

THE CRIMINAL JUSTICE ADMINISTRATION DURING SAMUDRAGUPTA'S REIGN: INSIGHTS INTO THE ANCIENT INDIAN JUDICIAL SYSTEM

Abstract

The rich legal system of India has evolved through various centuries and can be traced back to the Vedic age. Legal treatises of ancient India include *Dharmaśāstras*, *Arthaśāstra*, and *Smṛti* (*Manusmṛti*, *Bṛhaspatismṛti*, *Yājñavalkyasmṛti*, *Nāradaśmṛti*, and *Kātyāyanasmṛti*). Most of these legal texts were composed during the Gupta age (c. third century to sixth century CE). An elaborate legal system emerged in India under the unwavering Guptas where the demarcation between the *dharmasthīya* (civil courts) and *kaṇṭakaśodhanā* (criminal courts) was made. A strong Gupta empire emerged due to the aggressive conquest policies of Samudragupta which not only expanded the empire but also brought into its spectrum the local courts (*kula*, *śreṇi*, and *gaṇa*). In these local courts, a judgment of a *kula* could be examined by the *śreṇi*, and a *śreṇi*'s decision could be reviewed by the *gaṇa*, therefore portraying the hierarchy of courts during the reign of Samudragupta. The justice delivery was not the sole prerogative of the judiciary, and the state also participated in disseminating social and equitable justice. Thus, one can see the separation of powers of the *nṛpa* into various organs of state such as legislature, executive, and judiciary. Thus, this paper discusses various aspects of the emergence of an erudite judicial system during the time of Samudragupta. Texts that highlight the evolution and continuity of the legal system such as the *Dharmaśāstras*, *Arthaśāstra*, *Smṛti*, *Mahābhārata*, and *Rāmāyaṇa* will be studied. To understand the organisational structure, epigraphs like *Prayāga-praśasti* and *Eran* will be used in addition to the Archaeological Survey of India Reports. To comprehend the judicial proceeding of the court and its procedure, in addition to the legal texts, the drama named *Mṛcchakaṭikam*, and the travelogue of Faxian will be studied. This paper thus tries to connect the dots and suggest that the present justice delivery system has its roots in the ancient Indian legal system where it was originally conceptualised.

Authors

Dr. Nirupama Singh

Assistant Professor
Amity Law School, Noida (U.P.)

Dr. Aradhya Singh

Assistant Professor
School of Law
UPES, Dehradun, (U.K.)

Keywords: Gupta age, Prayāga-praśasti, Court system, Justice Delivery, Criminal Justice

I. INTRODUCTION

The ancient Indian thinkers have understood the state in comparison to the non-state or pre-state conditions where the doctrine of *matsyanāya* (the logic of fish) prevails in the absence of an able ruler. The *Mahābhārata* in the *Śāntiparva* mentions that in such a situation the strong would annihilate the weak, like big fishes' prey on the weak fishes. A similar idea was echoed in the *Rāmāyaṇa*, *Manusmṛiti*, and *Matsya Purāṇa*. The treatises like *Arthaśāstra* of Kauṭilya (fourth century CE) and *Nītisāra* of Kāmandaka (c. 500-700 CE) also agree that in the absence of a strong king who can wield punishment the powerful engulf the powerless and the absence of *daṇḍa* (punishment) has a destructive logic which can lead to the disorder in the world. *Śukranīti* also considers *daṇḍa* (punishment) as successful in annihilating the logic of fish. It is the fear of punishment that refrains subjects from committing crimes and being virtuous. In ancient times the ruler in his court was seen as the personification of *daṇḍā*. He is called the *daṇḍadhāraka* i.e. the bearer of the rod or administering justice, the ruler thus presides over and regulates the state.¹

During the Gupta period, Samudragupta (c. 335 to 375 CE) was exalted as the most skilled ruler. He is well known for expanding his empire through his military prowess and undertaking a *digvijaya*.² In his coins he is shown as *daṇḍadhāraka*, suggesting that he was the wielder of justice. The following gold coin dating to the early period of his reign depicts him as the political and religious head.



Figure 1: Samudragupta's Gold Coin, Source: The Coins Galleries, <https://coinindia.com/galleries-samudragupta.html>

¹ Haridas Bhattacharyya (ed.), *The Cultural Heritage of India*, 260-267 (Sri Ramakrishna Centenary Committee, Belur Math, Calcutta, Vol. III, 1936).

² JF Fleet, *Inscriptions of the Early Gupta kings and their Successors*, *Corpus Inscriptionum Indicarum*, 6-14 (Indological Book house, Varanasi, Vol. III, 1960).

On the obverse, Samudragupta is depicted as carrying *rājadanda* (royal standard) in the left hand, and from the right he offers a sacrifice at an altar, adjacent to which the *Garuḍadhvaja* (the royal insignia of Guptas) is placed. The coin also mentions the name of the king in Brāhmī at the edge of the coin. On the reverse goddess Ardoksho (in the later coins she is replaced by the goddess Lakṣmī) is seated on a raised throne holding a fillet in the outstretched right hand and cornucopia in the left, next to which *Parākramaḥais* is written in Brāhmī.³

This paper aims to explore the legal system that developed during the reign of Samudragupta in the context of the Gupta period. The evidence about Samudragupta comes from *Prayāga-praśasti* (Allahabad inscription) and Eran inscriptions. He was not the immediate successor to the throne as can be seen from the *Prayāga-praśasti*. The principle of succession to kingship during the Gupta period was not based on primogeniture but on the practice of the befitting prince being selected by the ruler from amongst his sons. The first example of this comes from the *Prayāga-praśasti* of Samudragupta where he was selected by his father (Chandragupta I) as the worthy successor from among others of equal birth, who had the look of melancholy on their faces upon his selection.⁴ Another example is from the Mathura stone inscription of Chandragupta II where the term *tatparigrihitena* points to Chandragupta II being selected by his father (Samudragupta) as his successor.⁵

The valour of Samudragupta as the consolidator of his empire also comes from the Eran inscription which equates him with gods like Dhanada (god of pleasure) and Antaka (god of anger). It further glorifies him as the eradicator of the whole tribe of kings upon the earth (*pārthiva-gaṇas-sakalahprithivyām...starājya-vibhava-dhrutm-āsthito-bhūt*).⁶

Samudragupta's reign thus marked a significant advancement in the administrative setup of the empire. He also presided over a sophisticated judicial system that reflects the complexities of ancient Indian governance.

He is also lauded in the Mathura stone inscription of his son Chandragupta II as *asarvarājocchetuḥprithivyām* (destroyer of all kings from the earth) thus increasing the political authority of his dynasty.⁷ This paved the way for his successors to have a peaceful reign where they developed the socio-cultural authority of the Guptas by patronising poets, artists, scholars, travellers, etc., and commissioned various artworks as well as literature.

II. JUDICIAL SET-UP AND COURT ADMINISTRATION DURING THE REIGN

Before the Gupta era, the *Dharmaśāstras* demarcated the duties of all the *varṇas*. The civil and criminal laws were also divided based on the caste division. According to civil and criminal law, the higher the *varṇa*, the purer it was, and the higher standard of moral behaviour was expected from them. The *Dharmaśāstras* prescribed civil and criminal law,

³ PL Gupta, *Coins*, 69-71; 250 (National Book Trust, New Delhi, 2016). (1969).

⁴ *Supra* note 2 at 6-11, line 7.

Āryoh-īty-upaguhya bhava-piśunair-utkarṇitairomabhiḥsabhyeś-ucchvasiteśu tulyakulaja-mlān-ānan-odvīksitaḥ.

⁵ *Supra* note 2 at 27.

⁶ *Supra* at 2, line 9-12.

⁷ *Supra* note 2 at 26, line 1.

which was enforced by royal agents, who inflicted severe penalties and punishments on the offenders. The punishments included scourging, beheading, and tongue tearing. Thus, during this time punishments for criminal offences were governed by the concept of revenge or vengeance and prescribed *varṇa* discrimination. However, Aśoka introduced the same civil and criminal laws for all *varṇas*, through *vyavaharasamata* (subjects equal before law) and *daṇḍasamata* (equality of punishment).⁸

Compared to earlier eras, the Guptas' judicial system was significantly more advanced. This was the time when many law books like *Manusmṛti*, *Brhaspatismṛti*, *Yājñavalkyasmṛti*, *Nāradaśmṛti*, *Kātyāyanasmṛti*, and *Nītisāra*, were compiled and for the first time, civil and criminal law were clearly defined and demarcated.⁹ Adultery and theft came under criminal law and property disputes were considered civil law matters. Inheritance laws were also elaborated. In tandem with the earlier laws, the discrimination of laws based on *varṇa* distinction was continued.¹⁰

1. The Legal Text for Appointment of Offices

While describing the justice system, *Manusmṛti* (c. 2nd-century BCE-2nd century CE) also suggested that a *sūdra* should never be appointed as a legal interpreter. It emphasised that a king should try the case, accompanied by *brāhmaṇas* and counsellors. A king should look into the cases by the legal texts and laws of the region. In case, the king is unable to attend a legal proceeding he should appoint a learned *brāhmaṇa* as the judge accompanied by three assessors.¹¹ Though *Manusmṛti* does not demarcate between the civil and criminal laws, it gives 18 *vyavahārapadas* (law titles); *ṛṇādāna* (non-payment of debt), *nikṣepa* (deposits), *asvāmivikraya* (sale without ownership), *saṃbhūyasamutthā* (partnerships), *dattasyānapākarma* (non-delivery of gifts), *vetanādāna* (non-payment of wages), *saṃvidvyatikrama* (breach of contract), *krayavikrayānuśaya* (termination of sale and purchase), *svāmipālavivāda* (disputes between owners and herdsmen), *sīmāvivāda* (boundary disputes), *vākpāruṣya* (verbal assault), *daṇḍapāruṣya* (physical assault), *steya* (theft), *sāhasa* (violence), *strīsaṃgrahaṇa* (sexual crimes against women), *strīpuṇḍharma* (law concerning husband and wife), *vibhāga* (partition), *dyūtasamāhvaya* (gambling and betting).¹² These law titles were also adopted in *Yājñavalkyasmṛti* (first century BCE to third century CE),¹³ and *Nāradaśmṛti* (c. 100-400 CE) with different nomenclature.¹⁴ A few centuries later, the *Brhaspatismṛti* (c. 200-400 CE) divided the 18 *vyavahārapadas* into two groups; 14 were grouped under the issues that sprung from wealth and 4 from injury to living beings. Thus, demarcating between the civil (14 titles) and criminal justice (4 titles).¹⁵ The *Nāradaśmṛti* also agrees with the views of Manu but differs in the categories of ordeals. It also mentions four

⁸ RS Sharma, *India's Ancient Past*, 188-190 (Oxford University Press, New Delhi, 2009).

⁹ *Id.* at 278.

¹⁰ *Id.* at 279.

¹¹ Patrick Olivelle, *Mau's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra*, 21 (Oxford University Press, New York, 2005).

¹² *Supra* note 2 at 21.

¹³ PV Kane, *History of Dharmasastra*, p. 184 (Bhandarkar Oriental Research Institute, Pune, Vol I, 1930).

¹⁴ Patrick Olivelle, *Mau's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra*, 21 (Oxford University Press, New York, 2005); PV Kane, *History of Dharmasastra*, 205 (Bhandarkar Oriental Research Institute, Pune, Vol I, 1930).

¹⁵ *Id.* At 208-210.

types of *sāhasa* (violence): *daṇḍapāruṣya* (physical assault), *steya* (theft), handling of another man's wife, and *vākpāruṣya* (verbal assault).¹⁶

Despite the differences all the texts agreed that the king was the head and upholder of the law. In legal matters, the king was assisted by the minister and *brāhmaṇa* (priest). King's verdict had to be per the legal texts and customs, however, sometimes king's discretion also served as the foundation for a verdict in the court. The king served as the supreme appellate court, but he was not above the law.¹⁷ *Nītisāra* also directs the *vijigīṣu* (king) to establish the courts of law for the administration of justice. He is further advised to suppress the disruptive or rebellious elements (*kaṇṭakaśodhana*) in the state.¹⁸ The king also appointed judicial officers, one example of this comes from the *Prayāga-praśasti* of Samudragupta where the post of *mahādaṇḍanāyaka* (administrator of punishments or criminal magistrate) finds its first mention. After Samudragupta, this post is often repeated in the inscriptions of succeeding Gupta kings. The *Prayāga-praśasti* also indicated towards proliferation of bureaucracy and hereditary position of the post of *mahādaṇḍanāyaka*, as Hariṣeṇa the composer of the inscription was the son of Dhruvabhūti. Both were *mahādaṇḍanāyaka* but Hariṣeṇa held the additional office of *sandhivigrahika* (officer of war and peace) and *kumārānātya* (counsellor of the prince).¹⁹

2. The Hierarchical Flow of the Courts in the Reign

Furthermore, a hierarchy in the types of courts is mentioned in the *Smṛiti* texts. *Bṛhaspatismṛti*, mentions four types of courts: a) *Pratiṣṭhita*, the court established in a fixed place, b) *Apratiṣṭhita*, circuit court (sits in more than one place in a district), c) *Mudrita* presided by the judge who is authorised by the royal seal, d) *Śāsītā*, the court presided over by the king. In these courts, all the civil and criminal cases were heard. *Bṛhaspatismṛti* and *Nāradaśmṛti* distinguish between the power of jurisdiction of courts like *kulani* (village councils), *śreṇī* (guild courts), and *puga* or *gaṇa* (assemblies); in these courts personnel authorised by the ruler decided the lawsuits except for cases of violent crimes.²⁰ The *kulani*, *śreṇī*, and *gaṇa* were at the lowest echelon of the judicial hierarchy.

The guilds of artisans, merchants, or others had their laws for governing themselves. The people found guilty in these courts were given light punishments. Seals from Vaishali and Bhita near Allahabad indicate that these guilds flourished during Gupta times.²¹ By the fifth century CE, land grants became frequent and *brāhmaṇa* became beneficiaries of these grants. The *brahmadeya* (land donated to the *brāhmaṇa*) were given in perpetuity and government officials and royal retinue were not permitted to enter the gifted villages. The receiver of the grant was authorised to collect taxes and maintain law and order in the *brahmadeya*. The

¹⁶ Julius Jolly (trans.), *Nārada's Dharmaśāstra*, 101 (Trübner & Co., London, 1876); Patrick Olivelle (trans.), *Mau's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra*, 14 (Oxford University Press, New York, 2005).

¹⁷ *Supra* note 2 at 279.

¹⁸ Rajendralala Mitra (ed. & trans.), *The Nītisāra by Kāmandaki*, 290 (The Asiatic Society, Calcutta, 1982).

¹⁹ *Supra* note 2 at 10, 16.

²⁰ HV Sreenivasa Murthy, *History of India*, 170, 195 (Eastern Book Company Publishing, Lucknow, 2023).

²¹ *Supra* note 17.

brāhmaṇa thus were given the right to govern the people in the *brahmadeya* along with the right to punish the thieves or criminal offenders.²²

III. CRIMINAL JUSTICE ADMINISTRATION

Texts like *Yājñavalkyasmṛti*, *Kātyāyanasmṛti* (c. 300-600 CE),²³ and *Nītisāra* elaborate on the criminal administration during the Gupta period. *Yājñavalkyasmṛti* mentions three major categories of law, *acāra* (proper conduct), *prāyaścita* (expiation), and *vyavahāra* (criminal law). It also recognises *kula*, *śreṇī*, and *pugaṇi* ascending order as the lower court of which *kula* was the lowest.²⁴ Two kinds of punishments i.e., corporal and pecuniary were mentioned in the text. The pecuniary punishments consist of inflicting fines of the measurement of gold and silver, i.e., *kṛṣṇāla*, *māṣa*, *suvarṇa*, and *pala*. The weight of one *kṛṣṇāla* was equal to three barleycorns, one *māṣa* consisted of five *kṛṣṇāla*, one *suvarṇa* had 16 *māṣa*, and four or five *suvarṇa* made a *pala*. These punishments were given according to the nature of the crime.²⁵

1. The Categorisation And Punishment of Violent Crimes

Kātyāyanasmṛti mentions the laws relating to crime and has grouped them under four broad categories: abuse and defamation, assault, theft (*steṇa*), and crime of violence (*sāhasa*).²⁶ It further states that the punishment for the criminal offence was given by the gravity of the crime and the castes of the parties. If the offender accepted that the crime of abuse and defamation was done in ignorance and would not be repeated, then the king was advised to impose only half of the prescribed fine.

The punishment for the crime of assault is also described in the *Kātyāyanasmṛti*. It describes the scope of assault crime, which included causing pain, blood loss, wound, fracture, cut or piercing; any act of torturing the domestic animal by tiring them of hunger, making them carry burden during improper time, using sacred animal bear burden and destroying trees. Then prescribed the punishment of physical injury and wound by cutting off ear, lip, nose, foot, eye, tongue, penis, and hand. Imposition of the fine was prescribed for injuring trees and animal cruelty. For the crime of *steṇa* (theft) mutilation, imprisonment, confiscation of property, exile, and death were prescribed. The crime of *sāhasa* (violence) such as murder, robbery along with violence, assault on another person's wife, injury to precious items, destruction of the icons of gods and damage to temples or city walls, and obstruction of the flow of water attracted severe punishments along with the imposition of fines. The offender along with their accompanying persons and helpers were liable to punishment according to their nature of guilt.²⁷

Despite the severity of punishment prescribed in the legal texts, the accounts of travellers like Fa Hien who visited India during the time of *Chandragupta II* portray a different picture. During his travels in the country, he described the customs of *Madhyadesa*. He notes that

²² *Supra* note 17 at 327.

²³ PV Kane, *Kātyāyanasmṛti*, (Oriental Book Agency, Poona).

²⁴ *Supra* note 20 at 174.

²⁵ SC Vidyarnava, *Yājñavalkyasmṛti* 429-431, (The Indian Press, Allahabad, 1918).

²⁶ *Supra* note 20 at 182.

²⁷ *Supra* note 20 at 182-183.

people lived happily and did not attend any magistrates and their rules. The king governed without the use of coercive force and the criminals were not decapitated or given any other corporal punishments. Criminals were fined, lightly or heavily based on the circumstances of each case. Even in cases of repeated attempts at rebellion only the right hands of the offenders were cut off. He further provides an image of a flawless society where the people do not kill any living creature, nor do they consume intoxicants.²⁸

Another text on political authority namely *Nītisāra* also reflects a similar calmed-down discourse on violence in connection to punishment. But it asserts the superiority of *daṇḍanīti* (the science of politics) among the four branches of knowledge i.e., *nīti* (governance), *rājavidyā* (the science of ruling), and *artha* (political economy).²⁹ The king is also mentioned as the wielder of *daṇḍa* (*daṇḍadhāra*) and dispenser of justice.³⁰ He governs by the laws and maintains the *dharma* of the *varṇa* and the *āśramas*.³¹ Thus, performing the duty of king *daṇḍa* (inflicting punishments including awarding of capital punishments) becomes necessary to ensure the protection and prosperity of the subjects. This text also advises king to adopt violent measures to deal with dishonest people;³² it also justifies the use of political violence referred to as *simhavṛitti* (the policy of a lion).³³

2. The Dilemma between Harshness and Mercy

In connection to criminal law, it emphasises the balance between severity and leniency in the punishment since extreme punishments can make the king repulsive to subjects. Thus, punishment should be imposed impartially and in proportion to the seriousness of the offence (*yaathārhat*).³⁴ *Nītisāra* mentions broadly three types of punishments including capital punishments, fines, and harsh punishments involving mental and physical pain. The officers who rebel against the state are treated as criminals and they are punished by the king secretly (*upāśmāsudaṇḍa*) or in open (*prakāśadaṇḍa*) after accusing them of culpable charges. The king is advised to act like a surgeon to remove the thorns of the state (*kaṇṭakaśodhana*) to maintain discipline among the subjects. The text proposes that capital punishment (*prāṇāntikadaṇḍa*) should be avoided even for the gravest offense, except usurpation.³⁵

IV. CONCLUSION

The reign of Samudragupta marked a significant development in the evolution of the ancient Indian judicial system. The legal framework of this period had distinct demarcation of civil and criminal law which was based on the traditions found in *Dharmaśāstras* and legal texts like *Manusmṛti*, *Bṛhaspatismṛti*, *Yājñavalkyasmṛti*, *Nāradaśmṛti*, and *Kātyāyanasmṛti*. By the fourth century CE, the legal texts show a hierarchical structure of courts, where family courts (*kula*) were also included. This demonstrated the active role played by the state in justice administration. The public portrayal of Samudragupta as *daṇḍadhāraka* in the coins and an

²⁸ James Legge, *The Travels of Fa-Hien*, 42-43 (Oriental Publisher, Delhi, 1971).

²⁹ Upinder Singh, *Political Violence in Ancient India*, 197 (Harvard University Press, England, 2017).

³⁰ Rajendralala Mitra (ed. & trans.), *The Nītisāra by Kāmandaki*, 1 (The Asiatic Society, Calcutta, 1982).

³¹ *Id* at 8; Upinder Singh, *Political Violence in Ancient India*, 201 (Harvard University Press, England, 2017).

³² *Supra* note 30 at 127-128.

³³ *Supra* note 29 at 201-202.

³⁴ *Supra* note 30 at 131.

³⁵ *Id* at 129-130.

undefeated expansionist in his inscriptions ascribed him the central role as an upholder of law and justice. The sophistication of the judicial system is further demonstrated by the introduction of a new legal position like the *mahādaṇḍanāyaka* and the incorporation of administrative and judicial functions in local government as reflected by the example of *brahmadeyas*.

The Gupta era laid a sturdy foundation for India's legal traditions, many aspects of which influenced the judicial system of the country in subsequent centuries. For instance, the humane approach to governance is reflected in the account of Fa Hien. Even though the legal texts advised the king to punish the offender in severity, Fa Hien's travel account mentions a more lenient application of punishment. Thus, the duality of law enforcement and ethical governance is demonstrated in Samudragupta's reign. It could be suggested that these fundamental historical developments shaped the modern Indian justice system which in itself has incorporated legal developments of past centuries.