

Dandaniti: The art of punishment

Ms. Neha Verma

Lecturer,

Faculty of law & forensic Science,
Apex Professional University,
Pasighat Smart City, Arunachal Pradesh.

Abstract

This article presents the meaning of Dandaniti and Rajdharm. The researcher made an endeavor to understand the viewpoint of Manu regarding the meaning and various forms of punishment theory. Also, the researcher attempts to explain the various ways of punishment that are given to the offenders by the Hindu Shastra and by the contemporary criminal justice system.

keyword: *Dandaniti, Administration of justice, Dharmashastra, punishment, Arthashastra, Dharma.*

Introduction

There is no universally accepted definition of what constitutes a crime, we can say that certain actions that cause harm to people or disturb the peace and tranquility of society are crimes. So, crimes are acts of disobedience to law forbidding or commanding omission or commission of certain acts. The state has a responsibility to uphold law and order, foster peace, and ensure social security. Therefore we can say that crime is a revolt against the whole society and an attack on the civilization of the day. This function of the state is called Administration of Justice through which individuals rights are protected, laws are enforced and wrongdoers are punished. A state loses its attribute of statehood if it fails to discharge administration of justice. Life may not be lived in a society where there is no protection of rights and prevention of injustice. In the early primitive stage private vengeance and self help were only remedies available to the victims. However, with the evolution of society wrongs could be redressed by payment of compensation and penalize the offender for doing or forbidding from doing a wrongful act. With the evolution of statehood this responsibility of administration of justice was performed by the King. The king was the supreme judge and it was his duty to punish the wrongdoer. Quite often he delegated his judicial work to Chief Justice or other royal officials only serious cases were tried on the Royal Court. It was expected that the king would observe strict impartiality and decide the cases according to Dharma or Law. According to Kautilya's 'Arthashastra' we see three implications of the theory of danda. In the first place danda implies safeguarding man's worldly existence. In the second place, danda implies that respect for authority is ensured by its application. The third implication of danda means that lawful application of danda ensures complete happiness of

individuals, its unlawful application causes universal dissatisfaction and its non application produces anarchy in the society.

The word Dand, (*daṇḍayati-te*, *daṇḍita*) means to punish, fine, chastise, to amerce. The word danda also refers to a stick which is a crucial tool in the fight against crime and the imposition of harsh punishments. In dandaniti "Danda" refers to a stick from which its later meaning of "Niti" can be easily inferred, niti basically means science. So, we can also call it the science of justice or the science of punishment. The term "dandaniti" refers to either the science or the art of governance. Therefore, it essentially refers to the art of government in which the King applies power and punishment to ensure that justice is done and that injustice does not rule the realm. The responsibility for redressing injustice falls on the King, in conformity with rajdharma or the dharma or the obligation of the King. So, the rajdharma deals with the guidance of the King on the art of administration of justice. Thus, the dandaniti or the art of punishment is inferior to the concept of rajdharma. The dandaniti can be best understood when we know the connotation of the term danda itself.

The religious literature argues that punishment is the sole means by which the entire human race is kept in check and that punishment is the only means by which a man may be kept pure and righteous. The primary goal of the Danda institution is to instill discipline in the lives of people who are by nature wicked and corrupt. Manu asserts that only the monarch is capable of defending the entirety of humanity, and that in order to do so, the King employs Danda as a tool or a means. Even the Hindu Shastras place a strong emphasis on the power of the King to punish lawbreakers and defend law-abiding citizens. Manu claimed that the King was the bearer of both danda (punishment) and chhatri (protector).

It is significant to remember that Indian philosophy has addressed the concepts of danda and dandaniti in a variety of ways. Lord Brahma, Lord Bhaspati, and lastly Kautilya dealt with danda and dandaniti. As stated by the Mahabharata, a sacred Hindu epic, Lord Brahma was the first to write the 100,000-chapter Danda niti. According to Bhaspati, the science of politics is known as dandaniti. He claims that dandaniti is the only science (vidya), referencing the ancient Arthashastra. Kautilya's Judicial System called "Dandaniti," "the science of law enforcement" is an important part of the Arthashastra. In the words of Manu "Punishment governs all mankind, punishment alone preserves them, punishment wakes while their guards are asleep, the wise considers punishment as the perfection of justice".

Manu also mentioned four forms of punishments :

- a. *Vak-danda* (admonition),
- b. *Dhikdanda* (censure),
- c. *Dhanadanda* (financial penalties such a fine or the confiscation of property), and
- d. *Badhadanda* (physical penalties of any kind, including the death penalty).

Manu suggests a variety of physical penalties known as "Badhadanda", including beatings amputation of limbs, branding—which involves leaving marks on the offender's body to show that he or she has been found guilty, the death penalty, and pouring hot oil into the offender's ear.

The British established the Indian Penal Code, "in the liberal spirit of reducing archaic forms of discretionary authority and differences in status in order to make the rule of law more effective in a culturally diverse society". It established a thorough criminal justice system, including a stratified network of courts dispersed across the nation, a procedure of appeals, systematize and uniform laws, and the exclusive authority of the state to prosecute and mercy. It is commendable that the rule prohibited inhumane native punishments including mutilation, leaving the convict to be trampled by elephants, and having a criminal displayed in public on the back of an ass.

Section 53 of Indian Penal Code, specifically deals with different types of punishments which can be given by the Criminal Courts if the person is held liable under the Code.

There are five kinds of punishments in the code:

- a. Death;
- b. Imprisonment for life;
- c. Imprisonment:
- d. Rigorous Imprisonment; or
- e. Simple Imprisonment.
- f. Forfeiture of property;
- g. Fine.

These all kinds of punishment have been seen in the the Arthasastra, Mahabharata but the difference is that the inhuman punishments like pouring hot oil into the offender's ear, convicts torn to pieces by elephant, as men are broken under the wheel, first they start to break his leg, then his thighs, and at the end bones of his both arms.

Conclusion

Ancient Indian political tradition and thought demonstrate a distinctive manner of governance when compared to modern philosophers. Dharma and Danda, which some thinkers referred to as Dhamma, were the basic fundamental principles of this system. Although some academicians view Danda in the context of religion due to this, Dharma had a significant impact on the evolution of religion and the operation of the state in ancient India. Dharma and Danda, which not only give a full account of Danda but are also recognized as moral norms in politics, can be said to have been essential in creating a welfare and pious state in ancient India.

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