle and herdsmen, disputes regarding boundaries, assault, defamation, theft, robbery, adultery, duties of husband and wife, inheritance and partition, gambling and betting.¹⁴ Although it was not found necessary to draw a line between civil and criminal case, this becomes clear from the following passage which occurs in the *Bṛhaspati smṛti*, "Law suits are of two kinds, Law suits originating in wealth are divided again into fourteen sorts and those originating in injury into four sorts."¹⁵

Manu says that when any injustice is done, one-fourth of the sin attaches to the wrong-doer, one-fourth to the witness, one-fourth to the judges and the remaining one-fourth to the king.¹⁶ Yājñavalkya says that if the members of the judicial assembly give any decision contrary to the law and custom through affection, temptation and fear, each of them would be liable to double the punishment provided for the case.¹⁷ The *Kātyāyana Smṛti*¹⁸ states that a judge, particularly assessors conversing privately with a party, are liable to punishment. Similarly an assessor, who announces his decision without proper understanding of the course of the trial, has to pay twice the amount involved in the suit. An assessor, causing loss to a litigent through his own fault, has to make good the loss. The duty of the *Sābhya* is not only to decide justly but also to prevent the king from acting unjustly.¹⁹ *Bṛhaspati* prescribes punishment and forfeiture of all property for the *Sabhya* who gives unjust decision or takes bribes.²⁰ *Kātyāyana*²¹ prescribes that the loss caused by the fault of the *Sabhyas* must be made good by them to the losing party, although the decision given by them shall stand.

Some reflection of how the court actually worked in Gupta and post-Gupta times is found in the literary works of the period. The *Śṛṅgārahaṭa* informs us that *Viśṇudāsa* was the *pradyāti* (judge) of the royal court and that he did not hear the case attentively.²² In the *Daśakumāracharita* the cynical jestor *Vihārabhadra* says to his king that judges decide matters just as

they please after taking bribes and the king incurs infamy and the sin of doing injustice.²³

It is note worthy that when the court reported the guilt of Chārudatta to the king, it reminded him that according to Manu the Brāhmaṇa could not be subjected to capital punishment (*Vadhadaṇḍa*) and could only be exiled from the country. But the king actually overruled the decision of the court and imposed capital punishment.²⁴ This means that the royal decision finally settled the case.

Sometimes the judge showed partiality towards the relative of the king. In the *Mṛchchhakatika* the judge did not know the accused was brother-in-law of the king and so postponed the case for the next day. But Sakara, brother-in-law of the king, threatened to get another judge appointed in his place by the king. Naturally the judge had to change his decision and take up his case that very day.²⁵ So it depended upon the judge to hear a particular case on the very day of the complaint or postpone it to the next day, but the influential persons, especially those connected with the king, could have their cases heard immediately despite the reluctance of the judge. A direct hit on the morality of the officers of the judicial court in the city of Kāñchi comes straight from the author of *Mattavilāsa-Prahasana*. When the Pasupata of the play suggests that the dispute should be decided by the court, Devasoma immediately bursts forth with the following statement: "Why ; this man has heaps of riches drawn from the revenue of many monasteries and with it he can stuff the mouth of the court official at pleasure. But I am the maid of a poor Kapalin whose only wealth is snake's skin. What riches have I here that I should go to the court."²⁶ This shows that there was much corruption in the court in South India, and the author purposely drew the attention of his audience towards it.

According to Brhaspati the central courts are composed of ten members. The chief judge decides cases. The king inflicts punishment, the judges investigate the merits of the case. The accountant is asked to compute the sum, and the scribe to record the proceedings. The king's own officer has to compel the attendance of defendants, assessors and witnesses. And he has to constantly keep both the plaintiff and the defendant in custody, if they have no sureties ; of these members of the

court the king is the head, the chief judge is the mouth, judges both arms, laws both hands, accountant and scribes are the legs, the three ordeals of gold, fire and water are the eyes and ears, and the king's own officers are the feet.²⁷ So we consider them as the ten *aṅgas* of the court. According to the *Śṛṅgārahāta* the king's officer, who called the plaintiff and the defendant in the court at the instance of the judge, is called *Sraṇṇika*.²⁸

The Court proceedings were actually started by the *Sodhanaka*, the court people entering to arrange the seats in order. When the seats were ready, the judge accompanied by the *Śreṣṭhin*, *Kayastha* and others was conducted to the court room by the *Sodhanaka*.²⁹ Once they were seated the judge ordered the *Sodhanaka* to go out of the hall and to call the plaintiff. When the plaintiff entered the court room, he was greeted and sometimes offered a seat. Old persons gave their good wishes to the judge and others saluted him. Thus the judge permitted the plaintiff to state his case and ordered the *Kāyastha* to write down the statement, which was the first recorded on the floor so as to make it easy for correction. While the case was being tried, the judge could ask the police officer to make an inquiry, and investigate any point of issue. Horses were kept ready in the court; they could be sent whenever required. As a principle no new cases were taken up till the pending cases were disposed. In the *Mṛchchhakaṭika* when the judge was busy deciding the case of *Sakara*, *Viraka*, the police officer, came to the court to lodge a complaint against *Chandanaka*, another police officer, but the judge asked him to wait till the case in hand was decided. While the trial was going on, the court commanded the services of the royal guards (*rājapuruṣa*), and after the decision the accused was handed over to them.

The Chammak copper-plate grant of Mahārāja Pravarasena II refers to the *dharmasāhāna*.³⁰ The *Mṛchchhakaṭika* mentions the court building as *adhikāraṇamaṇḍapa*.³¹ Bāṇa mentions the judge as *adhikāraṇika*. In the *Daśakumārcharita* we find a court of justice known as *adhikarāna*. Judges called *dharmādhikarāna* are mentioned in the *Pañcītantra*.³² The *Nāradaśmṛti* mentions *dharmāsava* as the king's court of justice.³³ S.K. Aiyangar thinks that the *dharmāsava* was a permanently appointed hall

of justice where the committee of village sabha could assemble and carry on their works ; the Committee was in continuous session and more regular than any other committee.³⁴ But from the nature of the work it did C. Minākshi infers that it was a court of central government.³⁵ The *Mattavilāsa Prahāsana* furnishes the information that the Pallava judicial court in south India at the capital city of Kāñchi was known as *adhikaraṇa*.³⁶ The king's order in the Kaśākuḍi plate is that the *Karaṇaḍaṇḍam* and *adhikaraṇaḍaṇḍam* must be paid not to the king but to the donee. Since *adhikarana* is the district or chief court the *adhikaraṇaḍaṇḍam* must refer to the fine imposed on the offender by the district or chief court. And *Karaṇaḍaṇḍam* would be a fine imposed by a court lower than the *adhikarana*.³⁷ This fact leads us to infer that there were different grades of court, and the desire on the part of the Pallava kings to allow the donee to enjoy both fines suggests that there was a system of appeal from the inferior court to the superior court.

From the *Kādambarī*³⁸ we learn that the court was held in the morning. The *Daśakumāracharita* states that the king should look into the disputes of the people in the second part of the day divided into eight parts.³⁹ Katyāyana prescribes that the time for holding the court is covered by the three parts of the day after the first part i.e., from 7 A.M. to noon. There were holidays on which courts were closed on 8th and 11th Tithis, fullmoon day and *āmāsyā* of every month.⁴⁰

Yājñavalkya mentions three types of local courts, *Puga*, *Śreṇi* and *Kula*, mentioned in the same order by Bṛhaspati, who ordained that an appeal shall lie to the Śreṇi from the decision of the Kula Court and to the Puja court from the decision of the Śreṇi court.⁴¹ Kātyāyana arranges the judicial bodies in the ascending order of their importance as follows *Kula*, *Śreṇi* gana, an authorised person, and the king.⁴² Yājñavalkya⁴³ and Nārada⁴⁴ also support this order. Again Bṛhaspati points out the functions of the guild courts. The right of making laws for the corporation and composing disputes is given to the farmers, craftsmen, cowherds, money-lenders, robbers, actors, artisans ; where the dispute breaks out between the chief and the subordinates, the king shall interfere. Further, Bṛhaspati suggests that for forest-dwellers the court

shall be held in the forest for warriors in the camp, for merchants in the caravan.⁴⁵ Sir Henry Maine argues that the prevailing anarchy in the country which did not allow any regular royal court to function at the village level was the main cause of the existence of the popular courts mentioned above. But this theory is untenable. It was considered as a long established policy of the government to encourage these popular courts and to enforce their decisions. The emperors encouraged the guild courts because these reduced the burden of the central administration and helped the cause of justice. The members of the guild or village panchayat possessed reliable knowledge of the facts in dispute. It is difficult for a witness to come to the village court and tell a brand lie in the presence of his compeers whose respect he will be thereby forfeiting.

We do not come across pleaders before the Gupta period. But when law and legal procedure became complex from about A.D. 500 scholars well trained in Smṛtis were often engaged by the parties to represent their cases. Such cases were not frequent, and there is no evidence to show that there was a regular class of person whose profession was the same as that of the modern lawyers and who were licensed by the state to follow the profession.

The trial is mainly based on the deposition of witness. The witness deposes what he has seen and what he has understood. Eye-witnesses or ear-witnesses and indirect witnesses too are known.⁴⁶ Witnesses to the document and secret witnesses are appointed witnesses. The judge, the king and the village community are unappointed witnesses.⁴⁷

Bṛhaspati⁴⁸ and Kātyāyana⁴⁹ hold such a view, Bṛhaspati⁵⁰ says that in boundary disputes relating to houses and fields, peasants, artisans, hired labourers, herdsmen, hunters, gleaners, root-diggers and fishermen are to act as witnesses. In relation to boundary dispute Nārada's list of false witnesses includes jugglers, public dances, sellers of spirituous liquor, oil pressers, elephant drivers, leather workers, chandals, śūdras, peasants, son of śūdra women and outcastes.⁵¹ But Nārada also moderates the old provision regarding Varna witnesses and provides the members of all varṇas can appear as witnesses in the case of all varṇas.⁵² Bṛhaspati states that witnesses should belong to

respectable families and regularly perform religious rites as prescribed in the *Vedas* and *Smṛtis*,⁵³ this naturally excludes the *śūdras*. The provision that the *śūdra* should appear as witness only for *śūdra* is repeated by the law-giver of our period.⁵⁴ Kātyāyana lays down that the case against the accused should be proved by witnesses who are similar to him in caste.⁵⁵ Manu⁵⁶ and Kātyāyana⁵⁷ provide that a proper witness is one who has himself either seen or heard or experienced the matter in dispute. This means that the evidence of the witness must be direct and should not be based on hearsay. But Madhātīṭhi on Manu⁵⁸ says that hearsay evidence is no legal evidence. Kātyāyana further prescribes⁵⁹ that when it is impossible to bring witness because they reside in the foreign country, evidence taken in writing before a man learned in three *Vedas* and sent by him should be taken into account in deciding the course. Kātyāyana ordains that women should act as witness for women in case involving women.⁶⁰ Medhātīṭhis holds⁶¹ that women are disqualified as witnesses only when the plaintiff and defendants are both men ; but when there is a litigation between man and woman or between women alone, a woman is a competent witness.

When the witnesses despose differently the law-givers lay down that the statement of the majority shall be accepted, but if there is no clear majority the statement of those who are more pure should be accepted, and if the meritorious are divided equally, then those who are the best among them should be accepted as true.⁶² Manu⁶³ and Nārada⁶⁴ provide that there shall be at least three witnesses in a case. According to Bṛhaspati⁶⁵ there may be nine, seven, five, four or three witnesses or two only if they are learned brāhmaṇas. He emphasises that a single witness is not sufficient for deciding the matter.⁶⁶ Nārada states that one man alone may be a witness in a case if he regularly performs his religious rites and is accepted as witness from both sides.⁶⁷ Manu⁶⁸ and Bṛhaspati⁶⁹ allow a single witness to furnish valid proof if he is a *dūtaka*. Kātyāyana⁷⁰ asserts that even a single person is made to depose as a witness if he is taken in confidence at the time of making a deposit ; similarly the messenger sent by the litigant is a proper witness though he is alone. According to him in disputes regarding the manufactured article such as

earning one should establish the identity of that thing by the evidence of that man who produced the finished articles ; in such disputes he, though alone, is declared to be the means of proof.⁷¹ Brhaspati⁷² also makes a similar provision and adds that a single witness may furnish valid proof, if he is a messenger, an accountant, a king or a chief judge.

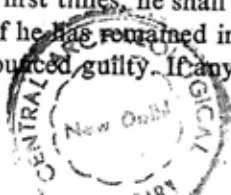
Manu recognises two ordeals—fire and water.⁷³ Yājñavalkya⁷⁴ and Nārada⁷⁵ prescribe five ordeals, consecrated water, scale, poison, fire and water. Brhaspati enumerated nine ordeals—fire, water, scale, poison, ploughs have sacred libation, grain of rice, hot gold piece and lottery.⁷⁶ In the *Kādambarī* Bāṇa. mentions four ordeals, fire, water, poison and balance.⁷⁷ Hiuen Tsang refers to four ordeals—water, fire, weighing and poison.⁷⁸

Nārada states that the ordeal by water should be either performed in a tank or in a river which has no swift current. Three arrows should be discharged from a bow of middling size. After that a strong man should enter the water as far as his navel. The defendant should seize him by the thigh and dine under water. A swift-runner should be sent after the second arrow. When he has reached the place where it has fallen, another equally swift runner should be sent back with it to the place where the defendant has entered the water. The defendant is declared innocent, if he has remained under water till the arrow has been brought back. He is declared guilty, if any of his limbs has been seen or if he was to emerge from the water in a different spot from that where he entered it.⁷⁹ Brhaspati⁸⁰ and Kātyāyana⁸¹ endorse the statement of Nārada. Kātyāyana adds that if only the head of the accused diving in water be seen and neither the ears nor the nose, then the king should declare him to be innocent. If a man after diving again rises up being beaten by an aquatic animal, he should again dive into the water when the marks of the bite have been shown. But the Chinese account of Hiuen Tsang mentions different modes of ordeal by water. When the ordeal is by water the accused is placed in a sack fastened to a stone vessel and thrown into deep water. If the man sinks and the stone floats, he is guilty. But if the man floats and the stone sinks, he is pronounced innocent.⁸² Ordeal by fire is described by Nārada. He states that eight concentric circles of equal breadth are marked on a piece

of ground. An iron ball is heated repeatedly by a blacksmith. The hands of the defendant are examined, and all existing sores of scars are coloured with dats. His hands are wrapped up in leaves, in order to protect them against the hot iron. A prayer addressed to Agni, god of fire, shall be recited or written on a leaf, which is fastened on the head of the defendant. The iron ball is placed in his hands, and he is made to walk slowly through all the circles successively, taking one circle with each step. On reaching the last circle he may throw the ball on the ground. His hands are examined once more. If they are found to contain any new sore or wounds, he is guilty. If not, he is innocent, if he lets the ball drop from fear before reaching the last circle, or if the examination of his hands has yielded no definite result, the whole proceeding has to be repeated.⁸³ Bṛhaspati states, "Let the person take a hot piece of gold out of a mixture of well-heated oil and butter. He whose finger ends do not tremble and who does not become blistered is acquitted."⁸⁴ Kātyāyana adds that if the accused undergoing the fire ordeal misses his footing or is burnt elsewhere than in the proper place, then god declares that it is no burning, the king should again offer him fire ordeal.⁸⁵ The Chinese traveller also supplies a vivid picture of the ordeal by fire which is to some extent different from the ordeal given by the *Smṛtis*.

In the ordeal by fire they heat a plate of iron and make the accused sit on it and again place his feet on it and apply it to the palm of his hands. Moreover, he is made to pass his tongue over it, if no scars result, he is declared innocent. If the scars appear his guilt is established. In case of weak and timid persons who cannot stand such ordeals, they take a flower bud and cast it towards the fire; if it opens, he is thought to be innocent. If the flower is burnt, he is declared guilty.⁸⁶

Nārada states the person to be tested by the ordeal of balance should be placed in one scale, and a basket filled with stones and sands placed in the other scale as an equivalent. The first weighing should be noted; and the man should be weighed for the second time. The result of the second weighing should be compared with the first weighing. If he has risen or if he has proved lighter than the first times, he shall be acquitted; if the scale has gone down or if he has remained in the same place as before, he must be pronounced guilty. If any part of the balance



has broken during the proceeding, he has to be acquitted.⁸⁷ Bṛhaspati⁸⁸ endorses this statement of Nārada, but he adds: "Should the scale break or the balance, or beam or iron hooks split, or the strings burst, or the transverse beam split, he would have to be declared guilty". Kātyāyana adds that when the scale or balance or the rope breaks and when there is a doubt regarding a man's innocence, the king should again test the man.⁸⁹ Hiuen Tsang also speaks of the ordeal by weight, but he notes a slightly different practice. In the ordeal by weight, a man and a piece of stone is placed in a balance evenly to lightness and weight. If the stone rises, the man is declared innocent; if the man rises, he is declared guilty.⁹⁰ Nārada⁹¹ states that ordeal by poison consists of the swallowing of some mild poison by the defendant. Let the man be kept in a shadowy place without taking food for the whole day. If he remains free from convulsions such as are generally caused by poison, he is declared innocent. Bṛhaspati⁹² and Kātyāyana⁹³ also follow the view of Nārada. But Hiuen Tsang gives a different mode of ordeal by poison. He says that they take a ram and make an incision in the thigh on the animal. If the man is guilty, the poison takes effect and the animal dies. And if he is innocent, the poison produces no effect and it survives.⁹⁴

The *Yājñavalkya smṛti* mentions ordeal by *Kośa*. The accused (*Sadhya*) is made to worship the deities with sandal wood, paste and flower and made to bath the image with water. Then the judge asks him to invoke the consecrated water with the *mantra* and makes him drink three handful of that water. If within fourteen days of taking the *Kośa* ordeal the accused does not suffer any serious calamity due to royal action, and does not fall seriously ill, he is declared innocent.⁹⁵

Bṛhaspati⁹⁶ prescribes the ordeal of rice grain (*tandula*), which is administered on the charge of theft or in disputes regarding debt. On the preceding day the grain of rice should be made white, placed in an earthen vessel, and exposed to the sun. Then the water meant for the bath of the image of sun shall be poured over it in the vessel, which shall be kept in that state the whole night. On the next day in the morning, the accused shall swallow the rice grain, and be made to spit on the pipal or birch leaf. If blood is found mixed in his saliva, he shall be declared guilty.

Again, Bṛhaspati states that the accused shall take a half piece of gold with the thumb and next two fingers. If he does not jerk his finger he shall be declared innocent.⁹⁷

A plough-share of iron, 12 *palās* in weight, eight *aṅgula* long and four broad shall be made red hot, and the thief shall be made to like it once with his tongue. If he is not burnt it establishes his innocence otherwise he is guilty.⁹⁸

As regards ordeal by god Bṛhaspati points out that a silver image of *dharma* and an iron one of *adharma* should be prepared. A judge should draw on a birch leaf the picture of *dharma* and *adharma* in white and dark respectively. Having sprinkled five products of the cow (*puñchagavya*) over the two he should worship them with white and dark flowers. The image then should be placed in two balls of clay inside the earthen vessel in the presence of a Brāhmaṇa. The accused should repeat the word "I am free from guilt, May the picture of *dharma* come to my hand". Saying this he should take out one. If he takes out *dharma*, he is innocent.⁹⁹ Nārada¹⁰⁰, Bṛhaspati¹⁰¹ and Kātyāyana¹⁰² state that a Brāhmaṇa should be tested by the balance, a Kṣatriya by fire, a Vaiśya by water and a Śūdra by poison. Here again Kātyāyana provides the alternative that all these ordeals can be administered to members of all varṇas except that of poison which cannot be administered to a brāhmaṇa. Nārada also lays down that ordeal by poison can be administered to the Kṣatriya, Vaiśya and Śūdra.¹⁰³ Again he¹⁰⁴ prescribes that ordeals shall not be undergone by those who are observing a vow, who are reach diotressed or by woman. Kātyāyana¹⁰⁵ states that the ordeal of fire shall not be administered to the blacksmith, nor water to those who ply boats, nor of poison to those who are expert in *yogic* practice, nor of *kosa* to those who are drunkard.

Nārada¹⁰⁶ states that the fire ordeal shall be administered in the rainy season, balance in the winter; water in summer, and poison when it is cool. Kātyāyana¹⁰⁷ provides that the ordeals shall be administered in some well-known temples in case of those accused of grave sin, near royal gate in case of those charged with treason; where the four roads meet in case of those born of mixed union, in the hall of justice (*sabhā*) in the case other than that.

The amount involved in the dispute in terms of *Suvarṇa* has

to be determined. If it amounts to the denial of 100 *suvarṇa* poison is the proper ordeal; for denial of 83 *suvarṇa* the judge shall offer fire; for denial of 60 ordeal by water; and for denial of 40 *suvarṇa* ordeal by balance, and for denial of 20 or 10 *suvarṇa*, drinking of sacred water in *Kośa* is prescribed.¹⁰⁸ Kātyāyana again points out that in the ordeal by poison, water, fire, balance, sacred libation, and rice grain, the judge shall prescribe a special one of one thousand, six hundred, five hundred, four hundred, three hundred, two hundred *paṇas* respectively for the defeating party, and he shall prescribe lesser fines in case of lesser ordeals than these.¹⁰⁹

Ordeals were also prevalent in South India. The accused thrust his finger in the boiling oil and was kept in jail for two or three days. If after that time his finger was ulcerated he was pronounced guilty and punished. But if his finger received no injury he was at once set free; and escorted home by musicians where his relatives, neighbours and friends gave him presents and rejoiced on his return.¹¹⁰

Fahien informs us¹¹¹ that in mid-India every criminal was fined according to the gravity of his offence, which suggests that the offender was not punished according to the *varṇa*. But according to Legges 'translation of a passage from Fahien, criminals were fined according to the circumstances of each case, which may suggest caste distinctions.'¹¹² In any case the law books of Gupta and post-Gupta times lay down several provisions based on *varṇa* discrimination. Nārada declares that in case of theft the brāhmaṇa's guilt is the highest and that of the Śūdra lowest.¹¹³ In such a case Kātyāyana¹¹⁴ seems to provide that a Kṣatriya or Brāhmaṇa should be awarded double the punishment prescribed for the Śūdra. But in other cases Brāhmaṇas are leniently treated. Bṛhaspati states that even in case of worst offences a Brāhmaṇa is exempted from corporal punishment.¹¹⁵ Nārada and Bṛhaspati¹¹⁶ permit and even encourage men of higher caste to take the law in their own hands to punish men of low caste. When a low caste person offends a man in a high position by harsh words or the like, the latter may beat his aggressor and yet cannot be punished by the king. Kātyāyana says that the king should never award death sentence to a Brāhmaṇa even though he may be guilty of any offence whatever; the king should banish him from the

kingdom with all his wealth without inflicting any bodily injury on him.¹¹⁷

Huien Tsang indicates the nature of punishments. Treason was punished by imprisonment for life and not by any corporal punishment. For offences against social morality and for disloyalty the punishment is either mutilation of limbs or deportation of the offender to another country. Other offences can be atoned for by money payment.¹¹⁸ Fahien repeats¹¹⁹ that even in the case of repeated attempts at wicked rebellion people only have their right hands cut-off. But, this may be an exaggeration intended to emphasise the influence of a Buddhist ideology.

Bāṇa gives some information about the nature of punishment.¹²⁰ He relates that under Harṣa the only feet ever cut off are those of the metre and the four principal limbs of condemned criminals are cut off. Probably Bāṇa refers to the practices of the cutting of the feet for some unspecified offences, and of the mutilation, of the principal limbs condemned criminals.

Bṛhaspati states that if the cattle under the herdsmen cause damage to standing crops, herdsmen shall be beaten.¹²¹ Viṣṇu ordains that if a worker does not complete his work, he shall pay all his wages to the employ and a fine of 100 *paṇas* to the king.¹²² But Bṛhaspati adds that if the employer does not pay wages to the worker who has completed his work, he shall be awarded the proper punishment by the king.¹²³

In such a case, according to Nārada, the employer shall be compelled to pay the wages with interest.¹²⁴ However, Yājñavalkya,¹²⁵ Nārada¹²⁶ and Bṛhaspati¹²⁷ provided a fine of double the amount of the wages if the worker does not perform his work after having received his wages. Bṛhaspati prescribes additional fines according to the ability of the worker. Kātyāyana¹²⁸ lays down that if a person cannot pay his debts, he should be made to work it off if he is unable to work, he should be sent to jail. But this law applies only to the members of three lower varṇas and not to the brāhmaṇas.

Some cases of theft are known from Dāṇḍin, who gives a vivid picture of the burglary in the *Daśakumāracharita*. The prospective house-breaker first studied every house in the city regarding its wealth, occupation and character; then in the night he was clad in black cloak and girt with a sword and provided

with a scissors, dummy cord, a dark lantern, bee basket, wizzers, magic powder, trick lamp, measuring tape, hook, cork and other tools. Then choosing the house of a wealthy person he broke the wall, got into the house through a narrow opening unconcerned and appropriated considerable wealth and bolted.¹²⁹ Again, we find evidence that on seeing the gems in a brāhmaṇa's possession, the policemen caught hold of the brāhmaṇa and bound his both arms behind his back. The *Daśkumāracharita* tells us that Somadatta was caught by a policeman and dragged by cords to a dungeon, where they drew his attention to certain men in fetters. They said to Somadatta: "These are your friends".¹³⁰ This indicates the theft was rampant in our period, and thieves were severely punished. Kātyāyana uphold that the punishment for theft comprises mutilation, imprisonment, confiscation of property, exile and death. He asks the king to restore stolen property. Different classes of king's officers some held responsible for theft committed within their respective jurisdictions.¹³¹

Daṇḍin throws considerable light on the activities of the police department. The policeman (*rakṣikah*) wandered about in the city either on usual rounds or in search of thieves. Apparavarman, one of Daṇḍin's characters, tells us that after an attempt to conceal some booty, he fell in with policemen.¹³² These policemen walked with sticks (*daṇḍa*) with which they thrashed the criminals.¹³³ But whenever they caught a thief they bound his arms behind his back.¹³⁴ Daṇḍin refers to a police captain (*Nagrikapurūsa*) by whose orders the arrested culprits were taken away to jails.¹³⁵ Minor theft were detected by the police, who arrested the thieves, and drunkards guilty of disorderly behaviour in the public street. Apparavarman one day was clapped in jail on account of his being drunk.¹³⁶

Torture was also a method of punishment. In order to extract truth from the parties the court adopted the policy of persuasion, but if they failed the accused was beaten with harsh canes.¹³⁷ In the *Daśkumāracharita* at one place the jailor told Apparavarman: "If you refuse to return Dhāna Mitra's magic purse or if you fail to restore your picking and stealing to the citizen, you will face eighteen tortures one after another."¹³⁸ The Junagaḍh rock inscription of Skandagupta (A.D. 450) states that in his reign a person deserving punish-

ment was not subjected to such torture.¹³⁹ Obviously during the reign of Skandagupta torture existed as a means of punishment, but it was not carried to excess. It is mentioned in the *Daśkumāracharita* that a certain Bhili woman conveyed a still born child belonging to someone to a graveyard, but as she return by the highway at night she was seized by the policeman and tortured with the result that in her fright she half revealed the secret.¹⁴⁰ Sometimes, these tortures proved fatal, for *Dhanamitra* speaks to Apparavarma "You must torture to death".¹⁴¹

In the *Daśkumāracharita*¹⁴² Kampala, *mantrin* of the king coveting the kingdom poisoned his sovereign Chandasimha and the heir-apparent Chandaghosha. Further, he plotted against the existing Lord Simhaghosha, and so his eyes were torn out.

Banishment was a prevalent mode of punishment in our period. Sometimes a verdict or capital punishment was commuted into banishment. The Chinese traveller Hiuen Tsang relates how once a person dared to make an attempt on the life of Harṣa and how all demands that culprit should instantly be killed. But the king inquired into the matter, punished the chief criminals and pardoned the rest. He banished 500 Brāhmaṇas to the frontier of India and then returned to his capital.¹⁴³ This suggests that under the influence of Buddhism Harṣa did not take to capital punishment. Offences against social morality and for disloyal conduct involved the amputation of the nose, an ear or a hand or a foot or the banishment of the offender to another country; other offences would be atoned for by money payment.¹⁴⁴

Sometimes the property of the criminal was confiscated. In the *Daśkumāracharita*, Mitragupta relates how on receiving secret information about an elopement, the avaricious police captain convoked the town council and took Bālabhadra, the culprit, to them saying, "This Scoundered Bālabhadra is living in our city with Kanakavatī whom he stole from her father Nidhīpatidatta. You, gentlemen will not object to the entire confiscation of his property". This proposal alarmed Bālabhadra, but Ratnavatī whom he was about to marry said to him: "Do not be alarmed. Tell them this is not Nidhipatidatta's daughter Kanakavatī, but Grahagupta daughter Ratnavatī given you by her parents in Valabhi and decently married. If they

do not believe, let them send a messenger to his relations". Bālabhadra consented and remained on bail until Grahagupta informed by latter, visited the hamlet and returned most joyfully with his daughter and son-in-law.¹⁴⁵ This incident reveals that property could not be confiscated by the police arbitrarily unless it had the approval of the town council, where the accused could defend himself against the charges. Again, the *Daśkumāracharita* mentions that a king in his fury condemned a merchant to death, as he was accused of theft, but on his behalf Dhanamitra respectfully pleads thus : "Oh ! Sir, royal tradition graciously grants exemption from the death penalty to merchants guilty of such felonies. If you feel furious confiscate the criminal's property and exile him".¹⁴⁶

The most brutal form of punishment in our period was the infliction of death on the guilty through his trampling by elephant. According to the *Daśkumāracharita* in the city of Kāśī, while stealing in the house of an eminent businessman, Arthapala was caught with the coin and fettered and condemned to death. The chief counsellor (Uttamamātya) Kampāla gave the signal for his execution, whereupon an elephant was reinforced from the crowd.¹⁴⁷ Such an execution conducted in the presence of a crowd by means of an infuriated elephant, and under the supervision of the state-official, must have been a most terrifying and agonising sight.

But Kāmādata asserts that the sentence of death was to be avoided even in the gravest offence except for the offence of subverting the state.¹⁴⁸ However, Bṛhaspati recommends that munderens shall not be amerced in fine; they shall be put to death by all means by various modes of execution, and their property shall be confiscated. When several persons assault a person and kill him, death penalty shall be inflicted on the one who strikes the fatal blow. The aiders and abettors shall be punished half as much.¹⁴⁹

Royal amnesty was granted to the criminal. Kālidāsa saw that the practice prevailed in the Gupta period.¹⁵⁰ Bāṇa states that on the birth of prince Harṣa all prisoners were released in the regin of Prabhākaravardhana.¹⁵¹

Police and Judicial Officers

The officer styled from *pramātṛ* was evidently an official of the judicial department in the time of Harṣa. The Bānskhera copper plate¹⁵² and Madhubana Copper plate¹⁵³ refer to this officer. In the Madhubana copper plate the executor (*dūtaka*) is mentioned as *Mahāpramātṛ* and *Mahāsamānta*. D.B. Diskalkar¹⁵⁴ is of the view that the function of the *pramātṛ* was to survey the land. The etymological meaning points to a person who must have been either a judge or an assessor of revenue.¹⁵⁵ According to this *pramatṛ* means having a right notion, competent to judge or ascertain an authority, proof or demonstrating, Vogel holds that this officer was concerned with the administration of justice.¹⁵⁶

The Valabhi grant of Dhruvasena III (A.D. 654) states that the messenger for this charter was the *pramatar*, Sri Nāga.¹⁵⁷ The grant of Kharagrah II¹⁵⁸ mentions an officer *dūtaka pramātri Śrīna*, who appears to be a female officer like *raja-duhitri bhūpa* of Dharasena grant. The Nalandā plate of Devapāla also refers to this officer. Thus we see that the *pramatṛ* was an important judicial officer not only in central India but also in eastern and western India.¹⁵⁹

The term *prādvivāka* is found in the *Maṇusmṛti*¹⁶⁰ and is conspicuously absent in the *Nārada-smṛti*. The *Bṛhaspatismṛti*, mentions this term. It states that it is a controversy the judge examines the plaint in question and the answer; he speaks gently at first (*Prāgavadati*), and so is called *Prādvivāka*.¹⁶¹ But in the *Kātyāyana-smṛti* we find a different meaning of this term. The judge asks the plaintiff what his case is and the defendants what his reply is (*Prikkhati*) and then finds out which of them is in the right (*Vadati*).¹⁶² Therefore, *Prādvivāka* is a compound of the two words *prād* and *vivāka*. Nārada states that the king should appoint as judge an honourable man of tried integrity, who are able to bear the burden of the administration of justice.¹⁶³ Further, he says that the judges should be acquainted with the sacred law and with the rules of prudence; they should be noble, veracious and impartial towards friends and foe.¹⁶⁴ Kātyāyana states that when the king cannot himself decide the causes, he should appoint a learned and well born Brāhmana who is impartial, who does not cause disgust to the people.¹⁶⁵

The king should appoint for deciding dispute a *prādvivāka* (judge) who is not cruel, who is sweet-tempered and kind, and who is hereditary, clever, energetic and not greedy.¹⁶⁶

Again Kātyāyana points out¹⁶⁷ that where a Brāhmaṇa cannot be had, the king should appoint a Kṣatriya or Vaiśya proficient in the sacred law but he should carefully avoid the Śūdra as *prādvivāka* (judge).

Nārada states that those judges who sit mute in the judicial assembly, being engaged in mediating over a subject other than for which the parties have appeared before the tribunal, and who fail to declare at the proper time the victory of one party and the defeat of other, all such persons shall be looked upon by the king as equally criminal with those who pass a false sentence.¹⁶⁸ Kātyāyana adds that if the *prādvivāka* (judge) was to hold conversation in private with a party while the matter in dispute is undecided, he becomes liable to be punished.¹⁶⁹

The *Chauradharaṇika* was the highest officer concerned with the apprehension of thieves and robbers. He was a well-known functionary throughout north India in our period. His function was the same that of the *cauragraha* mentioned by J. Jally.¹⁷⁰

In India from ancient times there were two ways of catching thieves; one was to set a thief to catch another, and other to follow the trantracking system. The second practice was vogue in Gujarat in our period. The *chouradharāṇika* appears first in Bengal in the sixth century A.D. The Mallasarul Copper plate inscription of Vijayasena¹⁷¹ mentions *chouradharāṇika* probably as a police officer. The Valabhi grant of Dharasena II,¹⁷² the Palitana grant of Dharasena II¹⁷³ and the Rastrakuta grant¹⁷⁴ refer to *chouradharāṇika*.

The Deobarnarka¹⁷⁵ inscription of Jivitagupta II mentions an officer called *daṇḍika*. The meaning of this word is chastiser and punisher. He may be either a judicial officer or a police officer. If the sense of *daṇḍa* is taken as fine, he may be a judicial officer. But if it is taken as rod of punishment he may be a police officer. D.C. Sarcar¹⁷⁶ holds the opinion that the *daṇḍika* was a police officer. Generally *daṇḍika* and *daṇḍaparika* are mentioned side by side. Probably the *daṇḍika* was the head of a group of out-posts of the *daṇḍaparikas*. Hence he seems to be superior in tatatus to *daṇḍapasika*. The *daṇḍika* may have

been a sort of police magistrate, while the *daṇḍaparika* was probably a small police. In any case the *daṇḍika* was an important officer charged with the duty of maintaining local police in the post-Gupta period.

In the plate of Mahābhāvagupta II from the eastern part of central India the *daṇḍaparika* devotes one who holds the rod and rope, and so he may stand for an officer entrusted with the punishment of the criminal.¹⁷⁷ The grants of Anantavarman¹⁷⁸ and the Plate Mādhavarman II¹⁷⁹, both of the seventh century A.D. mention *antaraṅga-daṇḍapāśika*. In eastern India they were new officers later mentioned in Pāla and Sena records. In western India the Palitana plate of Dharasena II¹⁸⁰ and the Valabhi grant of the same king¹⁸¹ also refer to this officer as in-charge of punishment and criminal justice. The Maliya copper plate inscription of Dharasena II states that the *daṇḍapāśika* is one who holds the fetters or noose of punishment, and so may be a conspicuously absent in central India in our period, but is prominent in eastern and western India. In Orissa even now the watchman are called *dandausis*.¹⁸²

The Bihar Stone Pillar Inscription of Skandagupta mention an officer called *gaūlmika*. In the Hirahadagalli copper plate inscription of Sivaskandavarman (A.D. 438), in south India the word *Gūlmika* is correctly held by Buhler to stand for *Gaulonika*.

Vogel suggests that the *gaūlmika* is a military or police officer.¹⁸³ Again, the term *gaūlmika* is explained as an officer in-charge of military squadron called *gulma* consisting of nine elephants, nine chariots, twenty-seven horses and forty-five footsoldiers.¹⁸⁴ Basak¹⁸⁵ also takes this officer to be the Commander of *gulma*. So he was a military officer performing the work of a police officer.

Judicial Procedure

The country during the Mauryan time was divided into four parts¹⁸⁶ *Sihāniya*, each of which in its turn was subdivided into *Droṇomukha* and each *droṇomukha* into *Sangrahana*. In the

midst of ten villages there was a *Sangrahana*, and in the midst of four hundred villages a *Droṇomukha* and in the midst of eight hundred villages there was a *straniya*. A village consisted of not less than one hundred but not more than five hundred agriculturer families. In the cities of *Sangrahana*, *Droṇomukha* and *Shamiya* and also at the places where the districts met there was a court of law.¹⁸⁷ Three members acquainted with the sacred laws (*dharmasāstra*) and three ministers (*Āmātya*) carried on the administration of justice. The trial was conducted after taking depositions from the parties, statements of the witness and also after making fact finding enquiry by the spies. Thus for every ten villages there was a court of law and in the next tier another court was there for every four hundred villages perhaps of appellate nature and possessing wider jurisdiction. In the next tier for every eight hundred villages, in addition to the district courts. The King was the fountain of justice and was the supreme appellate authority.

That these courts in the second and third tier had some appellate jurisdiction could be proved by the Codes of Conduct of the judge. "When a judge threatens anyone of the disputants in the court he shall first of all be punished with first amercement, if he does not ask what ought to be asked or asks what ought not to be asked. . . he shall be punished with the middlemost amercement. If he does not inquire into necessary circumstances or inquire into unnecessary circumstances or makes unnecessary delay in discharging his duty or postpones work with spite. . . he shall be punished with highest amercement. If he repeats the offence he shall both be punished with double the fine and dismissed. . . when judge or commissioner imposes an unjust fine in gold he shall be fined either with double the amount of the fine of eight times that amount of imposition which is either more or less than the prescribed limit".¹⁸⁸ Thus the justice or otherwise in the judgement delivered by a judge in a court of law was reviewed and this review could only be made in a higher court of law or in the appellate court on filing an appeal by the aggrieved person. The appellate courts therefore considered and reviewed the judgement delivered in the lower court of law.

In all the disputes regarding the boundaries between any two villages, the neighbours and elders of five or ten villages¹⁸⁹

would investigate the case on the evidence furnished from the natural and artificial boundary marks. Disputes about the boundaries of the field, pasture-land, highroad, cremation ground, temples, sacrificial places, places of pilgrimage within the village were decided by the elders of the village. This village court exercised penal powers.¹⁹⁰ Encroachments upon boundaries were punished with first amercement. Destructions of boundaries of fields were punished with a fine of twenty-four *panas*, while destruction of boundary marks between two villages was punished with a fine of 1000 *panas*.¹⁹¹

The judiciary was well organised and due importance was attached to it. The judges were well conversant with laws and were paid by the state. Megasthenes¹⁹² says, "the judges also decide cases, in which foreigners are concerned, with greatest care and come down sharply on those who take unfair advantage on this". According to Hultzsch¹⁹³ the *nagara-vyavahārikas* mentioned in the first separate, *jaugaḍa* edict were the judicial officers of the city.

The court of three Pradeśtrīs (or Commissioners) tried cases of industrial disputes.¹⁹⁴ The state had a machinery for the investigation and settling of disputes between the artisans and the employers. The pradeśtrīs or three ministers formed a commission to settle such disputes. M.H. Gopal,¹⁹⁵ however, holds that "three commissioners and three ministers shall deal with the measures to suppress disturbance to peace (*Kantaka Śodhanam*). The commentator explains *Kantaka*, to mean artisans and the succeeding passage in the chapter also indicate to the same effect. But in view of the verse (*Chorāṇ-chorakhyān vanik Karukūśilavaṁ Bhikṣukaṁ kūhakam schanyan vārayet deśa piḍanāt*), at the end of the chapter, that traders, artisans, musicians, beggars, buffoons and other idlers who were thieves in effect though not in name should be restrained from oppression in the country, it is probable that the commissioners were doing police duty as the term is now understood and that their duty was not restricted to a particular class". But Pradeśtrīs should also be termed as commissioners for settling industrial disputes. They should not be treated as functioning only as commissioners to restrain the thieves and idlers. This view is substantiated in the later writings as *Arthaśāstra* where it has been stated that detection of thieves and evil characters was

done by the collectors general. The collector-general employed spies to ascertain the foul and fair dealings of the villagers who informed and reported to the collector-general.¹⁹⁶ After the arrest of robbers the collector-general exhibited the arrested robbers and announced to the public that the arrest had been made according to the instructions of the king.¹⁹⁷ Detection of thieves and evil characters was done by the city superintendent with the help of the spies. A commissioner (*Pradohtra*) with the help of the retinue of *gopās* and *shamkars* took steps to find external thieves and the officer-in-charge of the city (*Nāgarika*) tried to detect the internal thieves inside the fortified town.¹⁹⁸ A *Pradeshtra* was assigned along with other jobs not only to investigate the offence and punish the offender but also to prevent the commission of an offence and occurrence of a disturbance due to divergent interests of labour and capital—the employer and the employee.¹⁹⁹ There is a standing committee appointed by the state consisting of three *pradohtris* who are entrusted with the task of removing thorns, i.e., obstacles in the path of peace. "The old machinery for the administration of justice is not always suitable for the purpose of expeditiously dealing with all kinds of disputes and troubles commonly found in a society which how far advanced from its primitive organisation and form being composed of conflicting elements and interests where a balance had to be maintained through rules and ordinances framed solely to serve secular causes. . . the state has to frame rule and regulations reflecting its policy or regard to trade, commerce and industry, conduct of business, mutual relations between employer and employee, internal organisation of guilds and corporations, joint and individual liability of workers, standards of wages, etc. A detailed and specialised knowledge of these rules and ordinances is required and for the practical application are expert study in the technicalities of crafts and industries to which they are related, is also of essential importance. Besides, the usual procedure of an ordinary court of law is not suitable where a quick decision is to be taken for the presumption of a disturbance. Matters concerned with employment, wages, relation between the employer and employee, etc., are not like ordinary subjects of disputes affecting only two individual parties, the offender and the offended. On the other hand they represented

a clash of interests peculiar to a society whose scope is much wider to be attended to and settled with expeditions to avert any pressure incipient or threatening on its economy with a growing emphasis on industry. It may be noted here that the tribunal set up for the purpose is expressly charged with the task of settling industrial disputes if they are to be concerned with the artisan class.²⁰⁰

There were police officers called *chorārajju* who were posted in some part of the country and were responsible for the loss of article in their jurisdiction. They were special police officers posted in some particular places. The practice of state being responsible for the loss of articles was recognised. Apas-tamba²⁰¹ opined that the officer appointed to look after villages and towns must be made to pay what is stolen within their jurisdiction. Gautama²⁰² also said that if the stolen property could not be recovered the state was to pay the value out of the treasury. The convicts were put into jail which was under the charge of Superintendent of Jail (*Karādhyakṣa*) assisted by a retinue of subordinate officials.

Night guards were posted in the streets of the city. In the interval between six *nalikas* after the fall of night of six *nalikas* before dawn, a trumpet sounded prohibiting the movement of the people—anyone found travelling during the period of night was arrested and fined. Those who went out at night for work, such as, doctor, nurse, carriers of dead bodies, or persons on royal duty or fire fighters, etc., were not arrested as well as those who were granted passes. *Nāgarika* was to report of whatever nocturnal nuisance that had occurred. If however he showed carelessness in his duties he was to be punished. He was to make a daily inspection of the reservoirs of water, of roads, of forts, fortwalls, and other defensive works.²⁰³

There was another type of official known as *Rajjuka* (or *Rajuka*). The functions of *Rajukas* of Aśoka's records corresponded with functions of Strabo's magistrates called *Agronomoi*, who were the district officials.²⁰⁴ This view is who corroborated from the fact that *Bajjukas* were informed of the grant of land in the village or district.²⁰⁵ U.N. Ghoshal writes, "In the period of small states preceding unification of Northern India into a single empire the *Rajjuka* was the title of a petty and surveyor entrusted with the task of measuring the field for

Government revenue. . . with the rise of Magadhan empire the consequent expansion of the administrative machinery the *Rajjuka* was evidently entrusted with a wide jurisdiction and was given high judicial functions probably in addition to his other duties as revenue or settlement officer."²⁰⁶

The common law was the jurisdiction of the king.²⁰⁷ The judiciary was organised into a number of courts having original and appellate jurisdiction. The lowest court was meant for the village and at the head of the system was the king's court. The king was never allowed to administer justice individually by himself.²⁰⁸ He was either to take the help of Purohita as recorded in the *Jātakas* or consult the *Sabhā* specially kept for purposes of justice. The requisites of the *Sabhā*, the *Sabhāśada*, the *Dharma* and the truth are beautifully summarised in the *Mahābhārata*.²⁰⁹ It was within the prerogative of the king to delegate his powers to others in matters of justice. The decree given by any court of the realm was deemed to be a royal decree and the executions of other courts also amounted to royal execution though they were done by subordinate officers of the judiciary. In fact the king was the head of all men.²¹⁰

In times of peace, the principal work of the king seems to be to take part in the administration of justice, he also used to give his decisions in law suits.²¹¹

It is clearly meant that the final administration of law rests with the king, that the final suits as well as the final word regarding the punishment for breaking the law remained with him. We find a detailed account about the manner of administration of justice from Pali texts.

According to the account given in the commentary on the *Mahāparinirvāṇa sūtra* concerning the administration of justice in Vaishali, the chief town of the Licchavis the process of law from the institution of a suit to its final decisions was a considerably complicated affair.²¹²

Descriptions in the *Jātakas* of the criminal being brought direct before the king and generally sentenced by him without previous consultation of the ministers, may be taken as referring to primitive conditions of earlier age when the legal apparatus would have been simple. We also find a reference of this

example in the *Vaṭṭaka Jātaka* and in the *Avāriya Jātaka* that "the king alone pronounced the judgement."²¹³

Though the king was the fountain-head of the administration of justice but, he was also assisted by his ministers on certain occasions. Purohita and Senāpati also took part in the administration of justice and advised the king in some cases. Thus, the entire administration of justice did not lie in the hands of the king. The legal life of the smaller towns and villages did not come under the direct sphere of action of the king and remained under the jurisdiction of his representatives as long as no appeal was made against the judgements given by them to the king, who was the highest authority.

Criminal jurisdiction, according to the *Jātakas*, appears to have been exclusively exercised by the king. That any person other than the king can pronounce a sentence of death seems to be nowhere mentioned in the *Jātaka*.

Serious crimes such as theft, adultery, bodily injury, etc., were punished by Rajana i.e., the king. We find mainly the reference of two officers, the *Senāpati* and the *Voharika-Māhamātyas* as judicial officers.

But the exact nature of the judicial work of the *Senāpati* is not known from the *Jātakas*. But it must have differed from that of the minister of justice (*Viniccayamātya*) whose proper province as his name applies was the administration of justice.

According to the statement made in the commentary on the *Mahāparinirvana Sūṭṭa*, the 'Viniccaya Mahāmātyas' represented the first and the lowest stage of judicial work, their judgement was only final in the case of acquittal, in other cases the matter was referred to the *Vohārikas*.²¹⁴ We also find a reference that the minister of justice not only gave judicial decisions but also advised on matters of law and morality.²¹⁵ Much emphasis was given on legal regulations and legislations in the smaller republics of the 6th century B.C.²¹⁶ The role of *Sākshi* or witness was considered to be extremely important during this period. Pāṇini defines *Sākshi* as the eye-witness²¹⁷, but he seems to offer the literal meaning of the word. The advanced judicial system of the Janpāda age could not ignore, the hearsay evidence, where the circumstances lacked eye-witnesses. The

practice of administering oath to the witness was prevalent as is evidenced by Pāṇini.

The republics had their own laws and the Hindu legal authorities recognised the law of the (Kula states) as well as those of *gaṇas*. In a mixed constitution of aristocracy and democracy, we find the existence of *Kūlik* court.

The republics or *gaṇas* had their own system of law which has been highly praised in the *Mahābhārata*. Their courts were well organised. Amongst the *Vajjis*, there was a board of eight *kūlikas* for the investigation of criminal cases. Appeal proceeded from Kula courts to *gaṇa* courts. The Lichchhavishada book of code, probably written legal precedent and their judicial administration has been rightly praised by the Greek observers.

According to Kauṭilya, a republican chief in his state has the beneficial propensity of justice. In the constitution of Lichchhavis of Vaishali, the president was also the highest judicial authority. There was a judicial minister who could even be an outsider or a paid officer. The Lichchhavis were fully conscious for safeguarding the liberty of the citizen. A citizen could not be held guilty unless he was considered so by a regularly constituted tribunal and that also unanimously. A careful record of the decisions of the court (*Paveni Pustaka*) and the proceedings was maintained on the rolls in which particulars of crime and punishment were entered.

Primary enquiry into the case was held in the court of justice presided by (*Viniccaya Mahāmātyas*). There were regular courts for the civil cases and ordinary offences. The court of appeal was presided over by *Vohārikas* (lawyer-judges). The High Court judges were known as *Sutradhāras*. There was yet a council of final appeal called the court of eight or (*Ashtakūlaka*).

Any of these courts could pronounce a citizen inherent and acquit him and if all the courts held him guilty, the matter was still subject to the decisions of the members of the executive cabinet. The *Ashtākulaka* signified a judicial council of eight members and the principles of criminal administration were keeping with the general procedure of the republican tradition.

The judicial administration of the republican states offers

the most striking example of the special care that was taken to safeguard the individual liberty of the people. But above all, according to Rhys Davids, the judicial works were really in the hands of the people in the Kapilvastu Samgha.²¹⁸ According to Pāṇini, the new conception of law in the city state was inspired by respect for Dharma and was marked by moral grandeur, considered to be of divine origin. It was almost identical with the new interpretation of Dharma given to it in the *Mahābhārata*.²¹⁹

According to Pāṇini, Dharma denoted both justice and virtue. The ideal of the Janapada state was the highest development of virtue and its object was to produce the perfect citizen. This ideal of Janapada-state is embodied in the famous words of king Asvapati of Kekaya which he uttered in the presence of such citizens who were householders, possessing magnificent mansions enjoyed all the luxuries that Janapada, life would provide but who still chose the path of virtue and learning (*Mahāśrotriya*).²²⁰

The sum total of virtues and of legal, social and moral ordinance which governed the life of the citizens and the Janapada polity was called *Vinayika* to which both Pāṇini²²¹ and the *Śānti-Parva* refer.²²²

Let us now examine the judicial procedure, especially in *Dharmāsthia* courts. The plaintiff filed his suit and the clerk of the court registered the case, recording the time, place, date, month and year of the filing together with the particulars of the plaintiff and the defendant. The judge scrutinised the records. The case began. The defendants and the plaintiff gave their statements and also answered questions put to them by the court. The clerk of the court made full records of the entire proceedings, later to be approved by the judges. Both the plaintiffs and defendants deposited money showing the earnestness of their appearance in the court. The plaintiff or defendant lost his case if he made statements contradictory to his first statement or if he changed grounds of dispute. Besides losing the suit, the losing party also had to pay fine equivalent to one fifth of the amount in dispute. The losing party had to pay for the daily allowance to the court peons who also received 1/8 of *paṇa* daily for doing messenger's work in the case.²²³ Witnesses played a key role in the settlement of disputes.

Disputes regarding immovable property were to be decided on the testimony of neighbours (as witness of course).²²⁴ Boundary disputes between villages were decided by a group of persons of neighbouring five villages.²²⁵

While discussing the position of the Gupta judiciary, the later *Dharmaśāstras* must be considered, among which *Nārada* and *Bṛhaspati smṛtis* are the most important ones being composed during the reign of the Gupta emperors. It is remarkable that the high sounding imperial or feudatory titles which came into vogue during the Gupta period and lasted for several centuries are not mentioned in *Nārada* or any other *Dharmaśāstra*. These adhere to the time honoured expressions, Raja, Nṛpāti etc., and show that the pompous style had not originated when the *Dharmaśāstra* tradition was first chalked out. *Nārada* places the king and *Brāhmaṇa* among the eight sacred objects. The law of *Nārada* pertains the whole of the human life.

The next is *Bṛhaspati*, who may be taken as the typical Brahmanical exponent of law and procedure of this period. He informs us that in the Hall of Justice in the fort facing the east, the court should be held all through the morning hours till noon, every day except the holidays. *Bṛhaspati*, divides courts into four classes: (1) Stationary, (2) those moving about, (3) those presided over by the Chief Judge, (4) those directed by the king.²²⁶

As in *Manu*, the king should be assisted by three assessors.²²⁷ But the popular element enters into the administration of justice in a much more pronounced manner than in *Manu*. Cultivators artisans, trade guilds, artists, money-lenders, dancers, religious mendicants and even robbers are told to administer their disputes according to the rules of their own profession. Families, craft-guilds and local assemblies were authorised by the king to dispose of law-suits among their members except such as concern violent crimes. *Bṛhaspati* also provides for appeal from meetings of kindered or companies thence to assemblies and finally to the royal judges on the ground that the lower courts had not duly investigated or deliberated on the cause. The law which the royal courts are told to administer takes account of sacred injunctions, customs and equity. Thus, the king in the court was exhorted to listen to the *Purāṇas* code of law and rules of polity, to act on the principles of equity,

and abide by the opinion of the judges and the doctrine of the sacred law.

Bṛhaspati expressly lays down that no sentence should be passed merely according to the letter of the law, but the circumstances of a case must be closely examined. Local customs, however, could be overruled by royal edicts.

The constitution of the court of justice (*Dharmādhikaraṇā*), laid down by Kātyāyana is of traditional *Smṛti* type but he adds some new features.

As regards to the Gupta era, we find certain new changes in the sphere of judicial procedure. The rules as regards this as laid down by Kātyāyana, marks the climax of Hindu jurisprudence. He reproduces to begin with Nārada's dictum relating to four modes of decision namely by moral law (*Dharma*), by judicial (*Vyavahāra*), by popular usage (*Charita*), and by royal edict.

So far as the decision by *Vyavahāra* is concerned, Kātyāyana repeats to begin with, the formula of the court fee *i.e.*, stages of legal proceedings known as Bṛhaspata. These are called by him *Purva-Paksha* (plaint). *Uttara* (reply), *Pratyākālita* (deliberation as to burden of proof), and *Kriyapāda* (adducing of proof).²²⁸ Beginning with the plaint, Kātyāyana says that the plaintiff is first to be interrogated by the judge, the assessors and the Brāhmaṇas. If the judge is satisfied that the cause is reasonable, he is to make over the court-seal to the plaintiff or else to send a court official for summoning the defendant.²²⁹ Dealing with the order in which the suitors are to be heard, Kātyāyana says that whoever suffers greater loss of wealth or greater bodily injury shall be given the position of a plaintiff and not he who first informs the court.

The plaint shall be firstly written down as a draft on the ground or on a board and after amendments, if any, the final plaint is to be written down on a leaf of paper. The plaint shall have the availabilities of precision, consistency and so forth, while one which is opposed to public policy or contains a mixture of several titles of law or is indefinite is to be rejected.

After the plaint had been received, the defendant had to submit his reply. Unlike the plaintiff who usually gets no time for filling his plaint, the defendant was granted an adjournment

proportionate to the time of the transaction in dispute the capacities of the parties to the suit and the gravity of the cause.

According to Kātyāyana, the evidence was of three kinds, namely, documents witness (*Sākshi*) and possession (*Bhukti*) and (*Likhita*), other means of proof consisted of reasoning (*Yukti*) and ordeals (*Divyas*). The document, witnesses and possession come under the head of human proof, while ordeals are included under the head of divine proof. When both the parties had submitted their evidence, the court was to deliver its judgement.

The laws of partition and inheritance in Kātyāyana contain a number of important clauses. The father and the sons, says he, have equal ownership in ancestral property, while the son has no ownership over the father's self acquired property.

The order of heirs of a sonless man is the widow (if chaste), the daughters—unmarried daughters getting the preference—the father, the mother, the brother and the brother's son.²³⁰

Law originated in the Vedic age from the conception of Universal Order and was based on morality and ethics. The conception of the metaphysical basis of law was a great achievement of ancient Indian law-givers as it elevated law and justice to a sovereign status. Our study reveals that the judicial system of ancient India was based on the central idea that justification for the existence of the State lies in its maintaining *Dharma* and imparting justice to the people.

Ancient Hindu Judiciary aimed at achieving the ideal of impartial justice for all. The *Mahābhārata* goes to the extent of instructing the king to punish even his *Guru*, if found guilty of committing a crime. The law-givers declare that the judicial authority administering proper justice would go to heaven and one who showed partiality would go to hell. In matters of imparting justice it was also necessary to see that no innocent person suffered due to wrong judgement. The popular belief was that if the judge or the king did not perform his duties, the gods would punish him. By bringing supernatural agency as the on-looker of the work of judges, chances of proper justice was assured to a great extent.

The mixing of the conception of sin with crime added new dimension to law and justice. Now, the offender was himself

expected to strive for getting himself purified for his sins incurred by committing crime. The view that unless the wrong-doer performed *Prāyaschitta* or was punished for his sins he could not be purified and would suffer in hell proved as a very effective weapon for getting confession from the offender. Though the conception of *Prāyaschitta* was mainly religious in character but crimes in general were regarded as sins and the mixing of the ideas of the two the scope of justice was widened, as it also proved instrumental for achieving the ideal of justice for all. The idea of sin helped in arriving at the truth as telling a lie in course of giving evidence by the witness of concealing the crime by the offender would result for both in suffering in the hell. Viewed from modern outlook this may appear as primitive and ineffective, but judges form the moral standard for which India has strived throughout the ages, it was a praiseworthy achievement of the law-givers of ancient India, as it worked as a great check both on the state and the individual with respect to neglecting justice.

Our study leads to the conclusion that the principle operating at the root of imparting justice was that the wrong-doers must be inflicted punishment. But the type and severity of the punishment was to be determined in proportion to the seriousness of the offence. The belief prevailed that if an offender was inflicted heavy punishment for a light offence or one found guilty of a serious crime was lightly punished, the sin would fall on the judge and his advisers. Therefore, every case was examined thoroughly, and means such as ordeals, oaths and punishment for the witness giving false statement were resorted to for arriving at the truth. An elaborate procedure was developed with the intention of giving proper justice by allowing suitable opportunity to the parties concerned to explain their position.

The *Mahābhārata* clearly advances the view that the king prospers, if he inflicts punishment after examining the cases and finding out the real offenders.

While deciding upon the cases, the judges had to take into consideration the nature of crime, the motive of an accused and his status in society. The culprits were punished in accordance with the gravity of the offence. In the epic, there are many scanty references to show that during its compositional

period, there existed a well established judicial system. The courts were the main institutions to impart justice to the people but the epic does not furnish more details regarding them. *Vyavahāra* has been related to the *Vedas*.

The aims of judiciary in ancient India as revealed from our sources were to suppress anti-social elements, create conditions for the smooth running of society and to safeguard the interests of individuals. In this direction, Kauṭilya with practical approach to problems confronting administration, united judiciary with police. This innovation worked well and society during the Maurya Age became almost free from the menace of anti-social elements. Kauṭilya's scheme of dealing with the criminals was probably found to be too rigorous. But the organisation of judicial administration was efficient as well as effective.

One finds that the *Dharmaśāstra* writers maintained the dynamic character of law by accommodating new changes that took place in society with the march of time. But as the time passed growth of social complex led to complexity in the administering of justice. When society was simple, legal procedure in the court was simple, but as social progress led to the growth of complexities in human relationship, the administration of justice no longer remained a simple affair and the procedure of law courts became complicated. *E.g.* Manu mentions Eighteen Heads of dispute for the settlement which one could go to the law-courts.²³¹

Naturally, the burden of state as regards the administration of justice increased. Gradually, the parties were given more and more opportunities to explain their position before the law courts and the tribunals for which the system of employing lawyers came into existence. Passing judgement also became largely dependent on the opinion of jurors, so that proper justice could be imparted. Thus judicial system of the ancient India became step by step progressive.

One is led to conclude that the judicial system in ancient India as known primarily from the *Dharmaśāstra* is not utopian or merely ideal, but is natural to the extent to suggest that it is the result of actual experience. The Tribunals mentioned in the *Smritis* demonstrate the reality of the institutions designated. Recognition extended to custom of the different regions and

social groups gave rise to divergent views but it actually added to the practical value of the law-books.

NOTES AND REFERENCES

1. *Kātyā*, 56.
2. *Ibid.*, 56-59.
3. *Ibid.*, 63-67.
4. *Manu*, VIII, 9.
5. *Yāj*, ii, 37.
6. *Kātyā*, 67.
7. *Bṛhaspati*, I, 79.
8. *Yāj*, II, 2, 3.
9. *Bṛhaspati*, I, 29, 30.
10. *Nārada*, 1, 1-2.
11. *Manu*, VIII-10-11.
12. *Nārada*, III, 4.
13. *Bṛhaspati*, I, 11.
14. *Manu*, VIII, 4-7.
15. *Bṛhaspati*, II, 5.
16. *Manu*, VIII, 18.
17. *Yāj*, II, 4.
18. *Kātyā*, 70, 79.
19. *Ibid.*, 72, 78.
20. *Bṛhaspati*, 1, 24.
21. *Kātyā*, 81.
22. V.S. Agrawala, *Śrngarahata*, p. 214.
23. *Daśakumāracharita*, VIII, p. 131.
24. *Proceedings of I.H.C.*, 1959, p. 133.
25. *Proceedings of I.H.C.*, 1959, p. 130.
26. Minākshi, *op. cit.*, p. 58.
27. *Bṛhaspati*, I, 6, 10.
28. V.S. Agrawala, *Śrngarahata*, p. 218.
29. *Mṛchhakaṭika*, IX, p. 454.
30. *CII*, III, pp. 248-49.
31. *Proceedings of I.H.C.*, 1959, p. 130.
32. *Pañcītantra*, 1.4 (Stories).
33. *Nārada*, 1, 34.
34. S.K. Aiyangar, *Hindu Administration in South India*, p. 203.
35. C. Minākshi, *Administration and Social Life under Pallavas*, p. 59.
36. *Ibid.*, p. 57.
37. *Ibid.*, p. 58.
38. *Kādambarī*, p. 85.
39. *H.D.S.*, 14, p. 277.
40. *Kātyā*, p. 61-62.
41. *Bṛhaspati*, I, 28, 30.

42. *Kātyā*, 82.
43. *Yāj*, II, 33.
44. *Nārada*, I, 7.
45. *Bṛhaspati*, I, 25, 28.
46. *Nārada*, I, 147-50.
47. *Nārada*, I, 149-52.
48. *Bṛhaspati*, VII, 1-17.
49. *Kātyā*, 356-57.
50. *Bṛhaspati*, XIX, 26-27.
51. *Nārada*, I, 178, 181-85.
52. *Ibid.*, I, 154.
53. *Bṛhaspati*, VII, 28.
54. *Yāj*, II 69; *Nārada*, I, 154; *Kātyā*, 341.
55. R. S. Sharma, *Sūdras in I. 9*, p. 244.
56. *Manu*, VIII, 74.
57. *Kātyā*, 246.
58. *Medhātithi on Manu*, VIII, 74.
59. *Kātyā*, 352.
60. *Ibid.*, p. 351.
61. *Medhātithi on Manu*, VIII, 68.
62. *Manu*, VIII, 73; *Bṛhaspati*, VII, 35; *Kātyā*, 408.
63. *Manu*, VIII, 60.
64. *Nārada*, I, 153.
65. *Bṛhaspati*, VII, 16, 17.
66. *Ibid.*, VII, 18.
67. *Nārada*, IV, 192.
68. *Manu*, VIII, 77.
69. *Bṛhaspati*, VII, 18.
70. *Kātyā*, 354.
71. *Ibid.*, 354.
72. *Bṛhaspati*, VII, 78.
73. *Yāj*, II, 95.
74. *Nārada*, I, 252.
75. *Bṛhaspati*, X, 4.
76. *H.D.S.* III, p. 362.
77. Watters, *on Yuanchang*, I, p. 172.
78. The *Pañchtantra* also mentions ordeals. When witnesses completely fail, the magistrates take recourse to ordeals. *Pañchtantra*, p. 160.
79. *Nārada*, I, 305-17.
80. *Bṛhaspati*, X, 21.
81. *Kātyā*, 442. 45.
82. Watters, *op. cit.*, I, p. 172.
83. *Nārada*, I, 285-303.
84. *Bṛhaspati*, X, 26, 27.
85. *Kātyā*, 441.
86. Watters, *op. cit.*, I, p. 172.

87. *Nārada*, I, 271-84.
88. *Bṛhaspati*, X, 19, 20.
89. *Kātyā*, 440.
90. Watters, *op. cit.*, I, p. 172.
91. *Nārada*, I, 318, 26.
92. *Bṛhaspati*, X, 22.
93. *Kātyā*, 450.
94. Watters, *op. cit.*, I, p. 172.
95. *Yāj*, II, 108.
96. *Bṛhaspati*, X, 25.
97. *Bṛhaspati*, X, 26-27.
98. *Ibid.*, 28-29.
99. *Bṛhaspati*, X, 30-33.
100. *Nārada*, I, 334-35.
101. *Bṛhaspati*, VIII, 12.
102. *Kātyā*, 422.
103. *Nārada*, I, 322.
104. *Ibid.*, I, 256.
105. *Kātyā*, 424-26.
106. *Nārada*, I, 254.
107. *Kātyā*, 434-35.
108. *Kātyā*, 418-19.
109. *Ibid.*, 459-61.
110. Mahalingam, *South Indian Polity*, p. 229.
The one striking feature of the ordeal in *S.I.* is that the people appear to have been subjected to ordeal even for failure to pay dues to the government. In one case a woman is recorded to have committed suicide because she was unable to stand the pain to which she was subjected by a village official. *The Recovery of Dues*, *op. cit.*, p. 225.
111. S. Beal, *Travels of Fahien*, pp. 54-55.
112. Legge, *A Record of Buddhist Kingdom*, p. 43.
113. R.S. Sharma, *op. cit.*, p. 251.
114. *Kātyā*, 485.
115. *Bṛhaspati*, XXVII, 11-12.
116. *Ibid.*, XXI, 14.
117. *Kātyā*, 484.
118. Watters, *op. cit.*, I, pp. 171-72.
119. I. Legge, *op. cit.*, pp. 42-43.
120. *H.C.*, p. 65.
121. *Bṛhaspati*, XVI, 17.
122. *Viṣṇu*, V, 153-54.
123. *Bṛhaspati*, XVI, 11.
124. *Nārada*, VI, 6.
125. *Yāj*, II, 192.
126. *Nārada*, VI, 5.
127. *Bṛhaspati*, XVI, 55.6.

128. *Kātyā*, 479-80.
129. *Daśakumāracarita*, p. 67.
130. *Ibid.*, p. 31.
131. *Kātyā*, 810-28.
132. *Daśakumāracarita*, p. 85.
133. *Ibid.*, p. 196.
134. *Ibid.*, p. 135.
135. *Ibid.*, p. 96.
136. *Ibid.*, p. 97.
137. *Proceedings of IHC*, 1959, p. 132.
138. *Daśakumāracarita*, p. 78.
139. *CII*, III, No. 14, p. 62.
140. *Daśakumāracarita*, p. 102.
141. *Ibid.*, 73.
142. *Ibid.*, 107.
143. Watters, *op. cit.*, I, p. 172.
Huien Tsang further states that Harṣa convened every five years an assembly of the Pretheren, and those who neglected the ceremonial observance were banished from his presence and from the country, *Ibid.*, I, p. 344.
144. *Ibid.*, I, pp. 171-72.
145. *Daśakumāracarita*, p. 137.
146. *Ibid.*, p. 76.
147. *Ibid.*, p. 101.
148. *K.N.S.*, XIV, 16.
149. *Bṛhaspati*, XXII, 31-33.
150. *Raghu*, III, p. 58.
151. *HCP*, III. Most modes of punishment mentioned above obtained in South India also.
152. *EI*, No. 29, p. 208.
153. *Ibid.*, I, No. 11, pp. 63-67.
154. Selection from Sanskrit Inscriptions, p. 35.
155. M. Monier Williams, *Sanskrit English Dictionary*, p. 686; D.C. Saccar, *Indian Epigraphical Glossary*, p. 255.
156. *HDS*, III, p. 992.
157. *EI*, I, No. 13, pp. 88-92.
158. The plate of Lalitasuradeva (AD 853) and Benares Copper plate grant of Karnadeva (AD 1042) refer to Pramota-IA, XXV, p. 182; *EI*, II, No. 23, p. 297.
159. *EI*, XVII, p. 321.
160. *Manu*, IX, 234.
161. *Bṛhaspati*, I, 12.
162. *Kātyā*, 69.
163. *Nārada*, 4, p. 37.
164. *Ibid.*, 5, p. 37.
165. *Kātyā*, 63-64.
166. *Ibid.*, 65.

167. *Ibid.*, 67.
168. *Nārada*, II, 38.
169. *Kātyā*, 70.
170. J. Jolly, *Hindu Law and Custom*, p. 271.
The *Arthaśāstra* mentions *chorovajjuka* as an officer whose duty was to secure robbers with robes (*AS*, iv, 13). At one place Kauṭilya refers to *corovajju* as one constituent of the *rastra* (*AS*, II, 6).
171. *Select Inscris.*, No. 40, p. 360.
172. *IA*, XV, p. 187.
173. *EI*, XI, No. 5, p. 80.
174. *JBBRAS*, XVU, p. 105.
175. *CII*, III, No. 46, pp. 213ff.
176. D.C. Sircar, *Indian Epigraphical Glossary*, p. 82.
177. *EI*, XXX, No. 40, p. 241.
178. *Ibid.*, XXIV, No. 17, p. 135.
179. *Ibid.*, XXX, No. 44, p. 267.
180. *Ibid.*, XI, No. 5, p. 83.
181. *IA*, XV, p. 187.
182. D.C. Sircar, *Indian Epigraphical Glossary*, p. 82.
183. *IC*, XIII, 1946-47, p. 177.
184. R.C. Majumdar, *H.B.I.*, pp. 285-86.
185. *Journals of the Department of Letters*, XVI, 1927, p. 39.
186. *Arth.* III, 1.
187. *Ibid.*
188. *Arth. Tr.*, p. 252.
189. *Arth.* III. 9, 'Panchagrami Dasagrami-va'.
190. *Ibid.*, III. 9.
191. *Ibid.* III. 9.
192. *Strabo*. XI, i, 48.
193. *CII*, i, 95.
194. *Arth.* IV, I, 'Pradeśhṭris trayo va āmātya—Kantaka Sodhanam kuryah...'
195. *Mauryan Public Finance*, pp. 198-99.
196. *Arth.* IV, 4.
197. *Ibid.*, IV, 5.
198. *Ibid.*, IV, 6.
199. Removal of obstacles peace was the job of *pradestra*. Removal of the sources of trouble or disturbances due to the divergent interests of labour and capital was also a part of his assignment.
200. *Economics in Kauṭilya*, pp. 65-66.
201. *APS*, II, 10.26.8. The officer-in-charge of the city.
202. *Gau.* X, 46-47.
203. *Arth.* II, 36.
204. *Cambridge History of India (A.I.)*, I, p. 575.
205. L.L. No. 1195, *AIU*, p. 209; *ACJI*, Vol. II, p. 388; *EI*, II, p. 466.
206. U.N. Ghosal, *The Beginnings of Indian Historiography and Other Essays*, p. 62;

- A.S. Altekar, *State and Government in Ancient India*, p. 206.
207. Jayaswal, *Hindu Polity*, p. 324.
 208. *Ibid.*
 209. *Kathāsāṃhita*, XXVII.
 210. *Suttanipata*, p. 107 (Pali texts).
 211. *Rajovada Jātaka*, II.
 212. *Journal of the Asiatic Society of Bengal*, Vol. VII, Part II (1838), p. 993 (Translation by G. Turnour).
 213. *Vattaka Jātaka*, I, 433.
Abhariya Jātaka, II, 232.
 214. *Māhavagga*, I.40.3; *Chāllavagga*, Vol. VI, 49.
 215. *Kurudeamma Jātaka*, II, p. 380.
 216. Application of the disciplinary rule to the person in presence. Application of the discipline in case of full consciousness of the accused, sentencing by majority of votes, proceedings against the obstinate covering as by grass, *karn. Manual of Buddhism*, p. 8. 6.
 217. *Paṇini*, VI, 2.5.
 218. The constitution of the Śākyas of Kapilavastu, *Indian Historical Quarterly*, Vol. 21 (1954), p. 15.
 219. *Udyoga Parva*, 13.7.9.
 220. *Chhandogya U.P.* V. II.5.
Within my realm (Janapada) there is no theft.
No miser, nor a drinking man,
None artless, none ignorant,
no man unchaste, no wife unchaste.
 221. *Pāṇini*, V. 4.34.
 222. *Śāntiparva*, 68-4.
 223. *Kauṭilya Arthaśāstra*, II. 1-17-33.
 224. *Kauṭilya Arthaśāstra*, III.8.1.
 225. *Ibid.*, 8.9.10.
 226. *Ibid.*, III, 8.9.10.
 227. *Brhaspati*, 1, 2, 3. Also I, 1, for *Brhaspati's* idea of the need of judicial administration.
 228. *Kātyāyana*, V. 31.
 229. *Kātyāyana*, X, 86-88.
 230. *Kātyāyana*, Verse, 838-84.
 231. *Manu*, IV, 4-7.

Police played an important role in the economic life of ancient India. So far as trade regulations and protection of merchants, the state took great care and interest. The *pradeṣṭa* was in-charge of the security of life and property of merchants in particular and people in general of the district and he was being helped by the local police officers known as the *Gōpās* and the *Sthānikas*. Caravan merchants were required to camp at specified places and they were to give detailed information about their goods at the places where they encamped. If the goods were stolen the headman was to compensate the loss. Outside the village areas the *Vivitādhyakṣha* and the *chora rajjuka* were responsible for the protection of the merchants. The *vivitādhyakṣha* was the superintendent of the forest and it was his duty to see that the forest areas under his jurisdiction were not infested with robbers. He was to make good the loss if any theft occurred in the area of his jurisdiction. The *chora rajjuka* as the term indicates was responsible for catching thieves by the help of the rope he carried. He was also entrusted with the work of ensuring security for the transport of goods of the merchants and in case of any loss of goods in the areas under his charge, he was to make good the loss. At times if theft occurred at a place outside the jurisdiction of the *vivitādhyakṣha* or of the *chora rajjuka* the neighbouring villages were asked either to trace out the thieves or to compensate the loss. Thus, with such regulations merchants enjoyed complete security.

There was strict regulation regarding the seizure of criminals committing or abetting theft or robbery and for tracing stolen

articles. Persons concealing the stolen articles being condemned as abettors ; if they were found ignorant about the nature of the articles they were acquitted on restoring them. In case of purchase and mortgage of old or second hand articles due information was to be given to the Superintendent of commerce who after ascertaining the full details about the articles was giving permission for sale or mortgage. Persons who found an article thrown out, lost or forgotten by some one else must prove his innocence by giving evidence as to the time, place and circumstances of obtaining the article. Otherwise he was to be punished as a thief.

There were many such regulations to check criminals, possession of articles and as those crimes were being seriously dealt with, theft and robbery were held in effective check. This provided additional safety and security for the merchants and led to vigorous trade and commerce of the country.

The prosperous trade both in land and overseas depended without doubt, mostly on security of life, property and transport and credit goes to the system of police organisation which functioned with great efficiency and patriotic spirit to make the country prosperous and strong.

Police officers (*Rakshinah*) neglecting their duties and violating the rules of conduct were being seriously punished. If any officer would arrest persons who according to rules should not have been arrested, or if any officer would let the persons free who should have been arrested was considered guilty of breaking the law of the State, and he was given exemplary punishment. If a police officer neglected his controlling watch over places of danger or at indulgence he was punished according to circumstances.¹

From ages immemorial in India the elephant, horse, bullock, ass, buffalo and the mule have been the main vehicles of transport. They were employed in driving the four and two-wheeled conveyances of one kind or other in transporting commodities and carrying persons from one place to another. Among the relics of Mohenjo Daro and similar places, the survival of the little pottery cart, drawn by bulls, has been considered adequate proof that the full-sized vehicle was well-known and in constant use in the Indus Valley.² This would only corroborate the view that from pre-historical times such

animals must have been used for transport purposes. Mention has been made in the *Rāmāyaṇa* of the horse, elephant, mule, camel and bullock³ which were no doubt used for transport purposes. The Vedas often point to such animals. The *Ṛg Veda*, for example, alludes to the horse, bull, oxen, barren cows and rams⁴ which appear to have been utilised as means of transport. In the *Atharva Veda* we find that camels drew cars,⁵ mules were used for the same purpose, for drawing wagons and carrying loads. In much later times too almost the same types of animals were employed for similar objects. Arrian tells us that it was the elephant in India that carried the royalty. The animals harnessed by the common people were camels, horses and asses for riding while the wealthier classes resorted to elephants. The conveyance, which took rank next in prestige, was the chariot and the camel came third while to be drawn by a single horse was considered no distinction at all.⁶ Almost in the same period Kauṭilya also refers to such pack animals in some detail. He mentions that bulls, provided with nose-strings, vied with horses in carrying loads. He again points to mules, asses, draught oxen and cows, goats and sheep⁷, which could only have been used for transporting commodities of one type or the other from place to place. He distinguishes varieties of horses of which he specifies to eight, explaining their diet and medical treatment.⁸ He states that elephants could be procured from eight countries, observing that the victory of kings depended mainly on elephants, (*hasti pradhāno vijayo rājñām*).⁹ He also refers to chariots but mainly as one of the wings of an army.¹⁰ Nevertheless the use of chariots among civilians in private life cannot of course be ruled out as improbable, because he mentions travelling chariots (*pāri-yānika*) of gods (*dēvaratha*), implying that images of gods must have been taken in the streets, as they are borne out even today, in such conveyances. He also describes festal chariots (*puṣya-ratha*) and such types of vehicles cannot be called or considered suitable for military purposes only. He specifically deals with the battle chariots (*saṅgrāmika*) and chariots engaged in assailing the strongholds of enemies (*parapurābhīyānika*).¹¹

The evidence of Kauṭilya has been corroborated by Megasthenes to a great extent. The latter too refers to elephants, mares, horses, to chariots drawn by oxen, horses led along by

the halter, and bullock teams by which military engines were transported.¹²

Much later Fa Hian also mentions the four-wheeled chariots (*ratha*) in which images of the Buddha were carried in procession in the streets.¹³ Although this is a reference to a Buddhist practice it is an apparent adoption of a Hindu usage current in 4th century B.C. from the days of Kauṭilya.

In the 7th century also almost the same means of transport continued. Hiuen Tsang also refers to the cavalry chariots and the use of elephants,¹⁴ no doubt in regard to the exercises of the army but it can hardly be doubted that they were also geared for civilian purposes. Of course conveyances like the palanquin or the litter were also used as can be seen from the observations of a pilgrim like I-Tsing in A.D. 671-695. He tells us that venerable and learned priests of the Nalanda Monastery rode in sedan chairs but never on horse-back and those of the Maharaja Monastery also used the same conveyance. In such cases the personal baggage of the dignitaries concerned was carried by bearers or boys.¹⁵

The Problem of Public Safety on Roads

On all the high roads, land routes and common streets, the problem of public safety was not lost sight of from very early times. This caution was absolutely necessary in view of the inevitable menace of highway men who roamed about in bands at times, if not always. Care was also taken for the amelioration of men and animals used for transport objects. This can be seen not only from the *Arthśāstra* but also from the Edicts of Aśoka. In his Rock Edict II he laid down that wells were to be dug and trees planted for the accommodation of men and animals (*pathesukūpa ca-khānāpita vachhā ca matesu udapānāni khānāpitāni lukhānica*).¹⁶

Roads and Public Security

In view of the robberies even on the highways, the suppression and control of such nefarious activities became incumbent on the state. The great highways appear to have been full of heavy traffic. In the *Gumbiya Jātaka* mention is

made of the Highway (*mahāvattani*) probably owing to the heavy traffic¹⁷ which must have passed through it. In the same *Jātaka* we are told that along the highway went elephants and horses drawn by fierce oxen and "such like dangerous things".¹⁸ Far more detrimental than this congested commerce and the beasts of burden were the systematic gangs of thieves, who constantly threatened that road. The Grand Highway from Taxila to Banāras and thence onwards to Anga seems to have been infested with robbers who were organized. In the *Culladhanuggaha Jātaka* a young Brāhmaṇa and his wife, returning from Taxila to Banāras, were attacked though we know not precisely where but probably half-way (*antarāmāgge*) after leaving Taxila, by 50 thieves, who had their chieftain (*iattāhapi pannāsa corā maggam hananti—cōra Jeṭṭhaka*).¹⁹ It is, therefore, not surprising that such corporate hands of bandits rendered road travel in those days risky. Though that may not have been the case at all times and in all places throughout the Highway, still in certain localities probably it was considered perilous.²⁰

We learn again from the *Talapatta Jātaka* that the city of Takkasila (Taxila), "two thousand leagues" away from Banāras, was connected with the latter city by a Highway which lay through a forest and on that road there was peril.²¹ In the cases of such attacks, on the complaints of the local people or the persons affected, the king ordered the Nāgaraka, who may be styled the Prefect of the Police rather than the Chief Constable, to capture the thieves. That officer in the night posted detachments (*vaggabañdhanēna*) of the town-watch (*nagara-guṭṭikam*) here and there. They managed to capture the thief, implying the chief of the band, with the money stolen by him and reported it to the king. The king directed the Prefect of the Police to cut off the thief's head. So the officer caused the robber's hands to be tightly bound behind his back and with a wreath of red Kanavera flowers tied about this neck and also brick-dust sprinkled on his head, had him scourged with whips in every square and then led him to the place of execution to the music of a harsh-sounding drum (*Nagarakuttiko nāma pacchābāham galabañdhanam bañdhapetvā givāya assa ratta-kanaveramālam laggetvā sīse iṭṭhakacuṇṇam okiṭivā catukke catukke kasāhi kharassarena paṇavēna āghātanam neti*).²² This

practice appears to have become traditional for we are reminded of a similar system meted out to criminals in the case of Carudatta led to the stake in an almost similar manner as can be seen from the *Mṛcchakaṭika*,²³ some centuries later. We also learn from the *Punicimanda Jātaka* that occasionally thieves, so caught, were either tortured and impaled on a stake of the Nimb tree (*tasmin pana kāle core gahetvā nimbasūla uttāsenti*).²⁴

Kauṭilya, well aware of public safety, was careful enough to distinguish theft and robbery. The former to him comprised of fraudulent or indirect seizure (*niranyaya pavyayanacca*) while the latter was a sudden capture of a person or property and called *sāhasa* (*sāhasamanvayatprasabhakarma*).²⁵ It covered touching, striking or hurting (*daṇḍapārusyam sparśanamavagūr-ṇam pral.atamiti*) and he prescribed various penalties for different kinds of such offences. Manu has also prescribed such penalties for similar offences.²⁶

Robbers in the 4th century B.C. appear to have infested the highways and became at times a public nuisance. Kauṭilya has warned the king to engage himself in sports only in such forests as were freed by hunters and pound-keepers from the fear of highway robbers, snakes and enemies.²⁷ He, therefore, recommended that spies under the guise of old and notorious thieves (*purāṇacoravyanjana*) may be associated with robbers and, instituting certain measures, viz., with money or coins with identification marks or incantations which could render them invisible, cause the robbers to be arrested.²⁸ Manu also has suggested similar steps for the apprehension of such thieves.²⁹

What such brigands had actually prayed on can also be made out, both from Kauṭilya's unnamed predecessor and Kauṭilya himself. His preceptor observed that robbers were always bent on carrying off women at night, made assaults, and took away hundreds and thousands of *paṇas*, implying looting of cash while Kauṭilya relates how thieves carried off the property of the careless, and they could be crushed as they were easily recognised and caught³⁰. Thieves were also accustomed to steal herds of cattle and this was one of the dangers from which a king was required to protect his people (*paśuvrajān rakṣati*).³¹ Obstruction to roads by men, implying obviously such robbers, was made a penal offence, punishable with fines varying from 12 to 100 *paṇas*.³²

Highway robbers (*prātirōdhakāḥ*) must have been a threat in Kauṭilya's day or else he would not have devised so many measures in the interests of public safety. Strangely enough he recommended the employment of special spies to induce highway brigands to commit robbery, under the pretence of knowing incantations which caused rapid speed in running away or rendered persons invisible. Then they, in the actual course of theft, while selling, purchasing or mortgaging articles marked with identification marks (*kṛtalakṣaṇadrayya krayādhāneṣu*) were to be either arrested or caught while under the intoxication of strong medicinal drinks (*yogāsūramatta*).³³ It is interesting to find that Manu also recommended a similar course of action. He suggested how, by means of clever and reformed thieves, who associated with such rogues, a king should follow them and know their various machinations, finally detect and destroy them.³⁴ From these youths thus arrested information regarding the antecedents of the robbers and their accomplices could be obtained. Then again spies, in the guise of old and notorious thieves, could similarly associated with robbers and by instituting similar measures, cause the latter to be apprehended.

Once such highway brigands and also others of their type were arrested, their penalties were made exemplary. So the Collector General (*Samāhartā*) had to exhibit them in public and announce to the people that their arrest was due to the instructions obtained from the king, who had learnt the divine art of catching robbers (*cōragrahaṇim vidyamādhīte rāja*) saying thus: "I shall similarly catch the robbers again and again and you people ought to prevent any one of your own kinsmen from his wicked deeds". This was a practice of what may now be styled public co-operation in the general interest. Similarly, whoever was known, through the information of spies to have been a robber of yoking ropes, whips and other agricultural materials and implements, could be arrested with the statement that his arrest was due to the omniscient power of the king among the people at large, which was proclaimed (*sarvajñakhyāpanam rājñāḥ kārayan rāṣṭravāsiṣu*).³⁵ The proclamation was made evidently to impress on the public that the power of the State was supreme and could bring to book the most

notorious of brigands and punish him in the most salutary manner.

Through a system of espionage or what may now be called the Criminal Investigation Department, first hand information regarding the highway and other robbers' antecedents and family connections could be obtained probably in order to establish their guilt. Then they were apprehended through the espionage organization and once they were arrested, they were paraded before the common people, who were warned against the commission of such offences and their co-operation was solicited in the prevention of such crimes in the interests of the public security and also in view of the supreme power of the State.

Other Measures of Public Safety

In order to see that the commercial traffic and travel in general suffered no serious setback in the normal course, we have further evidence to prove that specific measures of a deterrent nature were taken for the benefit of public protection. This can be seen from Indian writers and foreign witnesses who must have actually seen for themselves the steps taken by Indian rulers from time to time.

Kauṭilya tells us that the roads of traffic were harassed by courtiers (*vallabha*), workmen (*kārmika*), thieves and boundary-guards.³⁶ He, therefore, advised a ruler to see that such obstructions were removed. He also directed that the hindrances to roads for inferior beasts, elephants and to those leading to fields or any buildings or forests (*śētuvanapatham*), burial grounds or villages, *drōnamukhas*, *sthāniya*, country parts or pasture grounds, were liable to fines, ranging from 12 to 1,000 *paṇas*.³⁷ Thefts *en route* on the roads were also subject to fines. In the cases of thefts on roads, some protection was also afforded to traders. If, for example, a messenger, entrusted with a property by a merchant for delivery to a third party (*anvādhi-hasta*), did not reach the destined place or was robbed of the goods by thieves. The merchant was not to be held responsible for such a loss nor was any kinsman of the deputy, who died on the way, made liable.³⁸ Nārada and Yājñavalkya also suggested similar steps to be taken in such contingencies.³⁹ Kauṭilya

further observed that rules regarding deposits were also to hold good in such cases. One of such rules was that, if the deposit in such cases was either mortgaged, sold or lost (*ādhanavikryā-pavyāyanēsu*) the depository had not only to restore four times its cost but pay a fine five times its stipulated value (*caturguṇa-pancabando daṇḍaḥ*). If the deposit was exchanged for a similar one by the depository or lost *en route*, its value had to be paid.⁴⁰

The safety of merchandise in transit was ensured either by the individual liable or the State security officials or it became the collective responsibility of the village or villages through which the goods passed. Having intimated the value of the merchandise to the village headman (*grāmasvāmi*), on their arrival at a village, traders (*sārthikā*), in case they desired to halt at any particular hamlet or in any part of it, could rest. When any part of their merchandise, which had not been truly sent out of the village during the night, was either stolen or lost, its headman, responsible for their public safety, had to make good the loss. Whatever of their merchandise was either stolen or lost in transit in the intervening places, between any two villages, the Superintendent of the Pasture Lands (*Vivītādhyakṣa*) had to replace it for he was held responsible for their safety in respect of the goods *en route*. If there were no pasture lands in such places, the officer called *cārarajjuka*, evidently a Police Officer who could arrest thieves and bind them with ropes, had to substitute the loss.

If the loss of merchandise occurred in those parts of the country, which were not provided with security officials like the *Corarajjuka* or the superintendent of Pasture Lands (*Vivītādhyakṣa*) the dwellers, on the boundaries of such localities where any such theft took place, had to contribute to restore the deficiency.⁴¹ If there were no people in such boundaries, the inhabitants of five or ten villages of the neighbourhood had to pay for the loss. Traces of such recommendations can also be seen in the *Yājñavalkya* and *Nārada smṛtis*.⁴²

The capital was not left out of consideration in the cases of such thefts and measures of public safety. The City Superintendent (*nāgaraka*), who incidentally seems to have found a counterpart even so late as 11th and 12th centuries in Kashmir, as can be seen from the *Rājatarāṅgiṇi*, appears to have had public

safety as one of his main administrative functions. Managers of charitable institutions had to intimate either the *Gopā* or the *Sthānika*, who were responsible to the *Nāgaraka*, in regard to the arrival of any heretics (*pāṣaṇḍa*), viz. Buddhist mendicants or travellers arriving there. Masters of homes or house-holders had to report visits of strangers and of their departures from their homes, otherwise they would be held guilty of offences of theft and such breaches of law, committed during the night. For failure to report such defaults even on nights when no such thefts had taken place, they were rendered liable to a fine of three *paṇas*. Way-farers, passing along a highroad or even by a foot-path, had to approach any person found suffering from a wound or ulcer or if he possessed dangerous instruments or if he was tired of carrying a heavy load or was timidly avoiding the presence of others or was indulging in garrulity or was fatigued from a long journey or if he appeared to be a stranger in localities such as inside or outside the capital, temples, pilgrimage centres or burial grounds.⁴³

It was, therefore, the duty of persons in-charge of public institutions, house-holders and even way-farers to intimate to specific government officers the arrival and departures of outsiders, strangers, undesirables and suspicious characters with the main object of ensuring public safety.

One may well inquire whether any or at least some of these measures, intended for the establishment of public safety, were really or at all observed during the Mauryan age. If the testimony of Megasthenes could be trusted it would appear that even in military camps theft was a "very rare occurrence". It may be recalled that, according to him the camp of Sandrakottos (Candragupta Maurya) comprised of 400,000 soldiers and theft reports did not exceed the value of two hundred drachmae. This, he added, was the position among a people who had no written laws and were ignorant of writing and therefore, in all the business of life trusted to memory.⁴⁴ Although these statements like many others which he made were to say the least highly absurd in respect of Indians in Mauryan times, if such was the rarity of theft in military camps, then we may take it for granted that in civil life also theft must have been comparatively rare.

We may also see from the edicts of Aśoka that along the

high-roads he caused to be planted fig trees that they might give shade to animals and men. Mango trees were also planted for providing shade and perhaps fruits in season. At every half league (*cōśa*) he had wells dug and caravan serais constructed for the benefit of travellers. In his Edict VIII he adds that many taverns or *serais* were built by him at various places for the entertainment of man and beast.⁴⁵ Such measures may also well be considered to have been taken in the interest of public security of traders and travellers in general throughout the Mauryan Empire even after the great Kauṭilya had passed away.

In later times also public safety was not left to itself as can be seen from the evidence available. We may notice from inscription how travellers went from one part of the country to the other on some pretext. People travelled from Broach and Kalyan to Junnar, from Dattamitri in Lower Sind to Nasik in Western India, and from Karhad to Kudem. It is inconceivable that in the absence of public safety, anyone could ever have undertaken such arduous journeys from one end of the country to the other. They would or rather they could never have ventured on such travel unless there existed measures of public safety to protect both their persons and their properties. The institutions of watchmen must have been established from very early times and they suggest that the *cāṭabhāṭas* must have been responsible in no small measure for public safety. Inscriptions as well as chronicles attest to those measures. A grant of the Kadamba king Śrī Māndhātri Varman, dated A.D. 400, reveals how villages were granted free from the entry of soldiers and protection from the inroads of thieves.⁴⁶ The *Silappadikāraṇ* (5th century A.D.) refers to local sentinels in Madura who threw suspects into prison.⁴⁷

In cases of difficult or strange country parts, the State provided its own escorts to take care of travellers and their possessions when travelling from one place to another. Fa-Hian (A.D. 399-414) noted how the kingdom of the Dakṣṇāpatha (South-India) "was out of the way and perilous to traverse". "There were difficulties", he continues "in connection with the roads, but those who know how to manage such difficulties and wish to proceed, should bring with them money and various articles and give them to the king. He will then send men to escort them. These will (at different stages) pass

them over to others, who will show them the shortest routes". Fa-Hian, however, was frank enough to state that he was unable to go there but he seems to have received this information locally from the men of the country.⁴⁸ Such measures were no doubt taken only in the interests of public safety from time to time. This practice was not confined either the 4th century A.D. or the *Dakṣiṇāpatha* for it was current in the dominion of Harsavardhana in the 7th century and was noticed by Hiuen Tsang. When the latter finally took leave of the former, Harsa gave Hiuen Tsang not only an escort but also four Ta-Kwan (official guides) to accompany the pilgrim. They called such officers Mo-ho-ta-lo (Mahattara?) and issued to them sealed letters directing the Ta-Kwans to present them in all the countries through which they would conduct the pilgrim so that the rulers of those lands might provide conveyances to escort him up to China.⁴⁹ This appears to have been a part of the protocol of the times but, at the same time, it cannot be denied that it was also obviously one of the measures taken to ensure the care of distinguished travellers like the Chinese pilgrim, Hiuen Tsang.

Even with such escorts and guides attacks from highway-men were not always and enrarely preventible. In the 7th century A.D. Hiuen Tsang was twice attacked boldly while sailing down the Ganges, not far from Kanauj, once by pirates (*him-srika*) and again while passing through the Palāśa tree forest near the town of Che-kia-lo (Sākala) where he and his friends were not only relieved of all their personal belongings but pursued by thieves who were chased away by an armed peasant and eighty of his armed companions.⁵⁰ This typical example would only go to show that in lonely or forest regions, gangs of brigands must have attacked passers-by and could only be driven off by counter attacks by armed parties in such contingencies.

Adulteration of articles of various kinds was yet another evil practice indulged in by traders in ancient India. It was regarded as a great offence punishable by law. From the Jātaka stories it is clear that adulteration was condemned by all sections of the society and it was popularly believed that the traders who sold grains mixed with chaff went to tantalus hell.⁵¹ Thus, in most of the *Smṛti* texts and the *Arthasāstra* of Kauṣilya numerous types of adulteration have been men-

tioned and the king is advised to inflict heavy punishment on the adulterators. Yājñavalkya refers to adulteration in such commodities as butter, salt, medicine, perfume, rice and molasses. It is, however, interesting to note that even medicine was not spared by these social criminals.⁵² Moreover, commodities like hide, iron, wood, bark, timber, cloth, jewels and other things of daily use were also adulterated by the traders to make them appear as that of good quality and thereby earn more profit. Yājñavalkya while denouncing these anti-social elements recommends heavy fine for those who carry on fraudulent business by wrong measurement or adulteration or by charging more, and the rate of fine should vary according to the type of merchandise, its cost and the particular situation.⁵³ While he recommends 16 *paṇas* as fine for the adulteration of butter, salt, rice, etc. he prescribes a fine eight times that of the original price of things such as gem, yarn, cloth, jewels etc.⁵⁴ Moreover, a man selling artificial things as real ones must be fined heavily for his fraudulent behaviour.⁵⁵ Manu⁵⁶ also indirectly refers to the practice of adulteration when he condemns the traders resorting to this practice. The author of the *Viṣṇusmṛti*⁵⁷ prescribes heavier punishment (*uttamasahāsa-daṇḍa*, i.e. a fine of 1000 *paṇas*) for such adulterators. According to Nārada and Bṛhaspati, a merchant found guilty of adulteration, or of selling old articles as new after repairing them, must give double the quantity to the purchaser and pay a fine equal in amount to the value of the articles.⁵⁸ Similarly, if a trader sold inferior articles as superior ones, articles of some other localities as local produce, adulterated things, or deceitful mixture, or dexterously substituted other articles as those already sold, he was to be fined not only 54 *paṇas* but was also compelled to make good the loss.⁵⁹ Bṛhaspati further declares that what has been sold by an intoxicated or insane person, or at a very low price, or under the impulse of fear or by one not his ownmaster, or by an idiot, shall be relinquished by the purchaser and if he refuses to give it, it may be recovered from the purchaser forcibly.⁶⁰

As shown above, most of the *Smṛti* texts were aware of the malpractice of adulteration. Vijñāneśvara, however, throws interesting light on this aspect of corruption. According to him, there existed a practice of selling cat's skin as tiger-skin by adding proper colour to it, and a crystal bead was often passed

as precious ruby. Moreover, a silken effect was created by giving glossy appearance to cotton thread, and by adding the perfume of sandal a piece of 'bilva' wood was sold as sandal wood.⁶¹ While commenting on Manu, Medhātīṭhi warns that one should not practise adulteration by any means as it is quite immoral to mix up two commodities for sale. He further warns that one should not in any circumstance mix saffron (*kumkuma*) with safflower (*kuṣūmbha*) nor should one mix apparently fresh looking old cloths with brand new stock.⁶² Bṛhaspati also noticed the practice of adulterating good articles with that of inferior quality and manufacture of false gold and gems. These cheats who manufactured imitation articles of small value and caused them to appear very valuable were given severe punishment.⁶³

Severe fines were prescribed for adulteration. A merchant who concealed the defect of an article while selling it and mixed good and bad articles together and sold them after getting them repaired had to give double the quantity to the purchaser and to pay a fine equal to the value of the article.⁶⁴ When clay, skin, precious stones, yarn, iron, wood, bark of a tree or cloth of inferior quality was made to appear as of good quality, the fine imposed was eight times the price obtained by the sale.⁶⁵ The manufacturers who passed imitation articles as real were given the same punishment and they had to restore the price to the purchaser and to pay double the amount as fine.⁶⁶ The sellers of the prohibited meat were also awarded the same punishment.⁶⁷ Kauṭilya prescribed highest amercement for those who indulged in adulteration of salt and also for the persons other than hermits (*vānaprastha*) manufacturing salt without licence.⁶⁸ Manu compares such deceitful persons who "open rogues" who subsist by cheating in the sale of various marketable commodities whereas the concealed rogues are burglars, robbers in forests and so forth, and "the man who behaved dishonestly to honest customers or cheats in his prices shall be fined in the first or in the middle-most amercement".⁶⁹

As noted above, Kauṭilya refers to the adulteration of rice, oil, alkali, salt, scent and medicine etc. and declares that adulteration of these and other such "articles of no quality shall be punished with a fine of 12 *paṇas*"⁷⁰ instead of sixteen as prescribed by Yājñavalkya, although for adulteration in commo-

dities such as timber, iron, precious stone, rope, skin, earthenware, thread, fibrous garment and woollen cloth he prescribes a fine 8 times the value of the article sold.

As in Kauṭilyan India, in ancient Rome also prevention of adulteration was ensured by regular inspection of millers' and bakers' establishment. Merchants and traders were kept under strict vigil and the city states always kept a close watch on the market to ensure that trading activities were conducted fairly and in conformity with the laws of the city as regards quality, coinage and weights and measures.⁷¹ Agriculture and justice were too valued in ancient Persia that king Ardashir I had to declare: "there can be no power without any army, no army without money, no money without agriculture and no agriculture without justice".⁷² In ancient China the counterfeit coins posed such a menacing problem that the Han emperors had to take stern measures to check this rot by withdrawing the right to private minting, by imposing heavy taxes on business, by fixing the prices of agricultural produce and demonetisation of old coins and other like measures,⁷³ which are without doubt strikingly modern.

In the time of early Kuṣāna rulers in India, the traders made huge profits through corrupt methods. Some of them were so greedy that they often resorted to adulteration. But certain tests were devised during this period to detect their mal-practices. The Indian bdellium was adulterated with almond nut, and many other articles were mixed up with the bark of scordas-tum, a kind of tree which produces gum resembling bdellium. However adulterated perfumes were detected by their smell, by their colour, weight, taste and also by fire.⁷⁴ Nard, which, according to Pliny, held the first place among urguents, was adulterated with a plant called pseudo-nard which grew everywhere and had leaves unusually thick and broad and a sickly colour looking whitish. It was further adulterated by being mixed with its own root to lend it additional weight, for which gum and litharge of silver, and sometimes antimony and cyperus, or atleast cyperus bark were also employed. Its purity was, however, tested by its lightness, the redness of its colour, the sweetness of its smell and "more particularly the taste which parched the mouth, while at the same time the flavour was most delicious".⁷⁵ Indicum was adulterated with pigeons' dung stained with

genuine indicum or with selinusion or anularian chalk dyed with wood. Its genuiness was, however, tested by placing it on burning coals: in case it was genuine it gave out a fine purple flame, and while smoking, a scent as of sea-water.⁷⁶ The practice of adulteration had been come so rampant by this time that various tests had to be devised to curb the nefarious activities of some of the dishonest merchants. Notwithstanding these corrupt practices indulged in by a few merchants, the Indian goods were in great demand and they continued to attract foreign merchants for many centuries.⁷⁷

The conception of contraband goods was also not unknown in those days. We have a long list of forbidden goods in the *Arthaśāstra*⁷⁸ and Kauṭilya recommends severe punishment to those traders who indulged in the sale of such goods. This is also confirmed by the accounts of Megasthenes who says that the main duty of the fifth body of the Mauryan municipal administration was to strictly supervise manufactured goods and sell them by public notice. The new articles were always sold separately from the old ones, and if a mixture of the two was detected, the defaulter was heavily fined.⁷⁹

In the Mauryan period if any one tried to carry on trade in prohibited articles such as weapons, metals, chariots, precious stones, grains and animals, his goods were confiscated and auctioned publicly. This indirectly shows that the State had monopolised the trade in these articles and as such private trade in these articles was strictly prohibited. Moreover, a spy in the garb of a merchant determined the quantity and quality of a merchant's goods and passed on necessary information to the king. This was done to ensure that a merchant did not make a false declaration. In spite of these precautions, if deceptions were found out, then the fine realised from a merchant was eight times the regular duty, and if the goods were of superior quality then they were confiscated by the state.⁸⁰

Spies in the garb of merchants were also employed to examine the quality and quantity of the goods manufactured in the king's atelier who thoroughly inspected such goods, fields and mines. These precautions show that the king in the Mauryan period was a clever businessman and it was not easy to defraud him.⁸¹ Manu also declares that the king should confiscate the entire property of a trader who out of greed

exports goods of which the king has a monopoly or the export of which is forbidden.⁸²

Use of false balance and fabrication of weights and measures was another criminal tendency common specially among the trading class. From a very early time law-givers paid special attention to this trait. Manu provided that weights and measures should be re-examined once in six months.⁸³ Kauṭilya referred to special superintendents in-charge of balances, weights and measures.⁸⁴ The law givers of the period under review were also aware of this crime. Heavy punishment was prescribed for those who fabricated false balances, measures etc.⁸⁵ Nārada made special reference to rogues who forged measures and weights.⁸⁶ Bṛhaspati also mentioned fraudulent traders, cheats and forgers.⁸⁷ *Kātyāyana* and the *Matsya Purāṇa* imposed fine upon traders who used false weights and measures.⁸⁸ *Mitākṣara* while explaining a verse of *Yājñavalkya* added that a *Kutakri* was one who made scales, royal mandates, measures etc., different from the general standard of the country, whether less or more and also he, who used that knowing it to be false.⁸⁹ The charter of Viṣṇusena dated 592 A.D. refers to the cases involving weights and measures.⁹⁰ *Uttarakulika* was an expert on matters pertaining to weights and measures. So his view as an expert was necessary in the cases involving such matters.⁹¹ The charter further adds that the weights and measures prevalent in the locality were to be examined by state officials twice a year in the month of *Aśadha* and *Pausa*.⁹² Similarly Somadeva made specific reference to the crime of falsification of weights and measures.⁹³

Manufacture of counterfeit coins was also a serious offence not uncommon. In Athens debasing coinage was held to be a very grave crime. The same idea was prevalent throughout the Roman empire⁹⁴ and in India. Kauṭilya prescribed severe monetary punishment for manufacture of counterfeit coins, for accepting it and passing it off to another.⁹⁵ *Yājñavalkya* stated that a man who declared good coin bad and *vice-versa* should be duly punished.⁹⁶ It suggests that often counterfeit coins were passed as genuines and once that crime was detected the criminal had no way out. From a charter of Viṣṇusena it is learnt that the practice of manufacture of counterfeit coins was quite prevalent among the trading class and schedule fine for

this offence was six *Rūpakas* along with the religious cess of one fourth *rūpaka*.⁹⁷

Gambling and betting on animals (*Dyūta-Samahvayā*) were also considered serious offences. Manu defined them very clearly when inanimate things were used for staking money on them that was regarded as gambling while the use of animate beings was known as betting.⁹⁸ He prohibited gambling because it destroyed truth, honesty and wealth.⁹⁹ He considered gambling as an open theft and the practice according to him required strong suppression.¹⁰⁰ Nārada also grouped gamblers in the category of open thieves.¹⁰¹ Kātyāyana severely condemned gambling because it inflamed human passion and greed, engendered bad characters, cruelty and caused loss of wealth.¹⁰² The Śāstric injunctions could, however, do very little to check this practice and it continued even from the Vedic age.¹⁰³ The law-givers, therefore, tried to apply some restriction. Bṛhaspati pointed out that if gambling or prize-fighting was allowed it should take place under the superintendence of Keepers of game houses because it served the purpose of detecting thieves.¹⁰⁴ Same was the opinion of Nārada.¹⁰⁵ According to Kātyāyana gambling must be carried on openly with an arch constructed near the door so that men of respectable family might not be misguided.¹⁰⁶

Though gambling was allowed under these circumstances dishonest gambling was strictly punished. Daṇḍin remarked in favour of gambling as it increased magnanimity, nourished impetuosity and sharpened intelligence,¹⁰⁷ but at the same time he did not fail to record the amount of fraud exercised in gambling.¹⁰⁸ Gamblers used all sorts of tricks to win and it can be assumed that fair dealing in gambling was rare. In the *Mṛcchakaṭika* we find reference to tricky and cheat gamblers.¹⁰⁹ There a gambler was depicted as running away without paying the ten pieces of gold that he lost and was chased by the Keeper of the gambling house.¹¹⁰ It should be noted that gambling dens and houses of courtesans were the centres of all evil deeds as people from every walk of life assembled there. Yājñavalkya prescribed that when gambling was carried on secretly without taking royal permission or with false dice and other deceitful tricks, the gambler should be punished.¹¹¹ Nārada further added that a wreath of dices should be hung round the neck of

a wicked gambler using false dices.¹¹² Use of unauthorised dice was an offence.¹¹³ In order to prevent dishonesty, dices were examined and gambling with authorised dices was allowed.¹¹⁴ From the contemporary literature it can be gathered that gambling and prize-fighting were popular pastime among people.¹¹⁵ The *Nilamata Purāṇa* of Kashmir, instead of prohibiting, prescribed gambling on the *Dipamālā* festival as the victory on that gambling ensured the profit throughout the year.¹¹⁶

A study of the Vedic literature shows that the debtors had no security or protection against the creditors who often resorted to repression as a means of recovery which without doubt indicates a very corrupt and backward state of society and was severe enough to make debt nightmarish.¹¹⁷ But, from all accounts it appears that the crude methods of recovery—torture and seizure of property—do not seem to have had the desired effect as we come across instances of unpaid debts and a growing tendency to evade payment which is evident from prayers in the *Atharvaveda* and the later Brāhmaṇas and the *Saṃhitās*.¹¹⁸ In the *Atharvaveda*¹¹⁹ we have prayers which indirectly speak of the reciters' motive of non-payment of debt, and also for absolution from sin arising from non-payment of debt. The Indra-Pani conflict noted above may thus be interpreted as a clash of economic interests. There was not much malevolence in this non-payment whose genesis actually lay in the gift-oriented simple tribal economy. Hence, it was the bounden duty of Indra—as a saviour of the priestly class—to punish the *Pānis* and *Bekanatas* (usurers), who also frustrated the device of the *Pānis* who held the cows of Agnirasa as a means of recovering price or loan. Moreover, he is invoked to collaborate with Agni to condone the intention of non-payment,¹²⁰ for the latter seems to have been more approachable for favour in breaching the contract. In fact, in several hymns of the *Atharvaveda*¹²¹ Agni Vaisnara is invoked to condone wilful non-payment or breach of contract or false promise.¹²² All this clearly shows how “the moral idea came to be masked by motives of deception”, or to put it properly “the motives of deception were masked by a religious fervour”¹²³—a characteristic of a very corrupt and deceitful society.

The main feature of business transaction in early times in

India was *Kraya-vikraya*¹²⁴ (purchase and sale). As in modern times, so in early days guilds and big partnerships were formed mainly by wholesale dealers whereas the daily transaction (retail trade) in different commodities was largely conducted by individual traders who had to depend entirely on the wholesale dealers or on their own small production for the commodities.

Thus, partnership or a joint undertaking (*Sambhuyasa mutṭhāna*) was an important aspect of trade in ancient India. By entering into an agreement of partnership, each partner agreed to submit to the decision of other partners in cases of doubt. If any one from them was found out to have practised fraud on others in sales or purchases he should clear himself by special baths or ordeals.¹²⁵ Yājñavalkya, Nārada and Bṛhaspati declared that each partner was responsible to make good what has been lost through his negligence or in consequence of his acting against the instructions of others or of his acting without their authority or consent.¹²⁶ If any one of the partners saved partnership property from act of God or the king or thieves (or similar calamity) by his own exertions he was to be rewarded (as his special share) one tenth of the property saved.¹²⁷ But, if any partner was crooked or fraudulent the rest might expel him without giving him any profit, and a partner who is incompetent to work (personally) could get the partnership business done through another.¹²⁸

The early Indian law-givers have condemned the sale of a particular commodity by one who is not the actual owner. According to Nārada¹²⁹ and Bṛhaspati¹³⁰, when a person who holds an open deposit, a sealed deposit, an article bailed for delivery to another, stolen property, an article borrowed for some festival, a pledge or property lost by a stranger and found (by him), sells it in secret (or behind the back of the owner) it is to be considered as sale by one who is not the rightful owner. *Vyāsa*, *Kātyāyana*, *Manu*, *Yājñavalkya*, *Viṣṇu-Dharmasūtra* and others also hold the same view.¹³¹ If the buyer purchases an article not in the open market, he is liable to be punished, but if he purchases from one who could have no means of possessing the thing sold or for very inadequate price or at a very unusual hour (at midnight or the like) or from bad characters then he deserves to be punished as a thief¹³², as such a sale is unquestionably a fraudulent one.

In case the buyer purchases (through ignorance) in market from one who is not the owner he incurs no blame (no punishment) but he must hand over the article to the real owner.¹³³ The main object of the law-givers behind prescribing fines for such illegal sale was to curb fraudulent transactions, because by openly purchasing an article in the presence of a number of people for an adequate price negatives fraudulent intent and leads to the inference of a purchase in good faith. Kātyāyana points out¹³⁴ that in the case of *asvami-vikraya* (sale by one not the real owner), no other means of proof whether divine or human (except the witnesses such as kinsmen) is declared to be proper. The *Mitākṣara*¹³⁵ ordains that the buyer should have the seller arrested and, if the seller is dead or gone abroad, he should hand over the article to the real owner. Moreover, the rule of justice requires that to purchase from one whose habitation is not known is a fault (in the purchaser) and not taking proper care (of one's good) is also a fault in the real owner.¹³⁶ Thus, the injunction given by the law-givers in such cases of fraudulent transactions cuts both the ways.

Thus, from the above it is clear that when a partner acted intentionally against the interests of the society or its members, or if he committed a theft, thus inflicting loss to his co-partners or to the society, he should be excluded ex-officio from the partnership.¹³⁷ Such a person lost all the rights as a partner. According to Bṛhaspati, a partner who has practised deceit in a purchase or sale, and therefore, has acted against the interests of the society, or his co-partner, had to be purified by an oath or ordeal.¹³⁸ But, a partner spontaneously leaving his partnership had the right to demand the delivery of his apportion or his share from the society or from co-partners. In case of misbehaviour, however, he would not have his right.¹³⁹

It is interesting to note that the ancient *Dharmaśāstras* of Gautama, Apastamba and Baudhayāna are silent about partnership or joint undertaking. Manu, however, lays down rules about the distribution of fees among the priests at a sacrifice and in one verse he remarks that the same principles are to be applied in all matters when men work conjointly, that is, each is to be paid according to the importance of volume of work he does.¹⁴⁰ While Manu extends the rule about the distribution

of fees at a sacrifice to secular joint undertakings, Yājñavalkya¹⁴¹ extends the general rules about the partnerships of traders to sacrificial priests, husbandmen, craftsmen etc. This shows that the complicated sacrifices requiring a large number of priests had become rare in the days of Yājñavalkya (100-300 A.D.), while partnerships of traders and artisans had assumed great importance. In a partnership business or joint undertaking if any partner proved to be crooked or fraudulent, the rest could expel him without giving any profit.¹⁴²

Punishment is prescribed by Yājñavalkya for one who embezzles the money of a corporation or transgresses the conventions agreed upon by a guild.¹⁴³

In matters of economics Kauṭilya had a fine sense of justice and he regarded the unrestricted or uncontrolled raising of prices on the part of merchants and labourers as going against all principles of justice. He, therefore, wanted to have a reasonable regulation in the larger interest of all classes. He believed in just price, just profit and just remuneration. The fair-price idea is indissolubly bound up with the necessity of strictly adhering to the use of correct weights and measures and separating inferior types of a commodity from the superior ones as well as the collection of the duty according to prescribed rates.¹⁴⁴ A just price, therefore, is regarded to be one meaning a price which is not unusually or exclusively considerate to the consuming class or callous to the interest of the State and the trader concerned in any worthwhile transaction. Thus, the concept of just price or the system of price-fixation, true to conditions actually prevailing in the market, gave protection in varying degrees to all interests concerned even under strained circumstances. A capricious price is not proper or just price. Artificial inflation, engineered by profiteers, such as cornering by a sort of cartel, or bidding over, the declared price, with a view to its enhancement¹⁴⁵ was not allowed by Kauṭilya. If the bidders competed to increase price it was the state that got all the benefit of the enhanced price, and not the trader.¹⁴⁶

It was the Mauryan State which appears to have made remarkable achievement in fixing market prices. According to Strabo, prices were regulated by municipal bodies.¹⁴⁷ The court-valuer (*agghakāraka* or *agghapanika*) appointed by the State acted as liaison officer between the king and the seller, and

purchased commodities for the palace and the royal treasury.¹⁴⁸ Whatever price he fixed for a certain commodity was liable to revision only by the king.¹⁴⁹ But though generally honest¹⁵⁰ this officer also sometimes resorted to the deceitful practice of under-valuation causing serious loss to the traders.¹⁵¹ His office "was gradually transformed into that of a price-expert and then into a ministry or boards of price-controllers for the whole market."¹⁵² But, while the court-valuers were the State officials, the price-experts (*sarvapaṇyāvicakṣaṇa*)¹⁵³ were mostly the employees of private traders or independent valuers working on commission and they were responsible for fixing the customary rates and statutory price.¹⁵⁴ Manu¹⁵⁵, Yājñavalkya¹⁵⁶ and other law-givers have emphasised the need for price-fixation and have justified king's power to control the market rates. Kauṭilya has also emphasised that the State should fix the price of all kinds of commodities in order to curb the tendency of the traders to make illegal profit.¹⁵⁷ According to him the dealers should be allowed to derive a profit of five per cent above the fixed prices of local produce and ten per cent on foreign goods.¹⁵⁸ It was a crime to raise the prices or to realise more profit. Raising of prices or realising profit, even to the extent of $1/2$ *paṇa* above the permitted one, was liable to a fine of five *paṇas* in the former case, and of 100 to 200 *paṇas* in the latter.¹⁵⁹ The *Daśakumāracarita*¹⁶⁰ states that the Mauryas conferred a boon on traders that for certain offences they were not to be sentenced to death, but were to be deprived of all their wealth and banished. This principle of fixing the rate of profit on local and foreign goods has also been recommended by Yājñavalkya¹⁶¹ which continued to be adopted by the Indian kings till the early-mediaeval period.¹⁶²

Thus, "the mechanism of trade in Kauṭilya", as rightly suggested by B.C. Sen, "is manifestly sensitive to the behaviour of those who play a vital role in the private sector".¹⁶³ The entire horizon is overcast with clouds of suspicion, and behind all the rules and regulations can be seen "the penetrating eye of an observer who knows how in so many ways a dishonest trader can defraud the state of its legitimate dues, and create conditions unfavourable to consumers and producers, and unhelpful to stable economy, which, in Kauṭilya, is armed against corrupt practices such as smuggling, underrating, underwriting, over-

rating, non-use of authentic seals, submitting false declaration about imported merchandise, evasion of *śulka* in the custom house, cornering or attempting to reduce or enhance prices, not giving the artisan or manufacturer the proper value of his product etc".¹⁶⁴ There is thus no lack of provision for the punishment of every kind of offence in the Kauṭilyan system, but it is doubtful if it was possible to detect all kinds of offences and to root out the evils rampant at every stage of business with the help merely of penal provisions. When dishonest practices are so common a feature in private trade it is difficult to feel assured of the incorruptibility of the public sector. The rules against dishonesty are no doubt very severe and the detective method applied is of a searching and unsparing type, but then the possibility of undue harassment is there which, however, may act as a deterrent to the undue expansion of private trade.¹⁶⁵

From the above it would be seen that the Kauṭilyan state plays well the part of the scheming cartel. The transition from free bargain to cornering and price-inflation accompanied the growth of large industries and business in the commercial cities, which kept customers at their mercy. And, since the old law still prevailed that "a price once fixed holds good, fair or unfair, that a transaction cannot be revoked"¹⁶⁶, it weighed more heavily on the customer than the seller.¹⁶⁷ The only saving grace was that it bears no comparison with the modern parallels in the sphere of its influence. Moreover, the whole of rural areas and a large part of urban business were outside the sinister hold of monopolists. Small trade still controlled a big share of the country's business and they in turn "were freely exploited by the customers as well as the big businessmen".¹⁶⁸ In a free market dominated to a great extent by *matsya-nyāya* (fish-ethics), prices were always and everywhere fluctuating, and to make the confusion worse confounded, the coins, viz., the *pañā* or the *karṣapana*, the *māsa* or the *maṣaka* varied in their exchange value from place to place. Only the names of metallic tokens are found to be universal; their ratios are not uniform, their metallic contents differ and hence their purchasing power even for the same actual price.¹⁶⁹ This rotten state of affairs is further confirmed by Haribhadra Śūrī, a Jaina scholar of eighth or ninth century A.D..¹⁷⁰

Dishonest dealings were rampant everywhere in the market, during the Gupta period and afterwards. The *Mṛcchakaṭika* declares that a merchant not a cheat, a goldsmith not a thief, a courtesan not greedy, were hardly possible to be found.¹⁷¹ The state of affairs had come to such a horrible pass that Nārada and Bṛhaspati had to lay down numerous laws and regulations to safeguard the interest of buyers and sellers alike. These law-givers advise the intending purchaser to first examine and article before buying it in order to detect its good and bad qualities, and once approved by the purchaser after close examination it cannot be returned to the vendor.¹⁷²

However, a merchant who conceals the blemish of an article which he is selling or who mixes bad and good articles together or sells old articles as new after repairing them shall be compelled to give double the quantity to the purchaser and to pay a fine equal in amount to the value of the articles.¹⁷³ Selling or making false gold or fictitious gems or coral was a great offence and such persons were compelled to restore their price to the purchaser and to pay double the amount to the king as a fine.¹⁷⁴ Showing a faultless article to the intending purchaser but delivering afterwards another article with a blemish was yet another severe crime for which the seller was compelled to pay twice its value to the purchaser as well as a fine to the king.¹⁷⁵

During the Gupta period and after it was realised that gain on purchase and sale of merchandise of every sort should be in proportion to the price already paid.¹⁷⁶ With this end in view the merchants were directed to fix a just price of their merchandise according to the locality and season and not to indulge in dishonest dealings. A merchant must always strictly follow these principles, to carry on honest business.¹⁷⁷ Unfortunately, however, we have no reference—direct or indirect—to price-fixation by the State during the Gupta period as we have in the age of the Mauryas. A sale effected in public was deemed to be fair, but a clandestine sale was as bad as a theft according to law.¹⁷⁸ A sale effected by another man than the rightful owner was a punishable offence,¹⁷⁹ and the vendor had to restore the property to the rightful owner, and to pay to the buyer the price for which it was sold, besides a fine to the king.¹⁸⁰ According to the legists, a fraudulent purchase is

that which is made at an unreasonably low price, in the interior of a house or outside the village at night, in secret or from a dishonest person¹⁸¹ and a person who makes such fraudulent purchases is a thief.¹⁸²

Prices in the Gupta age and also in the subsequent periods were not stable and fluctuated according to the supply and demand of the commodities in the market.¹⁸³ The prices of corn, oil, essences, grain, gold, sea-products, honey, perfumes, ghee, flowers and other commodities sometimes rose rapidly amounting to double and triple the normal price. Under reverse conditions, however, merchandise became very cheap, sometimes resulting in heavy loss to the merchants.¹⁸⁴ Thus, prices and measures, like land measures, varied in standard from place to place. The literature and inscriptions of the period abound in references to weights such as *pala*, *adhaka*, *prastha*, *khari*, *drona* etc., which were used in the measurement of foodgrains and other similar articles. Kalidasa and other writers of the period mention weighing balances (*tula*)¹⁸⁵ and measuring rode¹⁸⁶ for weighing different articles and measuring length.

The fraudulent nature of the merchants was so well known in those days that, according to Bāṇa, a trader without knavery was hard to find.¹⁸⁷ Daṇḍin¹⁸⁸ also subscribes to the same view. While Hiuen-Tsang says that traders were not only mean but also deceitful,¹⁸⁹ I-tsing¹⁹⁰ observed that trading was a faultless occupation as it did not injure life. This shows that the latter did not care to know the real nature of the mercantile community.

This outright condemnation of the merchants and creditors by the writers of the period was prompted by the hard lot of the debtor who was awfully harassed and fleeced by these blood-suckers beyond proportion. The debtor had to carry a debt in kind to the creditor's granary in his own carts or by carriers after paying king's dues and had to bear the costs, if any, incurred by the creditor from maintenance of a pledge to recovery. He also had to entertain those with meals who came to realise payments as is evident from the epigraphic records of the period.

Kaḷhaṇa denounces these dishonest merchants and embezzlers who "show themselves ever eager to listen to the (recital of sacred) texts".¹⁹¹ This description of Kaḷhaṇa "cannot but

recall to one's mind their modern counterparts who spend large amounts on getting the holy name of Hari recited by women at Nabadvipa and Vindavana",¹⁹² and other places of pilgrimage and in temples. Kalhaṇa equates the merchants with the courtesans, the officials (kāyasthas) and the clerks who are deceitful by nature. He does not stop at that and goes on denouncing them right and left. The merchant, who puts drops of sandal-ointment on the forehead, eye-holes, ears and heart, takes one's life in a moment, just as a dangerous scorpion would, which is marked at six places.¹⁹³ The merchants also served as bankers to the people in those days but their behaviour was so deceitful that Kalhaṇa warns the people not to rely on their words or commitments because "the water which has been carried down to the Ocean by the streams is received (back) from the clouds, but a thing deposited in a merchant's hand is never again recovered".¹⁹⁴

NOTES AND REFERENCES

1. R.K. Mukherjee, *op. cit.*, p. 135.
2. Mackay, *Indus Civil*, pp. 176-77.
3. *Rāma, Ara. Kānda*, Ch. 91.
4. *RgVeda*, II, Bk. X, hymn 91.
5. *Atharva Veda*, VIII, 8.22.
6. Arrian, *Indika*, XVII, McCrindle, *AICL*, pp. 226-27.
7. Kauṭilya, *Artha*. Bk. II, Ch. XXIX, p. 143, text p. 129; also p. 145, text., p. 131.
8. Kauṭilya, *Ibid.*, Bk. II, Ch. XXXII, pp. 151-53; text. pp. 136-37.
9. Kauṭilya, *Ibid.*, Bk. II, Ch. II, p. 49, text, p. 50.
10. *Ibid.*, Bk. II, Ch. XXXIII, pp. 155-57, text, pp. 139-40.
11. *Ibid.*, Bk. II, Ch. XXXIII, p. 156, text, p. 139.
12. McCrindle, *AICL*, p. 44, pp. 88-89; Strabo, *Geog.* III, Bk. XV, Ch. I (52), p. 104.
13. Fa Hien, *Record*, p. 79.
14. Hiuen Tsang, *Record*, II(12), p. 82.
15. I-Tsing, *op. cit.*, p. 30.
16. Cunningham, *CII*, I, Ins. of Aśoka, p. 118, text., p. 67.
17. *Jātaka*, III, No. 366, p. 132, text, p. 200.
18. *Ibid.*, p. 258.
19. *Jātaka*, III, No. 374, p. 145, text, p. 200.
20. *Ibid.*, I, No. 116, text, p. 218.
21. *Ibid.*, I, No. 96; also II, No. 163, p. 32.
22. *Jātaka*, III, No. 318, p. 40, text, p. 59.

23. *Śūdraka*, *Mṛccha*, Act. X, p. 153, text, p. 257.
24. *Jātaka*, III, No. 311, p. 23, text, p. 34.
25. Kauṭilya, *Artha*, Bk. III, Ch. XVII, p. 216, text, p. 181.
26. Kauṭilya, *Artha*, pp. 219-22, text, pp. 194-97; also see *Manusmṛti*, VII (149).
27. *Ibid.*, Bk. II, Ch. XXI, p. 43, text, p. 44.
28. *Ibid.*, Bk. IV, Ch. V, p. 240, text, p. 213.
29. *Manu*, IX, 267.
30. Kauṭilya, *Artha*, Bk. VIII, Ch. IV, p. 310, text, p. 334.
31. Kauṭilya, *Artha*, Bk. II, Ch. I, p. 48, text, p. 48.
32. *Ibid.*, Bk. III, Ch. X, p. 194, text, p. 171.
33. *Ibid.*, Bk. IV, Ch. V, p. 240, text, p. 213.
34. *Manu*, IX, 267.
35. Kauṭilya, *Artha*, Bk. IV, Ch. V, pp. 240-41, text, pp. 213-14.
36. Kauṭilya, *Artha*, Bk. II, Ch. I, p. 48, text, p. 48.
37. Kauṭilya, *Artha*, Bk. II, Ch. X, p. 194, text, p. 171.
38. *Ibid.*, Bk. KK, Ch. XII, p. 203, text, p. 179.
39. *Nārada*, 2, 3-14; *Yājñ*, 2, 66.
40. Kauṭilya, *Artha*, Bk. III, Ch. XII, p. 202, text, p. 178.
41. Kauṭilya, *Artha*, Bk. IV, Ch. XIII, p. 262, text, p. 234.
42. *Yājñ*, 2.271-72; *Nārada*, 14, 23.
43. Kauṭilya, *Artha*, Bk. II, Ch. XXXVI, pp. 161-62, text, p. 144.
44. Strabo, *Geog.* III, Bk. XV, Ch. I (53-56), pp. 109-10; McCrindle, *AIDMA*, p. 68.
45. *EI*, IX, No. 39, pp. 282-85; *Ibid.*, p. 176.
46. *Ibid.*, VII, Bk. 29, p. 45.
47. *Sila*, XXIII (99-122), pp. 258-67.
48. Fa Hien, *Record*, pp. 97-98.
49. Shaman Hwui Li and Yen Tsung, *Life*, pp. 189-92.
50. *Ibid.*, pp. 73, 86-89.
51. *Arth.* II.6.
52. *Yājñavalkyasmṛti*, II, 244-45.
53. *Yājñavalkyasmṛti*, II, 244-50; Md. Aquique, *Economic History of Mithila*, p. 130.
54. *Yāj.* V.123, II.246.
55. *Ibid.*, II. 247-48.
56. *Manu*, XI. 50; VIII. 203; IX.286. For details see Upendra Thakur, *Corruption in Ancient India*, Chap. III.
57. *Viṣṇusmṛti*, V. 123, XXXVII. 14.
58. *Nāradaśmṛti*, II. 35-37, X.7; *Brh.* XXII. 13.
59. *Artha*. IV. 2, 15-16.
60. *Brh.* XVIII, 3.4.7.9, Aquique, *op. cit.*, p. 130; Upendra Thakur, *op. cit.*, Chap. III.
61. *Yāj.*, II. 246.
62. *Manu*, VIII. 203.
63. *Brhas.* XXII. 7.14; XXII. 7.13.

64. *Ibid.*, XXII. 7.
65. *Yāj.* II. 246.
66. *Bṛhas.* XXII. 14.
67. *Yāj.* II. 297.
68. *Arth.* II, Chap. XII, p. 89.
69. *Manu*, IX. 257, 286-87; For details see U. Thakur, *op. cit.*, Chap. III.
70. *Arth.* IV. 2.23; Shamasastri, *Arthaśāstra* (trans.), Bk. II, p. 234; *Pracyavidyatarangini*, ed. D.C. Sircar, p. 152.
71. H.G. Ramsay, "Government Relief during the Roman Empire", *Classical Journal*, Vol. 31 (1835-36), pp. 479-488; K.R. Sarkar, *Public Finance in Ancient India*, p. 34.
72. Ralph Turner, *The Great Cultural Tradition*, Vol. 2, p. 673.
73. E.M. Gale, *Discourses on Salt and Iron*, Chaps. I-XIX; Harry Glathe, "The Origin and Development of Chinese Money" in *The China Journal*, Vol. 30, 1930; U. Thakur, *op. cit.*, Chap. III.
74. Pliny, *Natural History*, XII; J.W. McCrindle, *Ancient India as Described in Classical Literature*, p. 124.
75. Pliny, *op. cit.*, XII. c.26; McCrindle, *op. cit.*, p. 124.
76. *Ibid.*, XXXV, c.6 (27); *Ibid.*, p. 129.
77. Cf. B. Kumar, *The Early Kuṣāṇas*, p. 206; U. Thakur, *op. cit.*, Chap. III.
78. *Arth.* II. 21, 26, 39.
79. Strabo, XV. 51; McCrindle, *India as described by Megasthenes and Arrian*, p. 86; *India as described in Classical Literature*, p. 54.
80. Motichandra, *Trade and Trade-routes in Ancient India*, p. 83; Upendra Thakur, *op. cit.*, Chap. III.
81. *Ibid.*, p. 84ff.
82. *Manu*. VIII. 199.
83. *Ibid.*, 403.
84. *AS.* 2.19.
85. *Yāj.* II. 240.
86. *Nār.* App. 2.
87. *Bṛhas.* XXII. 3.
88. *Kāt.*, 810ff; *Matsya*. 222, 199.
89. *Yāj.* II. 240.
90. *El.* XXX, pp. 163-81, line 12.
91. *Ibid.*, XXX, pp. 163-181.
92. *Ibid.*, line 10, 11.
93. K.K. Handiqui, p. 265; for details see U. Thakur, *op. cit.*, Chap. III.
94. *Ency. Rel. Eth.* IV. *Crime and Punishment*, Roman.
95. *AS.* 4. 2-3.
96. *Yāj.* II. 241.
97. *El.* XXX, pp. 163-81.
98. *Manu*, IX, 223; U. Thakur, *op. cit.*, Chap. I.
99. *Ibid.*, XXVI. 1.

100. *Ibid.*, IX. 222.
101. *Nār.* App. 2.
102. *Kāt.* 933-34.
103. *RV.*, X.30, *AV.*, IV. 16.5.
104. *Bṛhas.*, XXVI.2.
105. *Nār.*, XVII.2.
106. *Kāt.* 935.
107. D.C. Ryder, pp. 209-10.
108. *Ibid.*, p. 80.
109. *Mṛcchu*, II.
110. *Ibid.*, II.
111. *Yāj.*, II. 202, *Bṛhas.*, XXVI. 5.9.
112. *Nār.*, XVII. 6.
113. *Ibid.*, i.
114. *Ibid.*, 8.
115. D.C. Ryder, pp. 149, *Kād. Kale*, pp. 122-23; U. Thakur, *op. cit.*, Chap. I.
116. *N.P.*, 511-12.
117. For details see S. Bhattacharya, *The Credit System in Ancient India*, p. 18ff.
118. *RV.*, VIII. 47.17; *AV.*, VI. 46.3, VI. 117.1; *Taittiriya Samhitā*, VII. 3.7. etc.
119. VI. 117-19.
120. *Taittiriya Aranyaka*, 2.4.1.
121. VI. 117-19.
122. For other details, see Bhattacharya, *op. cit.*, p. 28ff.
123. N.C. Banerji, *Economic Life and Progress in Ancient India*, p. 203.
124. *Kṛi* stands for purchase in the *RgVeda*, IV, 24.10.
125. *Yāj.* II. 260; *Nār.* VI. 5.; *Bṛh* (SBE, Vol. XXXIII, p. 337, verse 9).
126. *Ibid.*, also see P.V. Kane, *op. cit.*, Vol. III, p. 467.
127. *Yāj.* II. 260; *Kāt.* 631; *Nār.* VI. 6.
128. *Yāj.* II. 264-65; *Nār.* VI. 7.17-18; for details see U. Thakur, *op. cit.* I.
129. *Nār.* VII. 1.
130. *Bṛh.* (SBE, XXXIII, p. 335, verse 2).
131. For details see P.V. Kane, *op. cit.*, Vol. III, pp. 462-64.
132. *Yāj.* II. 168; Visnu Dhar S. 166; *Nār.* VII. 3; *Manu.* VIII. 202; *Bṛh.* (SBE, XXXIII, p. 336, verse 11).
133. *Viṣṇu Dh.* D. V. 164-66; for other details see P.V. Kane, *op. cit.* Vol. III, pp. 463-65.
134. *Kāt.* 616.
135. Quoted P.V. Kane, Vol. III, p. 465.
136. *Bṛh.* (SBE, XXXIII, pp. 335-36, verses 7-9); *Kāt.* 621-23; *Marici*, quoted *Apararka*, p. 775; *Sm. C.*, II, p. 217; U. Thakur, *op. cit.*, Chap. III.
137. *Yāj.* II. 226; *Arth.* 3.14.

138. *Yāj.*, 2.265.
139. For other details see L. Sternbach, *op. cit.*, pt. 1, pp. 493-500.
140. *Yāj.* II. 264.
141. *Ibid.*, II. 264-65; *Nārada-smṛti*, VI.7, 17-18.
142. *Yāj.* II. 187; *Manu*. VIII. 219; *Viṣṇu Dh.* D. 167-68.
143. *Manu*. VIII. 206-210, 211.
144. B.C. Sen, *Economics in Kauṭilya*, pp. 94-95; U. Thakur, *op. cit.*, Chap. III.
145. For details see *Arthaśāstra*, IV.2; P.V. Kane, *History of Dharmaśāstra*, Vol. III, Poona, 1946, p. 253.
146. B.C. Sen, *op. cit.*, p. 33.
147. Strabo, XV. 1.50.
148. A.N. Bose, *op. cit.*, p. 22.
149. *Ibid.*, p. 270; *Jātaka*, Vol. I, pp. 124-26.
150. A.N. Bose, *op. cit.*, p. 23.
151. A.N. Bose, *op. cit.*, p. 270; *Jātaka*, Vol. I, pp. 124-27.
152. *Ibid.*, U. Thakur, *op. cit.*, Chap. III.
153. *Manu*, VIII. 308.
154. A.N. Bose, *op. cit.*, pp. 21-22.
155. *Manu*, VIII. 401-02.
156. *Yāj.* II, 253, 251.
157. *Arth.* IV. 2.29, 30.
158. *Ibid.*, IV. 2.29, 30.
159. *Ibid.*, IV. 2-29, 30.
160. *Daśakumāracarita*, II.56; P.V. Kane, *History of Dharmaśāstra*, Vol. III, Poona, 1946, p. 390.
161. *Yāj.*, II. 252.
162. For other details see B. Shrivastava, *op. cit.*, pp. 232-37; Md. Aquique, *op. cit.*, pp. 129-30.
163. B.C. Sen, *op. cit.*, p. 29; *Arth.* II.35; IV.1; U. Thakur, *op. cit.*, III.
164. B.C. Sen, *op. cit.*, p. 39; U. Thakur, *op. cit.*, Chap. III.
165. *Ibid.*, p. 39.
166. *RV*, IV. 29.9; *Bṛh.* XVIII, 5; *Nār.* IX. 2ff.
167. A.N. Bose, *op. cit.*, p. 24.
168. A.N. Bose, *op. cit.*, pp. 15, 25.
169. *Ibid.*, p. 25.
170. *Samaraiccha-kata* of Haribhadra Suri.
171. *Mṛicch.* V, pp. 144-45; U. Thakur, *op. cit.*, Chap. III.
172. *Nār.* IX.4. For the period of examination of different types of merchandise see *Ibid.* IX.5-7; also see *Bṛh.* XVIII.9, XVIII.4, XVIII.7; P.V. Kane, *History of Dharmaśāstra*, Vol. III, pp. 489-92.
173. *Bṛh.* XXII. 13.
174. *Ibid.*, XXII. 18.
175. *Nār.* VIII. 5.
176. *Ibid.*, VIII. 11.
177. *Nār.*, VIII. 12.
178. *Ibid.*, VII. 2.4.

179. *Ibid.*, VII. 5.
180. For details, *Brh.* XII. 10-12; XII. 3; S.K. Maity, *Economic Life in Northern India in the Gupta Period*, p. 106 (2nd edn., 1970).
181. *Brh.* XII. 4.
182. *Ibid.* XII. 3.
183. S.K. Maity, *op. cit.*, p. 167.
184. S.K. Maity, *op. cit.*, p. 167; also see, p. 247, Appendix-I.
185. *Raghuvamśa*, VIII. 15; *Kumārasambhava*, V. 34; *Amarakośa*, 5.17, 9.85.
186. *Kumārasambhava*, I.1 (*manadandali*).
187. *Harśacarīta* (trans. E.B. Cowell), p. 171.
188. *Daśakumāracarīta*, Trans. A.W. Dyder, p. 176.
189. Watters, II, p. 241.
190. *Takakusu*, p. 180.
191. *Rājatarāṅgiṇī*, VIII, 706-10.
192. B.P. Mazumdar, *Socio-Economic History of Northern India*, p. 369; U. Thakur, *op. cit.*, Chap. III.
193. *Rājatarāṅgiṇī*, VIII, 131, 133.
194. *Ibid.*, VIII, 128.

Officers were the backbone of the State-administration. It was through them that the king administered his realm. If they were honest and efficient and discharged their duties conscientiously, the wheel of the State-administration moved smoothly and everything went right. But if the officers were otherwise, *i.e.*, dishonest, inefficient, unscrupulous there was chaos and confusion everywhere, and the administration practically collapsed. In this state of affairs people suffered at the hands of the corrupt officers. Our ancient law-givers were, therefore, very particular about laying down various punishment for such officers to keep them under control. Kauṭilya, too, as a farsighted political thinker, was not unaware of the existence of such corrupt officers in the State¹ and did not hesitate in prescribing heavy and exemplary punishments for the defaulting officers.

Though Kauṭilya has not named the police in particular while dealing with corruption among government servants, Kālidāsa categorically states that the administration of the urban police department was not always happy and the integrity of the officials was not above board. Their conduct was not far from satisfactory and they always employed questionable means to amass wealth. They were adept in accepting bribes and many of them took to drinking freely and indulged in all kinds of corrupt practices.²

The early law-givers have expressed divergent views about the punishment to be meted out to the giver and receiver of the bribe. While some suggest punishment for both categories

of offenders, others, for instance Kātyāyana, suggest that a person offering the bribe should not be punished but those who accepted it should be fined and bribed royal officials should be compelled to return the bribe and pay a fine eleven times as much.³ Moreover, the law-givers were conscious of false accusation that might crop up occasionally and therefore they prescribed heavy fine for those who made false accusation and laid special stress on the proof of the charge.

That the virus of corruption and bribery infested the society more and more in the following centuries is evident from the scathing condemnation of the royal officials by Kṣemendra and Kalhaṇa. Kṣemendra in his *Daśavatāracarita*⁴ has advised the king to remove from office such officials, ministers, generals and priests who accept bribes and adopt other questionable means for self-gratification as their presence would ruin the very edifice of administration. He further refers to the unscrupulousness, hypocrisy and the habit of taking bribes among the royal officials in his another work, *Nārmamala*,⁵ which shows that bribery and corruption had become so rampant in the society that conscious intellectuals of the age tried to hammer the society again and again by drawing the attention of the king to do away with this obnoxious evil. Kalhaṇa also has no kind word for these officials who had accumulated large fortunes by mercilessly fleecing the people. He condemns the kāyasthas (officials) right and left and cautions the king to beware of them. Citing several instances of corrupt practices among the officials he says that Bijja became richer than the king by taking recourse to unfair means and Ānandā rose to high office by offering bribe to royal counsellors.⁶

That Kalhaṇa though probably drawn by descent and position towards the official class was by no means partial to the latter, is shown by many a hard hit he makes at the vices of the kāyasthas⁷ (the royal officials). The great mass of them was undoubtedly Brāhmaṇa by caste (corresponding to the present Karkun of Kashmir), which is evident from Kalhaṇa's condemnation of Brāhmaṇa Sivaratha as a roguish Kāyastha: "about that time there died by strangulation that rogue of an official (Kāyastha), the Brāhmaṇa Sivaratha who had been a greater intriguer".⁸ The numerous satirical allusions to the

petty officials' oppression and greed and the evident relish with which Kalhaṇa details their discomfiture by more energetic rulers, suggest that he had ample occasion to study their character by personal experience.⁹

Regarding the maximum possibilities of the officers being corrupt Kauṭilya lays down: just as it is not possible not to taste honey or poison placed on the surface of the tongue, even so it is not possible for one dealing with the money of the king not to taste the money in however small a quantity. Just as fish moving inside water cannot be known when drinking water even so officers appointed for carrying out works cannot be known when appropriating money. It is possible to know even the path of birds flying in the sky, but not the ways of officers moving with their intentions concealed.

Kauṭilya lays down in detail how the guilt of the offending officers was to be determined. He says that when an officer was involved in a number of offences and his being guilty in any one of those offences had been established he was to be answerable for all those offences. But when it was not established he was to be tried for each of the charges separately. Again when a government servant was charged with defalcating a large sum of money but his guilt in respect of only a part of the amount had been proved, he was answerable for the whole.¹⁰

Informers were appointed by the State to report to the king about the underhand dealings of the officers and the king punished the defaulting officers accordingly. But if the informer failed to prove the accusations he levelled against an officer, he was liable to receive corporal or monetary punishment in proportion to the nature of the accusation.¹¹ But when the charges were likely to be proved, if he, prevailed upon by the insinuations of the accused officer, withdrew the case or failed to appear to prove the charges, he was to be condemned to death.¹²

While discussing the detection of embezzlement by government servants Kauṭilya throws elaborate light on the various modes of embezzlement employed by the officers¹³ to cheat the public treasury. According to him, obstruction (*pratibandha*), loan (*prayoga*), trading (*vyavahāra*), fabrication of accounts (*avastara*), causing loss of revenue (*parihāpana*), self-enjoyment (*upabhoga*), barter (*parivartana*) and defalcation (*apahāra*) lead

to the depletion of the treasury. Similarly there are forty ways of embezzlement employing which a public servant can misappropriate government money. Kauṭilya declares that "whoever does not take into the treasury the fixed amount of revenue collected, or does not spend what is ordered to be spent, or misrepresents the net revenue collected, is guilty of defalcation of government money" for which he should be fined twelve times the amount.

Kauṭilya enumerates the forty kinds of embezzlement in the following words: "What is realised earlier is entered later on; what is realised later is entered earlier; what ought to be realised is not realised" by taking bribe); what is hard to realise is shown as realised (such as taxes from the Brāhmaṇas); what is collected is shown as not collected; what is collected in part is entered as collected in full; what is collected in full is entered as collected in part; what is collected is of one part, while what is entered is of another sort (such as pulses in place of rice etc.); what is realised from one source is shown as another; what is payable is not paid; what is not payable is paid; not paid in time; paid untimely (giving gift later with a view to forcing the receiver to give bribes to the officer or clerk); small gifts made large gifts (by taking bribe); large gifts made small gifts (due to non-payment of bribe); what is gifted is of one sort while what is entered is of another sort; the real donee is one while the person entered (in the register) as donee is another; what has been taken into (the treasury) is removed while what has not been credited to it is shown as credited; raw materials that are not paid for are entered while those that are paid for are not entered; an aggregate is scattered in pieces (such as representing an assessment of 1,000 *panas* levied from a whole village as small individual assessments, making up the total in view of making use of the part of the taxes for himself under the pretext of non-payment of that part); scattered items are converted into an aggregate (making ryotwar assessments as village assessments); commodities of greater value are bartered for those of small value; what is of smaller value is bartered for one of greater value; price of commodities enhanced; price of commodities lowered; number of nights increased (with a view to misappropriating the wages due for the increased or decreased days); the year not in

harmony with its months ; the month not in harmony with its days ; inconsistency in the transactions (stating that the labour has been paid outside the office while in reality no such payment has been made) ; carried on with personal supervision (*samāgamaviśāmaḥ*) ; misrepresentation of the source of income ; inconsistency in giving charities ; incongruity in representing the work turned out (as in the case of the Superintendents of boats misappropriating ferry dues under the false plea that only the Brāhmaṇas crossed the river on a particular day) ; inconsistency in dealing with fixed items ; misrepresentation of test marks or the standard of fineness (of gold and silver) ; misrepresentation of prices of commodities ; making use of false cubic measures such as *bhājana*.¹⁴ Kauṭilya further says that in the case of detection of an embezzlement the persons concerned such as the treasurer (*nidhāyaka*) the prescriber (*nibandhaka*), the receiver (*pratigrāhaka*), the payer (*dāyaka*), person causing the payment (*dāpaka*), the ministerial servants of the officer (*mantrivaiyāvṛtyakara*) should each be separately examined, and if any one told a lie to cover up his crime he must also receive the same punishment as the chief officer (*yūkta*) who committed the offence.¹⁵ To meet the ends of justice properly and to compensate the loss of those who have grievously suffered on account of such embezzlements Kauṭilya advises the king to make a proclamation in public (*praśāra*) to the effect that whoever had suffered at the hands of a particular offender should make their grievances known to the king for right action, and they should be given compensation equal to the loss sustained by them. If a single officer is involved in a number of corrupt practices (offences) and if he is found guilty of any one of these charges he should be answerable for all those offences. As a matter of self-conviction, each case should be separately tried lest the public set up by the defendant's enemies might falsely accuse him. In case a government servant is proved to be guilty of having misappropriated part of a large sum he is automatically answerable for the whole.¹⁶

Kauṭilya believes that cases of embezzlement or no embezzlement can be ascertained through spies alone. It seems, he had absolutely no faith in incorruptibility of the government servants which is evident from his damaging observation

while suggesting the various methods to examine their conduct :¹⁷ "Just as it is impossible not to taste the honey or the poison that finds itself at the tip of the tongue, so it is impossible for a government servant not to eat up, at least, a bit of the king's revenue. Just as fish moving under water cannot possibly be found out either as drinking or not drinking water, so government servants employed in the government work cannot be found out (while) taking money (for themselves). It is possible to mark the movements of birds flying high up in the sky ; but not so is possible to ascertain the movement of government servants of hidden". Thus condemning them outright for their thrifty and objectionable conduct he suggests, as a measure of punishment, that such government servants should not only be deprived of their ill-earned hoards, they should also be transferred from one work to another so that they could not either misappropriate government money or "vomit what they have eaten up".¹⁸ As one associated intimately with the administration of the first great historical empire of ancient India, as friend, philosopher and guide of the monarch, Kautilya's views carry considerable weight and constitute a sad commentary on the conduct of the government employees during this period who were probably not different from their counterparts in modern times. Seduction of the enemy's armies by lies, bribes, false promises, or any other methods was looked upon with approval by Kautilya¹⁹, and there is no doubt that such tactics were actually employed by the rulers of ancient India. Corruption then, as now, it seems, had come to stay as an inseparable part of society, vitiating public life in general, and that of the government employees in particular. It was so deep-rooted that it called for a relentless surgeon's knife to cure the ailing limbs of this malady and hence these ruthless measures suggested by Kautilya to root it out completely. His thread-bare diagnosis of the disease and the prescription thereof speak amply of his first hand knowledge of the state of affairs prevailing during this period.

The officers of the lock-up (where undertrial criminals were kept) and prison-houses (where convicted prisoners were kept) who caused unnecessary inconveniences to the prisoners under their charge, behaved with them cruelly and rudely and extorted money from them and molested the lady inmates and let out or

caused to let out the offenders, were liable to various kinds of punishments.

Kaṭīlyā prescribes suitable and proportionate punishments for the officers responsible for the commission of such crimes. He lays down that when an officer obstructed or caused to obstruct prisoners in such of their daily avocations as sleeping, sitting, eating or excreting, he was to be punished with fines ranging from three *paṇas* and upwards.²⁰ If he harassed the person in lock-up by removing him frequently from one room to another without informing the proper authorities, he was to be fined twenty four *paṇas* ; if he tortured him unjustly, forty-eight *paṇas* ; if transferred him unnecessarily from one place to another or deprived him of food and water ninety-six *paṇas* ; if received bribes the middlemost amercement and if killed him (by adopting oppressive measures), one thousand *paṇas*.²¹

Jail officers often misbehaved with the lady inmates of the prison-house. Kaṭīlyā prescribes fines for the offenders according to the status of the lady molested. If the jailor committed rape on a married woman prisoner, who was a slave or a pledge, he was to be punished with the first amercement, but when he committed rape on the wife of a thief or a rioter, he was to be punished with the middlemost amercement and if the victim was an Arya lady he was to be punished with the highest amercement.²² But, in case the in-charge of the lock-up committed rape on an Arya woman who had been simply arrested and detained in the lock-up for interrogation, he was a greater offender than the previous one (who committed rape on a convicted Arya lady prisoner) and, so he was to be awarded severer punishment—i.e., in addition to the payment of the highest amercement, he was to be hanged at that very spot.²³ But, if the offence committed was with a slave woman, the punishment was the same as in the case of a convicted slave woman, i.e., the first amercement.²⁴

The jail officers or the in-charge of the lock-ups were to see that the prisoners under their charge did not escape from the prison or the lock-up. Allowing the convicted prisoner to escape from jail was a greater offence than allowing the under-trial prisoner to escape from the lock-up. In the former case the offending officer's property was to be confiscated and he himself was to be put to death whereas in the latter case, if the

prisoner escaped from the lock-up without breaking it open, the officer was to be punished only with the middle-most amercement ; but if he escaped after breaking it open the officer was to be condemned to death.²⁵

Likewise, keeping in custody a guiltless person was also an offence, Kauṭilya lays down that when on investigation it was established that a person accused of theft was actually not a thief he was to be set-free at once. If the investigating officer continued to keep in custody the person, cleared of guilt, he was to be punished with the award of the lowest amercement.²³

The works-officers (*kārmikas*) were required to present the statement of the accounts before the accounts-officer (*kāranika*) for audit every year at the close of the month of Āṣaḍha. If they did not turn up for this purpose at the proper time or came without the account-books and balance-sheets properly arranged, they were to be fined ten times the amount involved.²⁷ Again, if the works-officer presented himself with the records for being audited but the accounts-officer was not ready for audit, he (accounts-officer) was to be imposed the fine of the first amercement.²⁸

When the audit began and the works-officer failed to put in substantive proof to explain the entries made in the statement of accounts to the satisfaction of the accounts-officer, he was to be punished with the middlemost amercement.²⁹ But when explaining the entries if he made contradictory statements which revealed his intentional manipulations in the accounts, he was to be punished with the highest amercement.³⁰ In the first case the fine was lesser in view of the fact that the discrepancy might have been due to the officer's inefficiency or negligence but in the second case the manipulations were intentional and dishonestly motivated and so the punishment was higher.

The accounts-officer, too, on his part, had to submit the accounts before the king for its scrutiny and final approval by him. If the accounts-officer did not place his records before the king on the scheduled date, he was to be given one month's time for making the records upto-date and fit to be inspected by the king. If he failed to submit his accounts even during this extra time, he was liable to pay a fine of two hundred *panas* which in case of further delay was to go on increasing at the

rate of two hundred *paṇas* per month.³¹ If he intentionally evaded the submission of the accounts for fear of the detection of manipulations in the accounts or when directed by the king submitted the accounts after making changes and adjustment in the entries, he was to be punished with the first amercement.³²

There were certain procedural rules which were to be followed while preparing the statement of accounts. If the clerk concerned violated or deviated from these rules he was to be punished. Kauṭilya lays down that if one wrote down an item in the accounts without any order or in a wrong order, or in an illegible manner or twice over, he was to be fined twelve *paṇas*.³³ If he made the same mistakes in writing down the balance the fine was to be doubled i.e., twenty four *paṇas*.³⁴ If he prepared a totally false statement and all the entries and balances shown therein were concocted, he was to be fined eight times the amount concocted.³⁵ When interrogated if he took recourse to telling lies he was treated as a greater offender and the punishment levied for theft was to be imposed on him.³⁶ But if he manipulated the entries, i.e., made the entries later on under the pretext that they were left out due to mistake at the time of making the first entry, he was still greater offender and was to be imposed double the above punishment.³⁷ The most probable ground for enhancement in the punishment in this case was that in addition to dishonesty and falsehood, the offender, by tampering with the records, had taken recourse to cheating also.

If the officers entrusted with the work of collecting government revenues, failed to collect revenue properly and timely and thus caused loss to the State-exchequer they were to be liable to punishment. Kauṭilya regards such officers as the consumers of the king's property³⁸ and says that in such cases the officers responsible were not only to pay a fine equal to five times the amount so lost, but were also to make good the loss.³⁹ But if an officer caused loss of revenue through ignorance and other causes,⁴⁰ he was compelled to make it good suitably.⁴¹

Collecting revenue in excess was also an offence. Though it added to the treasury of the State, it created great harassment

to the public. Kauṭilya lays down that the officers doing so were to be warned by the king in case the excess was insignificant, but if the excess happened to be sufficiently high, he was to be imposed higher punishments.⁴²

Such officers also were liable to be punished as were responsible for the expenditure of revenue without bringing in corresponding profit. Kauṭilya lays down that such officers were to be punished in proportion to the value of the work left undone, the number of days wasted, the amount of the capital spent and the amount of daily wages paid.⁴³

The revenue-officer who made as unripe the ripe time or as ripe the unripe time of revenue-collection was guilty of concealment and in such cases he was to be fined five times the amount involved.⁴⁴ If he caused a diminution of the revenue fixed or caused an increase in the expenditure sanctioned he, too was guilty of causing loss and for this he was to be fined four times the amount so lost.⁴⁵

Land-holders paid land-revenue to the State either in cash or in kind.⁴⁶ In case of kind, a part of the produce of the land was given to the state and it was collected and stored in State-granaries. The corn given was to be clean, full in measure, fresh and pure. The person who brought in the corn which was otherwise and the officer who received such corn and deposited it in the State-granary, both were guilty and a fine of double the value of the corn was imposed upon the offender.⁴⁷

Treasury-officer was in-charge of the royal treasury, one of the seven constituent elements of the State.⁴⁸ He was, as such expected to be a man of integrity and honest dealings. But if he chose to be otherwise, it was a bad day for the State. If he practised defalcation, he was to be treated as a robber and, according to Kauṭilya, execution was the right punishment for him.⁴⁹ Even those who helped him in carrying out the defalcation were offenders and they, too, were to be punished with fines of half the value of the amount defalcated.⁵⁰ But if the treasury-officer did not intentionally misappropriate the money but it had been effected owing to his unawareness and carelessness, he was not to be executed, but he was only to get reproof for his negligence.⁵¹

Defalcation in this context had a very wide connotation. It included hindrance, lending, trading, concealment, causing loss,

use, interchange and defection of the treasury.⁵² Failure to carry out a work, failure to realise its fruit or failure to deliver it in the treasury constituted 'hindrance'. Officers responsible for this were to be fined and times the amount involved.⁵³ Unauthorised lending of money and goods, at interest from the treasury was lending and unauthorised trading in State commodities was trading. In both these cases the persons responsible were to be fined double the amount of the interest earned or the profit made.⁵⁴

Officers using king's goods by themselves or allowing it to be used by others was 'use'. Death sentence was to be awarded to the offender for enjoying gems, middlemost amercement for enjoying valuable articles and restoration of the article together with a fine equal to their value was punishment for enjoying articles of small value.⁵⁵ The appropriation of the king's goods by substitution of other goods was 'interchanged'. The officers responsible for this offence also were to be punished in the same way as in the case of 'use'.⁵⁶

The officers not depositing into the treasury the income that had accrued or not spending what was ordered to be spent or misrepresenting their net revenue collected were guilty of misappropriation and for this they were to be fined twelve times the amount misappropriated.⁵⁷

Not only in the case of the officers and the superintendent of the royal treasury but also in case of the officers and staff of other departments misappropriation for defalcation was a serious crime and punishments were to be awarded in proportion to the amount misappropriated or defalcated. Kauṭilya lays down that in all departments the punishment for officers, subordinates and servants in cases of misappropriation or defalcation of sums from one *paṇa* to four *paṇas* or any other things of the same value was to be the first, the middlemost and the highest amercement and death respectively.⁵⁸

In addition to these, Kauṭilya refers to forty ways of embezzlement that the treasury-officers adopted⁵⁹ and thereby contributed a good deal towards the depletion of the treasury and prescribes various punishments—monetary⁶⁰, corporal⁶¹ and death⁶² punishments—to be awarded to the offending officers.⁶³

The village-headman (*grāmika*) was an important executive and judicial officer of a village. As a mark of honour and

respect to him villagers were to accompany him by turn when he journeyed through the villages on business. Those who did not accompany him on such occasions were to pay a penalty of one *paṇa* and a half per *yōjana*.⁶⁴

The village-headman was head of the village and decided both civil and criminal cases. If he failed to decide cases justly and awarded punishment to innocent persons, he was to be punished. Kauṭilya lays down that if the village-headman convicted a person as a thief or an adulterer and as a punishment ejected him from the village, but, in fact, the person convicted was not a thief or an adulterer, the village-headman was guilty of awarding punishment to an innocent person and as such he himself was to be fined twenty-four *paṇas*. The villagers also were not to be spared. They also, being a party to the miscarriage of justice, were to be fined collectively with the highest amercement.⁶⁵

If the village-headman, taking the advantage of the misfortune or helplessness of a villager or his subordinate extorted money from him, he committed the offence of taking bribe and was to be exiled as an extortioner.⁶⁶

The village-headman being also the executive head of the village was responsible for keeping the village free from undesirable persons like cheats, thieves and robbers. Kauṭilya lays down that if the traders in caravans stayed inside the village, the village-headman was responsible for the safety of their goods and valuable (if the traders had informed him about their belongings from before hand). If they were stolen, the village-headman was liable to make good the loss; provided, the theft had occurred owing to his not keeping strict watch during the night.⁶⁷ From this we may conclude that if the theft occurred in spite of the village-headman's constant vigilance and alertness he was not held responsible for theft.

If the goods or valuables of the traders were stolen in the course of their transit from one village to another, the superintendent of the pasture lands (*vivītādhyakṣa*) was held responsible for the loss and was liable to make the loss of the traders good.⁶⁸

In such villages where there were no pastures and consequently no superintendent of pastures, the officers deputed for catching thieves (*chōra-rajūkas*) were to make good the loss.⁶⁹

If the loss of merchandise occurred in such parts of the country as were not provided even with such security-men (*chora rajjukas*) the boundary-officers were to contribute jointly to make up the loss.⁷⁰ If even these were not there the village-headman of five or ten adjoining villages was to stand the loss.⁷¹

Kauṭilya views the defaults on the parts of the spies very seriously inasmuch as the king acted according to the information furnished by them. They were practically the king's eyes.⁷² So, if they gave incorrect information regarding day-to-day happenings in the State to the king, they were to be put to death by means of silent punishment.⁷³ In case the spies had incurred the public notoriety for not furnishing correct information, the king was to get them killed by means of secret and silent punishment or by causing an insurrection against them in the country.⁷⁴

To maintain the purity and accuracy of coins an officer called 'examiner of coins' (*rupādarsaka*) was appointed by the State whose duty was to see that the goldsmith engaged in the State-mint did not reduce the standard weight and quality of the coins. He was to examine and certify the correctness of the coins. But if he did not discharge his duties faithfully and rejected such coins as did not deserve to be rejected or did not reject such as deserved to be rejected, he was an offender and was to be imposed a fine of twelve *paṇas*.⁷⁵

A similar fine of twelve *paṇas* was to be imposed on him, if he accepted as bribe one *māsaka* for every *paṇa* certified by him and sent out into circulation.⁷⁶ But if he caused a counterfeit coin to be made in the royal mint-house or received it from outside or sent it into circulation, he was to be fined one thousand *paṇas*⁷⁷, but if he managed to get such coins inserted in the royal treasury, he was to be awarded capital punishment.⁷⁸

In the first two cases the offending officer cheated the common people so the punishment was pecuniary but in the last case he tried to cheat the state which amounted to treason and, therefore, in this case the award of capital punishment was recommended.

U. Thakur has aptly observed: "All this undoubtedly points to the widely rampant practice of passing counterfeit coins as

genuine ones of which we have innumerable instances in modern times".⁷⁹

The ideas propounded in the *Smṛti* works about the various facets of corrupt practices provide definite clues to the actual environment, for they could not arise and be widely propagated without having relevance to what people were doing. They can be used as historical evidence, by studying the distortions⁸⁰, to arrive at the truth. For instance, there are suggestions that officials were highly unreliable, that funds did not flow as they should, that government positions were rewards for service and a means of giving rewards in turn to clients, that royal servants were feared not because they were carrying out the king's instructions but because they were abusing them. What suggests this is the preoccupation with insecurity, with disloyalty, and with corruption that the texts reveal.⁸¹

The various uses to which spies were put clearly indicate which way the wind was blowing. Besides figuring prominently in the battle of intrigue against small kingless communities as well as a strong king we find them (spies) spying on the work of various officials in the Mauryan State, detecting those living above their means or falsifying accounts, and acting as income-tax inspectors, assessing the productivity of fields. But, their prime function was to bring intelligence of corruption, sedition and trends of popular feeling to the king. They were also employed against judges and superintendents taking bribes, counter-feiters, adulterers, thieves, robbers and so forth. All this shows that subversion and corruption were taken for granted as part of the political scene in early Indian State.⁸²

Thus, the picture that emerges from various allusions relates to the state of general insecurity and unreliability of the king's men to whom embezzlement seemed natural and reasonable and corruption of all sorts so common as to be taken for granted.⁸³ It is generally assumed that those who served the king are untrustworthy, "Those who have the qualifications for high ministers are to be appointed according to their ability over the various departments; the king should constantly inspect their work, since men are by nature fickle and when employed in works show changeable temper like horses".⁸⁴ According to Yājñavalkya, the king is to protect subjects against scribes, check on officers with spies, honour the honest, punish the

corrupt.⁸⁵ Manu also has similar rules.⁸⁶ The king is also advised to personally check on revenue and expenditure every day.⁸⁷ Medhātīthi's remark that public menaces (thorns) are usually under the protection of a queen, a prince, the king's favourites or the Commander-in-Chief⁸⁸ indirectly points to the patronage that the corrupt official usually received from the high ups as in modern times. The way disaffection and graft are treated in our ancient texts is very different from what he have in modern works on polity. The standards, the attitudes, the presuppositions are all different and that the administrative machinery should be unreliable is taken almost for granted. There seems to be no state loyalty, all that mattered was personal graft resulting from the jealousies and ambitions in the security of the government.⁸⁹ There was, it seems, a tacit understanding between corrupt ministers, corrupt officials and corrupt traders and business. The moral and financial loot went on unabashed and corruption spread its infection virtually to every walk of life. From the examples cited in the preceding chapters it is clear beyond doubt that despite numerous checks and deterrent punishments as prescribed in our ancient texts, people had lost faith in administration and become cynical and demoralised. They gradually developed contempts for such petty men in authority that enriched themselves at their cost.

As we know, bribery is influenced by many factors and it plays a principal role in the society. The will to bribe a promoter in an expanding society is matched by the will to be bribed on the part of those who serve the older order. The fact that it is often resorted to where cheaper means would seem appropriate to the desired result suggests that it gratifies drives which are organised very early in the life-history of individuals regardless of the particular culture in which they find themselves. The intensive examination of individual life-histories shows that there is a strong and only partly conscious drive against authority which is frequently made manifest in efforts to bring authority into contempt. "Offering bribe is often partially motivated by a drive to put representatives of authority in the wrong by inducing them to violate professions and obligations". Anti-authoritarianism likewise shows itself in an exaggerated sense of guilt and in a resulting compulsion to appropriate

authority by giving up tangible goods. "This operation appeases the sense of guilt and permits the individual to secure absolution from his own conscience for actual or contemplated acts against accepted standards. These reactions are established in early childhood and depend upon features of the relationship of child to adult which are so general as to exist in varying degrees in every culture".⁹⁰

If bribery was sometimes employed to sustain the waning power of a decaying monarchy or aristocracy, it has also been employed as an opening wedge by a new class seeking political power and social prestige commensurate with its economic power. A private individual involved in bribery generally suffers a less drastic penalty than the public official who has accepted the bribe because the former has acted as an individual while the latter has betrayed a trust reposed in him by the public and has reflected upon the integrity of all members of the public service.⁹¹ In fact, ignorance of the existence of corruption or of its importance in every day life, diffused responsibility, widespread benefit derived by a large disinherited element in the voting population from the lavish distribution of spoils, political apathy and indifference, a pecuniarily minded culture which values all things in terms of money—all contribute to the fastening of the tradition of corruption upon the political life of a nation.

NOTES AND REFERENCES

1. *Kaut.*, 2.9. 32-34.
2. *Sakuntalam*, VI.
3. *Kāt.*
4. *Kāvyamālā*, X.14.
5. Quoted Sukla Das, p. 45; U. Thakur, *op. cit.*, Ch. I.
6. *RT.*, VII. 547, 555, 993-95.
7. The Kāyasthas here denote a particular class of officials, and not the so-called caste, who dominated the political scene of Kashmir during this period. They included all castes, including Brāhmaṇas; U. Thakur, *op. cit.*, Chap. I.
8. *RT*, (Tr. Stein), II, p. 134.
9. *RT* (Trans. M.A. Stein), Vol. I, p. 19.
10. *Kaut.*, 2, 8, 25-28.
11. *Ibid.*, 2.8.30.
12. For details see Upendra Thakur, *op. cit.*, Chap. II.

13. *Artha*. II.8; Shamasastri's trans., pp. 65-69.
14. *Artha*., II.8; Shamasastri's trans., pp. 67-68.
15. *Ibid.*, p. 68.
16. *Ibid.*, p. 68.
17. *Ibid.*, pp. 69-71.
18. *Ibid.*, p. 71, (Bk. II, Ch. IX).
19. *Arth*. XIII.1, 395ff.
20. *Kaut.*, 4.9.21.
21. *Ibid.*, 4.9.23.
22. *Kaut.*, 4.9.24.
23. *Ibid.*, 4.9.26.
24. *Ibid.*
25. *Ibid.*, 4.9.27.
26. *Kaut.* 4.9.22.
27. *Ibid.*, 4.8. 7-8.
28. *Ibid.* 2.7.22.
29. *Ibid.*, 2.7.23.
30. *Ibid.*, 2.7.24-25.
31. *Ibid.*, 2.7.26-27.
32. *Ibid.*, 2.7.34.
33. *Ibid.*, 2.7.35.
34. *Ibid.*, 2.7.36.
35. *Ibid.*, 2.7.37.
36. *Ibid.*, 2.7.39.
37. *Ibid.*, 2.7.40.
38. *Kaut.* 2.9.13.
39. *Ibid.*, 2.7.38.
40. *Ibid.*, 2.7.10.
41. *Ibid.*, 2.9.14.
42. *Ibid.*, 2.9.15-16.
43. *Ibid.*, 2.9.17-18.
44. *Ibid.*, 2.8.10-11.
45. *Ibid.*, 2.8.12-13.
46. *Ibid.*, 5.2.14.
47. *Ibid.*, 2.5.13-14.
48. *Ibid.*, 6.1.1.
49. *Ibid.*, 2.5.17.
50. *Ibid.*
51. *Ibid.*, 2.5.18.
52. *Ibid.*, 2.5.19.
53. *Ibid.*, 2.8.5-6.
54. *Ibid.*, 2.8.7-9.
55. *Ibid.*, 2.8.14-15.
56. *Ibid.*, 2.8.16-17.
57. *Ibid.*, 2.8.18-20.
58. *Ibid.*, 2.5.16.
59. What has accrued first is realized afterwards, what is to accrue later is realized first, what is to be carried out is not carried out,

what is not to be carried out is carried out, what is carried out is made out as not carried out, what is not carried out is made out as carried out, what is carried out a little is made out as much, what is carried out much is made out as little, one thing is carried out while another is made out as carried out, what is carried out from one source is made out as from another, what is to be paid is not paid, what is not to be paid is paid, payment is not made in time, payment is made untimely, a little paid is made out as much, what is over paid is made out as little, one thing is given while another is made out as given, what is paid to one is made out as paid to another, what is delivered into the treasury is made out as not delivered, what is not delivered is made out as delivered, forest produce for which the price has not been paid is delivered, that for which the price has been paid is not delivered, concentration of goods is made out as dispersal, or dispersal made out as concentration, an object of high value is changed for one of low value, or one of low value for one of high value, the price is raised, or the price is reduced, the year is made discrepant as to months, or the month discrepant as to days, discrepancy as to source, discrepancy as to head of income etc., discrepancy as to workmen, discrepancy in performance, discrepancy in the sum-total, discrepancy in quality, discrepancy in price, discrepancy in weighing, discrepancy in measuring, and discrepancy as to container vessels—these are the forty ways of embezzlement.

.... *Kaut.* 2.8.21.

Commenting on the forty kinds of embezzlement U. Thakur aptly remarks, "Kauṭilya's thread-bare diagnosis of the disease and the prescription thereof speak amply of his first hand knowledge of the state of affairs prevailing during this period", *op. cit.*, p. 27.

60. *Kaut.* 2.8.22.

61. *Ibid.*, 2.8.31.

62. *Ibid.*, 2.8.32.

63. For details, see Üpendra Thakur, *op. cit.*, Chap. II.

64. *Kaut.* 3.10.16-17.

65. *Ibid.*, 3.10.18.

66. *Ibid.*, 4.4.10.

67. *Ibid.*, 4.13.7-8.

68. *Ibid.*, 4.13.9.

69. *Ibid.*, 4.13.10.

70. *Ibid.*, 3.13.11.

71. *Ibid.*, 4.13.12.

72. *Kirat.* 1.5.

73. *Kaut.* 1.12.16.

74. *Ibid.*, 4.13.20.

75. *Ibid.*, 4.1.44.

76. *Ibid.*, 4.1.46.

77. *Kaut.* 4.1.48.

78. *Ibid.*

79. U. Thakur, *op. cit.*, p. 56.
80. I.W. Mabbett, *Truth, Myth and Politics in Ancient India*, p. 4.
81. *Ibid.*, p. 47.
82. *Ibid.*, p. 49 (*Arth.*, II.I; 2, 9, 10-17; 2.35.8-12).
83. *Arth.* II. pp. 97, 105.
84. *Ibid.*, 2.9.1.3.
85. *Yāj.* I. 332, 335.
86. *Manu.* 7.122.24.
87. *Yāj.* 1.323-325.
88. Medhe, on *Manu*, 9, 294.
89. Mabbett, *op. cit.*, pp. 50-51.
90. H.D. Lasswell in *Encyclopaedia of the Social Sciences*, Vol. I, (U.S.A., 1969), p. 691.
91. H.D. Lasswell, *op. cit.*, Vols. III-IV, pp. 450-51.

THEORY OF CRIME

Crime in a broad sense can be defined as the violation of the rules and regulations which are enforced by the State and the society from time to time. Members, in society, are expected to act according to the established norms and laws. But mal-adjustment of an individual leads to the breach of that norm resulting ultimately in crime which has its origin in the conflict of the self-seeking habits of the individual with the common customs of any social group that ensure its survival in the struggle for existence. It is rather impossible to check such tendencies absolutely and for reasons more than one—social economic, political, psychological and biological—people defy the norms of the society and break them.

Southerland and Cressey define crime as an act prohibited by laws. No matter what the degree of immorality or indecency of an act may be, it is not crime unless the behaviour is against the existing laws of the society.¹ Taft defines crimes as an expression of human selfishness.²

One important feature of crime is that it changes with the time and place. What is regarded as a crime by a particular society at a particular period of time, may not be so at a different time and for different people.³ From the prescriptive rules laid down by Kautilya it appears that he also accepts the principles of dynamic growth, of flexibility and modifiability in accordance with the changing conditions and time. Wickham bears out this aspect of crime when he says that all actions of

mankind are not crimes, as a particular act might be socially approved at some other locality and time.⁴

Crime is an act of breach of law, deemed to be a menace to the condition of existence of society and preventive only through punishment. But, all kinds of such breaches of law are not crimes; only such of them are crimes as the doer commits intentionally or through criminal negligence. When both of these factors are absent, the breach does not constitute a crime at all.⁵

Kauṭilya also holds this view and suggests that intention and gross negligence are the two main elements that constitute a crime. When intention is involved, the crime is grave and so the punishment must be heavy. When the intention is absent, and the act has been done through gross negligence, the gravity of the crime is reduced; but when both these elements—intention and gross negligence—are absent, the wrongful act is no crime at all and thus no punishment is to be awarded for it.

The guilty intention is the essence of crime. So we shall first look into the importance of intention in determining the gravity of crime.

Kauṭilya lays down that if a person killed another, intentionally, he was to be put to death with torture.⁶ Again, if a person killed a man by administering poison, the offender was to be killed by being drowned into water.⁷ But, if the death of a person resulted from the negligent behaviour on the part of a man, the offender was not to be put to death but was imposed other minor punishments. Kauṭilya lays down that if through negligence the physicians caused injury to a vital part of the patient's body resulting in his death, the physician was not to be put to death but was awarded various monetary punishments.⁸

In the first two cases the crime being intentional is grave and so the penalty is heavy, but in the third case the crime is unintentional, but due to negligence, so it is less grave and hence the penalty is light.

Similarly, if a person intentionally instigated and harboured a criminal, he was guilty of an offence equal to that of the commitment of the actual crime. But, if he did so ignorantly, he was to be simply reprimanded and warned not to do so in future.⁹

In the same way such persons as helped the in-charge of the royal treasury rob the treasury were to be awarded half the fine to be imposed on the in-charge of the treasury, but if they rendered him help unintentionally they got only reproof for their negligent behaviour.¹⁰ In these cases also, absence of intention reduces the intensity of the crime and consequently the severity of the punishment.

Wrong acts committed through gross negligence are undoubtedly crimes, though not so grave as those committed intentionally, inasmuch as negligence also has been treated as a form of *mensrea* standing side by side with wrongful intention as formal ground of responsibility. So, in the case of negligence also, punishments have been prescribed because the offence, though unintentional, is due to the extreme carelessness, in one way or other on the part of the offender.

But when homicide was committed unintentionally and without criminal negligence and was the result of an accident over which the offender had no control, it was not a crime at all as both the elements—intention and gross negligence that constitute a crime—were absent there. Kautilya clearly lays down that in case of injury when the cart had the nose-strings of the bullocks cut off the yoke broken or when it moved crosswise towards someone or receded backwards or when there was a crowd of animals and men and the charioteer had cried out to the passer-by 'get out' the driver was not to be punished.¹¹ This immunity is obviously because this accident was not only unintentional, but not due to culpable negligence either, since there was a previous warning. It is thus clear that according to Kautilya a person is criminally liable only for offences committed intentionally or out of gross negligence.

Some other factors that played an important role in determining the gravity or otherwise of the crime were the learning of the offender, his knowledge, his mental condition, his age, his caste, his sex, his physical condition, his social status, the time and place of the occurrence of the crime and its frequency. Kautilya takes into account almost all these factors while determining the nature of the crime.

In all ages and in all countries, offences against the king or the state have been considered most heinous. For the preservation of the state and society it is incumbent upon all to see that

no violent attack is made upon the government, or the king who stands as the representative of the people. So the slightest attempt in this direction was to be stamped out with strong hand. Any attempt on the life of the king was suppressed ruthlessly. Special care was taken for his security from the evil people and spies were employed for these purposes.¹² Kauṭilya prescribes various precautionary measures for the safety and protection of the king. He states that the king was first to secure his personal safety against his sons and wives and then the security of the kingdom against near and distance enemies. He first deals with king's safety from his own sons, the princes. The opinions of various authors on polity are cited *viz.* secret punishment (according to *Bhāradvāja*), keeping under guard in one place (according to *Viśalakṣa*), keeping the prince in a fort under the boundary guard (according to the *Parāśāra*), keeping the prince away from his own kingdom in a fort belonging to a feudatory (according to *Piṣuṇa*), sending him to his maternal relations (according to *Kaunapadanta*), making the prince addicted to sensual pleasures (according to *Vaṭavyādhi*), proper pre-natal care and proper education after birth about *dharma* and restraint (according to Kauṭilya).¹³

This symposium shows how the problem of the king's safety against bad princes taxed the ingenuity of all ancient writers on *Arthaśāstra* and how Kauṭilya advocates the only reasonable course possible.

Even such persons as accepted or made a gift for injuring the king or the members of the royal family were to be punished with the highest amercement.¹⁴

Although the Hindu law-givers recommend very severe punishments for the offences against the king and the State, they are not so cruel and barbarous as their counterparts in other ancient and medieval countries of the world.¹⁵

Like other Hindu law-givers Kauṭilya also regards hostility towards the king as a very serious crime. He lays down that any person who aimed at the kingdom or who created disaffection in forts, country-parts or in the army was to be burnt alive by setting fire to his head and hands. Even a brāhmaṇa doing so was not to be spared. Kauṭilya recommends that as a punishment for this he was to be made to enter darkness which most

probably meant that he was to be blinded or was to be thrown into a dark dungeon for the whole of his life.¹⁶

In view of the supreme importance of justice and the role and indispensability of true evidence in arriving at it, the law-givers have laid stress on speaking the truth when giving evidence. Kauṭilya advises the judges to encourage witnesses to speak the truth by narrating the dire consequences of bearing false evidence. He lays down, "The judge should exhort witnesses in the presence of brāhmaṇas, a water-jar and fire. He should say to a brāhmaṇa witness; 'speak the truth', to a kṣatriya or vaiśya witness he should say, 'let there be no fruit of sacrificial and charitable deeds for you if you speak untruth; you would go potshered in hand, begging for alms to the house of your enemy', to the śūdra he should say, 'whatever the reward of your merit between birth and death, that would go to the king and the king's sin come to you in case of a false deposition, and punishment would also follow even afterward if facts, as seen and heard would be found out; being of one mind, bring out the truth'.¹⁷

Kauṭilya lays down that witnesses had to testify to what the truth was. But being fully aware of the mechanism and working of human mind he well realised that mere appeal to the good sense of human beings and even fear of religious and moral punishments could not keep all men on the right path, he also prescribes the award of legal punishments for giving false evidence, which was indispensable for preventing the failure of justice and for restraining injustice. He, therefore, lays down that those who did not testify to the truth, while giving evidence, were to be fined twenty-four *paṇas*; but if they when called to depose did not speak but kept mum, were to be fined half the amount i.e., twelve *paṇas*.¹⁸

From this it should not be concluded that Kauṭilya was always in favour of giving light punishment in the form of low fines only. He went to the extent of prescribing punishment which was really a heavy punishment for the witness when he gave false evidence, actuated by covetousness, i.e., accepted money from one of the parties. Kauṭilya lays down if a witness bore false testimony after accepting money from one of the parties, he was to be exiled as a false witness.¹⁹

When a case was filed, the defendant was summoned to appear before the court and submit his reply. He had to submit his reply in a period of three or seven days. If he failed, the judge imposed a fine of minimum three *panas* and maximum twelve *panas*.²⁰ Even if after the expiry of three fortnights, he failed to submit his reply, the court was to impose on him the fine for the loss of suit and indemnity to the plaintiff from goods belonging to him. The same penalty was to be imposed on the defendant who absconded.²¹ If the plaintiff, after the submission of the reply by the defendant, did not submit his counter-reply²² on the same day or absconded²³ or produced blameworthy witnesses²⁴ he lost the case.

Breach of Contract

In ancient India breach of contract was regarded as a criminal offence and for this punishments were inflicted. The breaker of the contract was punishable only when his default was intentional.

Contracts in respect of marriage, service, sale and purchase and also other undertakings were to be respected by both the parties entering into the contract and if either of them violated it, he was an offender and as such was liable to be punished for it.

Although marriage, according to the Hindus, is not a contract in the strict sense of the term, there is an implied or express contract as regards the taking or giving of the girl in marriage and for violation of such contracts punishments have been prescribed by the law-givers.

If a girl was betrothed to a person by her guardians and later on was not given to him in marriage there was breach of contract on the part of the guardians of the girl. In this case the groom-elect was to wait till seven menses of the girl had passed and then was perforce to marry her without paying any compensation to the girl's father as the father had forfeited his ownership over the girl on account of breaking the contract.²⁵

Breach of service contract takes place in two cases : first, on the part of the employee, and second on the part of the employer.

Breach of service contract on the part of the employee was a punishable offence. If a labourer, not incapable,²⁶ did not do the work after receiving the wages, he was to be fined twelve *panas* and put under confinement till the work was done.²⁷ If the female labourer did not carry out the work after receiving the wages her entire thumb and the tip of her middle finger were to be cut off.²⁸

In case the employer had in mind that he would entrust the labourer to do additional work after the contracted work in hand was completed by him and if in the meantime the labourer had accepted another man's work, receiving payment before hand, he might refuse to do the additional work for the first employer. In this case he was not guilty of the breach of contract.²⁹

Non-Payment of Taxes

State-duties were an important source of revenue of the state. So, elaborate rules were framed to ensure that the payment of duties was not avoided by dishonest traders but was properly collected. There was an important officer *Śulka-dhyakṣa* who was in-charge of the collection of these duties.

In order that the State-duties might not be avoided, prices be regulated and all goods might be brought to the market, Kauṭilya prohibits the sale of commodities in the places of their origin.³⁰ If anyone violated this rule he was punished. If anyone took metals or metal-goods from mines he was to be fined six hundred *panas*.³¹ If flowers from flower-gardens and fruits from fruit orchards, fifty-four *panas*,³² if vegetables, roots and bulbous roots from vegetable gardens, fifty one and three quarter *panas*,³³ and if any kind of other crops from fields, fifty three *panas*.³⁴ In case of the produce of the crown-lands, if purchases were made from the fields the penalty was to be one *pana* or one *pana* and a half. The penalty in this case is nominal because the produce of the crown-lands are duty-free and so the sale in the fields would mean no loss of the state-dues.³⁵

In order to facilitate the collection of toll-tax and make its evasion difficult, toll-houses were located near the main entrance of the market-places where traders were required to go and pay the proper tax for the commodities they had brought

for sale and get them officially stamped.³⁶ There were, as have there always been, and still there are, some traders who managed to avoid, in various ways, the payment of the due tax. This caused a huge loss to the State-exchequer. So the non-payment of toll-tax has been viewed very seriously and punishments have been recommended for the offenders.

Raising the Price of Articles

To save the customers from the arbitrary exactions by the traders, the state, in ancient India, got publicly fixed³⁷ the rates for the purchase and sale of all marketable goods. For such traders as violated these rules Kauṭilya prescribes a fine, the amount of which was to depend upon the extra profit made by the seller. He categorically says that the traders who raised the price or secured an extra profit of five per cent beyond the limit fixed by the State, during purchase or sale, were to be fined two hundred *panas*. The fine was to go on increasing by two hundred *panas* at each additional increase of five percent extra profit in the price.³⁸ With a view to capturing market and consequently raising the prices of commodities according to their sweet will if the merchants combined together and succeeded in their conspiracy they were strongly dealt with. Kauṭilya prescribes a fine of one thousand *panas* to be imposed on such confederacy of traders.³⁹

Homicide

Homicide⁴⁰ is the killing of a human being by a human being. Although it has been universally condemned all through the ages by our ancient seers and philosophers it has continued unabated and so also its implications on the society.⁴¹

Homicide has been first divided into two kinds: non-culpable and culpable and then again each into two the former into justifiable and excusable and the latter into unintentional killing and murder. Kauṭilya recognises only three kinds out of these four kinds of homicide and deals with them separately. He, however, does not refer to the justifiable homicide.⁴²

There are some cases of homicide in which the offender is not to be punished at all, not because he is justified in doing

so but because it is due to an accident over which he has no control and there is not default on his part. It may be called involuntary or excusable homicide. Under certain circumstances the driver, the owner of the cart and the passengers of a cart are not held responsible for the accidental killing of a man. Kauṭilya says, "In case of injury when the cart has the nose strings of the bullocks cut or the yoke broken or when it moves crosswise towards someone or recedes backward or when there is a crowd of animals and men the driver is not to be punished"⁴³ Manu also takes the instance of a road accident. He mentions ten circumstances in which neither the driver nor the owner, nor the occupant of the cart was to be held responsible for the killing of living beings or the destruction of things involved in the accident.⁴⁴

But if the accident occurred due to the negligence or the incompetence of the driver and not due to an accident and if any human being was killed, the driver or the owner, or the passenger was to be punished. The punishment was not to be the punishment for murder but as prescribed in case of injury to men and animals.⁴⁵ Kauṭilya further says that if a human being on the road was accidentally killed by an elephant, the driver was to be awarded the fine of the highest amercement.⁴⁶ In case of death of non-human beings the payment of the amount equal to the value of the animal as well as to be enforced.⁴⁷ The middlemost fine was to be imposed for violence with an object of endangering life.⁴⁸

Of various acts of *sāhasa* or violence, manslaughter was considered the worst and punishment also was the severest.⁴⁹ In the *Arthasāstra* of Kauṭilya also we find mention of various types of death sentences to persons who killed human beings. Kauṭilya lays down that for killing a person on the spot during a scuffle the punishment, was to be death with torture; in case of death within seven days simple death was to be the punishment; in case of death within a fortnight the highest fine was to be imposed and in case of death within a month the fine was to be one hundred *paṇas* plus the cost of the victim's treatment.⁵⁰ The longer the period the victim took to succumb to his injuries, the lesser the intensity of the injury hence punishment is reduced in proportion to the length of time between the scuffle and the death of the victim. At another

place he prescribes the punishment of simple death for an offender who killed a person wantonly.⁵¹

Killing a person by administering poison was viewed very seriously by Kauṭilya. He prescribes that the offender in such cases was to be drowned in water by the way of punishment for his offence.⁵² But if the poison was administered on the direction of others Kauṭilya recommends the award of the punishment of exile to the offender in lieu of capital punishment.⁵³ As the crime here had been committed at the instance of others the award of lighter punishment is justifiable.

Kauṭilya regards the murder of one's own father, mother, son, brother, teacher or an ascetic more heinous a crime than that of other human beings, rather the most heinous of all the crimes. This is the reason why he prescribes most torturous punishments in these cases. He categorically lays down that such criminals were not to be put to death in a simple way but in the most brutal way *i.e.*, first the skin of their head was to be removed by pouring boiling water on it and then they were to be burnt to death by setting fire to their skinless head.⁵⁴

Women, too, were not exempt from punishment if they caused any injury to human beings or killed them. They were given the same punishment as were given to male offenders. Kauṭilya lays down that in case a woman slew a man she was to be drowned in water for her offence except in case if she was pregnant at that time; in that case she was to be drowned one month after she delivered the child.⁵⁵ According to Kauṭilya, a woman killing her husband, an elder relation or her offsprings, was to be torn by bullocks.⁵⁶ Here the killing is of a very heinous nature so the punishment also is more torturous and humiliating than in case of normal killing.

Aiding and abetting in the commission of crime and instigating and harbouring the criminal, if done intentionally was an offence equal to that of the commitment of the actual crime. Kauṭilya lays down the highest amercement for one who gave advice, food, accomodation, tools, fire or service to a murderer. But if the help etc., had been given ignorantly, then the giver was not liable to any physical or pecuniary punishment but was to be simply reprimanded and warned not to do so in future.⁵⁷

Even the wives and children of the murderers were not to

be spared if they were a party to the crime; but if they were not a party they were not liable to any punishment whatsoever. Kauṭilya lays down that wives and sons of murderers were to be seized only if they were in concert; if not in concert they were to be set free and let go.⁵⁸

Kauṭilya is sympathetic towards animals also. As a general rule he lays down that a man actually killing animals or instigating others to do so was to be executed.⁵⁹ Kauṭilya prescribes the imposition of the highest amercement on persons guilty of binding, killing or injuring deer, beasts, birds or fish for whom safety had been proclaimed by the king and who had been kept in reserved parks.⁶⁰ This punishment seems to have been prescribed for such offenders as were professional and as such caught or killed animals etc., for earning money, as in the following line Kauṭilya prescribes lighter punishment *i.e.*, the middlemost amercement⁶¹ for the same offence for householders apparently because their meat was exclusively for his personal use and not for sale.

But if the offender killed deer or birds kept in zoo, or parks for show or pleasure, the crime was of greater magnitude and the punishment got heavier. In this case Kauṭilya prescribes, in addition to a fine of two hundred *paṇas*, the payment of the amount equal to the value of the animal killed.⁶²

Killing, binding or injuring such fish and birds also, whose slaughter was not current being disallowed by custom, or on religious or other grounds by the State, was a crime and in such cases also the offender was to be imposed a fine of twenty-six *paṇas* and three quarters, but in case of deer and beasts even simple binding was an offence punishable by double the fine *i.e.*, fifty-three *paṇas* and a half.⁶³

But in case of killing or injuring those animals whose slaughter was current and which were not protected in enclosures, the offender was not to be liable to any punishment. He was only to be asked to pay to the officer-in-charge of the slaughter-house one sixth or one tenth part of the hunt, as the case might be, as state duty, not as fine.⁶⁴

In case of killing petty animals like cocks, ichneumons, cats, dogs or pigs of less than twenty-five *paṇas* in value the fine was not to be very heavy. The offender was to pay a fine of fifty-four *paṇas* only or in case he was unable to pay the fine

his nose-tip was to be cut off. If the offender happened to be a *chāṇḍāla* or a forest-dweller, the punishment was to be halved.⁶⁵ This concession to the *chāṇḍāla* and forest-dwellers is most probably allowed in view of the fact that killing animals for meat was their means of livelihood.

Theft

Taking or intending to take dishonestly any movable property out of the possession of any person without that person's consent is theft.⁶⁶ Kauṭilya, while defining theft says that fraudulently taking a thing in the absence of the owner is theft; denial of the thing taken also amounts to theft.⁶⁷

Megasthenes while speaking of the Maurya period records that theft in India was rare occurrence. But, this is an exaggerated statement because the *Arthaśāstra* of Kauṭilya refers to thieves and robbers as the pests of society and suggests various steps to nab these criminals. Perhaps this is the reason why towns, even of small size, were generally protected by walls. This was customary even during the time of Kauṭilya.⁶⁸ Therefore, in order to control the nuisance created by these thieves and to check them, the king appointed an officer called the *chōra rajjuka*. He, with the help of his subordinates arrested robbers and fettered them.⁶⁹

In case of theft punishments were inflicted on the offenders according to the value of the thing stolen. The higher the value of the article stolen, the heavier was the punishment. This is the reason why different punishments have been prescribed for the theft of different articles—capital punishment, amputation, imprisonment, branding, banishment and fine.⁷⁰

Robbery

Robbery is a forcible seizure of person or property in the presence of the owner.⁷¹ Here Kauṭilya has drawn a distinction between robbery and theft, the former being sudden, direct and forcible seizure of a thing while the latter was a fraudulent and indirect one. It is a more serious offence than theft inasmuch as here loss of property is accompanied by injury to human life and property. Kauṭilya lays down a general rule that in case of

robbery, the fine was to be determined in accordance with the value of the thing involved.⁷²

In case of robbery of such articles that were of small value as flowers, fruits, vegetables, roots, turnips, cooked rice, skins, bamboos and pots, the fine ranged from 20 to 24 *paṇas*⁷³; for articles of great value, such as iron, wood, roping materials and herds of minor quadrupeds and cloth, the fine ranged from twenty-four to forty-eight *paṇas*⁷⁴; and for such articles of still greater value as copper, brass, bronze, glass, ivory and vessels etc. It ranged from forty-eight to ninety-six *paṇas*.⁷⁵

For the seizure of big quadrupeds, men, fields, houses, gold, gold-coins, fine fabrics etc., the fine ranged from two hundred to five hundred *paṇas*.⁷⁶

A person keeping or causing to keep, by force, either men or women in confinement or releasing them by force from bondage, was to be punished with fines ranging from five hundred to one thousand *paṇas*.⁷⁷

In case of robbery the helpers and abettors were the greater offenders, as they encouraged the commission of robbery by rendering various sorts of help to the criminals. Kauṭilya lays down that he who caused another to commit an act of force accepting the responsibility of saving him, was to pay a fine twice the value of the person or property seized.⁷⁸ He who promised financial assistance to the offender, was to pay the fine four times the value.⁷⁹

Kidnapping

The Hindu law-givers regard kidnapping as a very heinous crime and prescribe severe punishments for it. Kauṭilya also views kidnapping very seriously and prescribes exemplary punishments for the offenders. He lays down that if a person kidnapped a male or a female slave, either his both the feet were to be cut off or he was to be imposed a fine of six hundred *paṇas*.⁸⁰

In case the persons kidnapped belonged to a temple the offence became more serious and the offender was to be punished with simple death or he was to pay the fine of the highest amercement.⁸¹ In these cases the persons kidnapped did not

have any ornament on their person. In case the persons kidnapped had ornaments on their body, the seriousness of the offence went up. In such cases Kauṭilya prescribes either the cutting off of the left hand and both the feet of the offender or a fine of nine hundred *panas*.⁸²

At another place Kauṭilya lays down that if a person kidnapped a maiden without ornaments he was to be fined only two hundred *panas*, and if with gold ornaments the highest amercement was to be imposed.⁸³ If the kidnapping was effected by a group of persons, the fine prescribed above was to be imposed on each and every member of the group.⁸⁴

It appears paradoxical that in the case of kidnapping slaves and slave-girls Kauṭilya prescribes higher punishments than in case of kidnapping maidens. But when we dive deep into it, intention of Kauṭilya becomes almost clear. In the case of kidnapping slaves and slave-girls the main motive was economic—to earn money by selling them. This is corroborated by the fact that in case of their being with ornaments, the punishment was higher than in case they were without ornaments. In the case of maidens, on the other hand, where Kauṭilya prescribes higher punishments and, that too, in the form of fine only, there the main consideration seems to be not economic but sexual.

Adultery

Adultery (*saṅgrahana*) means the unlawful coming together of a man and a woman for sexual intercourse.⁸⁵ According to Kauṭilya, in case a woman went to a secret place midway on her way or she accompanied on the way, with carnal intentions, a man who was suspected or forbidden, it was to be treated as adultery.⁸⁶ Kauṭilya regards adultery as a serious crime and prescribes very heavy punishments for persons committing adultery with the wives of others. He says, "If a man and a woman are caught in adultery the punishment shall be the cutting off of ears and nose or a fine of five hundred *panas* for the woman and double that amount for the man."⁸⁷

From Manu and Vyāsa we learn that kidnapping was prevalent from a very early time and both the law-givers prescribed death sentence for kidnapping.⁸⁸ Nārada and Bṛhaspati also

followed early law-givers and prescribed severe punishment for kidnapping. It was a grave offence to kidnap a woman but more so if she was a maiden,⁸⁹ irrespective of her social status.⁹⁰ Unlike Nārada, Bṛhaspati, however, made no such distinction.⁹¹ Not only adults but children were sometimes robbed away from the lap of their nurses by thieves out of greed for money.⁹² It is quite likely that they were returned to their parents only after payment of a ransom.

Cut-purses were also serious menace to the society. Yājñavalkya makes mention of both cut-purses (*granthibhṛdaka*) who carried away things by loosening or cutting the knot and pick-pockets (*utkṣepaka*).⁹³ We also come across the reference to cut-purses (*ganda-bhedaka*) in the work of Kālidāsa.⁹⁴ Contemporary law-givers seem more lenient⁹⁵ from the earlier ones⁹⁶ while prescribing punishment for those criminals. This perhaps suggests that due to the frequent occurrences, this sort of crime was not considered very serious.

Highway robbery was also very frequent during the period of our survey. Kauṭilya made a distinction between robbery and theft. The former being sudden and direct seizure of a thing while the latter was a fraudulent and indirect seizure.⁹⁷ Nārada made mention of robbers who used to roam in the woods or lie concealed and attacked unprotected travellers.⁹⁸ Bṛhaspati also made special reference to robbers.⁹⁹ Contemporary law-givers had no sympathy for them.¹⁰⁰ From Kālidāsa we learn that robbery was common in the Gupta period¹⁰¹ and merchants travelled at ease over mountains, forests and rivers.¹⁰² This is further corroborated by the account of contemporary Chinese pilgrim Fa-hien who noticed that roads were generally safe.¹⁰³ In the *Mālavikāgnimītram* of Kālidāsa, however, we find a reference to highway robbery. A large group of traders were going to Vidisa from Vidarbha. While they encamped in a forest for rest they were attacked by a group of highway robbers. Then the caravan warriors had a short fight with the robbers but were repulsed by the latter.¹⁰⁴ Though perhaps an exceptional occurrence, yet this much can be said that people were not absolutely free from the danger and so the merchants travelled in caravans escorted by caravan soldiers even in the time of Kālidāsa. It appears that with the degeneration of the vast Gupta empire the highway robbery became a more frequent

feature. Hiuen-tsang, who came to visit India during the first half of the seventh century A.D. was molested by robbers on more than one occasion. His biographer records that the Chinese pilgrim encountered a gang of 50 robbers in a great forest of Palāsa trees near the town of Śakala (modern Sialkot). The pilgrim and his followers were not only robbed of their clothes and belongings but were also pursued by the robbers withdrawn swords. A Brāhmaṇa peasant who happened to appear on the scene with 80 armed followers succeeded in repulsing them and saving Hiuen-tsang and his companions.¹⁰⁵ D.C. Sircar pointed out that the armed followers referred to in the work were no other than forest guards mentioned in the *Jātaka* literature.¹⁰⁶

Early law-givers like Manu, Gautama, Vaśiṣṭha, Viṣṇu and others observed adultery as a social vice and prescribed special punishments which would cause terror. Manu pointed out that in this world there was nothing detrimental to long life as sexual intercourse with another man's wife.¹⁰⁷ Adultery was responsible for mixture of Varṇas (castes) and ultimate destruction of everything.¹⁰⁸ Nārada in a more vivid manner stated that it was not possible to produce grain without proper field and seed. So also a legitimate offspring could be produced by a husband and wife only. Sexual connection with others would, therefore, mean adultery.¹⁰⁹ *Mitākṣara* on *Yājñavalkya* defined *Samgrahaṇa* as illicit sexual intercourse between men and women for enjoyment.¹¹⁰ Nārada specifically pointed out that punishment be inflicted by the King on the culprit who had intercourse with a woman with whom it was forbidden to have any connection and those sinners should also be cleared of their moral offence by performing penance.¹¹¹ Kātyāyana even prescribed that when a man had forcible intercourse with a woman capital punishment was to be inflicted on him as it was violation of proper conduct.¹¹²

Intercourse, however, was permitted with a wanton woman, who belonged to other than a Brāhmaṇa caste, a prostitute, a female slave or a female not restrained by her master.¹¹³ While explaining a verse of Manu¹¹⁴ Medhātīṭhi made a clear distinction between protected and unprotected women. According to him an unprotected woman might be regarded as another man's wife for having married him according to prescribed nuptial rites,

but in reality she ceased to be his wife due to her fall from the path of virtue. The evil reputation of these types of women is finally illustrated in the *Abhidhānaraṭnamāla*.¹¹⁵ Medhātīṭhi records that these women though not exactly prostitutes allowed paramours into their houses with the permission of their husbands.¹¹⁶

Apart from these, intercourse with unwilling females belonging to other men was strictly prohibited.¹¹⁷ Adultery was generally committed by force, deceit and sensual passion.¹¹⁸ Nārada recorded illicit sexual connection both with unmarried and married women.¹¹⁹ He severely condemned illicit connection with unwilling maidens¹²⁰ but surprisingly enough both Yājñavalkya and Nārada considered it no offence at all if a man approached a willing maiden or had any connection with her provided he had honoured her with ornamental gifts and legally married her.¹²¹ It virtually amounts to premarital sex. From Daṇḍin we learn that attitude of the society was very stern only when an unwilling virgin was violated.¹²²

Adultery with the married ladies was also quite common. The *Daśakumāracarita* makes frequent references to this type of adultery. Thus, Upahāravarman, a character of Daṇḍin's work while approaching Kalpasundaṛī realised that there would be loss of virtue if one had illegal connection with a married lady.¹²³ But knowing fully well the sin he would incur, Upahāravarman committed the crime of adultery.¹²⁴ It is quite natural that the guiding motive here was sensual pleasure which could transgress all the barriers of Śāstric injunction. Daṇḍin frankly admitted that consequence of excessive adultery was harmful.¹²⁵

In the Chammak copper plate inscription of Pravarasena II we find references to adulterers. That they were regarded as social pests is revealed by the fact that a village was granted to a group of Brāhmaṇas who would enjoy it for generations provided they bore moral character and not adulterers.¹²⁶ Another inscription of 992 A.D. makes mention of adulterer and adulteress and their respective punishments.¹²⁷ Adultery was perhaps more frequently punished during the later years of Hindu rule. Somadeva makes ample references to this vice. It appears that mostly men of wealth and status committed adultery.¹²⁸ So Somadeva tried to preach chastity and modesty. According to

him a man should regard all women except one's wife or concubine as his mother, sister or daughter and worldly pleasures should be enjoyed in moderation like food to satisfy only physical needs.¹²⁹ But all seems to be in vain. In the *Rājatarāṅgiṇī* there are several instances of this crime.¹³⁰ While commenting on *Manusmṛti* which prescribed for a Vaisya culprit approaching a protected Kṣatriya woman or a Kṣatriya approaching a Vaisya woman fines of 500 and 1000 *paṇas* respectively,¹³¹ Medhātithi added that heavier punishment for the Kṣatriyā was justified on the ground that being entrusted with the duty of protection if a Kṣatriya behaved otherwise his crime was undoubtedly considered graver in the eyes of law.

Incest or sexual relations between the persons related within the degrees where marriage was prohibited was considered a serious crime. According to Nārada a mother, mother's sister, mother-in-law, maternal uncle's wife, father's sister, paternal uncle's wife, friend's wife, pupil's wife, sister, sister's friend, daughter-in-law, daughter, spiritual teacher's wife, Sagotra relation, one seeking protection, a queen, a female ascetic, a nurse, an honest woman, and a female of the highest caste should never be violated.¹³² An example of incest has been recorded by Kalhaṇa in his *Rājatarāṅgiṇī*. King Kalasa (1063-1089 A.D.) was so licentious that he maintained sexual relation with some of his daughters-in-law as if they were the wives of the enemy.¹³² The *Kathāsaritāsāgara* records that one Kālaratri used to approach Sundaraka, the student of her husband. When the crime was detected the willing wife of the preceptor was severely punished.¹³³ No doubt that in spite of severe social condemnation this crime was in practice.

It should be noted that female ascetics were also violated by the wicked. Yājñavalkya made specific reference to this feature and prescribed fine for such an act.¹³⁴ The fact that female ascetics were reckoned by Nārada among those females whose violation was considered as incest formed an important difference between his laws and those of Manu. Manu prescribed the same punishment for the violation of female ascetics as for the violation of wives of actors, dancers and other abandoned women.¹³⁵ Nārada considered it a severe crime and suggested equally severe punishment.¹³⁶

In the monasteries also moral conduct was not always satisfactory. In fact during the reign of Harṣavardhana it became a significant feature and the King banished from the country those monks who became notorious for their immoral behaviour.¹³⁸ I-tsing also noticed that if the immoral attitude of a monk was detected his case was discussed in the monastic assembly and once found guilty he was expelled from the monastic order.¹³⁹ I-tsing stated that nuns could not meet the priests nor could the priests visit the nuns without announcing their purpose to the assembly. Moreover, the nuns were expected to go in pairs and while visiting a layman's house they formed batches of four.¹⁴⁰ All these rules undoubtedly were made specially to guard them from pleasure-loving people. Priests were also prohibited from coming in unnecessary contact with the females who would excite their passion.¹⁴¹ Rahulamitra, a monk whom I-tsing met thus remarked "It may be right to keep (women) off, if it is meant to prevent our evil desires."¹⁴²

It is superfluous to add that men alone were not always responsible for adultery as the society was not absolutely free from nymphomaniacs. Yāma made specific mention of them,¹⁴³ Brhaspati pointed out that an adulteress who willingly visited a man's house and excited his passion should in no way be forgiven.¹⁴⁴ Kātyāyana also nurtured the same view.¹⁴⁵ He, however, suggested that when a married woman was found misbehaving thus during her husband's absence she should be kept confined till her husband's return.¹⁴⁶ Kṣemendra's Narmamala brilliantly depicts the licentious nature of the wives of the Kāyasthas.¹⁴⁷ It beautifully mirrors the then society. The *Rājatarangīnī* also refers to adulterous ladies of Kashmir.¹⁴⁸

Yājñavalkya's suggestion to abandon an unfaithful wife has been interpreted by Vijñāneśvara in a different way. Abandonment, as he observed, did not imply driving her out of the house but depriving her of a dignified life. She should be given food of inferior quality, compelled to sleep on the ground and be cast off only if she had a child by the stranger.¹⁴⁹ It resembles earlier recommendation of Nārada where he specifically suggested that she would have to live a life of utter humiliation.¹⁵⁰

Damodaragupta's Kuttanimatam depicts a stirring picture of the misery of an adulteress.¹⁵¹ She was cast out of the family, censured by public, and was subjected to various vexations.¹⁵²

Parāśara informs that an adulteress was treated as impure, a house was defiled by her very presence and food offered by her was refused by the Brāhmaṇa.¹⁵³

A general belief thus prevailed that adultery curtailed the longevity and led to the hell of torment.¹⁵⁴

In order to prevent such unhappy occurrences Brhaspati advised relatives to restrain a woman from slight transgressions and keep a watch on her.¹⁵⁵ Chastity was regarded as the most noteworthy virtue.¹⁵⁶ Young maidens specially motherless daughters were shielded from scandalous acts.¹⁵⁷ According to Vātsyāyana a married lady was generally expected to avoid the company of women of questionable characters such as female ascetics, actresses, fortune tellers and the like¹⁵⁸ as they often acted as go-betweens and helped in adultery.¹⁵⁹ Through them could a man dispatch letters¹⁶⁰ and various gifts and thereby attract special attention. Varāhamihira advised that women of respectable families should be protected from Buddhist nuns, female ascetics, maids, washerwomen, flower sellers, corrupt ladies, barbers wives, and other so-called go-betweens (*Dūtīs*) so that their reputation did not suffer. Nocturnal recreations, vigils, staying in another's house, consultation with smooth sayers, participating in congregational mournings and festivals were the occasions when they came in contact with men and they should be guarded on such occasions.¹⁶¹ Parāśara also laid special emphasis on the protection of women. According to him one should keep a constant eye upon one's wife during the outbreak of a war, civic disturbance, pestilence or epidemic or at the apprehension of foreign invasion.¹⁶²

Though public opinion was severe against an adulteress a gradual change can be discerned from the fresh note struck in their lenient attitude. Parāśara specifically mentioned that when a woman had been enjoyed by force or by intimidation, she revived her purity again through certain prescribed vows of mortification and by her monthly flow.¹⁶³ Devala went a step further and declared that "the women-folk of the four orders as well as those of other castes who happen to become pregnant as a direct consequence of coming in contact with the Mlecchas or who happen to eat the proscribed dishes willingly or unwillingly, would become pure by observing a *Kṛcchra Sāntapaṇa*

penānce". But the child born of such misfortune should have to be deserted.¹⁶⁴ The *Agni Purāṇa* made the most daring comment that women were not sullied by illegal sexual connection. She revived her cleanliness by monthly flow. A wife could be deserted by her husband only when she became pregnant by a man of lower caste. The *Purāṇa* further laid down that he should wait till the "thorn" or "sorrow bringing foreign body" (*saḥya*) had come out of her through birth and she had menstruated again and then she was again considered clean to her husband.¹⁶⁵

Some later writers like Lakṣmīdhara (1100-1150. A.D.) and authors of *Brāhmavaivarta Purāṇa* (11th, 12th century) were liberal enough to sanction concession to women who were enjoyed by force.¹⁶⁶

The changed attitude of the society is further supported by the account left by the ninth century Arab traveller Suleiman. He noticed that if a woman was forcibly abducted she was not treated as guilty but for willingly committing this offence punishment was death.¹⁶⁷

Of sexual crimes, perversion or unnatural offence also found special notice in the writings of ancient Indian law-givers. Kauṭilya¹⁶⁸, Yājñavalkya¹⁶⁹ and Nārada¹⁷⁰ made mention of sexually deviant acts performed by men and women. Homosexuality was known but it was considered more serious if both the offenders were maidens.¹⁷¹

Bestiality was equally discouraged though it was prevalent in the contemporary society. Viṣṇu, Kauṭilya, Yājñavalkya and Nārada have thrown some light on this aspect.¹⁷² As cow was considered the most venerated animal a distinction was made by the law-givers between cow and other animals in this connection.¹⁷³ Fine of one gold piece for such offence compared to petty fines in case of other animals like female donkey laid down by the *Maṇṣya Purāṇa* is suggestive of the gravity of the former.¹⁷⁴ Parāśara also referred to the practice of bestiality with she buffalo, she-camel, female donkey and she ass¹⁷⁵ but he emphasised that for having carnally known a cow mere fine was not sufficient but the offender was required to practise a three day penānce (*Trirātri Vrata*) accompanied by the gift of a cow to a Brāhmaṇa to recover his purity. Here also he singled out cow from the rest.¹⁷⁶

Somadeva pointed out that the vow of chastity was spoilt not only by illicit love but also by unnatural method of sexual enjoyment.¹⁷⁷ The causes of these deviations from heterosexuality are extremely complex. The deviation was definitely acquired and emotional in nature, rather than inherited and physiological.

Punishments prescribed by Kauṭilya may be divided under three heads—verbal, pecuniary and corporal. Verbal punishment began from gentle admonition and ended with severe reproof; pecuniary punishment began with a fine of one-sixteenth of a *paṇa* and ended with the confiscation of the whole property; corporal punishment began with whipping and ended with the award of capital punishment, simple or with torture.

The award of verbal punishments was prescribed by Kauṭilya in cases where the offence was committed in ignorance. Kauṭilya lays down that such persons as helped the in-charge of the royal treasury in robbing the treasury or rendered help and service to the thieves and murderers ignorantly, were reprimanded or awarded reproof.¹⁷⁸

As regards the motive behind prescribing reprimand and reproof, Kane rightly observes, "That admonition and reproof were two modes of punishment, shows that ancient writers were alive to the notion that among very sensitive persons or in a very sensitive society, verbal condemnation would be enough to achieve the main purpose of punishment."¹⁷⁹

PUNISHMENT

The organisation of society on the basis of Varna-dharma had its mark on prescribing punishments for the members of different varṇas. In the days of the *Dharmasūtras* the accused guilty of killing a Kṣhatṛiya, or a Vaiśya or a Śūdra was imposed fine in the form of one thousand cows and an ox or one hundred cows and an ox or ten cows and an ox respectively.¹⁸⁰ Gautama, Manu and Yājñavalkya prescribe that if a member of the lowest varṇa caused harm to any limb of the body of the member of a higher Varna, then the corresponding limb of the accused should be amputated.¹⁸¹ Similar discriminations for punishments in cases of

guilts such as defamation,¹⁸² stealing, and others¹⁸³ are to be seen in the law-books.

Whether this was solely due to the fact that the law-givers were mostly Brāhmaṇas is a matter of dispute, but the responsibility of the highest Varṇa in this respect must be accepted. For the guilt of stealing the fine imposed on the Brāhmaṇa, Kṣhatriya and Vaiśya was twice the amount of property stolen, but for a Śūdra it was to be four times or even eight times.¹⁸⁴ If a Brāhmaṇa abused a Kṣhatriya or a Vaiśya or a Śūdra, he was imposed a fine of 50 or 25 or 12 *paṇas* respectively.¹⁸⁵ But if the case was reverse, i.e., if a Kṣhatriya or a Vaiśya or a Śūdra abused a Brāhmaṇa, then the accused was imposed a fine of 100 or 150 *paṇas*, besides physical punishment.¹⁸⁶ Gautama is of the opinion that no punishment is to be imposed on a Brāhmaṇa abusing the Śūdra.¹⁸⁷ If a Śūdra was found guilty of adulteration with a female of the higher Varṇa he could be put to death.¹⁸⁸ The members of three Varṇas, received many types of corporal punishments (fourteen according to Bṛhaspati—*SBE*, XXXIII, 333), but the Brāhmaṇa was immune from these. For grave crimes, he was to be banished from the country, shaven headed.¹⁸⁹ According to Nārada, he should be banished from the town seated on a donkey only after shaving the head and putting a mark appropriate to his sin on the forehead.¹⁹⁰

In the opinion of some, a Brāhmaṇa in lieu of corporal punishment should be kept by the king in the confinement in a secret place and given bare maintenance or the king may make him do the work of guarding cattle for a month or a fortnight or make him perform other works not fit for a decent Brāhmaṇa. Whether such privileges enjoyed by the higher castes, specially the Brāhmaṇas was solely due to the fact that the law-givers hailed mostly from this Varṇa is a matter of dispute, but the responsibility of the highest Varṇa in this respect must be accepted. The psychology that Brāhmaṇas being useful for the society should not be killed or severely punished also may have been responsible to some extent for prescribing legal privilege for them. In this connection the general notion that the enlightened one, of course including the Brāhmaṇa incurred more to sin by committing a crime than the justice and hence the *Prāyaschitta* for him would be higher also prevailed. In

respect to fines, it was probably for those residing in the forest with meagre belongings that it was thought not to impose monetary punishment on them. Legal privilege was actually meant for the learned Brāhmaṇa who might have committed sin by chance.

There are references to show that an offender belonging to any Varna received the appropriate punishment. A Brāhmaṇa found guilty of grave crimes such as revolting against the king, robbery and the like deserved capital punishment.

According to Kauṭilya, a Brāhmaṇa who aims at the kingdom or who forces entrance into the royal inner apartment or who incites wild tribes or enemies (against his king) or who foments disaffection or (rebellion) in forts, the country or the army should be sentenced to death by drowning.¹⁹¹

The general view was that the *Brāhmahatyā* was a grave crime. But law-givers in general agree that no mercy is to be shown to the criminal, whether he is a Brāhmaṇa or the Guru.¹⁹² Is Brāhmaṇa not to be killed in the battle-field? Did Arjuna not kill even his Guru in the battle-field? The notion of *Brāhmahatyā* did not work in special cases. Another point is that the punishment imposed on a Brāhmaṇa in lieu of capital punishment may have been for some even more painful than death e.g., his head was shaved. He was paraded on a donkey, he was branded on the forehead, he was boycotted from the society. Such a Brāhmaṇa was not even given alms. In fact, he had to face utter humiliation and some may have committed suicide unable to face it. Therefore, it may be concluded that a habitual offender, though a Brāhmaṇa was to face trial and undergo the suitable punishment. For the repetition of a crime, fine imposed on him was higher than that imposed on the ordinary citizen.¹⁹³

Immunity from punishment based on humanitarian grounds was applicable irrespective of caste consideration. Thus, according to Yājñavalkya, an old man over eighty, a boy below sixteen, women and persons suffering from diseases were given half *prāyascitta*.¹⁹⁴ Likewise a child less than five commits no crime nor sin by any act and was not to suffer any punishment and not to undergo a *prāyascitta*. Kauṭilya was in favour of granting immunity from punishment to a minor.¹⁹⁵ It may be compared with Section 82 of the Indian

Penal Code in which nothing is an offence which is done by a child under seven years of age.

In order to appreciate the penal laws of a well-organised state with an efficient administration it will not be out of place to refer to the punishments which were resorted to during the Maurya period and later in the Gupta age as these were stable empires during which solid contributions were made to Indian penology. We gather from the *Arthaśāstra* of Kauṭilya and the accounts of Megasthenes that punishments were generally very severe. Usually fines, mutilation of limbs and capital punishment with or without torture were inflicted in relation to the gravity of crime.

On this aspect Megasthenes says, a person convicted for bearing false witness suffers mutilation of his extremities. He who aims any one not only suffers in return the loss of the same limb but his hand is also cut off.

If he causes an artisan to lose his hand or his eyes, he is put to death. The above account of the prevalence of severe punishment is corroborated by Kauṭilya's *Arthaśāstra*. Imposition of fines was very common, and it was imposed on government servants, traders, merchants, labourers, artisans, physicians and common people found guilty of violating the laws and government regulations. Fines were classified as falling into three grades as the highest, middle and low, according to this amount of fine depending on the nature of offence.

For giving a maiden in marriage without revealing her defects in connection with sex, the punishment imposed was a fine of 96 *paṇas* and the return of dowry along with the *Strīdhana*. For defamation, vilification and threat, suitable fines were imposed. For menacing with the hand, the minimum fine was 3 *paṇas*, maximum being 6. Fines were increased in proportion to the severity of the injuries. If high officers made divergent statements about accounts they had to pay highest fines of violence.

Another important form of punishment was mutilation of limbs. Pick-pockets or thieves committing first offence at holy places were liable to get their middle fingers and thumbs cut off and a fine of 54 *paṇas*. Fines and mutilation were increased in proportion to the value of the article stolen.

Capital punishment was another important form of punishment. A person who deliberately started outbreak of fire, was to be thrown into fire. Death penalty was awarded to any official or person who managed to insert a counterfeit coin into the royal treasury.

Counterfeiting of royal document and selling human flesh were capital offences. Similarly, stealing of the temple property or slaves was punishable with death in lieu of highest fine. If a person was found guilty of theft or pick-pocketing for the fourth time, he was liable to be sentenced to death if the magistrate so desired. Death sentence was the punishment for murder of a person; it could be death with torture, if the victim died on the spot. Death penalty was awarded to those who stole an elephant, a horse or a chariot belonging to kings. Painful deaths are prescribed for those who caused death with rain or who virtually harmed the society and had no social conscience. Simple death for murder was a normal form of punishment.

Imprisonment as described elsewhere and forced labour in state mines were imposed on the accused as punishment. The hard penal laws and strict control over judicial officers must have been effective to a considerable extent in controlling the frequency of crimes in the country. The law did not spare the judge also as it was above all. We are told that a judge who was found guilty of not discharging his duties properly, doing what he should not do, showing partiality, and imposing a sentence which was not required, was accordingly punished with fines.

It is, therefore, very reasonable to presume that administration of law and justice in the time of Chandra Gupta Maurya was given due importance and the law and order was maintained partly because of fear of punishments both by undutiful judges and other officers and the potential criminals.

But above all, Aśoka emphasised the human aspect of the judicial administration. He called upon the *Nāgara-Vyavāhāra*kas (city judges) to see that the torture or imprisonment should not lead to accidental death of the accused. As the practice of torture might have caused distress to many people. Aśoka also did not like it, he called upon the authorities concerned to exercise moderation without being unduly lenient or

excessively hard, and to see that citizens were not imprisoned or tortured without sufficient reasons.

One of the features of judicial administration in the time of Candra Gupta Maurya was consideration of the *Varṇa* of the parties in dispute. And it was natural, when the entire social and economic order was based on *Varṇāśramadharma*, governed by hierarchy of *Varṇas* and their occupations; to sell human flesh was a capital offence.¹⁹⁶ Stealing of temple property was punishable with death and the highest rate of fines.¹⁹⁷ Causing death to a person entitled capital punishment.¹⁹⁸ Thus we find that anti-social persons, deliberate murders, harmers to king's military equipment were punished with death accompanied with torture.

The penal code was thus very strict. This might have a salutary effect on the criminal or potential criminals. The concept of crime and punishment during the time of the Gupta marks an important epoch in the history of the Judicial system.

According to Fa-hien, the culprits were exempted from the physical punishment. As per the gravity of the crime, the culprits were imposed monetary punishments. But the theory of the Chinese traveller does not seem to be convincing. *Smṛtis* have also referred capital punishment along with economic punishments. The Junagarh inscription of Skandagupta has given a detailed picture of capital punishment. According to *Mūdrārākshasa*, the culprits were crushed to death by elephants.¹⁹⁹ That law and order situation was controlled and peace maintained in the state through an efficient police administration is proved by occurrence of three words in the Gupta period.

Crimes which were committed due to lack of civic sense were generally punished with fines. Following the rules of early law-givers the legal writers of the period prescribed monetary punishment for obstructing the public road in various ways and aimed at cleanliness.²⁰⁰ Misuse of stored water of pond and polluting holy water was also punished with imposition of fines.²⁰¹ The *Agni Purāṇa*, however, recommended death penalty for polluting ponds and temples.²⁰² The habit of blocking drainage and waterways was equally harmful and was punished accordingly.²⁰³ Yājñavalkya prescribed even capital punishment for destruction of an embankment.²⁰⁴ Bṛhaspati,

on the other hand, advocated monetary punishment for such offences.²⁰⁵

Punishments were also prescribed for various religious crimes. Manu suggested death sentence for destruction of temples.²⁰⁶ The same idea was repeated in the *Maṭsya Purāṇa*.²⁰⁷ For destruction of idol both imposed a fine of 500 *paṇas* along with the responsibility of repairing and restoring it,²⁰⁸ but Kātyāyana prescribed monetary punishment of 250 *paṇas* for one who steals or burns the idols or destroys temple.²⁰⁹ Sankha prescribed a fine for breaking idols and death penalty for polluting temples.²¹⁰ For abuse of gods *Yājñavalkya* and the *Maṭsya Purāṇa* prescribed highest fine.²¹¹ Though authors of the law varied in imposition of punishment and fines they unanimously emphasised the need of maintaining sanctity of idols and temples.

It is worthwhile to penetrate deeper into the nature of different punishments prevalent during the period under review. Monetary punishments varied from petty fines to the confiscation of entire property.²¹² Law-givers differed in their opinion regarding the amount of lowest, mediocre and highest fines. According to Manu amounts of first, second and highest amercements were 250, 500 and 1000 *paṇas* respectively.²¹³ The same rate was fixed by the *Agni Purāṇa*.²¹⁴ *Yājñavalkya*, however, increased the rate to 270, 540 and 1080 *paṇas*.²¹⁵ *Nārada* pointed out that for *Sāhasa* of the first degree the minimum amount of fine to be inflicted was be hundred *paṇas*, whereas for the *Sāhasa* of the mediocre degree fine no less than five hundred should be imposed. For *Sāhasa* of the highest degree a fine amounting to no less than a thousand *paṇas* was suggested.²¹⁶ *Bṛhaspati* made gradation of fines subject to modification, and it could be reduced or raised according to the nature of crime and position of the criminal.²¹⁷ Confiscation of entire property was permitted for some heinous crimes.²¹⁸ *Nārada*, however, alarmed that while confiscating the entire property to the criminal, a king should not deprive him of the implements by which he earned his livelihood e.g., the weapons of soldiers, tools of artisans, ornaments of public women, musical and other instruments of professional artists.²¹⁹ The idea seems to be quite human as it gave the criminals a chance to earn their money afresh instead of being completely ruined

in poverty. Fiscal punishments helped to replenish the royal exchequer and fines were considered a great source of revenue.²²⁰

NOTES AND REFERENCES

1. *Principles of Criminology*, p. 11.
2. *Criminology*, p. 104.
3. *Manu*. I. 85 expressly declares that laws change with the age of the human race.
4. *Social Sciences*, p. 476.
5. The act alone does not amount to guilt, it must be accompanied by guilty mind. The *mens rea* or guilty mind includes two distinct mental attitudes of the doer towards the deed. They are intention and negligence. Generally speaking, a man is penally responsible only for those wrongful acts which he either does wilfully or negligently. Inevitable accident or mistake—the absence of both, of wrongful intentions and of culpable negligence—is in general a sufficient ground of exemption from penal responsibility.
...*Salmond's Jurisprudence*, Chap. XVI., Sec. 12, p. 378.
6. *Kaut.* 4.11.1.
7. *Kaut.* 4.11.18.
8. *Ibid.*, 4.1.57.
9. *Ibid.*, 4.11.9.
10. *Kaut.* 2.5.18-19.
11. *Ibid.* 4.13.22; *Manu*. VIII. 290-92.
12. *Kaut.* 1.20.13.
13. *Kaut.* 1.17.4-22.
14. *Ibid.* 3.16.7-8.
15. In medieval and early modern England the offender was first of all hanged by the neck, next he was brought down when he was still alive, then his entrails were taken out and burnt, the head was next severed and the rest of the body was cut into four parts and all were to be placed at the disposal of the king.
*
...BLACKSTONE, Book IV, Chap. VI, p. 92.
In the Roman Empire the unfortunate offender had to minister to the pleasures and amusements of the Roman people by gladiatorial combat or by being torn into pieces by wild animals in the public theatre. Besides the memory of the offender became infamous.
...JUSTINIAN, Book IV, Title XVIII, p. 8.
In France the offenders' children were to be exiled to suffer a merited death. If the prince spared the lives of the children, the latter were nonetheless branded with infamy for the rest of their lives, stricken with cruel death, *History of Continental Criminal Law*, Pt. I, Ch. VI, p. 396.
In Athens, the body of the condemned was cast out of the country without burial, his house was razed to the ground and the infamy

descended to the children. Traitors might be proceeded against after their death. There would be a solemn trial and after condemnation the bones would be dug up and cast out of Attica.

...ORATIONS OF DEMOSTHENES, Vol. III, app. VIII, pp. 339-40.

16. *Kaut.* 4.11.11-12;

Manu (IX. 275) prescribes capital punishment even for opposing the wishes or commands of the king.

Viṣṇu (VII. 18-19) extends capital punishment for attacking not only the king but even his ministers, forts, treasury, army, kingdom and allies.

AiP. (CCXXVII. 185) lays down capital punishment for interfering with the authority of the king.

Kāmandaka (IX. 9-10, XIV. 16) also holds that for the treason there is no alternative punishment to death and people who prove harmful to the kingdom should be killed without any delay.

In the *Mūdrarākṣasa* (Act VII) we find reference to sentence of death pronounced for political crimes.

The *Daśakumāracharita* (D.C. Ryder, pp. 135-36) relates that a brāhmaṇa minister Kamapāla who clandestinely poisoned the king and his heir apparent and plotted to murder another monarch, had his eyes scooped out for committing treason.

17. *Manu* (VIII. 13) declares either the court must not be entered or the truth must be spoken; a man who either said nothing or spoke falsely, while giving evidence became sinful. He refers to the gains a witness who spoke the truth acquired. (*Manu.* VIII. 74.81) and to losses the witness who deposed falsely suffered (*Manu.* VIII. 75.82). He also advises the judges to encourage witnesses to speak the truth by praising the virtue of giving true evidence and by narrating the dire consequences of deposing falsely (*Manu.* VIII. 81-86; 89-1000).

18. *Kaut.* 3.11.49. Here Kauṭilya quotes the views of other schools such as the school of Usanas, which lays down that a witness who spoke falsely in respect of place, time and matter was to be fined the lowest, the middlemost and the highest amercements respectively; to the school of *Manu*, according to which he was to pay a fine equal to ten times the value of the thing involved and to the school of Bṛhaspati, which recommends the death by torture (*Kaut.* 3.11.44-47).

19. *Kaut.* 4.4.13. *Manu* (VIII. 118, 120, 121) lays down various factors such as lust, wrath, covetousness, terror, friendship, mental agitation, ignorance and childishness which actuated a witness to give false evidence and lays down punishments according to the gravity or otherwise of the actuating factor.

20. *Kaut.* 3.1.29-30.

21. *Ibid.* 3.1.22; cf. *Kaut.* 3.19.22.

22. *Ibid.* 3.1.32.

23. *Ibid.* 3.1.33.

24. *Ibid.* 3.11.28-29.

25. *Kaut.* 4.12.8-9.

Manu (IX.71) also lays down that having once promised to give his daughter to a certain man if he gave her to another he incurred a guilt as great as if he had killed one thousand men.

Yājñ (I.65-66) is very much sympathetic to the girl. He says that in case a better suitor was available any former contract with any suitor, might be broken with impunity.

26. If the work was vile or if he was ill or in calamity, he was to get annulment of the agreement or the right to get it done by another or at his cost the employer was to get the work done. But in case there was an explicit agreement between the employer and the employee that the employer was not to give that particular work, to another and the employee was not to do any one else's work, the employee was to be compelled to complete the work himself failing which he was to be fined twelve *paṇas*.

. *Kaut.* 3.14.2-4.

27. *Kaut.* 3.14.1.

28. *Ibid.* 2.23.15.

From the severity of the punishment in this case it may be presumed that the punishment is awarded to a skilled lady labourer.

29. *Kaut.* 3.14.5.

30. *Kaut.* 2.22.9.

31. *Ibid.*, 2.22.10.

32. *Ibid.*, 2.22.11.

33. *Ibid.*, 2.22.12.

34. *Ibid.*, 2.22.13.

35. *Ibid.*, 2.22.14.

Shamashastry's interpretation of the above provision is not very satisfactory. He says, "As contrasted with the above fines which are occasional the following fines are permanently levied on the sale of agricultural produce, irrespective of any offence committed thereof. One *paṇa* is to be imposed on the purchaser and one and a half *paṇas* on the seller".

36. *Kaut.* 2.21.1-2.

37. *Manu* (VIII. 401-02) explains the facts to be taken into consideration at the time of price-fixation and says that the king shall get fixed through expert officers the prices of marketable goods once in five nights or at the close of each fortnight having duly considered whence they come whether they go, how long they have been kept, the risk in transport, the probable profit and the outlay.

38. *Kaut.* 4.2.29-30.

39. *Ibid.*, 4.2.19.

40. Murder is unlawful causing death of another with malice aforethought express or implied. *I.P.C.* XVI. 300, p. 240.

41. Upendra Thakur, *An Introduction to Homicide in India*. 'The Book' (on the first fold of the jacket).

42. The right of private defence was recognised in this country. In certain circumstances a man could kill another without incurring the liability of punishment. This may be called justifiable homicide. Homicides committed for the prevention of forcible and atrocious crime such as murder, robbery, arson and house-breaking at night as also that committed by a woman to save herself from being ravished by a man were justifiable homicides.

Law-givers like Manu, Baudhayana, Vāṣiṣṭha, Viṣṇu, Bṛhaspati, Kātyāyana have made positive references to this type of homicide.

Manu lays down certain circumstances when homicide was justifiable. They were, when robbers and so forth did not allow the twice-born men to offer sacrifices and fulfil other sacred duties, when in times of foreign invasion or of national calamities the twice born castes were threatened by improper intermixture which led to dire consequences when their own life was in danger; when they had to take part in a strife to protect the sacred things meant for sacrifice and fee of the priest and when the life and honour of women and brāhmaṇas were in danger. In such circumstances a man might slay without hesitation, the assassin involved whether he was one's teacher, a child or an aged man, a brāhmaṇa deeply versed in the *Vedas*; by killing an assassin the slayer incurred no guilt whether he did it publicly or secretly (by incantations or spells); in *Manu*. VIII. 348-351.

43. *Kaut.* 4.13.22.

44. *Manu*. VIII. 291-292.

But if the cart turned off the road through the driver's want of skill, the owner was to be fined; if damage was done, two hundred *paṇas*. If the driver was skilful but negligent, he was to be alone fined; if the driver was unskilful the occupants of the carriage also was each to be fined one hundred *paṇas*. But if he was stopped on his way by cattle or by carriage and he caused the death of any living being a fine was, without doubt, to be imposed. If a man was killed, his guilt was to be the same as that of a thief; for large animals such as cows, elephants, camels or horses, half of that. For injuring small cattle the fine was to be two hundred *paṇas*; fine for killing beautiful wild quadrupeds and birds was to amount up to fifty *paṇas*; for donkeys, sheep and goats the fine was to be five *māsas* but the punishment for killing a dog or pig was to be done *masz* (*Manu*. VIII. 293-98).

According to *Yājñ* (II. 298) too, a man was not punishable if somebody's death was caused while throwing a piece of wood or stone or while shooting an arrow or by the movement of the hand or by carriage or an animal when sufficient warning had been given by shouting to withdraw from the place.

45. *Kaut.* 4.13.23.

46. *Ibid.*, 4.13.27.

47. *Ibid.*, 4.13.24.

48. *Ibid.*, 3.19.11.
49. *Manu.* (VIII. 293-98); *Viṣṇu* (V. 175-76). The recommendations of *Yājñ.* (II. 245) are quite similar to those of *Viṣṇu*.
50. *Kaut.* 4.11.1-2.
51. *Kaut.* 4.11.15.
52. *Ibid.*, 4.11.18.
53. *Ibid.*, 4.4.18.
54. *Ibid.*, 4.11.13.
55. *Kaut.* 4.11.18.
56. *Ibid.*, 4.11.19.
57. *Ibid.*, 4.11.9.
58. *Kaut.* 4.11.10.
59. *Ibid.*, 2.29.16.
60. *Ibid.*, 2.26.1.
61. *Ibid.*
62. *Ibid.*, 4.10.5.
63. *Kaut.* 2.26.2.
64. *Ibid.*, 2.26.3.
65. *Kaut.* 4.10.2.

According to *Manu* (VIII. 296-98) for killing animals the fine was to be proportionate to the value and importance of the animal killed; for large animals such as cows, elephants, camels or horses the fine was to be half of that prescribed for killing human beings; for injuring small animals, not otherwise particularised the fine was to be two hundred *paṇas*; fine for injuring beautiful and auspicious deer such as *ruru* and *prisat* and birds such as parrots, gees and swans was to amount to fifty *paṇas*; for injuring donkeys, sheep and goats the fine was to be five silver *māsas* and for killing a dog or a pig it was to be one silver *māsa*.

66. In order to constitute theft five factors are essential:

- (a) Dishonest intention to take property—Intention is the gist of the offence. The intention to take dishonestly exists when the taker intends to cause wrongful gain to one person or wrongful loss to another person. This intention must exist at the time of moving the property.
- (b) The property must be movable—A thing so long as it is attached to the earth not being movable property is not the subject of theft but it becomes capable of being the subject of theft as soon as it is severed from the earth.
- (c) It should be taken out of the possession of another person. The property must be in the possession of the prosecutor. Thus there can be no theft of wild animals, birds or fish while at large but there can be theft of tamed animals only.
- (d) It should be taken without the consent of that person. The thing stolen must have been taken without the consent of the person in possession of it. The consent may be expressed or

implied and may be given either by the person in possession or by any person having for that purpose authority either expressed or implied.

- (e) There must be some moving of the property in order to accomplish the taking of it—The offence of theft is completed when there is a dishonest moving of the property even though the property is not detached from that to which it is secured. The least removal of the thing taken from the place where it was before is a sufficient asportation though it be not quite carried off. It is not necessary that the property should have been removed out of its owner's reach or carried away from the place in which it was found.

. . . *Indian Penal Code*, p. 304.

67. *Kaut.* 3.17.2.

68. *Kaut.* 3.10.20; Cf. *Kaut.* 2.36.4.

69. *Ibid.* 4.13.10.

70. *Yājñ.* (II, 275) and *Nārada* (*N. Tit.* 14, 13-16) have divided theft into three classes and have prescribed punishments according to the value of the thing stolen.

71. *Kaut.* 3.17.1.

"The term *sāhasa* has been used by Hindu law-givers in two senses. In a wider sense it means any illegal act which is performed with force or violence—thus rape is a kind of *sāhasa* so also are murder and mischief. But in a narrower and popular sense it means robbery i.e., taking another man's property, by force and in his presence". R.P. Dasgupta, *Crime and Punishment in Ancient India*, Part II, p. 95.

Manu (VIII. 332) distinguishes theft from robbery. Taking of another men's things in his presence and with violence is robbery but if the offence is committed in the absence of the owner it is theft.

72. *Kaut.* 3.17.5.

73. *Kaut.* 3.17.6.

74. *Ibid.* 3.17.7.

75. *Ibid.* 3.17.8.

76. *Ibid.* 3.17.9.

77. *Ibid.* 3.17.10.

78. *Kaut.* 3.17.11.

79. *Ibid.* 3.17.12.

Kaṭīlya (3.17.13) quotes Bṛhaspati who says that if the amount has been specified, the abetter shall be compelled to pay the stipulated amount to the person through whom he got the crime committed and fine to the king.

80. *Kaut.* 4.10.11.

81. *Ibid.* 4.10.16.

82. *Kaut.* 4.10.14.

83. *Ibid.*, 4.12.24.

84. *Ibid.*, 4.12.25.

85. *Mit. on Yājñ.* II, 283; *Smṛti*, Ch. II, p. 8.

Manu (XI. 176) is very much sympathetic on this point towards female offenders. According to him, in most of the cases of adultery the wife was neither to be given any legal punishment nor was she to be driven out of the house by her husband. She had to undergo only religious penances to atone for her guilt.

Yājñavalkya (I.70.72) is of the view that an adulterous wife was to be deprived of her authority over the servants, to be made to wear dirty clothes, to be given food just sufficient to enable her to survive, to be treated with scorn and be made to lie on the ground. She became pure when she had her monthly period, but if she conceived during the adulterous intercourse, she was to be abandoned.

Mitākṣara (*On Yājñ.* I.70, 72) maintains that abandonment consisted in not allowing her to participate her in religious rites and conjugal matters. She was not to be cast off on the street, but she was to be kept guarded in a room and was to be given food and raiment.

Gautama (XII. 35) prescribes that a wife who spoiled her chastity was to undergo a penance but she was to be kept under guard and given food.

86. *Kaut.* 3.4.21.

87. *Kaut.* 4.10.10.

Manu (IV. 134; VIII. 352, 353) denounces sexual intercourse with wives of other men in strong terms and says that there is nothing so detrimental to long life as this. He prescribes heavy punishments followed by banishment to such offenders. Giving justification as to why he prescribes so heavy punishments for adultery, he says that by adultery is caused a mixture of the castes among men and hence follows sin which cuts up even the roots and causes the destruction of everything.

According to *Nārada* (XIV. 6-10) sexual relation with another man's wife is *sāhasa* of the highest degree. For this kind of offence he prescribes the highest amercement, corporal punishment including death, confiscation of the entire property banishment from the town, branding as well as amputation of the offending limb.

Matsya Purāṇa (CCXXVII. 127) lays down capital punishment for knowing carnally.

Bṛhaspati (XXIII. 10-12) lays down that a man violating an unwilling woman was to have his penis and scrotum cut off and parade on an ass after the confiscation of his whole property.

88. *Manu*, VIII. 323.

89. *Nār.* App. 28.

90. *Bṛhas.* XXII. 18.

91. *Ibid.*, XXII. 18.

92. *Mṛccha*, IV. 6; *Dhatruhatsamgatam harami na tatha Balam dhanarathi Kvacit*.
93. *Yāj.* II, 274.
94. *Mālav.*, V. 10.
95. *Nār.* App. 32.
96. *Manu*, IX, 277, *Vis.* V. 136.
97. *A.S.* 3.17.
98. *Nār.* App. 4.
99. *Brhas.* XXII. 5-6.
100. *Ibid.* 17.
101. *Raghu.* I. 27, VI. 75.
102. *Ibid.*, XVII. 64.
103. J.H. Legge, *Records of Buddhist Kingdoms being as An Account of Chinese Monk Fa-hien's Travels*, Oxford, 1911, p. 73.
104. *Mālv.*, V. 90.
105. Shaman Hwui Li, *Life of Hiuen-tsang*, London, 1911, p. 73.
106. *J.O.I.*, XV, Nos. 3-4, p. 379.
107. *Manu.* IV. 134.
108. *Ibid.*, VIII. 353.
109. *Nār.* XII. 59.
110. *Yāj.* II. 283.
111. *Nār.* XII. 77.
112. *Kāṭ.* 830.
113. *Nār.* XII. 78.
114. *Manu.* VIII. 385.
115. *Abhi.* II. 437, R.C. Majumdar and H.D. Pusalkar ed. *The Age of Imperial Kanauj*, Bombay, 1955, p. 377.
116. *Manu.*, VIII. 362-63.
117. *Nār.* XII. 79.
118. *Brhas.* XXIII. 1-2.
119. *Nār.* XII. 62ff. 72.
120. *Ibid.*, 71.
121. *Ibid.*, 72.
122. D.C. Ryder, p. 63.
123. *Ibid.*, p. 115; *Parakālatralamghannadharmapida bhavet*.
124. *Ibid.*, p. 118.
125. *Ibid.*, pp. 132, 140.
126. *CII*, III, p. 242.
127. *SII*, IX, No. 77.
128. *YC*, III, 201, 206, VI-VII.
129. *Ibid.*, p. 359.
130. *RT*, III, 497-508, 522, V. 230-281ff.
131. *Manu*, VIII. 383.
132. *Nār.* XII. 74-75.
133. *RT.* VII, 684.
134. *KSS*, Taranga. 20.
135. *Yāj.* II. 292.

136. *Manu*, VIII. 363.
137. *Nār.* XII. 74-75.
138. *Watters*, I, p. 344, *Beal*, I, 214.
139. *Takakusu*, p. 63.
140. *Ibid.*, p. 63.
141. *Ibid.*
142. *Ibid.*, pp. 63-64.
143. *Yāma*, quoted in *Smṛti*, Candrika, p. 246.
144. *Bṛhas.* XXIII. 15.
145. *Kāt.* 487.
146. *Kāt.* quoted in the *Vivadaratnākara*, p. 400.
147. *Nārmamala*, p. 17.
148. *RT*, III, 497-508, V. 230, 281, VI. 222.
149. *Yāj.* I. 72.
150. *Nār.* XII, 91, *Manu* XI, 177ff.
151. *Kut.* 789-838.
152. *Para.* X. 32-34.
153. *Mār. Purāṇa*, 34, 62, 14, 76.
154. *Bṛhas.* XXIV. 2.
155. *CI*, III, pp. 93, 156, 207.
156. D.C. Ryder, p. 153.
157. H.C. Chakladar, *Social Life in Ancient India*, Calcutta, 1929, pp. 172-73.
158. D.C. Ryder, pp. 180-81; Chakladar, p. 183; K.S.S. Taranga, 13.
159. *Nār.* XII. 64, 68; *Bṛhas.* XXIII. 7.
160. *Bṛhat.* LXXVIII. 9-11.
161. *Pāra.* X. 17.
162. *Ibid.*, 21-22.
163. *JBORS*, 1907, p. 166, vv. 47-52.
164. *Agni.* 165, 6ff.
165. Kṛtya Kalpātaru, Sūddhi Kānda, *GOS*, CXII, 1950, p. 179; *B. Purāṇa*, II, 58, IV. 40, 47.
166. Renaudot, E. *Ancient Account of India and China by Two Mohammadan Travellers*, London, 1933, p. 33.
167. *AS.* 4.13.
168. *Yāj.* II. 293.
169. *Nār.* VI. 19.
170. *Manu*, VIII. 369. Also attributed to Nārada in the *Vivadacintamani*, p. 177.
171. *Vis.*, V. 42, 44; *AS.* 4.13; *Yāj.* II. 289; *Nār.*, XII. 76.
172. *Yāj.* II. 289, vide *Mitākṣara*.
173. *Matsya*, 227, 141-142.
174. *Para.*, X. 15.
175. *Ibid.*, 16.
176. *YC.*, p. 359.
177. *Nār.* XV-XVI. 1.
178. *Kaut.* 2.5.19; 4.11.9.

179. *History of Dharmasāstra*, Vol. III, p. 391.
180. *Bau. Dh. Su.* I. 10.99.2, *Ap. Dh. Su.* I. 9.24.1-4.
181. *Gau. Dh. Su.* XII. 1; *Manu.* VIII. 279; *Yāj.* II. 215.
182. *Gau. Dh. Su.* XII. 11.3.
183. *Bau. Dh. Su.* 11.3.10; *V. Dh. Su.* XVII. 58, 50; *Gau. Dh. Su.* XII. 31; *Manu* IX. 151; *Yāj.* II. 215.
184. *Gau. Dh. Su.* XII. 15-16; *Manu.* VIII. 338-39.
185. *Gau. Dh. Su.* XII. 1.8-12; *Manu.* XIII. 267-68; *Yāj.* II. 206-7.
186. *Ibid.*
187. *Gau. Dh. Su.*, XII. 13.
188. *Yāj.* II. 286.
189. *Gau. Dh. Su.* XII. 43; *Kau.* IV. 8; *Manu.* VIII. 125, 380-81; *Yāj.* II. 270; *Br.* XI.
190. *Nārada, Sāhasa*, 9-10.
191. *Kau.* IV. ii.
192. *VI. Dh. Su.* V. 189-90; *Manu.* VIII. 350-51; *Mātsyapurāṇa*, 227, 115-17.
193. *Manu.* VIII. 123, 378.
194. *Mitākṣhara on Yāj.* III. 243, *Haradaṭṭa on Gau.* II. 6.
195. *Kau.* IV. 13.
196. *Kauṣṭilya*, IV. 9. 12.
197. *Ibid.*, IV. 10.15.
198. *Ibid.*, IV. 10.1.
199. *Mūdrarākṣhasa* edition, p. 51.
200. *Nār.* XI. 15-16; *Brhas.* XIX, 27-28; *Kāt.* 756.
201. *Matsya*, 227.17-7; *Kāt.* 758-59.
202. *Agni.* 162.
203. *Brhas.* XIX, 25; *Kāt.*, 752-53.
204. *Yāj.* II. 278-79.
205. *Brhas.* XXII. 25.
206. *Manu.* IX. 280.
207. *Matsya.* 227.172.
208. *Manu.* IX. 283; *Matsya*, 227.176-79.
209. *Kāt.* quoted in *Vivādacintāmaṇi*, Section Robbery and Violence.
210. *Agni*, 162.
211. *Yāj.* II. 211; *Matsya*, 227, 188.
212. *Nār.* App. 56.
213. *Manu*, VIII. 138.
214. *Agni.* 227.4.
215. *Yāj.* I. 366.
216. *Nār.* XIV. 7-8.
217. *Brhas.*, XX. 15.
218. *Nār Parikirnaka*, 10-11; *Brhas.*, XXIII. 11; *Kāt.* 830.
219. *Nār. Parakirnaka*, 10-11.
220. Beni Prasad, *The State in Ancient India*, Allahabad, 1928, p. 303.

Select Bibliography

(I) ORIGINAL SOURCES

Agni Purāṇa : M.N. Datta

— : Panchanana Tarkaratna, Calcutta & Ānandāśrama Series, Bombay.

— : Ānandāśrama, Poona.

Arthaśāstra of Kauṭilya : Garola, Vachaspati, Varanasi, 1962.

— : Kangale, R.P., Bombay, 1969.

— : Shamasastri R., Mysore, 1960. Translation R. Shamasastri, Mysore, 1929.

— : Shastri, Devadatta, Allahabad.

— : Shastri, G.P., Delhi, 1940.

— : Shastri, Ramteja, Kashi, 1959.

— : Shastri, Udayavira, Lahore, 1925.

— : Vidyalankar, P.N., Lahore, 1923.

— : Kauṭilya, 4th Edition, Raghuvver Printing Press, Mysore, 1951.

Aṣṭādhyāyī of Pāṇini : Chaukhamba Press, Varanasi.

Āitareya Brāhmaṇa : (Ed.) : K.S. Agashe, Poona, 1896 and Anandasrama Series, Bombay.

Amarakośa of Amarasimha, : Ed. Ganapati Sastri with the commentaries of Kṣīrasvāmin and Vindyaghāṭīya Sarvananda, 4 parts, Trivandrum, 1914-1917.

Aṅguttara Nikāya : Ed. Morris & Hardy, 5 Volumes, PTS, London, 1885-1900.

Aparārka's Commentary on Yājñavalkya Smṛti : Ānandāśrama Series, Bombay.

Apastamba Dharmasūtra : Ed. Buhler, Bombay, 1892. Trans. SBE, Vol. XI.

Apastamba Srautasūtra : Ed. Garbe, Calcutta, 1882-1902. Trans. Call and, Amsterdam, 1924.

Asahāya's Commentary on Nārada : Ed : Kalyanabhattacha.

Astādhyāyī (Pāṇini Sūtra Pāṭha and Pariśiṣṭas with World Index) : Compiled by S. Pathaka and S. Chitra, Poona, 1935.

Astādhyāyī of Pāṇini : Madras, 1917.

Aśvalāyana Gṛhyasūtra : Ed. A.D. Stenzler, Leipzig, 1864.

Atharvaveda Saṁhitā : Ed. S.P. Pandit, Bombay, 1895-1898.

Atri Smṛti : Ānandāśrama Series, Poona, 1905.

Ancient India as described by Classical Writers : Mc Crindle.

Ancient India as described in Classical Literature : Mc Crindle.

Baudhayana Dharmasūtra : Ed. E. Hiltzsch, Leipzig, 1884, Trans. G. Buhler, SBE, XIV, Oxford, 1882.

Bhāgavadgītā, : Ed. F.E. Edgerton, Cambridge, Mass, 1946 (With the *Sanatsugātīya* and the *Amgīta*) trans. K.T. Telang, SBE, Vol. VIII, Oxford, 1882.

Bhāsa's Plays : Ed. T. Ganapati Sastri, Trivandrum, 1912-15, Trans. Woolner, A.C. and Lakhshman Sarup, London, 1930.

Bhaviṣya-kathā of Dhanapāla : Ed. C.D. Dalal & P.D. Gube, Baroda, 1923.

Bhaviṣya-Purāṇa : Pub. Venkateśvara Press, Bombay, 1910. Ed. with Samkara's commentaries by H.R.

Brhadaranyaka Upaniṣad (Upaniṣads, Ten Principal ones) : Bhagat, Poona, 1918. Trans. M. Muller, SBE, Vols. I & XV, London, 1879-84.

Brhajjātaka : Ed. and Trans. by H.P. Chatterjee (Sacred Book of the Hindus, XII), Allahabad, 1912.

Brhatkalpasūtra of Bhadrabāhu : Ed. H. Jacobi, Leipzig, 1879, Trans. H. Jacobi, SBE, XXII, Oxford, 1899.

Brhaspati Smṛti : Ed. A. Fuhrer, Leipzig, 1879, Trans. J. Jolly (SBE, XXXIII), Oxford, 1889, Ed. K.V.R. Aiyangar, Baroda, 1941.

Brhatsaṁhitā of Varāhamihira : Ed. H. Kern, Calcutta, 1865 (Bibliotheca Indica), Trans. N.C. Ayer, Madras, 1884.

- Buddhacarita of Āśvaghoṣa* : Ed. E.H. Johnston, Calcutta, 1936, Trans. E.B. Cowell, SBE, XLIX, Oxford, 1894.
- Chāndogya Upaniṣad* : Ed. & Tr. O. Bohtlingk, Anand Ashram, Poona, Leipzig, 1889.
- Caturbhāni* : Ed. & Tr. V.S. Agrawal and Motichandra.
- Daṇḍanīti* of Keśava Paṇḍita : Ed. V.S. Bendrey, Poona.
- Daṇḍaviveka* of Vardhamāna : Gaekwad Oriental Series, Baroda.
- Daśakumāracaritam* of Daṇḍi : Ed. H.H. Wilson, Trans. A.W. Ryder, Chicago, 1927, Ed. & Trans. V. Satyakopan, V. Mantracharya and H. Vaktavatsalam, Madras, 1955.
- Deśopadesa* of Kāemendra : Kavya Mala I.
- Devala-Smṛti* : Ānandāśrama Sanskrit Series, Poona.
- Digha-Nikāya* : Ed. T.W. Rhys Davids and J.E. Carpenter, 3 Vols., PTS, London, 1890-1911, Trans. T.W. Rhys Davids, 3 Vols., SBE, London, 1899-1921.
- Divyāvadāna* : Ed. E.B. Cowell & R.A. Neil, Cambridge, 1876 ; ed. P.L. Vaidya, Darbhanga, 1959.
- Gautama Dharmasūtra* : Ed. G.S. Gokhale (with Haradatta's Commentary), Ānandāśrama Sanskrit Series, 61, Poona, 1910, SBE, Vol. XI.
- Gṛhyasūtras* : Trans. H. Oldenberg, SBE, XXIX, XXX, Oxford, 1886-92.
- Harṣacarita of Bāṇabhaṭṭa* : Ed. K.P. Parab and V.L. Pansikar, Bombay, 1937 ; Trans. E.B. Cowell & T.W. Thomas, London, 1897.
- Jaina Lekha-Saṃgraha* (Jaina Inscriptions) : Ed. P.C. Nahar, Calcutta, 1927.
- Jainasūtras* : Ed. H. Jacobi (SBE, XXII, XIV), Oxford, 1884-86.
- Jātaka* : Ed. V. Fausholl, 7 Vols, London, 1877-97 ; Trans. by various hands, Ed. E.B. Cowell, Cambridge, 1895-1913.
- Kādambarī* of Bāṇabhaṭṭa : Ed. K.P. Parab, Bombay, 1896 (Nirṇaya Sagara Press), Trans. C.M. Ridding, London, 1896 ; Trans. M.R. Kale, Bombay, 1924.
- Kāmandakīya Nītisāra* (The *Nītisāra* of Kāmandaka) : Ed. J.P. Vidyasagara, Calcutta, 1875.
- Kāmasūtra of Vātsyāyana* : Ed. D.L. Goswami (with the Commentary of Jayamangala), Banaras, 1929.
- Karṇasundarī of Bilhaṇa* : Ed. Durga Prasad and K.P. Parab (Nirṇaya Sagara Press), 1888.

- Kathāsaritasāgara* of Somadeva : Tr. C.H. Tawney, Delhi, 10 Volumes.
- Kātyāyana-smṛti-samgraha* : Ed. N.C. Bandopadhyaya, Calcutta, 1947.
- Kātyāyana Smṛti-saroddhara* (*Kātyāyana Smṛti* on Vyavahāra, Law and Procedure) : Ed. (with reconstructed text, trans., notes and introduction), P.V. Kane, Bombay, 1933.
- Kāvya-darśa of Daṇḍin* : Ed. with trans. S.K. Belvalkar, Poona, 1924.
- Kāvya-mālā* of Rājaśekhara : Gaekwad Oriental Series, Baroda.
- Kṛtyākālpataru* of Lakṣmīdhara : Ed. K.V.R. Aiyangar (Gaekwad Oriental Series), Baroda, 1941-53.
- Kṛtyaratnākara* of Caṇḍesvara : Bib. Ind. Series, Calcutta.
- Kumārasambhava* of Kālidāsa : Ed. V.L. Sastri Panikar, Bombay, 1916.
- Kūrma Purāṇa* : Ed. N. Mukhopadhyaya, Calcutta, 1890.
- Kūsumāñjali* : Ed. E.B. Cowell, Calcutta, 1864.
- Lalitavistara* : Ed. S. Lefman, Halle, 1902-08 ; Ed. P.L. Vaidya, Darbhanga, 1958, Tr. J. Speyer, London, 1895.
- Liṅga Purāṇa* : Ānandāśrama Series, Poona.
- Mahābhārata* : Critical Edition, Bhandarkar Oriental Research Institute, Ed. by Various hands, Poona, 1927-54, 16 Vols., Ed. & Trans., P.C. Roy, 10 Vols., Calcutta, 1883-89 and 1895-1905.
- Mahāvagga* : Ed. Bhikkhu Jagadish Kashyap, Nava Nalanda Mahavihara, 1956.
- Mahāvastu* : Ed. E. Senart, 3 Vols., Paris, 1882-97.
- Majjhima Nikāya* : Ed. V. Trenckner and R. Chalmers, PTS, London, 1888-1927.
- Mānasollasa* of Someśvara : Gaekwad Oriental Series, Vols. 28 & 84.
- Manusmṛti* (or *Mānavadharmasūtra*) : Ed. with Kulluka's Commentary, Bombay, 1929 ; Ed. (with Medhātithi's Commentary) J.R. Gharpure, Bombay, 1920, Trans. G. Buhler (SBE, XXV), Oxford, 1886.
- Matsya Purāṇa* : Ed. B.D. Basu, SBH, Vol. XVII, Pts. i-ii, Allahabad, 1916-17.
- Medhātithi on Manu* : (Medhātithi's Commentary on Manusmṛti); Ed. Māndlika.

- Milinda-Pañho* : Ed. V. Trenckner, London, 1880 ; Tr. T.W. Rhys Davids (SBE), Vols. XXXV-XXXVI, Oxford, 1890-94.
- Mitākṣara on Yāj.* : (Mitākṣara, Commentary on Yājñavalkya-Smṛti), Nirṇaya Sagar Press.
- Mṛcchakaṭika* of Sūdraka : Ed. Nārāyana Rāma Ācharya, Bombay, 1950 ; Tr. A.W. Ryder, HOS, IX, 1937.
- Mudrārāksasa* of Viśākhadaṭṭa : Ed. K.T. Telang, Bombay, 1900.
- Nārada-Smṛti* : Ed. J. Jolly, Calcutta, 1885.
- Nayasāhasāṅkacarita* : Ed. V.S. Islampurkar. Bombay Sanskrit Series, 1895.
- Nītikalpataru* : Ed. V.P. Mahajan, Poona, 1936.
- Pādatāḍitakam* of Syāmalika : Ed. G.H. Schokker, Hague-Paris, 1966.
- Padma Purāṇa* : Ed. Panchanan Tarkaratna, Calcutta, 1326 BS.
- Pañcatantra* : In its oldest recension, the Kashmirian, entitled *Tantrākhyāyikā*, Ed. J. Hertel, Harvard Oriental Series, XIV, Harvard, 1915, the text in its oldest form, Ed. F. Edgerton, Poona, 1930.
- Parāśaramādhaviyā* : Bombay Sanskrit Series III.
- Pūrvamīmāṃsā*, (Ed.) G.N. Jha.
- Rājatarāṅgiṇi* of Kalhaṇa : Ed. and Trans. M.A. Stein, London, 1900, 2 Vols. Text (2nd revised edn.), Delhi, 1960, Trans. Delhi, 1961 (2 Vols).
- Rājanīti-Ratnākara* : Ed. K.P. Jayaswal, Bihar Research Society Patna, 1936.
- Raghuvamśa* of Kālidāsa : Ed. G.R. Nandargiker, 3rd ed., Bombay, 1935, Trans. M.N. Dutt, Calcutta, 1892-94.
- Ramācarita* of Sandhyākaranandī : Ed. & Trans. R.G. Basak, Calcutta, 1953.
- Rāmāyaṇa* of Vālmiki : Ed. Kasinatha Panduranga, 2 Pts., Bombay, 1888.
- R̥gveda-Saṁhitā and Pāda* : Text with Sayāna's Commentary, critically edited by Vaidika Samsodhana Maṇḍala, 4 Vols, Poona, 1933.
- Śakuntalam* of Kālidāsa : Ed. Pischel, Harvard, 1922; Ed. & Trans. Karmakar, Poona, 1952.
- Samarāiccakahā* of Haribhadra : Ed. H. Jacobi, Calcutta, 1926.
- Samāraiccakahā* of Haribhadra Sūri : Ed. & Trans. Pandita Bhagavanadasa, Jaina Society, Ahmedabad, Vol. I, 1938 and Vol. II, 1942.

- Saṅyūta-nikāya*, : Ed. L. Freer, PTS, London, 1884-98 (Book of the Kindred Savings), Trans. Vols. I-III by Mrs. Rhys Davids, Vols. IV-V by F.L. Woodward, PTS, London, 1917-1930.
- Sarasvatī-Vilāsa* of Prataparudradeva : Pub. Mysore University Oriental Library.
- Śatapatha Brāhmaṇa* (Mādhyandina recension) : Ed. V. Sharma Gauda and C.D. Sharma, Kasi, Samvat 1994-97. Ed. A. Weber, London, 1885, Trans. J. Eggeling, SBE, Vols. XII, XXVI, XLI, XLIII, XLIV, Oxford, 1882-1900.
- Śiṣupālavadha* of Māgha : Ed. Haridasa Siddhantavagisha (Nirnaya Sagara Press), Bombay, 1927.
- Smṛti-Candrikā* of Devanabhaṭṭa : Ed. L. Srinivasacharya, Govt. of Mysore, Ed. J.R. Gharpure, Bombay, 1918.
- Smṛti-Samuccaya* : (A Collection of 27 Smṛtis of Angira, Atri, Devala, Yama etc.), Poona, 1929.
- Samayamāṭṛkā* of Kāemendra : Kāvya-māla X.
- Śukranīti-Sāra* : Ed. Brāhmasamkara Miśra, Chowkhamba Sanskrit Series, Vārānasi, 1968, Trans. B.K. Sarkar (Sacred Book of the Hindus, Vol. XIII), Allahabad, 1914.
- Sūryasataka* : (and other poems attributed to Mayura) Ed. G.P. Quackentos, Indo-Iranian Series, IX.
- Suttanipāta* : Text and Trans. R. Chalmers, HOS, Vol. XXXVII, Cambridge, 1932; Tr. Fausboll, SBE, Vol. X, Oxford, 1893.
- Vikramānakadevacarita* of Bilhaṇa : Ed. G. Buhler, Bombay Sanskrit Series, 1875.
- Vinaya Piṭaka* : (Vinaya Texts), Trans. T.W. Rhys Davids and R. Oldenberg, SBE, XIII, XVII, XX, London, 1881-5. Ed. H. Oldenberg, 5 Vols, London, 1879-83, Trans. I.B. Horner, 5 Pts., SBE, London, 1938-52.
- Viṣṇudharmasmṛti* (*Viṣṇu-smṛti*) : Ed. J. Jolly, Bibliotheca Indica Series, Calcutta, 1881, Trans. J. Jolly, SBE, VII, Oxford, 1880.
- Viṣṇu Purāṇa* : Pub. Gopal Narain and Co., Bombay, 1889, Trans. H.H. Wilson, London, 1840.
- Vivadācandra* of Misaru Miśra : Ed. Priyanatha Mitra, Calcutta, 1931.
- Vīyāda-cintāmaṇi* of Vācaspati Miśra : Ed. Khemraj Shrikrishnadas, Bombay, Trans. G.N. Jha.

- Vivāda-ratnākara* of Candesvara Thakura : Bibliotheca Indica Series, Calcutta, 1903.
- Vyavahāra-matṛka* of Jimūtavāhana : Ed. Ashutosh Mukherji in the Memoirs of Asiatic Society of Bengal, Vol. III.
- Vyavahāra-mayūkha* of Nilakanṭha : Ed. P.V. Kane, Bombay.
- Vyavahārā-nirṇaya* of Varadarāja : Ed. K.V.R. Aiyangar, Adyar Library Series.
- Vyavahāra-Prakāśa* : (Being a part of the Viramitrodaya of Mitra Misra), Chowkhamba Sanskrit Series, Varanasi.
- Yājñavalkya-Smṛti* with Mitākṣara : (Commentary of Vijñānesvara), and Viramitrodaya, Chowkhamba Sanskrit Series, Varanasi, Samvat 1986.
- Yama-smṛti* : Ānandāśrama Sanskrit Series, Poona, 1905.
- Yāśastilaka* of Somadeva : Ed. Pandita Sivadatta, Nirṇaya Sagara Press.
- Yuga-Purāṇa* : Ed. D.R. Mankad, Vallabhavidyanagar, 1951.

(II) SECONDARY SOURCES

- Agrawal, V.S. : *India as known to Pānini*, Lucknow, 1952.
- : *Indian Art*, Varanasi, 1965.
- : *Harṣacarita* : *Ēka Sanskritika Adhyayana* (Hindi).
- : *Kādambarī* : *Ēka Sanskritika Adhyayana* (Hindi).
- Altekar, A.S. : *State and Government in Ancient India*, Delhi, 1962.
- Aquique, Md. : *Economic History of Early Mithila*, New Delhi, 1976.
- Avebury (Lord) : *Pre-historic Times*.
- Bandopadhyaya, N.C. : *Development of Hindu Polity and Political Theories*, 2 Pts., Calcutta, 1927-28.
- Banerji, P.N. : *Public Administration in Ancient India*, MacMillan & Co., 1916.
- Basham, A.L. : *The Wonder that was India*, London, 1954.
- Basu, N.K. (Ed.) : *Sacred Books of the East*, Vol. I.
- Beal, S. : *Buddhist Records of the Western World* (Trans. the Travels of Hiuen-Tsang, also containing the English translation of the Travels of Fa-Hian and Sung-Yun), 2 Vols., London, 1884, New Edition, 1906.
- Bhandarkar, D.R. : *Some Aspects of Ancient Indian Polity*, Banaras, 1929.

- Bhattacharjee, H.N. : *The Ethical Foundation of Hindu Jurisprudence*, Calcutta, 1932.
- Bhattacharya, S.C. : *Some Aspects of Indian Society*, Calcutta, 1978.
- Bose, A.K. : *Social and Rural Economy of Northern India*, 2 Vols, Calcutta, 1961 and 1967.
- Bury : *The Idea of Progress*.
- Birendra Nath : *Judicial Administration in Ancient India*.
- Banerji, P.N. : *Public Administration in Ancient India*, Macmillan and Co., 1916.
- Banerji, R.D. : *The Age of the Imperial Guptas*, Banaras, 1933.
- Chakladar, H.C. : *Social Life in Ancient India*, Calcutta, 1929.
- Chakravarty, C. : *A Study in Hindu Social Polity*, Calcutta, 1923. (Reprint) Mittal Publications, Delhi, 1987.
- Choudhary, R.K. : *Studies in Ancient Indian Law and Justice*, 1953.
- : *Kauṭilya's Ideas and Institutions*, Varanasi, 1972.
- Das, Sukla : *Crime and Punishment in Ancient India*, New Delhi, 1977.
- Dasgupta, R.P. : *Crime and Punishment in Ancient India*, Calcutta, 1930.
- Datta, Bhupendranath : *Studies in Indian Social Polity*, Calcutta.
- De, S.C. : *Kālidāsa and Vikramāditya*, Calcutta, 1928.
- De, Satyavrata : *Caryagiti-Paricaya* (in Bengali).
- Diamond, A.S. : *Primitive Law*, London, 1950.
- Dikshitar, V.R.R. : *Kingship and Community in Early India*, California, 1962.
- Dutt, R.C. : *Later Hindu Civilization (320-800 A.D.)*, Calcutta, 1906.
- Elliot, Henry : *Memoirs on the History, Folklore and Distribution of Races of North-West Frontier Province*, Vol. I.
- Elliot, H.M. & Dowson, J. : *The History of India as told by Its Own Historians*, 8 Vols., London, 1867-77.
- Fick, R. : *Social Organisation of North East India in Buddha's Time*, Trans. S.K. Maitra, Calcutta, 1920.
- Fleet, J.F. : *Corpus Inscriptionum Indicarum*, Vol. III, London, 1888.
- Frankfort, H. : *Kingship and the Gods*, Chicago, 1948.
- Garatt, G.T. *The Legacy of India*, Oxford, 1937.

- Ghoshal, U.N. : *A History of Indian Political Ideas*, Bombay, 1959.
- : *A History of Hindu Public Life*, Vol. I, Calcutta, 1945 ; Vol. II, Bombay, 1966.
- : *The Agrarian System in Ancient India*, Calcutta, 1930.
- Ghoshe, J. : *The Principles of Hindu Law*, Calcutta, 1903.
- Gokhale, B.G. : *Ancient Indian History and Culture*, Bombay, 1956.
- Gyani, S.D. : *Agni Purāṇa : A Study*, Varanasi, 1964.
- Haikarwal, B.S. : *Economic and Social Aspects of Crime in India*.
- Handiqui, K.K. : *Yasastilakacampu and Indian Culture*, Sholapur, 1949.
- Hazra, R.C. : *Studies in the Purāṇic Records on the Hindu Rites and Customs*, Dacca, 1936.
- Hodson, T.C. : *The Primitive Culture of India*, London, 1922.
- Hopkins, E.W. : *India : Old and New*, New York, 1902.
- : *The Religions of India*, Boston, 1895.
- Iyengar, P.T.S. : *Life in Ancient India*, Madras, 1912.
- Jain, J.G. : *Life in India as depicted in Jaina Canons*, Bombay, 1947.
- Jauhari, Manorama : *Politics and Ethics in Ancient India*, Varanasi, 1968.
- Jayaswal, K.P. : *Manu and Yājñavalkya—A Comparison and Contrast*.
- Jha, D.N. : *Revenue System in Post-Mauryan and Gupta Times*, Calcutta, 1967.
- Jha, G.N. : *Hindu Law in Its Sources*, 2 Vols, Allahabad, 1930, 1933.
- Jolly, J. : *Hindu Law and Custom*, Calcutta, 1938.
- Joshi, L.M. : *Studies in the Buddhist Culture of India*, Delhi, 1967.
- Kaegi, Adolf : *Life in Ancient India*, Calcutta, 1950.
- Kane, P.V. : *History of Dharmasāstra*, 4 Volumes, Poona, 1941-53.
- Kantawala, G.S. : *Cultural History from the Matsya Purāṇa*, Baroda, 1964.
- Karve, I. : *Hindu Society : Interpretation*, Poona, 1961.
- Keith, A.B. and Macdonell, A.A. : *Vedic Index*, 2 Vols. London, 1912.

- Keesing, Felix M. : *The Science of Custom, Cultural Anthropology*, New York, 1960.
- Keilhorn, F. : *Kātyāyana and Pātañjali*, Varanasi, 1963.
- Kosambi, D.D. : *The Culture and Civilisation of Ancient India*, New Delhi, 1976.
- Law, B.C. : *Magadhas in Ancient India*, London, 1946.
- Mabbett, I.W. : *Truth, Myth and Politics in Ancient India*, New Delhi, 1972.
- Macdonell, A.A. : *India's Past*, Banaras, 1956.
- Maine, H. : *Ancient Law*, London, 1861.
- Majumdar, B.P. : *Socio-Economic History of Northern India*, Calcutta, 1960.
- Majumdar, R.C. : *Classical Accounts of India*, Calcutta, 1960.
- : *Corporate Life in Ancient India*, Calcutta, 1920.
- Maitreya, A.K. : *Gaudalekhamala*, Rajshahi, 1912.
- Maity, S.K. : *Economic Life of Northern India in the Gupta Period* (cir. A.D. 300-A.D. 500), Delhi, 1970 (2nd edn).
- : *Early Indian Coins and Currency System*, Delhi, 1970.
- : *Gupta Civilization : A Study*, Calcutta, 1974.
- : *The Imperial Guptas and Their Times*, Delhi, 1975.
- McCrindle, J.W. : *Ancient India as Described by Megasthenes and Arrian*, Bombay, 1877.
- : *Ancient India as Described in Classical Literature*, Westminster, 1901.
- Meyer, J.J. : *Sexual Life in Ancient India*, 2 Vols., London, 1952.
- Mitra, Ved : *India of Dharmasūtras*, Delhi, 1965.
- Mitra, Priti : *Life and Society in the Vedic Age*, Calcutta, 1966.
- Monahan, F.J. : *Early History of Bengal*.
- Mirashi, V.V. : *Corpus Inscriptionum Indicarum*, Vol. IV.
- Monier-Williams, M. : *Sanskrit-English Dictionary*, Oxford, 1899.
- : *Indian Wisdom*, London, 1876.
- Muir, J. : *Original Sanskrit Texts on the Origin and History of the People of India, Their Religion and Institutions*, 4 Vols. (2nd edn.), London, 1872.
- Motichandra : *Trade and Trade-routes in Ancient India*, New Delhi, 1977.
- : *The World of Courtesan*, New Delhi, 1977.

- Nilakantha, K.A. : *The Theory of Pre-Muslim Indian Polity*, Madras, 1921.
- Oppert, G. : *On the Ancient Commerce of India*, Madras, 1879.
- Prasad, A.D. : *Corruption and Administration*, Patna, 1968.
- Prasad, Beni : *Theory of Government in Ancient India*, Allahabad, 1927.
- Prasad, P.C. : *Foreign Trade and Commerce in Ancient India*, New Delhi, 1977.
- Pusalkar, A.D. : *Studies in the Epics and Purāṇas*, Bombay, 1963.
- Rai, K.K. : *Aparadha aur Daṇḍa*, (in Hindi), Varanasi, 1965.
- Renou, Louis : *The Civilization of Ancient India*, Calcutta, 1959.
- : *Vedic India*, Calcutta, 1957.
- Roy, B.P. : *Political Ideas and Institutions in the Mahabharata*, Calcutta, 1975.
- Sabnis, S.A. : *Kālidāsa : His Style and His Times*, Bombay, 1966.
- Sachau, S.C. : *Alberuni's India*, London, 1888.
- Saletore, B.A. : *Ancient Indian Political Thought and Institution*, Calcutta, 1963.
- Saletore, R.N. : *Life in the Gupta Age*, Bombay, 1943.
- Sarkar, B.K. : *The Political Institutions and Theories of the Hindus*, Leipzig, 1922.
- Sarkar, G. : *Hindu Law*, Calcutta, 1903.
- Sarkar, K.R. : *Public Finance in Ancient India*, New Delhi, 1978.
- Sen, A.K. : *Studies in Hindu Political Thought*, Calcutta, 1926.
- Sen, B.C. : *Historical Aspects of the Inscriptions of Bengal*, Calcutta, 1942.
- : *Economics in Kauṭilya*, Calcutta, 1962.
- Sharma, R.S. : *Indian Feudalism*, Calcutta, 1965.
- : *Some Economic Aspects of the Caste-System in Ancient India*, Patna, 1852.
- : *Śūdras in Ancient India*, Delhi, 1958.
- Sharma, B.N. : *Social and Cultural History of Northern India*, New Delhi, 1972.
- Shrivastava, B. : *Trade and Commerce in Ancient India*, Varanasi, 1968.
- Sinha, S.N. & Basu, N.K. : *History of Prostitution in India*, Vol. I, Calcutta, 1933.
- Sircar, D.C. (Ed.) : *Pracyavidyatarāṅgiṇi*, Calcutta, 1969.

- Sircar, D.C. : *Indian Epigraphy*, Delhi, 1965.
- : *Select Inscriptions, Vol. I*, Calcutta, 1942.
- : *Studies in Indian Coins*, Delhi, 1968.
- : *Land System and Feudalism*, Calcutta, 1966.
- Spellman, J.W. : *Political Theory of Ancient India*, Oxford, 1964.
- Steele, A. : *The Law and Custom of Hindoo Caste*, London, 1868. Reprinted in India under the title '*The Hindu Castes : Their Law, Religion and Customs*', Mittal Publications, Delhi, 1986.
- Sternbach, Luding : *Juridical Studies in Ancient Indian Law*, Pts. I-II, Delhi, 1964 & 1967.
- Stokes, W. : *Hindu Law Books*, Madras, 1865.
- Strange, Thomas : *Hindu Law*, 1836.
- Sutherland, E.H. & Cressey, D.R. : *Principles of Criminology*, Bombay, 1965.
- Thakur, A. : *Hindu Law of Evidence*, Calcutta, 1933.
- Thakur, Upendra : *History of Mithila*, Darbhanga, 1956.
- : *History of Suicide in India*, Delhi, 1962.
- : *Some Aspects of Ancient Indian History and Culture*, New Delhi, 1974.
- : *Homicide in India : An Introduction*, New Delhi, 1978.
- Thapar, R. : *Aśoka and the Decline of the Mauryas*, London, 1961.
- Tod, James : *Annals and Antiquities of Rajasthan*, Madras, 1873.
- Upadhyaya, B.S. : *India in Kālidāsa*, Allahabad, 1947.
- Valvalkar, P.H. : *Hindu Social Institutions*, Baroda, 1942.
- Varadachariar, S. : *Hindu Judicial System*, Delhi.
- Vyasa, S.N. : *India in the Ramayana Age*, Delhi, 1967.
- Watters, T. : *On Yuang Chwang's Travels in India*, 2 Vols., New Delhi, 1973.
- Westermarck : *Origin and Development of Moral Ideas*, London.
- West, R. and Buhler, G. : *A Digest of the Hindu Law*, Bombay, 1884.
- Wheeler, R.E.M. : *Indus Civilization*, Cambridge, 1953.
- : *Rome Beyond the Imperial Frontiers*, Pelican Series, 1955.
- Yadava, B.N.S. : *Society and Culture in Northern India in the Twelfth Century*, Allahabad, 1973.
- Yadav, J. : *Samaraicchakaha : Eka Sanskritika Adhyayana* (in Hindi), Varanasi, 1977.
- Yale (ed.) : *Marco Polo*.

(III) JOURNALS AND PERIODICALS

- Ancient India Bulletin of the Archaeological Survey of India.
 Annual Report, Archaeological Survey of India.
 Annals of the Bhandarkar Oriental Research Institute, Poona.
 Bulletin of the School of Oriental and African Studies, London.
 Bombay Police Journal, Vol. 6, No. 6, January, 1955—V.
 Plates 24 cm.
 East and West, Rome.
 Epigraphia Indica.
 Indian Antiquary, Bombay.
 Indian Historical Quarterly, Calcutta.
 Indian Police Journal sponsored by the Government of India,
 Vol. 1, July 1954, New Delhi, the ed. 1954—V illus.
 History of Orissa Police Cuttack, Orissa, Police Magazine, 1961,
 Sahu Nabin Kumar.
 Journal of the American Oriental Institute, New Haven.
 Journal of the Andhra Historical Research Society.
 Journal of the Asiatic Society of Bengal, Calcutta.
 Journal of the Bihar Research Society, Patna.
 Journal of the Indian Society of Oriental Art, Calcutta.
 Journal of the Numismatic Society of India, Varanasi.
 Journal of the Economic and Social History of the Orient,
 Leiden.
 Journal of the Oriental Institute, Baroda.
 Maharashtra Police Journal, Vol. I, No. 1, May, 1960, Bombay
 Govt. Central Press, 1960, Police Maharashtra.
 Numismatic Chronicle, London.
 Orissa Police Magazine, Souvenir of the Indian Police Centenary
 1861-1961, Editor, 1961.
 Proceedings of the Indian History Congress.
 Proceedings of the All India Oriental Conference.
 Police India, Sardar Vallabhbhai Patel National Police Academy,
 Vol. 25, 1975, Abu, 195.
 Transactions of the International Congress of Orientalists.
 The Police in India, Ministry of Information and Broadcasting,
 Public Division, 1958.

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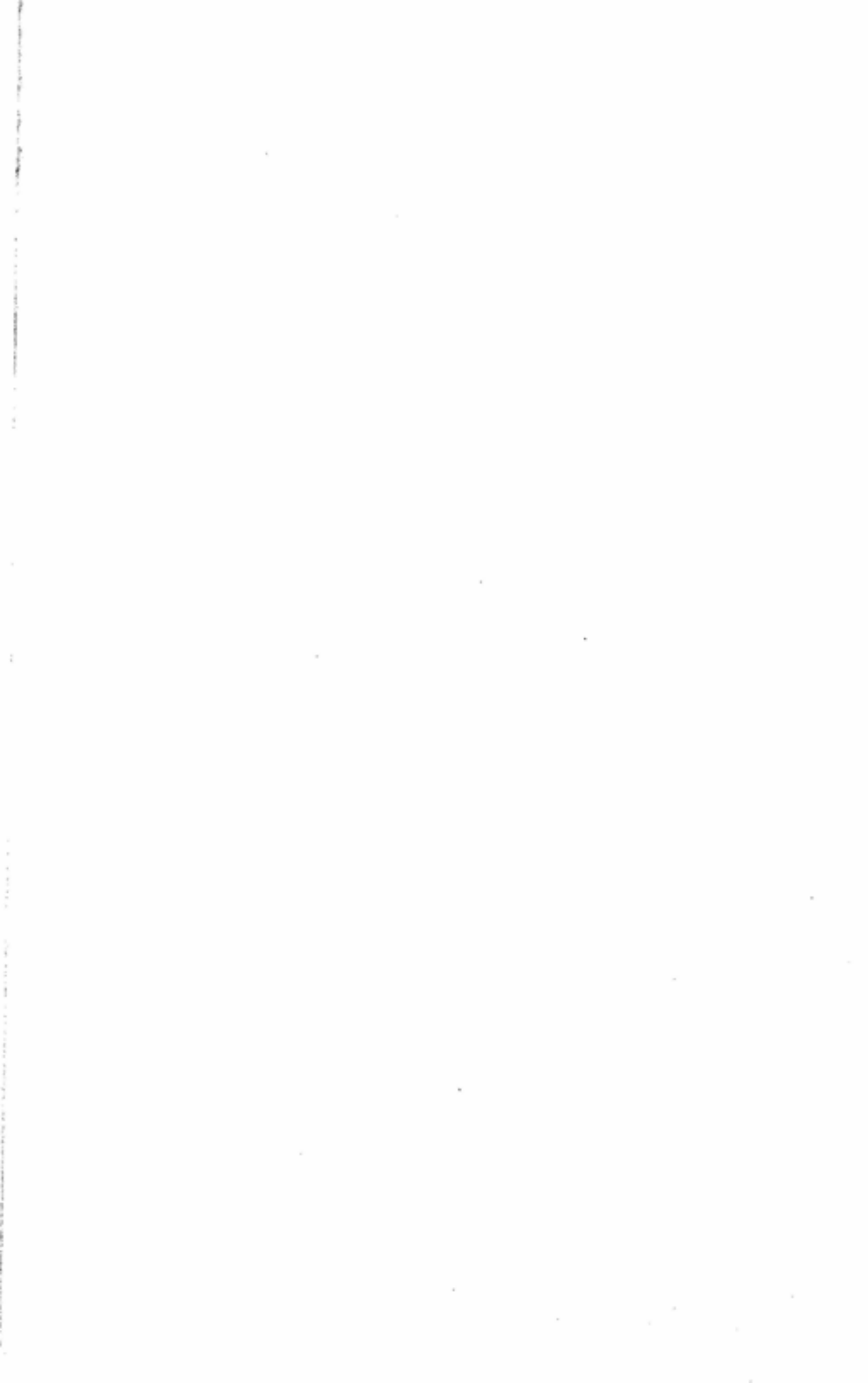
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