Chapter XII.

Punishment for Theft and Robbery.

1. Origin of Punishment

The origin of theft and its punishment has been clearly referred to in the Buddhist and Jaina works. According to the Dighanikāya, the division of land into plots owned by individuals induced the wicked to grab the plots of other people. When a greedy man grabbed a plot that belonged to another, people told him that he had done an evil deed and should not repeat it in future. But as he grabbed others' land thrice, people 'seized him, admonished him and some of them struck him with their hands, some with clods and some with sticks. From such beginnings arose theft, censure, false speech and punishment.'

An emperor gave some money to a poor man who had stolen, for his maintenance and told him to follow an honest trade thenceforward. The king gave money to a second thief to stop stealing. But when a third man was brought before him on the charge of theft, the king ordered his men to bind the culprit's arms behind him with a strong rope, to shave his head with a razor, to lead him from square to square to the sound of the drum and behead him in the place of execution.

In ancient India, punishment was deemed to be a sort of expiation which purged the man of sinful promptings and reformed his character. According to Manu, if the guilty are punished by the king, they go to heaven becoming pure. Those who committed grave crimes were to approach the king to absolve them from sin by punishing them adequately. An ascetic, named Likhita ate some fruits from the hut of his brother without his permission and considering it to be theft went to the king to free him from the sin of the act.
by inflicting on him the adequate punishment. As he refused to be pardoned through royal prerogative, his hands were cut off. Such self-surrender by criminals could never be universal; but a 'culture which could produce such conduct in even a very few men had undoubtedly something in it of solid spiritual power and strength'.

Indeed in early days, 'when fears of punishment after death were more effective than it obviously became in later times, this might have been actually done by men, and in any case the duty to act thus might have been a more or less, effective deterrent against thefts.'

In the early ages of the Gautama Dharma Sutra and the Manusmriti, criminal law in India was very severe and drastic. As the state was weak and unable to control crimes, drastic punishments were awarded to strike terror in the hearts of the criminals. In course of time, punishments were made more humane and fines came to be imposed for most of the crimes. From the time of Vajravalkya, Narada and Bhagpati, the rigorous of punishment were softened considerably.

In the Maurya age, the penal code was severe. According to Strabo, 'death is the penalty for the man who steals'. Probably Kautilya shows the correct nature of the Maurya penal code by prescribing fines in lieu of mutilation in several cases of theft. In the Gupta age, punishment was very mild. According to Fa-hian, 'the kings govern without corporal punishment; criminals are fined, according to circumstances, lightly or heavily'.

'When the laws are broken, or the power of the ruler violated', writes Huien-Tsang, 'then the matter is clearly sifted and the offenders imprisoned. There is no infliction of corporal punishment; they are simply left to live or die, and are not counted among men.'
According to Brhaspati, only those should be punished with corporal punishment who are guilty of grave sins. Gautama, Vasistha, Manu and others lay down that before meting out punishment to the offender the extenuating circumstances, that is the motive and nature of the offence, the time and place, the strength, age, conduct or duties, learning and monetary position of the offender and the fact whether the crime has been repeated should be carefully considered.

In the Vedic age burglary, house-breaking, highway robbery, etc., were very common but we do not definitely know whether the state had any arrangement for punishing the thieves and robbers. The general view was that the person wronged could punish them according to the dictates of his passion. Hazra, however, points out that the Rgveda, VII. 86. 5, probably refers to a king punishing a thief: 'Cast off Varuna, our bonds caused by our forefathers' acts of violation of your laws and also by those which we did with our persons. Liberate Vasistha, from your fetters, King, like a petty thief who is set free from the tying rope after he has satisfied his captor or captors or the king with the offer of cattle, and like a calf liberated from its tether.' Hazra remarks that the word 'king' or 'rajan' shows that in some cases the king punished a thief or let him off. Here the word täyu is used to mean a petty thief.

This verse also shows that even a petty thief who probably stole only clothes, utensils and the like and did not do any harm to the body or life of the people was set free after he had paid to his captor or captors (the persons wronged) or the king 'a very
heavy ransom in the form of as many animals (most probably cows) as could create his or their satisfaction. There was thus no fixed rule regarding compensation to be made by a petty thief to get his release and it depended entirely upon the pleasure of the wronged party. This heavy ransom must have served as a deterrent. According to Hazra, this verse further indicates that if these criminals were unable to pay the desired ransom, they were tortured to death.

Thieves, when captured, were tied with ropes and bound in stocks. The Atharvaveda probably refers to the mutilation and killing of thieves as forms of punishment.

2. Death Sentence

The Rgveda (V.79.9; VIII. 67. 14) refers, according to Hazra, to the killing of thieves by their captors. The first verse runs thus:

'Shine up, O dawn, daughter of heaven, do not spread out thy work for long (or, over a long time); let not the sun scorch thee with his ray as a hero burns a hurtful thief with the flame of fire, O one who is high born and is carried excellently by steeds!' (18)

According to Hazra, the word stena used in this verse does not mean an ordinary thief, but a harmful one (ritu). The word surah (sura) used in this verse also means, according to Hazra, a hero or a king tormenting a thief. This verse shows that as the sun heats the dawn with his rays more and more till the latter ceases to exist, a hero of the Rgvedic age, went on torturing a harmful thief (when captured) with fire and thus killing him. The continued torture of such a thief was possibly motivated by
the captor's spirit of revenge.

The Rigveda (VIII. 67. 14) also refers to the capital punishment meted out to thieves: 'From the grip of the wolf-like destroyers, ye Adityas, rescue us who are powerless and helpless, like a bound thief delivered from the jaws of wolves, O Aditi.' From this verse we know that when captured, a thief (sena) was bound with a rope and killed by exposure to wolves. But if he could satisfy his captors (i.e. the persons robbed or the king's men) by any means, he was freed from bondage. He could get his release because he probably did not do any harm to his victims.

The Rigveda (VII. 104. 10-11) indirectly refers to the capital punishment of thieves. In the Atharvaveda, we find a thief was killed by being struck against a post.

Apastamba, Gautama, Vasistha, Raydhayana, Manu, Naraeda and Yajñavalkya refer to the striking of a thief with a club by the king which may lead to the latter's death. According to Apastamba, a non-Brahmana committing theft or appropriating land should be deprived of his property and sentenced to death. According to Yajñavalkya, the king shall cause the robbers who confine men as captives and steal horses and elephants, to be impaled on a stake.

Manu prescribes trampling by an elephant for stealing property. Corporal punishment or death is prescribed for stealing paddy or grain exceeding ten kumbhas, things measured by weight, i.e. gold, silver, etc. exceeding one hundred palas and costly clothes exceeding one hundred (paras in value or one hundred in number), men of high birth, women and the most precious gems and for breaking open royal treasury, arsenal or the temple of a deity, stealing
royal elephants, horses or cars. According to Manu, the man who commits theft by housebreaking at night should, after his hands are amputated, be impaled on a sharp stake. Manu further says that if robbers, thieves and the like refuse to assemble in places suggested by the king's spies, the king should seize them by force and put them to death if found guilty along with their friends, blood-relations and connexions (if proved to be their confederates). Elsewhere Manu says that if a thief is caught with the implements of theft or robbery, he should be killed forthwith. The *Visnu Dharma-sutra* prescribes death for all persons guilty of grave sins, excepting the Brahmans. According to Brhaspati, house-breakers shall be compelled to give back their plunder and be impaled. Highwaymen shall be hanged. The kidnapper of a man shall be burned in a fire of straw and the stealer of a woman shall be placed on a bed of hot iron, or burned in a fire of straw. Brhaspati also lays down that a cow-stealer's nose should be cut off. He should then be fettered and thrown into water. A thief may also be executed, according to him, to prevent a repetition of the crime.

According to the *Marasollasa* and the *Dandaviveka*, the death-sentence was carried out in various ways. Manu prescribes simple death for persons who give subsistence, instruments of house-breaking or asylum to thieves. In the *Mahabharata* death-sentence or impalement for theft has been referred to several times.

According to Kautilya, those who assault or obstruct travellers on their way, commit house-breaking or steal royal elephants, horses or carriages should be hanged. Persons who bur or carry away the corpses of those offenders should also be similarly
treated. They may, however, escape death or paying the highest amercement. A stealer of a herd of cattle should be beheaded. For theft of valuable things in Government departments by officers, clerks or servants, Kautilya prescribes death. According to Kautilya, whoever steals or causes one to steal a cow should be executed. For stealing weapons or armour, all men excepting soldiers shall be killed by shooting arrows. Kautilya, however points out that offenders who have not been cruel may be put simply to death. For stealing images of gods or animals, men, or taking possession of fields, houses, gold, gold coins, precious stones, or crops of others, a man shall either be beheaded or compelled to pay the highest amercement. According to Kautilya, a government servant shall be killed for stealing articles of eight to ten panas in value while an ordinary thief shall be condemned to death for stealing articles of forty to fifty panas in value. Kautilya also prescribes death or a fine of two hundred panas for entering into a fort without permission or carrying off treasure through a hole or passage in the wall of the fort. According to the Dasakumaracarita, a thief can be tortured to death or trampled under the feet of an elephant. The thief Purvabhada against whom an elephant was driven to trample him down, describes the scene vividly.

In the Nrochakatika, Carudatta is sentenced to death for committing theft with murder. The Abhijñana Sakuntala refers to two kinds of death sentence for a thief viz. impalement and exposure to ferocious dogs. Probably the criminal was buried shoulder-deep and dogs were set against him. The Culla-Padumā Jataka
describes a cruel punishment. The hands and feet, nose and ears of a robber had been cut off, and he was placed in a canoe, and left to drift down a great river to meet his death. Another thief was scourged with whips, tormented at every street corner and then executed. The governor of a city led a robber to the execution ground to the music of the harsh-sounding drum. His hands were bound behind him; a wreath of red Karavera flowers was about his neck and brickdust was sprinkled on his head. The robber was escorted by a large police force. He was shipped in every square and the people followed him to the place of execution. He was at first beheaded and then impaled. A Jataka tale refers to impalement on stakes made of the acacia, nimba and ebony wood and also on the iron spike. The mention of the thieves' cliff indicated that thieves and robbers were thrown down from it. 'One side of this mountain men can climb; but the other side is a precipitous cliff, from the top of which robbers are flung, being dashed to pieces before they reach the bottom; therefore it is called Robbers' Cliff'. A king fond of human flesh used to kill prisoners and when the prisons became empty, he asked his men to throw down in the high road some money and kill any one that would pick it up. A robber was roasted alive by a king of Ujjaini. Various works refer to the death sentence for theft. In a story, some councillors say to the king, 'O King, this man is a child-murderer and a thief as well; so let him be impaled upon a khadira stake'. Other ministers say, 'Let him be cut up into a hundred pieces and his flesh fed to vultures'. In another recension of this story, the councillors say, 'Let the villain be cut into nine pieces and ground in an oil mill, or bind
round with straw-ropes and burn him on the highway, since he deserves death by any manner of torture. In some rare cases, kings made scientific experiments on the bodies of thieves and robbers which led to their painful death. Sometimes robbers' necks were wrung and in some cases the robbers were thrown into iron pots which were then covered with iron lids and the joints were sealed with iron and tin to ascertain whether men had souls. Sometimes robbers were strangled and their bodies were weighed before and after strangulation to find out whether the escape of the souls from their bodies had decreased the weight. Thieves were sometimes buried alive. Cutting a robber into a hundred or a thousand pieces with an axe was also common. According to a Buddhist tale, a king asked his men to put some robbers in a pit, cover them with bundles of straw and then light them. Their bodies were thus burnt to crisp and then ploughed with iron ploughs. The bodies were ground to bits. We have previously described how condemned criminals were led to the place of execution. The Mṛchakatika and some Jaina works describe the procedure in detail. King Pālāka ordered Cārūdatta who had been found guilty of theft and murder to be conducted to the burning ground to the sound of the drum with the stolen jewels hung round his neck and then impaled. Generally a large crowd gathered to see the horrible punishment and jeered at the criminal, though in the case of Cārūdatta, the people sympathised with him. The body of Cārūdatta was drenched with tears, soiled with dust, covered with garlands of funeral flowers and besmeared with red sandal-paste. Cārūdatta describes himself thus: The executioners proclaimed his crime and the sentence with the beating of the drum five times in five places. Manu and Kautilya also are in favour of
proclaiming the crime of the convict. In the Microhakatika, Gāruḍaṭa had to bear the stake on his shoulder and confess his guilt before the assembled people. According to the Samaśādikā, the hands, feet, ears and nose of a man who stole others' property and killed a man, should be cut off in public places and then he should be put to death. Here is another description of the treatment meted out to thieves and other criminals before their execution.

The police officers besmeared the entire body of the criminal with soot, grass, red earth, and ashes, his head was crowned with a garland of shoes, he had scarcely any cloth on his person, a garland of Kamavīra flowers was hanging from his head, a parasol made of old articles such as winnowing fan, hair, worn-out cloth of goat-hair, etc., was held over him, he was mounted on an ugly white ass, he was surrounded by the crowd while drums were being beaten as he was led in the southern direction to the dreadful execution ground. A somewhat similar description is found in the Upamitībheavaprapancakathā. The robber-chief Abhaggasena was very barbarously treated before being executed. 'He was brought to streets surrounded by the crowd, and his offences were proclaimed. Then the officers brought him to the first square, where they made him sit, and in his presence killed his eight uncles, having beaten them with thongs, made them eat their own flesh which had been cut to pieces of the size of a fruit, and drink their own blood. And this gruesome tragedy overtakes his other relations'.

Generally speaking, 'theft of an extra-ordinary nature or of the most daring kind was punished capitally in ancient times'. In fictions, however, theft of small articles like flowers or of some coins was often punished capitally. Though the sastras enjoin upon the
king to award punishment according to the gravity of the offences, in practice, this was honoured more in the breach than in observance. Theft and robbery being very frequent and greatly disturbing to the people, severe punishment was probably awarded even in comparatively light offences to serve as a deterrent.

3. Mutilation

Next to death sentence, the most severe punishments were torture and mutilation. According to Nārada, corporal punishment is of ten kinds, which include mutilation, flogging, confinement and capital punishment. Manu prescribes amputation of a hand for stealing more than fifty palas of the articles sold by weight and clothes exceeding 50 in number or fifty paras in value. Manu also says that for stealing a Brāhmaṇa's cow or other animals, the offender shall lose half of one foot. The limb by which a thief or an offender commits a crime shall be amputated. Manu lays down that the thumb and the index fingers of a cut-purse shall be amputated on his first conviction; on the second, however, one hand and one foot shall be cut off. On the third, he should be executed. According to Nārada, for the first offence, the little finger and thumb of a cut-purse shall be cut off and for his second offence, the first amercement shall be levied on him. According to Kautilya, when a person steals at a holy place or acts as a pickpocket or breaks into a house from the roof for the first time, his thumb and index finger may be cut off or he may be fined fifty-four paras; for a second offence all fingers may be cut off or a fine of one hundred may be imposed; for a third offence, the punishment is cutting of the right hand or a fine of four hundred paras; and for
fourth offence, the king may inflict death in any way he likes.

Yajnavalkya says that the tongs of the hands of the petty thief (utksepaka) and the cut-purse (garthibhedaka) are to be cut off for the first offence and a hand or a foot should be amputated for the second offence. Visnu prescribes that a stealer of a cow, or a horse, or a camel or an elephant shall have one hand or one foot cut off. One hand of the stealer of a goat or a sheep shall be amputated. Both hands of a stealer of gold or silver exceeding fifty p̅elas or clothes exceeding fifty in number shall be amputated. The cut-purse shall lose one hand. Narada prescribes corporal punishment for the stealer of the king's perfumes or garlands or ornaments or clothes or shoes and also for the kidnapper of a maiden.

According to Brhaspati, for taking grass, wood, flowers or fruit without asking the owner's permission to do so, one's hand should be cut off. Kautilya prescribes, as pointed out before, mutilation or fines for some offences: The stealer of cocks, mongoose, cats, dogs, or pigs, of less than fifty-four paraś in value, shall have the edge of his nose amputated or pay a fine of fifty-four paraś. If these animals belong to either candalas or wild tribes, he shall pay half of the above fine. The stealer of a cart, a boat or a minor quadruped shall have one of his legs cut off or pay a fine of three hundred paraś. The stealer of a big animal, kidnapper of a male or female slave or a person who sells the things belonging to a dead body shall be deprived of his two legs or he should pay a fine of six hundred paraś. Both the eyes of the stealer of the god's property should be blinded by the application of poisonous ointment or he shall pay a fine of eight hundred paraś. Two legs and one hand of a person who causes a thief to be let off or kidnaps a girl or slave possessing
gold ornaments shall be amputated or he should pay a fine of nine
hundred paras. A weaver in a government workshop stealing raw
materials supplied to them should have his thumb cut off. In
the Milindapañha, mutilation and several kinds of torture have
been referred to as punishments of gang-robbers, highwaymen and others.
According to this work, thieves and robbers were liable to be flog­
ged or beaten or mutilated or their arms and legs might be broken by
the king's men. The eyes of the robbers were also plucked out. In a
Jātaka tale, some people cut off the hands and feet of a thief.
When four robbers were brought before a king, he sentenced one to
receive a thousand strokes from whips barbed with thorns, another to
be imprisoned in chains, a third to be smitten with a spear, the
fourth to be impaled. Punishment was probably graded here
according to the gravity of offence. For stealing in a merchant's
house and imputing the guilt upon an innocent person out of enmity
with the latter, a person was condemned by the king to have his
tongue cut and his eyes plucked out.

In the Kathāsarîtsagara, the hands and tongue of a
thief are cut off. Cutting off of the nose is referred to as a punish­
ment for theft in the Pañcatantra. Alberuni refers to the
amputation of one hand and one foot of a kṣatriya thief stealing a
very valuable object. A king took five palas of flesh from the body
of a person who had stolen some flesh from the royal kitchen. In
the Jaina canons are found the following punishments most of which
were used against thieves and robbers: 'Putting in irons, in fetters,
in stocks, into prison, screwing up hands and feet in a pair of
shackles and breaking them, cutting of hands and feet, or ears or
nose or lips or head or throat-glands, piercing the organ, body
(angacchahlya), the sides, tearing out the eyes, teeth, testicles, or tongue, hanging, brushing, whirling round, impaling, lacerating, pouring acids (in wounds) belabouring with a leather strap, twisting the organ like a lion's tail, burning in a wood fire and exposing the offender to be devoured by crows and vultures'.

Something may now be said about the executioners who used to execute the criminals or amputate their limbs. They were generally candasas, Dombas (Domas), Svapakas and Badhataus. According to Manu, they are to kill those who are to be slain by the sentence of law and by the royal warrant. The executioner was an untouchable and was regarded as the lowest among men. He had to live outside a village or town. According to Fa-hian, they were called 'evil men'. Though a candala executioner was thus contemptuously treated in ancient India, 'the Jatakas know nothing of such a contempt attaching to his position; rather parades and ceremonial processions in which he appeared in front of the king, point to a certain respect which the executioner of the king's commands enjoyed. When summoned, he appeared 'with a hatchet (pharasu) on his shoulder, a thorny rope (Kantakakasam) in his hand, dressed in a yellow robe (Kasa-ya-nivasano) and adorned with a red garland'. He also carried with him a block and a bowl, accompanied the procession conducting the condemned criminal to the place of execution, beat the drum and proclaimed the crime of the criminal at various places. He forced the criminal to lie down within the fatal circle (dhammagandikam) and severed his head with the axe or impaled him. The executioner was called Coraghataka or Kasiviya. According to a Jataka tale,
'the victim should not address the executioner, nor should the
latter ask the victim to address him.' (105) This rule was, however,
often violated. The executioners were generally cruel and prob­ably
of repulsive appearance. The two executioners in the Mrochakatika
proudly declare: 'In chopping heads we never fail. Nor when
the victim we impale.' (107) It was almost unimaginable to ask a
favour from them. Their voices sounded like a broken brass cymbal.
Yet the two executioners in the Mrochakatika are quite sympathetic
to Gaurdatta. They console him, condemn those who have ordered him
to be executed, allow his son to come to him, request him to think
of things that should be remembered then, deliberately delay his
execution and one of them even prays to God to save him. They free
him when they become convinced of his innocence by an incontroverti­
ble proof. (108) In Jaina literature, especially in the Samaraicca-
Kaha, the executioners are often very kind and humane. An executioner
(a Candala) who had been struck by the noble appearance of his vic­
tim told him that 'they were allowed to satisfy the last wish of
their victims before executing them.' He declared himself unable to
strike the convict though he had raised his sword to do so. When the
king freed that man and wanted to reward the executioner, the latter
desired that his people should no longer be engaged as executioners.
Thus it is clear that these men did not like their profession which
was imposed upon them by Manu and others. Sometimes the condemned
criminal was led to the settlement of the Candalas for execution.
There the Candala whose turn it was to execute the criminal would do
the unpleasant job. (110) In the Mrochakatika, (111) the two executioners
are found arguing with each other to determine whose turn it is
to execute the criminal. In the same book, an executioner advised his
son, not to kill the condemned criminal too quick. For he might be
freed even at the last moment in various ways. The executioners could
and did exercise their discretion to postpone the execution, when-
ever something unusual happened.

5. Confiscation of Property and Banishment

Confiscation of property and banishment from a town or
country were also wellknown punishments for thieves and robbers. In
cases of doubt, an alleged thief was generally banished. Accord-
ing to Manu, if non-Brahmans commit grave offences even without
premeditation, all their possessions should be confiscated. Katyayana
says, 'The Manavas (School of Manu) declare that those thieves
who are caught red-handed with booty should be at once banished
from the kingdom, but this punishment is not approved of by
Gautama since it is censured owing to the destruction or re-
duction of people in the country,' Visnu prescribes
banishment for embezzlement of the goods belonging to a corporation.
Yajnavalkya prescribes confiscation and banishment for stealing
the property of a gana. For sahosa or theft of the highest degree
(i.e. offences encompassing life, etc.), Narada prescribes,
among others, banishment and confiscation of property. Many works
refer to banishment as the punishment for the kidnappers and thie-
ves. Narada prescribes confiscation of the entire wealth
of the kidnapper of a woman. Confiscation of wealth in cases of
theft and robbery has been referred to in the Milindapanho. The
lands of a manager of a temple were confiscated and his residence
was pulled down for depriving the temple of its legitimate revenue
and defalcating the donations deposited to the treasury.
trustees. According to the Kathasaritsagara, the officers of a king cut off the hands and tongue of a thief and then banished him.

6. Branding

Gautama, Viṣṇu and Yajnavalkya prescribe branding with the mark of a dog’s foot on the forehead of the Brāhmaṇa thief. But according to Manu, men of all castes who commit grave sins including theft of sacred gold and do not perform the requisite penances, may be branded. Generally a dog’s foot was marked on the forehead of a thief. According to Nanda Pandita, the author of the Vaiṣṇavarta, branding was to be made with the juice of the marking nut in the case of Brāhmaṇas and in the case of others, with a red-hot iron pin.

7. Mitigation of Punishment

Probably the influence of Jainism and Buddhism mitigated to some extent the vindictive attitude of man to criminals. In the Santiparvan of the Mahabhārata, there is an interesting dialogue between king Dyumatsena and his son, prince Satyavat, regarding the necessity of the death sentence. According to Kane, it contains some of the arguments forcibly urged in these days by those that are opposed to capital punishment altogether. According to the prince, punishment should be light even in cases of grave offenses because when a robber is sentenced to death, many innocent persons, such as his wife, mother, the father and son would suffer great loss and they might even die. If the offenders would surrender before the priests, swearing before them that they would never commit sin, they might be released after they had undergone some penance. Again if
great men would go astray, punishment should be proportionate to their greatness. The king replied that in former ages when people were good, vocal remonstrances and upbraidings sufficed; but in the later ages (of Kali), corporal punishment and death sentence were essential. Even the fear of death sentence did not deter some people from committing crimes. According to Manu, the death sentence should be prescribed only when the criminals have not performed the *prāyāscītta* (expiation). Both Kamandaka and Sukra are in favour of avoiding capital punishment in all cases excepting treason.

As pointed out before, Asoka tried to mitigate the rigours of punishment in various ways. Nàrada provides a humane rule that even when the king orders the confiscation of all the property of an offender, he should not deprive the offender of the tools of his trade or the tools of his craft.

8. Fine and other punishments

The most common punishment for theft and robbery was fine. Fines were of three kinds: (1) *prathama śāhaśa* (First amercement), (2) *madhyama śāhaśa* (Middling amercement), and (3) *uttama śāhaśa* (highest amercement). According to Sāṅkha-Likhita, fire from 2½ to 91 *paras* form the first amercement, from 200 to 500 *paras*, the middling, from 600 to 1000 *paras*, the highest amercement. Fines were to be imposed, according to him, in proportion to the value of the matter in dispute or to the injury caused. According to Manu and Visnū, the first, middling and highest fines are 250, 500 and 1000 *paras* respectively. Yājñavalkya, however, puts these at 270, 540 and 1080 respectively. The *Mītākṣara* explains the lesser
figures of fine in the Manusamhita as representing the fines to be awarded for offences committed without set purpose. According to Karada, 100 paras is the lowest fine for the lowest kind of sahasa, 500 is the lowest fine for middling sahasa and 1000 paras is the lowest fine in the highest amercement (which may include death penalty, banishment, confiscation of property, etc.) Elsewhere Parada says that the self-Existent has fixed 24 paras as the first (or lowest) fine, 200 to 400 paras as the middlemost fine and 500 to 1000 paras as the highest fine for robberies. While describing the fines to be awarded in cases of sahasa, Kautilya lays down that fines ranging from 12 to 96 paras form the first amercement, 200 to 500 the middling and 500 to 1000 the highest amercement. According to Vijnanesvara, when the metal of coins in which the fines are to be paid are not mentioned in the verses of the Manusamhita, the paras (coins) should be regarded as of copper. Bharuci, however says that these are of gold. According to the Vyavahara Hayukha, in all texts about fines, the figure of a fine always refers to paras. A para is a copper coin weighing one karga which is one fourth of a pala. Katyayana says that 'whatever figure of a fine is prescribed in the smrti texts for a wrong, it is to be paid to the king in paras of copper or their equivalent. Where the fine is said to be one-fourth or one half of a masa, there it is a golden masa that is meant; when the fine is declared in massas, they are to be understood as those of silver and where the fine is declared in krsnalas, the same is to be understood; a masa is 1/20th of a karsapa'. Parada says that the wise have declared theft to be three fold according to the value of the stolen articles which may be of small, middling or superior value. Earthen
ware, a seat, a conch, bone, wood, leather, grass and the like, legume, grain and prepared food are called articles of small value. Articles of middling value are clothes except silken ones, animals except cows and bulls, metals except gold, and rice and barley. Gold, jewels, silk, women, men, cows, elephants, horses, property of the Brāhmaṇas and temples and the king are termed articles of superior value. Narada further lays down, 'That series of punishment which has been ordained by the wise for the three kinds of sahasa, is equally applicable to theft, according as it concerns one of the three species of articles in their order'. Fines prescribed by Narada for various kinds of sahasa have been referred to before. For stealing articles of small value like those made of cane and bamboo, raw cotton, milk, curd, salt, fish, butter, meat, honey, grass, etc. a fine twice, thrice or five times the value of the stolen articles should be paid by the offender. For stealing very valuable articles sold by weight or measure or tale, a fine eight times their amount shall be paid by the thief. For stealing commodities usually sold by weight, gold, silver, fine clothes, etc. less than fifty pālas, eleven times the amount stolen shall be paid. The highest fine shall be paid for forcibly seizing large domestic animals, the middlemost for stealing cattle of middle size and the lowest for stealing small cattle. For stealing grains less than ten kumbhas, the thief must be fined eleven times as much. In all these cases, the thief had to return the stolen property to the owner. According to Manu, the stealer of the water-pot or the rope from a well shall be fined a māsa of gold. For stealing flowers, green corn, shrubs, creepers, small trees or other vegetables, enclosed by a hedge, fine of five raktikas of
gold or silver shall be paid. But he who steals corn, pot-herbs, roots and fruits unenclosed by a fence, should pay a fine of a hundred paras if he has no relation with the owner. If, however, he has some relation with the owner, he should be fined fifty paras. For stealing grains, fruits, roots, etc., when they are prepared for use, the king should levy the lowest amercement. The same fine shall be paid for stealing fire from a temple or room. (151) Manu asks the king to punish the stealer of large beasts, weapons, medicines and implements of husbandry after considering the time and purpose for which they are destined. It means that the king should know whether the weapons are stolen before and during a combat, or medicines are stolen from a sick man or whether a plough is purloined in the season of ploughing. In such case, the punishment must be heavy. According to Brhaspati, for injuring or stealing cattle, clothes, food, drink, or household utensils, the thief shall pay a fine of not less than two hundred paras. For stealing women, men, images of god, gems, the property of a god or Brahmana, silk and other valuable things, the thief shall pay a fine equal to the value of the stolen article or the double amount shall be exacted as fine. (153) Kautilya prescribes fines for various kinds of theft and robbery. If government servants steal ordinary articles or necessaries of life from manufactories or if they seize articles of small value, they shall be punished with the first amercement. For seizing articles from manufactories or from the granary of the king, the following fines are prescribed by him:
Value of stolen property
in masas and paras :
(16 masas = 1 para)

<table>
<thead>
<tr>
<th>Upto</th>
<th>4 masas</th>
<th>...</th>
<th>...</th>
<th>12 paras.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8 &quot;</td>
<td>...</td>
<td>...</td>
<td>24 &quot;</td>
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<td>12 &quot;</td>
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<td>...</td>
<td>36 &quot;</td>
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<td>16 &quot;</td>
<td>...</td>
<td>...</td>
<td>48 &quot;</td>
</tr>
<tr>
<td></td>
<td>2 paras</td>
<td>...</td>
<td>...</td>
<td>First amercement:</td>
</tr>
<tr>
<td></td>
<td>4 &quot;</td>
<td>...</td>
<td>...</td>
<td>Middle &quot;</td>
</tr>
<tr>
<td></td>
<td>8 &quot;</td>
<td>...</td>
<td>...</td>
<td>Highest &quot;</td>
</tr>
</tbody>
</table>

If any government servant steals from government courtyards, shops, arsenals, things like raw materials, manufactured articles, etc., of half the above value, he should be punished as above. If any person steals articles of 1/4th of the above value from royal treasury, granaries, offices of superintendents, twice the above fines should be exacted. Kautilya prescribes various fines for stealing gold by the artisans in the government factory. For lowering the quality of a coin less than the standard of a masa, the artisan shall be punished with the first amercement. Middlemost amercement shall be imposed when its weight is less than the standard weight. Deception in balance or weight is to be punished with the highest amercement. Similar will be the punishment for deception in the exchange of manufactured coins.

If a goldsmith steals silver equivalent to the value of a masa from a silver dharana, he shall be fined twelve paras. For removing the whole amount of gold (karsa) from a suvarna by the apasara method or by any other deceitful combination (yoga) a goldsmith shall be punished with a fine of five hundred paras.
For the defalcation of government revenue, an officer is to be fined, according to Kautilya, twelve times the amount stolen. When a case of embezzlement is detected, all persons concerned such as the treasurer, the prescriber, the receiver, the payer, one who caused the payment, the ministerial servants of the officer will each be separately examined. If anybody lies, he should be punished as the real culprit. When an officer is involved in a number of offences and when his being guilty of parokta in any one of them has been established, he shall be answerable for all those offences. When it is not established, the officer shall be tried for each of the charges. When it is proved that a government servant has misappropriated a part of a large sum, he shall be answerable for the whole.

For stealing articles in daytime from threshing floors and fields as well as houses and shops belonging to 'the other areas' (bāhya), a government servant shall be punished in the following way:

<table>
<thead>
<tr>
<th>Value of stolen property</th>
<th>Fine or other penalties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Upto 4 paras</td>
<td>3 paras</td>
</tr>
<tr>
<td>&quot; 8 &quot;</td>
<td>6 &quot;</td>
</tr>
<tr>
<td>&quot; 12 &quot;</td>
<td>9 &quot;</td>
</tr>
<tr>
<td>&quot; 16 &quot;</td>
<td>12 &quot;</td>
</tr>
<tr>
<td>&quot; 2 paras</td>
<td>24 &quot;</td>
</tr>
</tbody>
</table>

The thief's body shall be smeared with cow-dung.
The thief's body shall be smeared with the ashes of cow-dung.
The thief's body may be smeared with cow-dung ashes or an earthen pan with blazing light or a girdle of earthen pans may be tied round his neck or loins.
The head of the thief shall be shaved or he shall be banished.
The thief's head shall be shaved or he shall be driven out of the country by pelting bricks at him.
Value of stolen property: Fire or other penalties:

<table>
<thead>
<tr>
<th>Upto 4 paras</th>
<th>36 paras</th>
<th>Fire or other penalties:</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>48</td>
<td>In all these cases, the thief shall be...</td>
</tr>
<tr>
<td>10</td>
<td>First amercement</td>
<td>paraded through the...</td>
</tr>
<tr>
<td>20</td>
<td>200 paras</td>
<td>streets and his...</td>
</tr>
<tr>
<td>30</td>
<td>500</td>
<td>crime proclaimed to the...</td>
</tr>
<tr>
<td>40</td>
<td>1000</td>
<td>beating of a drum.</td>
</tr>
</tbody>
</table>

For seizing articles worth half the above values by force during the early part of the day or night, a man shall pay double the above fines. For seizing articles of 1/4th the above values by force with weapons in hand whether during the day or night, a man has also to pay the same fines (i.e. double the above fines).

U.N. Ghoshal rightly points out, "Theft of the royal merchandise (rajasambhawaya), belonging to 'the royal areas' (rajasambhawaya) was punished with disproportionate severity as compared with theft by stealth in daytime from threshing floors and fields as well as houses and shops belonging to 'the other areas' (baha)."

For stealing wild beasts, cattle, birds, elephants, tigers, fish or any other animals confined in traps, fences or pits, a thief shall pay a fine equal to the value of the animals stolen. When a person steals beasts or raw materials from forests, he shall be fined a hundred paras. He who steals or destroys dolls, beasts, or birds from infirmaries, shall pay twice the above fines. For stealing articles of small value from artisans, musicians, or ascetics, the thief shall pay a fine of a hundred paras and for stealing big articles or agricultural implements, he should pay double the above fine. For stealing anything under the tumult of a quarrel a person shall be punished with a fine of ten paras.
Kautilya next describes in detail the fines to be levied for seizing articles by force. The school of Manu says Kautilya prescribe a fine equal to the value of the precious stones and superior or inferior raw materials when directly seized by the robber. The followers of Usanas, however, are in favour of levying a fine equal to twice the value of the articles seized. Kautilya holds that the fine shall be levied according to the gravity of the crime. For seizing articles of small value like flowers, fruits, vegetables, roots, turnips, cooked rice, skins, bamboo and earthen wares by force, the robber shall pay a fine that may range from twelve to twenty-four paras. In case of seizure of valuable articles (like iron, wood, etc.) by force, the fine may range from twenty-four to forty-eight paras. For seizing commodities of still greater value like copper, brass, bronze, etc., a fine ranging from forty-eight to ninety-six paras shall be levied. In case of seizure of big quadrupeds, men, fields, horses, gold, gold coins, fire fabrics, etc., the fine shall range from two hundred to five hundred paras. For keeping or causing others to keep men or women in captivity, Kautilya's preceptor prescribes a fine that may range from five hundred to one thousand paras. In all kinds of fines below a hundred paras, the king shall also take eight percent more as rupa and in fines above one hundred, five percent more as vyajj.

Kautilya (162) holds that for the first offence one shall be punished with the first amercement; twice as much is prescribed for offences committed for a second time; thrice as much for the third time; and for offences committed for the fourth time, any
punishment may be inflicted. If a paramour of a prostitute steals her jewelery or money, he should be fined eight times the value or amount.

According to the law-texts, thieves and robbers should first restore the stolen articles and then suffer the due punishment.

The Mahābharata refers to fine as a punishment for theft. As pointed out before, in the Gupta Kingdom, according to the testimony of Fa-hien, criminals were fined lightly or heavily according to circumstances. The village committees of Uttaramerur punished most offences including murder only by fines. The guilty had often to bear the expenses of keeping a perpetual lamp in a temple. Any inhabitant of Valla-rādu found guilty of robbing or capturing the cows of the cultivators, had to assign two má of wet land to the temple by way of a fine. According to Apan-stamba, if a person unintentionally takes fuel, water, roots, flowers, fruits, perfumes, fodder or vegetables of another, he shall be reprimanded. But if he takes them intentionally, his garments will be taken away.

The privileges granted to the gift lands often included sahyā-daśa-parādhā and sa-caur-oddharā. One of the ten offences was theft. The expressions mentioned above probably suggest that the fines for the ten offences and fines realized from thieves shall be taken by the donee. The officer called cauroddharanike seems to be responsible for the recovery of stolen goods for theft. Kautilya prescribes various fines for cheating.
According to Alberuni, sometimes a thief was exposed to public shame and ridicule. According to Megasthenes, 'If one is guilty of a very heinous offence, the king orders his hair to be cropped, this being a punishment to the last degree infamous'.

Sukra prescribes imprisonment for life for repeating an offence more than three times. According to Parada, when a culprit confesses his crime, he should get half of the due punishment but if he conceals his offence, he should be heavily punished.

Yajnavalkya holds that in a case of robbery, a fine twice the value of the thing taken away shall be imposed but when the offence is denied by the robber, the fine shall be fourfold. Imprisonment is another kind of punishment for theft.

9. Punishments According to Castes, Sex, Age, etc.

An observation of Megasthenes shows that laws were made on the basis of equality of all men in India. In practice, however, punishment varied according to the status and caste of the offender. Generally the Brahmanas were not subjected to severe physical torture and death-sentence. They also enjoyed some special privileges. The smritis, however, point out that as the sin of a guilty Brahmana is greater than that of a Sudra, his spiritual punishment in the other world will be heavier. At least in the case of theft, the higher castes were more heavily fined than the Sudras. Gautama lays down that if a Sudra steals an article, he must pay eight times its value and in the cases of other castes, the fines must be doubled. In the case of a learned offender, the punishment shall be much increased. Manu prescribes almost similar fines. Alberuni also says that the Brahmanas were more severely punished than the Kshatriyas. The Satartha
Brahmanas, Taittiriya Samhita and the Atharva Veda are, however, in favour of dealing leniently with the Brahmanas. Gautama says that the punishments for a Brahmana criminal are: preventing him from repeating the crime, confiscating his wealth, taking sureties from him, proclaiming him as a thief in the city, banishment, branding his forehead with the mark indicative of his crime.

In the Jaina literature, 'the offender of the warrior class was punished with the cutting of the hands or legs or head or he was impaled or killed by one stroke of the sword or he was killed as a snared animal. The offender of the householder class was enveloped in a heap of bark, or husk or chaff and burned to death. The offender of the Brahmana class was taunted in disagreeable terms and was branded with the mark (lacchana) of a pot (kundiyā) or a dog (sunaga) or was banished. The offender of the class of monks was admonished in not very unpleasant terms. According to Gautama, a pious and learned Brahmana should not be subjected to corporal punishment, imprisonment and banishment. He must not be fined, reviled or excluded. According to Vasistha, 'No guilt taints a Brahmana who possesses learning, practises austerities and daily mutters sacred texts though he may constantly commit sinful acts'. Possibly Vasistha here means purity of soul and not immunity from punishment. Baudhāyana lays down that the sign of a jackal should be impressed on the forehead of a Brahmana guilty of stealing a Brahmana's gold and then he should be banished. Visnu prescribes that a Brahmana thief should be branded with the mark of a dog's foot on the forehead. He should be shorn, his
offence publicly proclaimed, and himself mounted upon an ass and led about the town should be banished from his country. Though convicted of all possible crimes, a Brahma, according to Manu, shall never be executed. He shall be banished unhurt with all his property. Manu further says, for crimes by a priest (who was known to have a good character before his offence), 'the middle fine shall be set on him; or (if his crime was premeditated), he shall be banished from the realm, (taking with him) his effects and his family'. But if men of other class commit the same offences ever without premeditation their entire wealth should be confiscated and, if their crimes were premeditated, they shall be corporally, or even capital-ly punished, (according to circumstances). Narada and Yajnavalkya also recommend branding and banishment. According to Brhaspati, when a religious man and diligent reader of the Vedas is found guilty of theft, he shall be imprisoned for a long time. He should restore the stolen goods to the owner and then perform a penance. Another version of this verse says that punishment is not necessary if he performs a penance.

The Brahma thieves who are very strong shall be guarded with iron fetters, fed on meagre food and compelled to do hard labour for the king till their death. According to Yama, the king may force a Brahma offender to guard cattle for a month of fifteen days or to do other works unfit for a decent Brahma. Manu lays down that when a man belonging to the military, or commercial or servile class, is unable to pay a fine, he shall discharge the debt by his labour; a priest should discharge it by little and little.
According to the \textit{Mahābhārata}, a Brahmana who has contact with Brahman through concentration and austerity is never punishable. He is not to be punished as he preserves the Vedas. Only a Brahmana who does not follow the rules of his caste can be punished by the king. According to Gautama and Manu, men of the three higher castes may take grass, fuel-sticks, flowers of trees and plants for feeding cows and for the worship of fire from any place as if they were their own property and also fruits of unenclosed trees. It means that they were not liable to any punishment for these actions.

According to Āpastamba, Kautṣa, Hārīta, Kaṅva and Puskara-sādi laid down that 'whatever (however trifling or in whatever circumstances) a man took without the consent of the owner, he became a thief.' But the same authority points out that Vāṣyayani mentioned some exceptions to this rule: 'Owners should not forbid the taking (of a small quantity of) grain in pods (such as mudga or māsa) or grass for bulls yoked to carts, but that if large quantities even of these were taken there would be theft.' As pointed out before, Brhaspati prescribes mutilation for taking grass, wood, etc., without the permission of the owner. The Mitaksara (or Yājñavalkya, II. 166), Aparārka and others hold that this applies to persons other than the members of the three higher castes or this refers to the taking of those objects by a man capable of securing them easily or this may also be applicable to the case of a man who has taken them not for the use of cows or for worship.
According to Manu, any twice-born sacrificer and especially a **Brahmana** may take any article necessary to complete the sacrifice perfectly, from a Vaisya who, inspite of possessing considerable herds neither sacrifices nor drinks the juice of the soma plants. Two or three of such necessary articles may be taken from the house of a Sudra. Such things may also be taken from the house of a Brahma or a Ksatriya who does not perform a sacrifice.

A Brahma who has fasted for three days may take on the fourth morning grain sufficient for a day from a man who behaved basely by not offering him food. Though he may take it from the threshing floor, or from the field, or from the house, or from any place, he should declare if the owner demands, the cause of his taking them. Though a Ksatriya should never seize the property of a virtuous Brahma, he may take in an emergency goods of any man who acts wickedly or does not perform the religious duties. A pious king should not fine a Brahma for taking those things for it is the king's folly that causes the hunger or wants of a Brahma. But a Brahma should not take the things mentioned above when there is no real necessity. Vyasa permits a man to steal when he has no food first from a person of a lower caste, then from one belonging to his own caste and lastly from a person of a higher caste.

Manu further lays down that a twice-born traveller having scanty provisions may take only two sugar canes, or two esculent roots from the field of another man.

For committing the same offence for which an ordinary person is tortured, the Brahmans, persons learned in the Vedas and ascetics, according to Kautilya, should only be subjected
to espionage. According to a translator of Kautilya, these people shall be arrested by the spies and then paraded here and there. Kautilya lays down that a Brahmana shall never be tortured. According to the Lohitasmiti, a wicked Brahmana thief killing many persons at the time of his arrest should be imprisoned and belaboured for a year and then released uninjured. Then he shall be mounted on an ass and paraded through the streets, his crimes being proclaimed to the public. Lastly, he should be banished. But an ordinary thief for a similar offence shall be put to death. The Pali texts know of no privileged position of the Brahmanas in the eye of the law; rather the statement of the Madhura Sutta that a criminal, no matter whether he is a Brahmana or belongs to any other caste, would be executed, appears in a number of passages of the Jatakas where one speaks of the execution of a Brahmana. A priest found guilty of robbing the purse of a merchant containing one thousand coins was ordered by the king either to receive one hundred lashes or to swallow human excreta. The priest after receiving a few lashes decided to swallow excreta. Soon he asked for the lashes again. Thus he had to suffer both punishments and his whole property was confiscated. The Mrochakatika also shows that a Brahmana was ordered by the king to be impaled on the charge of theft involving murder. As already described, some councillors advised a king to torture a Brahmana thief to death. Though generally the Dharma-sastras claim immunity from corporal punishments for learned and virtuous Brahmanas later of all persons belonging to the Brahmana caste claimed this immunity and it depended upon the pleasure of the
kings to grant it or rot. As we shall see later, comparatively severe
duties were prescribed by the sāstras for offences to Brāhmaṇa's property. At the time of administering oath and ordeal, too, some advantages as shown before were given to the higher three castes, especially to the Brāhmaṇas. An eminent scholar remarks:

'It is not unreasonable to support that the atrocious penances and frightful punishments prescribed in the Dharmaśūtras for serious offences against the Brāhmaṇa's person and property... mark a desperate attempt of the priestly order unsupported by any material force to maintain its privileges in tact. To appreciate the claims of the Brāhmaṇas at their face value, it is necessary to remember that the period of the Dharmaśūtras coincided with the rise of a number of heretical sects of which those founded by Vardhamāna, Mahāvīra and Gautama Buddha became the most famous.' (215)

Generally, women were lightly punished. According to Katyāyana, 'In the case of all offences, women are to suffer half of the fine in money which is prescribed for a male offender (of the same kind) and when the punishment is death for a male, the punishment for a woman would be the excision of a limb'. (216)

According to Manu, 'For women, children, persons of crazy intellect, the old, the poor, and the infirm, the king shall order punishment with a small whip, a twig or a rope'. According to Sāṅkha, 'a child below five should not be punished for any act done by it'. A Panchatantra story quotes this verse:

Slay not a woman, Brāhmaṇa, child,
An invalid or hermit mild:
In case of major dereliction,
Disfigurement is the infliction.' (220)
In some Jain canons we find a story where a pregnant woman guilty of theft was ordered by the king to be executed after her delivery. Generally speaking, consideration of sex, age and caste, often led to lighter punishment.

10. Persons Securing Pardon For Offenders

A spiritual guide, an officiating priest, a śrātaka and a prince can save a criminal, according to Āpastamba, from punishment in all cases except in a case of capital offence. Gautama states that an assemblage of persons learned in the Vedas can pardon a criminal. According to the Millindapañha, high-ranking influential officers can save a robber from execution and the latter may be let off after amputating one of his limbs. In the Daksikumārācarita, a high officer pardons the thief named Purnabhadra and offers him service under him.

11. Punishment for abettors

Abettors of thieves and robbers were also severely punished. According to Gautama, a person who knowingly becomes the helper of a thief, should be treated as a thief. The receiver of a stolen thing shall be similarly treated. Manu prescribes death for those who give food or implements or shelter to robbers. In another verse Manu says that persons who give thieves fire, food, arms, apartments or knowingly receive stolen things should be punished as thieves. According to Narada, if persons able to arrest thieves, allow them to escape, they should also be treated as thieves. Vaiśravaṇa and Kautilya, say that an abettor shall be punished with the highest amercement.
Kautilya also says that if a person assists a thief under ignorance, he shall only be censured. According to Yajnavalkya and Kautilya, a man who incites another to crimes of violence should suffer double the punishment to be inflicted on the perpetrator himself and four times is prescribed for one who incites another by assuring him of the necessary monetary help. According to Brhaspati, persons who begin an offence or abet its commission shall receive half the punishment to be inflicted upon the wrongdoer.

Kautilya cites the opinion of the School of Brhaspati which hold that if an abettor promises to pay certain amount of gold to a man for committing a crime, he should pay the promised amount of gold and also a fine. According to Kautilya, if the abettor tries to minimise his crime by pleading anger, intoxication or loss of sense, he should get double or four times the punishment to be inflicted upon the perpetrator in consideration of the gravity of the abetment. Probably helping one to escape from prison was also regarded as abetment. Kautilya also says that for concealing a thief, a man should be punished as a thief. Kautilya further lays down that a female abettor of a thief shall have her ears and nose cut off or pay a fine of five hundred paras. A male abettor shall pay double the above fine. Sons and wives of a thief, if found to have been in concert with him should also be seized.

The punishments to be inflicted for possessing or selling others' articles may now be described. Visnu, Manu, Yajnavalkya, Narada and Brhaspati state that if a buyer does not purchase a thing in the open market, but from a man who has no means of possessing it, if he purchases it at an inadequate price or at an unusual hour or from bad men, he should be punished as a thief.
According to Visnu, if the buyer purchases an article in the market from a person who is not the owner, through ignorance, he should return the article. According to Manu, Kautilya and others, such a buyer can free himself only by producing the vendor. If the vendor fails to produce the man from whom he purchased the thing, he shall pay its price to the buyer and a fine to the king. The owner will get his thing back. If the purchaser cannot produce the vendor, he should pay the price of the article to the owner and a fine to the king.

According to Manu, if a person sells an article which does not belong to him and if he happens to be a member of the family of its owner, he should be fined six hundred paras while a vendor who is not connected with the owner's family, should be punished as a thief. The same rule will be applicable to a vendor who sells another's thing through ignorance or mistake and to a man who does so knowingly. The owner must prove his claim before getting his article back. If the buyer purchases an article before traders and king's officers from a vendor whose habitation is unknown or if the vendor dies after the purchase, the owner may recover the thing after paying half the price to the buyer. If a man takes a stolen or lost article without informing the king, he should be fined sixteen paras. Kautilya says that if a person having taken some stolen property runs away or conceals himself till the property is wholly consumed, he shall have to pay the value of it and suffer punishment for theft. In Upamitibhavaprakāśa, a merchant was condemned to death for knowingly purchasing a stolen article. According to Kautilya, when
goldsmiths buy without informing the government, silver or gold articles from unclean (slaves or servants) hands and change their form, or purchase the same and change their form (i.e. by melting) they shall pay a fine of twelve or twenty-four paras.

For purchasing the same from a thief, they shall be fined forty-eight paras. For buying an article at an inadequately price after melting it in secret, they shall suffer the punishment for theft.

12. Penance

The idea of sin as making one impure led to the idea of penance (prayascutta or prayascitti) which, it was believed, would remove the guilt. For some serious crimes like theft of gold, etc., both penance and punishment were prescribed in ancient India. According to Vismu, as life, religious merit and pleasure depend upon wealth, a man who injures it must be punished heavily. Sometimes in petty cases of theft, the criminal had to undergo the penance only. Prayascitta was known even in the Vedic times. The Samavidhena Brahmana refers to a mild penance for theft. According to Hopkins, at first the priests made some rules for offences that might be committed by them 'which vary from slight fasting and singing (repeating) certain texts magically potent to relieve a sufferer of sorrow or sin'. These came to be known as prayascitta which was also included in the law codes of later times. There too these were 'really meant for the priests who alone are in a position to carry out the singing and reciting required. Though they were at first meant for the priestly class alone, 'in the law codes they supplant the royal criminal code, primarily in the case of priests; but secondarily, by an extension of this exemption, they applied to
others. But in that case it is obvious that penances to be effective must be equal to the legal penalties, and in this way were introduced the horrible penances entailing death. The only difference between legal punishment and penances, according to Hopkins is that in the first case the king inflicts the punishment and in the second case, the penalty is self-inflicted. According to Hopkins, if a person undergoes the prescribed penance for his offence, the king should punish him less severely. It was controversial whether the sin was actually destroyed by performing the penance. According to Manu, 'Some of the learned consider an expiation as confined to involuntary sin, but others, from the evidence of the (Veda) hold it effectual even in the case of a voluntary offence'. Manu, however, lays down that a sin, if committed, involuntarily is removed by repeating certain texts of the scripture; but a sin committed intentionally, can be removed only by harsh penances of different sorts. Yajñavalkya seems to imply that the performance of penances cannot save a person who commits sin knowingly from going to hell. But performance of penance enables a person to purify himself, to recover the composure of his soul and to associate with other members of the society. In earlier times it was believed that penances or punishment entailing death removed the sin of a man accused of grave crimes. In later times, however, less severe penances or punishment was deemed sufficient. Penances were probably compulsory for the Brāhmaṇas who generally received mild punishment. The main object of the penance was to make the culprit conscious of the gravity of his offence and to make him repentant. This certainly served as a deterrent in those ages when crimes were many, but police and
judicial arrangements were inadequate. A modern scholar, however, holds that the Hindu modes of expiation of sins show their magical character alone and have nothing to do with true repentance. This theory seems to be unwarranted.

The प्रायास्तिक्त to be undergone by a person was selected after carefully considering the time, place, age, caste, capacity, learning, wealth and also the fact whether the lapse was intentional or unintentional or whether it was a case of repetition or not. Generally, a man eighty years old or a boy below sixteen, women and diseased persons were liable to half the प्रायास्तिक्त prescribed for able-bodied persons. Visnu lays down that 'the प्रायास्तिक्त for a Ksatriya, Vaisya and Sudra sinner should be respectively 3/4, 1/2 and 1/4 of what is prescribed for a Brāhma sinner'. In the case of theft by force (robbery) penalties will go on increasing, e.g., twice and thrice respectively according as the criminal is a Ksatriya or Vaisya. If a Brāhma's gold or wealth is stolen clandestinely by a Ksatriya or Vaisya, the penalty must be higher than that for a Brāhma, thief because as Varada points out, the wealth of idols, Brāhma and Kings is sacred. But Visnu's rule regarding प्रायास्तिक्त as mentioned above was applicable when the owner of the stolen property was of lower class than the thief.

According to Hitakara or the वाज्यवाल्क्यसूत्र (III. 293), for committing a sin intentionally, the penalty is double of what is prescribed for unintentional commission of the same sin. If a sin is committed knowingly and is repeated, the प्रायास्तिक्त will be four times of what is prescribed for the same sin committed unintentionally. Manu, Vaisistha, Visnu and others lay down that Vedic students, forest hermits and śānyāśins have respectively to undergo twice, thrice and four times
as much penance as is prescribed for householders. Prayaschittas were of two kinds, open (prakāśa) and secret (rahasya). In the first case, the guilty, when his guilt had become known to others, should go to a parisad with some present and announce his lapse and seek its decision. Secret penances are prescribed for those who have consecrated the Vedic fires and who are old disciplined and learned.

The procedure of undergoing prayaschittas as described in the digestes may be described thus: 'On the day previous to the actual day of commencing penance, the sinner should pare his nails, shave his head, bathe with clay, cowdung, holy water etc., drink clarified butter, make a declaration of performing the penance indicated by the assembly of learned men. Or the next day he should bathe, perform śrādha, drink pañcagavya, should perform homa, give dāksinā (gold, cows etc.) to the Brahmans and feed them." (257)

According to Manu, during all penances the sinner should remain pure in body and mind. Āṅgiras, Parasara and others require that only two finger-breadths of hair of married women and maidens undergoing penance, should be cut off. According to Manu tonsure of head is necessary in the case of learned Brahmans and kings only when they are guilty of grave sins. According to Āpastaṁba, a thief shall go to the king with loosened hair, carrying a club on his shoulder and proclaim his deed. If the king strikes him dead with that club, his sin will be expiated and the guilt will fall upon the king who pardons him. Gautama holds that the thief whether slain or discarded will be free from sin. (258) Vasistha introduces some innovations. According to him, when a man after stealing the gold of a Brahmana, comes to the king,
proclaims his crime and asks for punishment, the king shall give him a club made of *udumbara* wood and with that the thief should kill himself.

He will become pure after death. This looks like a pure penance as the punishment is here self-inflicted. The method of *Apastamba* may be called either penance or legal punishment. The thief, according to *Baudhāyana* shall carry or his shoulder a club made of *sindhūraka* wood and say to the king, 'strike me with that'. Whether he is punished or pardoned, the thief becomes free from sin.

*Manu* provides that a thief should carry on his shoulder a pestle of stone, or a club of *khadira* wood, or a javelin pointed at both ends, or an iron mace. According to *Narada*, the king should touch the thief (with a club) or dismiss him if he is innocent. The thief is freed from sin by his confession of guilt.

Thus penance gradually became more humane. In all cases, it should be noted, the thief had to restore the stolen property. *Manu* says that the twice-born man who wants to remove by austere devotion the guilt caused by stealing gold should perform in a forest, covered with a mantle of rough bark the penance prescribed for killing a *Brahmana* without malice prepense. He should make a house in a forest and live in it for twelve years subsisting on alms to purify his soul. According to *Yājñavalkya*, twice-born men may expiate this sin by giving as much gold as his own weight or sufficient wealth for the maintenance of a *Brahmana*'s family up to his death. For theft or for theft of gold, other penances are also prescribed. According to *Apastamba*, the offender may throw himself into the fire or perform severe austerities repeatedly or shorten
his life by reducing daily his portion of food or perform a krochra penance for one year without any interruption. He also quotes a verse according to which for committing theft a person shall eat every fourth meal-time a little food, bathe in the morning, noon, and evening and pass the day standing and the night sitting. He will be free from guilt after three years. Vasistha prescribes that a stealer of a Brahmana's gold should shave his head, smear his body with clarified butter, and cause himself to be burnt from the feet upwards, in a fire of dry cowdung. He becomes pure after death. According to Visnu, any of the mortal sinners may be free from sin by swallowing barley-gruel sanctified by various mantras for seven days or by swallowing barley corns dissolved in the excrements of a cow sanctified by mantras for twenty-one days. According to Sankha, a man guilty of the theft of gold should live in a forest, proclaim his misdeed and eat only once a day. The digestes contain numerous and varying expiations for theft depending upon the weight of the gold stolen, the qualities of the man robbed, etc.

According to Visnu, for stealing gold unconsciously a person should perform Mahavrata for 12 years. This penance is also prescribed for knowingly appropriating a deposit. For knowingly stealing grain or valuable objects, the Krochra or prajapatya penance shall be performed. While performing this penance, the penitent shall eat only in the evening for three days, only in the morning for another three days, shall eat food given to him unsolicited for a period of three days and also fast for three days. The Gandrayana penance is prescribed for stealing
male or female slaves (not belonging to a Brahmana) or for seizing a well or pool or a field. This is described thus: The sinner should eat single mouthfuls of food and during the moon's increase add successively one mouthful everyday so as to eat fifteen mouthfuls on the day of the full moon, and during the wane of the moon he should take off one mouthful everyday. On the day of the new moon he should fast entirely. For stealing articles of small value (e.g., tin, lead not exceeding twenty-five yana in value) the penitent should perform the Santapana penance. The sinner should subsist on cow's urine, cow-dung, milk, sour-milk, butter and water in which kusa grass has been boiled, for one day and fast for the next day and night. One who steals sweetmeats (rice etc.), food (milk etc.), drinks, a bed, a seat, flowers, roots, or fruits should drink paricagavya. Fasting for three days is prescribed for stealing grass, fire, wood, trees, rice in the husk, sugar, clothes, skins or flesh.

One should eat grains separated from the husk for twelve days for stealing knowingly valuable stones, pearls or coral, copper, silver, iron or white copper. The penitent should fast for three days for stealing two-hoofed or one-hoofed animals and for one day for stealing birds, or perfumes or medicinal herbs or cords or basket-work. According to Manu, one should only drink milk for three days for stealing cotton or silk or wool or a beast with cloven or uncloven hoofs, or a bird or perfumes, or medicinal herbs or cordage. For stealing from a Brahmana, gold less than eighty raktikas or gold of any weight from a Ksatriya or any non-Brahmana, one should perform the penance prescribed for an
upapataka. S°eha sinner should stay in a forest for three years subsisting on alms and observing celibacy. He should also donate one hundred cows together with a bull or he may subsist on milk alone for a month. He may also perform the candrayana penance.

Gradually more humane and easier penances were prescribed and penances which might cause loss of life were discouraged. Sinners unable to undergo hard penances were allowed to donate a cow or its price to a Brahmana or to recite the Gayatri-mantra or some Vedic hymns for a number of times or to do praâyamas or study the Institutes of Sacred Law or to feed some Brahmanas. According to Manu, open confession, repentance, devotion, reading the scriptures and alms-giving also remove sins. The Puranas say that the remembrance of Narayana and other gods and goddesses can remove all sins. Visnu says that even those guilty of the grave sins can be freed by performing an Asvamedha sacrifice or visiting sacred places. According to the Matsya Purana, a heap of sins is removed by visiting Vrascará.

For not performing a penance, a criminal was excommunicated. By putting the offender under ban for some time, by depriving him for a certain period of time of all the privileges that the society confers on man, it sought to improve the future conduct of the individual; while by making an example of him, it aimed at preventing him, it aimed at preventing the repetition of the offence by other members of the society. According to Manu, with persons guilty of grave sins, none should sacrifice, read and establish matrimonial relations. They should be excluded from all social duties. They should be deserted ever by their paternal and maternal relations. They should not be treated with
Persons who associate with them for one year also lose their caste. Even using the same carriage or seat or taking food at the same board is also banned. For associating with such a sinner, men should perform the same penance ordained for the sinner himself. (297)

Brhaspati bans sexual intercourse with a patita and cooking food in the sinner's cooking pots. Parasara, however, lays down that 'in the Kṛta age, a man became patita by speaking with a patita, in Treta by touching him, in Dvapara by partaking of food prepared in his house and in Kali by actually committing a sinful act.' (298)

According to Manu, the relatives of the patita should regard him as a dead man. His right of primogeniture must be withheld from him, and whatever perquisites arise from priority of birth. Even a son born to a patita will be regarded as a patita. But a patita's daughter may be married by a man if the girl does not take any wealth of her father and declares that she does not belong to him and he is not any one to her. (300)

A thief could not be a witness. He was not invited to a śraddha. Nobody became his servant. He was expelled from the Buddhist church. He along with his relations were excluded from the membership of a village community. For touching a thief, one had to bathe to purify oneself. (303)

Images of metal touched by thieves had to be purified. The food of a thief was not to be eaten. For eating it, one had to subsist on milk for seven days. (306)

The Parsvanathacaritra describes theft 'as worse than murder: it causes death alive; it defiles as the
touch of a pariah (matanga) even with a finger. Probably a thief who had not undergone a penance is meant in these cases. According to Manu and others, by performing the appropriate penance, the criminal becomes fit to be associated with.

13. Punishment After Death

If, in spite of this threat of a boycott, the criminals refused to perform penances, they were threatened with horrible torments in hell and other punishments in their rebirths. A thief should suffer, according to Aeroas, for a very long period in hell. A Brâhma thief shall be reborn as a candâla, a ksâtriya as a paulkasa and a vaisya as a vaiyâ. According to Visnu, all criminals who have not performed a prayastite shall go to hell and stay there for a long time. Visnu's description of the tortures inflicted in hell upon criminals including thieves is horrible.

According to the Samkicca-Jataka, robbers fall into a briny flood being assailed with swords and iron clubs and pursued with spears and arrows. The Puranas refer to various hells (e.g. viloha, sâkara, saramayâdara, etc.) where thieves and robbers were tortured.

According to Manu, the stealer of the gold of a priest shall be born a thousand times into the bodies of spiders, snakes, âmeleon, aquatic monsters or of mischievous blood-sucking demons. Manu's description of one's punishments in the next birth for stealing articles in this world may be presented in a tabular form.
<table>
<thead>
<tr>
<th>Articles stolen</th>
<th>To be born as</th>
</tr>
</thead>
<tbody>
<tr>
<td>Precious things like gems, pearls, etc.</td>
<td>a bird called hemakara.</td>
</tr>
<tr>
<td>Grain in the husk</td>
<td>a rat.</td>
</tr>
<tr>
<td>Yellow mixed metal</td>
<td>a gander.</td>
</tr>
<tr>
<td>Water</td>
<td>plava (diver)</td>
</tr>
<tr>
<td>Honey</td>
<td>a grat.</td>
</tr>
<tr>
<td>Milk</td>
<td>a crow.</td>
</tr>
<tr>
<td>Expressed juice</td>
<td>a dog.</td>
</tr>
<tr>
<td>Clarified butter</td>
<td>an ichneumon-weasel.</td>
</tr>
<tr>
<td>Flesh-meat</td>
<td>a vulture.</td>
</tr>
<tr>
<td>Fat</td>
<td>a water bird (madgu)</td>
</tr>
<tr>
<td>Oil</td>
<td>a oil-drinking beetle (bletta)</td>
</tr>
<tr>
<td>Salt</td>
<td>a cricket.</td>
</tr>
<tr>
<td>Curds</td>
<td>a bird (valaka)</td>
</tr>
<tr>
<td>Silken clothes</td>
<td>a bird (tittiri)</td>
</tr>
<tr>
<td>Woven flax</td>
<td>a frog.</td>
</tr>
<tr>
<td>Cotton cloth</td>
<td>a water-bird (Krama)</td>
</tr>
<tr>
<td>A Cow</td>
<td>a lizard (godha).</td>
</tr>
<tr>
<td>Molasses</td>
<td>a bat.</td>
</tr>
<tr>
<td>Perfumes</td>
<td>a musk-rat.</td>
</tr>
<tr>
<td>Potherbs</td>
<td>a pea-cock.</td>
</tr>
<tr>
<td>Dressed grain</td>
<td>a porcupine.</td>
</tr>
<tr>
<td>Raw grain</td>
<td>a hedge-hog.</td>
</tr>
<tr>
<td>Fire</td>
<td>a bird (vaka)</td>
</tr>
<tr>
<td>Household utensil</td>
<td>an ichneumon-fly.</td>
</tr>
<tr>
<td>Dyed cloth</td>
<td>a bird (Cakora)</td>
</tr>
<tr>
<td>A deer or an elephant</td>
<td>a wolf.</td>
</tr>
</tbody>
</table>
Articles stolen: To be born as:

A horse  a tiger.
Roots or fruit  an ape
A Woman  a bear
Water (from a jar)  a bird (Gataka)
Carriages  a camel.
Small cattle  a goat.

Property of another or Holy cake not first presented (to the deity) at a solemn rite  a brute.

For committing similar thefts, women shall become females to those male creatures. Then the sinners are born as human beings with the following marks which indicate the crimes committed by them in a remote human life.

Articles stolen: Marks:
gold  whitlows on nails.
grain  a defective limb.
dressed grain  dyspepsia.
holy words  dumbness.
clothes  leprosy.
a horse  lameness.
a lamp  blindness.

According to Viṣṇu, one who steals by mixing, has a limb too much.

14. Unpunishable cases of Theft

It has been pointed out earlier that the twice-born, especially the Brāhmaṇas were permitted to take others' things without permission in some cases. There were also other cases in which
theft was allowed. During some joyous festivals (e.g. on the oc­ca­sion of the birth of a son to a king), friends and attendants were permitted to carry off clothes and ornaments from the persons directly concerned with them. Thus when a son was born to King Prabhākaravardhara, a maid carried off the 'customary festival spoil' from him. Rows of shops were pillaged. The maces were snatched away from the mace-bearers . . . and heaps of wealth were plundered by the people on every side'. Probably the king gave compensation to the traders and others for their losses. As pointed out earlier, Kautilya allows a king to rob his rich subjects of their wealth in various ways in an emergency. He also allows a prince in distress to rob the rich and take the wealth of the gods if it was not to be enjoyed by the Brāhmaṇas. Kautilya provides that the Superintendent of Forest Produce should fix fines and compensations 'to be levied from those who cause any damage to produce forests except in calamities'. A Commentator on Kautilya's Arthasastra says that 'cutting and carrying off branches of such trees as would be useful for axles of cart, etc., is no offence'.

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According to some Hindu, Buddhist and Jaina records, however, punishment was at first very mild. It chiefly consisted of gentle admonition, severe reproof and fine. Gradually it became severe and imprisonment, mutilation and decapitation were introduced. See Kali Pada Mitra in THQ, Vol. XV, pp. 75ff.; J.C. Jair, Life in Ancient India as Depicted in the Jaina Canons, p. 73; Kane, op. cit., Vol. III, p. 391.

(9) R.C. Majumdar, Classical Accounts of India, p. 269.
(10) Kautilya, IV. 10.
(12) Ibid., Vol. II, p. 139.
(14) Loc. cit.
(16) Rgveda, VII. 86.5; I. 24. 13-15; Atharvaveda, VI. 63. 3; XIX. 47.9; 50.1.

(17) Atharvaveda, XIX. 49. 9-10; Griffith, The Hymns of the Atharvaveda, Vol. II, p. 307. 'Whatever robber comes to-day, mischievous mortal enemy, Let Night go forth, encounter him, and smite away his neck and head; His feet that he may walk no more, his hands that he may do no harm. The robber who comes hitherward goes crushed and mutilated . . . '.


(19) Atharvaveda, XIX. 47.9; XIX. 50.1; Hazra in Our Heritage, Vol. XIII, Pt. I, p. 117.

(20) Āpastamba, I. 9. 25. 4.

(21) Gautama, XII. 43-44.

(22) Vasishtha, XX. 41.

(23) Parābhayana, II. 1. 1. 16.

(24) Manu, VIII. 314.


(26) Vājñavalkya, III. 257.

(27) Āpastamba, II. 10. 27. 16.

(28) Vājñavalkya, II. 273.

(29) Manu, VIII. 34.


(31) Ibid., IX. 276.

(32) Manu, IX. 267.

(33) Ibid., IX. 270.

(36) Loc. cit.
(37) SBE, op.cit., p. 363.
(38) Kane, op.cit., Vol. III, p. 400.
(39) Ibid., pp. 406-07.
(40) Mahabharata, Adiparvan, Chap. 107; Santiparvan, Chap. 28.
(41) Kautilya, IV. 11.
(42) Ibid., II. 29.
(44) Loc. cit.
(47) Ibid., IV. 10.
(53) Ibid., Nos. 194, 318.
(54) Ibid., Nos. 194, 318.


(59) Upamiti bhavaprpañcakatha, ed. Jacobi, 9th Bhava.


(61) Buddhist Legends, op.cit., Vol. XXVI, pp. 70ff.

(62) Kali Pada Mitra in THQ, Vol. XV, pp.84ff.; Sāmarādokahā, ed. Jacobi, 3rd Bhava. It is said that during the reign of Laksmanaputra of Bengal, condemned criminals were handed over to the physicians to make experiments on their bodies or to make oil for medicinal purposes by boiling their bodies in oil or ghee (clarified butter). These criminals were called romthās. See Durga Chandra Sanyal, Bengāḷer Sāmājik Itihāsa (in Bengali), pp. 37ff.

(63) Ila Behari Day, Folk Tales of Bengal, pp. 171ff.

(64) SBE, Vol. XXXV, Part I, pp. 222ff.

(65) Buddhist Legends, op.cit., Vol. XXIX, pp. 304ff.


(67) Mrccchakatika, Act X; X.3; trans. Kale, p. 355. Āryuṇa describes himself thus: By the prints of (the extended) hand dipped in red sandal-paste, impressed over all my limbs and covered contd. . . .
over with rice-flour and sesamum-powder, I, a man, am turned into an animal (about to be slaughtered)'.


Mra, IX. 262; Kautilya, IV. 5.

Mrıchakatika, X. 21.

Kali Pada Mitra in IHQ, Vol. XV, p. 84.

Ibid., p. 82.

Upamitibhavaprapañca-katha, ed. Jacob, p. 174: Sthita-sada

cakkhaṁ pasyantā stimitekṣaṇaṁ itasaṅka kalamevaikasyār

Kali Pada Mitra in IHQ, Vol. XV, pp. 81ff.


The Jātaka, op.cit., Vol. I, Nos. 147, 86.


Mra, VIII. 322, VIII. 325.

Mra, VIII. 322, VIII. 325. loc. cit.

(81) Manu, IX. 277.

(82) SBE, op.cit., p. 228.


(84) Yajnavalkya, II. 274.


(87) Ibid., pp. 361ff.

(88) Kautilya, IV. 10. According to Vyasa, the hands and feet of the kidnapper of a man shall be cut off. See Kane, op.cit., Vol. III, p. 522.

(89) Kautilya, II. 23.


(91) The Jātaka, op.cit., Vol. VI, No. 546.

According to the Lohita Smṛti, verses 687-702, one hand, one foot or two hands of a thief were cut off. See Ārya Sastra (a Bengali Monthly), Bhadra, 1370 B.S.; Calcutta.


(93) Saṃrāmicakāha, ed. Jacobi, Second Bhaṭa.


(95) Pañcatantra, ed. Jivananda Vidyasagar, p. 84.


(98) J.C. Jain, op.cit., p. 73.

(100) Manu, X. 56. 50-55.
(105) *loc.cit.*
(106) *Mṛcchakatika*, Act X.
(109) *Samarājiccakāha, op.cit.*, Fourth and Fifth Bhavas.
(111) *Mṛcchakatīka*, Act X.
(113) *Samarājicca kāha, op.cit.*, Second Bhava.
(114) Manu, IX. 242.
(117) *Vaiśakha vaikya*, II. 187.
(125) Manu, IX. 235ff.
(127) Ibid., p. 399.
(128) Manu, IX. 236.
(129) Kamandaka, XIV, 16; Sukra, IV. 1.93; Kane, loc.cit.
(131) Ibid., p. 393.
(132) Ibid., pp. 393-94.
(133) Manu, VIII. 138; Visnu, IV. 10.
(134) Yajnavalkya, I. 366.
(135) The Mitaksara on Yajnavalkya, I. 366.
(138) Kautilya, III. 17.
(139) Kane, op.cit., Vol. III, p. 393, Note 625.
(140) Loc. cit.
(141) Loc. cit.
(143) SBE, op.cit., pp. 204-05.
(144) Ibid., p. 205.
Manu, VIII. 320; Visnu, op.cit., Vol. VII, p. 32. According to Brhaspati (SBE, Vol. XXXIII, Pt.I, pp. 361ff.), for stealing grains, the thief should pay ten times as much and the double amount as fine.

Manu, VIII. 319.

Ibid., VIII. 330-331, 333.

Manu, VIII. 324; IX. 293; SBE, Vol. XXV, pp. 310 and 394.


Kautilya, II. 14.

Kautilya, IV. 1; trans. Shamastra, p. 229.

Kautilya, II. 8; trans. Shamastra, pp. 67-68.

Parokta means failure to prove one's position, either as a complainant or as a defendant.


Kautilya, IV. 10.


Kautilya, II. 27.


Manu, VIII. 320; SBE, Vol. XXXIII, Pt.I, p. 359; SBE, Vol. VII, p. 32; Yajnavalkya, II. 269-70; Kautilya, IV. 10, etc.

Mahabharata, Asaramasikaparvan, Chap. V.

K.A.N. Sastri, The History and Culture of the Tamils, pp. 59ff.

R.C. Majumdar, Corporate Life in Ancient India, p. 212.
The Superintendent of Commerce should, according to Kautilya, supervise weights and measures and impose fines for using measures less than the standard weight. Sale or mortgage of inferior articles as superior shall be punished with a fine eight times the value of the articles. For selling adulterated things, deceitful mixtures or for dexterously substituting other articles for those just sold shall be punished with a fine of fifty-four paras and the trader should make good the loss. Middlemen causing to a trader or a buyer the loss of 1/8th of a para by substituting with tricks of hand false weights or measures or other inferior articles shall pay a fine of two hundred paras. According to Narada and Brhaspati, for concealing the blemish of an article or mixing bad and good articles together or selling old articles as new after repairing them, a merchant shall give double the quantity to the buyer and pay a fine equivalent to the price of the articles.


(171) Brhaspati, XXII. 13, 18; Narada, VIII. 7.
(174) Sukra, IV. 1. 88.
For stealing a very valuable object, kings would blind a Brahmana and cut off his left hand and right foot or the right hand and left foot. They would, however, mutilate a Ksatriya and kill thieves of other castes for the same offence.

(182) Satapatha Brahmana, V. 4, 2, 3; II. 4, 2, 17.
(183) Taittiriya Samhita, II. 5, 11, 9.
(184) Atharva Veda, V. 18.6.
(189) Ibid., p 201.
(191) Manu, VIII. 380; Mrchhakatika, IX. 39.
(194) Yajnavalkya, II. 270.
(196) N.C. Sen-Gupta, op. cit., p. 305.
(198) Manu, IX. 229.
(199) Mahābhārata, Mokṣadharma Parvan, Chap. 167; Mahābhārata, Rajadharma Parvan, Chap. 56.
(200) Manu, IX. 273.
(201) Gautama, XII. 25; Manu, VIII. 339; Vaijñavalkya, II. 166, Vol. III, p. 524.
(202) Kane, op. cit., p. 524.
(203) Kane, loc. cit.
(205) Kane, loc. cit.
(207) Kautilya, IV. 8.
(208) Kautilya, trans. R.C. Basak, p. 22.
(209) Kautilya, IV. 8; trans. Shamsastry, p. 250.
(210) Lohita Sārti, verses 69ff.; See Āryya Sāstra, Bhādra, 1370.
(211) R. Fick, op. cit., p. 212.
(212) J.C. Jain, op. cit. p. 69.
(219) Loc. cit.
(221) J.C. Jain, op. cit., pp. 69ff.
(223) Ibid., p. 242.
(225) Daksikumaracarita (Chap. IV), pub. Ramanasamy, pp. 155ff.
(226) Gautama, XII. 40ff.
(229) Vajrayavalkya, II. 276; Kautilya, IV. 11.
(230) Vajrayavalkya, II. 231; Kautilya, III. 17; Kane, op. cit., Vol. III, p. 529.
(231) Kane, loc. cit.
(232) Kautilya, III. 17.
(233) Loc. cit.
(234) See Kautilya, III. 17; IV. 9.
(235) Ibid., IV. 8; IV. 10; IV. 11; IV. 12.
(236) Ibid., IV. 8; IV. 10; IV. 11; IV. 12.
(237) Ibid., IV. 8; IV. 10; IV. 11; IV. 12.
(239) Vajrayavalkya, II. 172.
(241) Upamitihavaprapancā Katha, ed. Jacobi, Contents, LXV.
(242) Kautilya, IV. 1.
(246) Manu, IX. 235-240.
(248) Ibid., XI. 46.
(249) Yajñavalkya, III. 226 and 220; Kane, op. cit., Vol. IV, p. 63.

(251) Biren Bonnerjee in Indian Antiquary, Sept., 1931.
(252) Kane, op. cit., Vol. IV, pp. 79ff.
(253) Ibid., pp. 80ff.
(254) Ibid., p. 102.
(255) Ibid., p. 83.
(256) Ibid., pp. 84 and 125.
(257) Ibid., p. 121.
(258) Manu, XI. 223-26; cf. Yajñavalkya, III. 212-13; Kane, op. cit., Vol. IV, pp. 120-21.
(259) Kane, op. cit., Vol. IV, p. 123.
(260) The Mitaksara on Yajñavalkya, III. 325; Kane, loc. cit.
(262) Ibid., pp. 241ff.
(264) Bodhāyaṇa, III. 5. 6; III. 6. 9; III. 6. 18.
(265) Ibid., II. 1. 1. 16-17 (SBE, Vol. XIV, Pt. II, p. 213).
(268) Kane, op. cit., Vol. IV, p. 74.
(269) Manu, XI. 101-02.
(270) Ibid., XI. 73.


(275) Kane, *op.cit.*, Vol. IV, p. 87.


(278) *Loc.cit.*

(279) *SBE, op.cit.*, pp. 172ff.


(281) *SBE, op.cit.*, pp. 151ff.


(285) *Loc.cit.*

(286) *Loc.cit.*

(287) *Manu*, XI. 169.


(290) *Manu*, XI. 228; see XI. 246ff.

(291) *Kane, op.cit.*, Vol. IV, p. 50.


(293) *Matsya Purāṇa*, 184. 18.


'Sinners guilty of having committed (one or more of the nine kinds of) sins have to endure terrible sufferings when they have left this life and reached the path of Yama. Being dragged hither and thither by the fierce servants of Yama they are led (to hell) by them with frightening gestures. (In Hell) they are devoured by dogs, jackals, crows, herons,'
carnes and other birds eating raw flesh, by snakes and scorpions that have fire in their mouths (i.e. that emit stinging poison). They are scorched by fire, pierced by thorns, divided into parts by saws and oppressed by thirst. They are afflicted with hunger and by terrible hordes of tigers and they faint away at every step on account of the stinking smell of pus and blood. Desiring to secure the food and drink of others they are beaten by the servants (of Yama) whose faces are similar to those of such horrible animals as crows, herons and cranes. In some places they are boiled in oil, in others they are pounded with pestles or ground down in iron or stone vessels. In some places they (have to) eat what is vomited or pus or blood or excrements, and hideous meat smelling like pus. In one place they have to stay in terrible darkness, and are devoured by horrible worms having flames in their mouths. In some places they are overwhelmed by cold or have to pass through the midst of unclean things and in other places the departed devour each other, thus becoming most horrible. In some places they are beaten on account of their former deeds and are suspended in other places (from trees &c) or are struck with heaps of arrows or are cut into pieces. In other places they have to tread upon thorns and they are encircled by the hoods of serpents, they are tormented with machines and are dragged by their knees. Their backs, heads and necks are fractured, they become terrible (to look at), contd. . . .
their throats being reduced to the size fit for a cave shelter and they become unable to bear torments. Sinners are being tormented in this way and having suffered intense pain undergo various further sufferings in their passage through animal bodies (in which they are thereafter born).".

(318) Vayu Purana, 101. 148; Bhagavata Purana, 26.7 and 27; Vayu Purana, 101. 146, 152, etc.
(320) Manu, XI. 49, 51-52.
(321) Vishnu, XEV, 10.

In some parts of Bengal during the night of the Maṣṭacandra day (the fourth day of either fortnight in the month of Bhadra or August-September), youngsters steal fruits or food articles from the houses of their locality and may only be rebuked by their owners. In some parts of India, close relatives steal things belonging to the bride or bride groom, which are returned in lieu of some money. This is done to remove the evil influences of bad persons who try to do the couple some harm by stealing their things. In some areas of Bengal, an article belonging to a neighbour is stolen and buried as a charm against excessive rain. This is generally done by the mothers of the bride or bride groom when excessive rain threatens to spoil the ensuing marriage ceremony. During the

Kautilya, I. 18.

Kidnapping of women by the Ksatriyas was permitted. The Rakasa form of marriage allows one to kidnap a girl and then marry her.