CHAPTER – III

A Comparative Study of the Concept of Crime and Punishment in Ancient Arthaśāstra and Dharmashastra Authorities and Kauṭilīya Arthaśāstra
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With a view to create a crime free society, a society full of human values, the ancient seers as well as the lawgivers like Manu, Brhaṣpati, Nārada, Uśāna, Yājñavalkya, Vaśiṣṭha, Gautama and others who are also mentioned as the Dharmaśāstra and Arthaśāstra authorities, composed different śāstras, where they, besides other thousands of subject matters, related to human society, dealt with the concept of ‘Crime’ and ‘Punishment’ also with great care. They have prescribed different laws of punishment for various types of crime. In this regard the name of Kauṭilya is inevitable. Kauṭilya has dealt the concept of ‘Crime’ and ‘Punishment’ in his Arthaśāstra with great care. He has also prescribed different laws of punishment for different types of crime. As it is said earlier that Kauṭilya has not only depended upon the texts written by his predecessors, but also on his practical experience. Some points of similarities and also dissimilarities between the Kauṭiliyān concept of ‘Crime’ and ‘Punishment’ and the concept of ‘Crime’ and ‘Punishment’ dealt with by ancient Arthaśāstra and Dharmaśāstra authorities have been observed. Here, in this chapter, a humble attempt has been made to compare the Kauṭiliyān concept of ‘Crime’ and ‘Punishment’ with that of
ancient Arthaśāstra and Dharmasāstra authorities. The laws of punishment prescribed by Kauṭilya and ancient Arthaśāstra and Dharmasāstra authorities may be mentioned in the following heads:

Theft:

Like the Vedic texts, Purāṇas, epic literatures and other ancient Indian scriptures, the laws of punishment for the crime like theft also have been observed in the sāstras written by the Arthaśāstra and Dharmasāstra authorities. Some of the laws prescribed by some of the Arthaśāstra and Dharmasāstra authorities may briefly be discussed as follows:

Laws of Manu:

Manu has prescribed different types of punishment for stealing articles having different values. Regarding this, Manu has prescribed that when a person steals men of noble family and especially women and the most precious gems, he should be put to death.¹ When a person steals cows and cattles belonging to Brahmins, half of his feet should be cut off immediately.² According to Manu, for stealing articles having little value such as thread, cotton, drug causing fermentation, cow dung, molasses, sour milk, sweet milk, buttermilk, water or grass, vessels made of bamboo or other cane, various kinds of salt, earthen vessels, earth and ashes, fish, birds, oil, clarified butter, meat, boiled rice etc., the fine
should be twice as much as their value. If anybody steals flowers, green corn, shrubs, creepers, trees and other unhusked grain, he should be fined five krṣṇalas. Manu has prescribed that for the prevention of the repetition of crime, the king should cut off the particular limb of a thief. According to Manu, in case of theft, a Sudra should pay eight times, a Vaiśya should pay sixteen times, a Kṣatriya should pay thirty two times and a Brahmin should pay sixty four times of the value of the stolen article or property. When a person steals the rope or the water-pot from a well, he should be fined one māṣa and compelled to restore the stolen article. Manu has prescribed corporal punishment for stealing more than a hundred palas of articles sold by weight, i.e. articles of gold, silver and most excellent clothes. If anybody steals large animals, weapons or medicines, the king should fix punishment after considering the time and the purpose of stealing. Manu has prescribed that the two fingers of a pickpocket should be cut off for his first offence. For committing the same for the second time, his one hand and one foot should be cut off and on the third conviction, the pickpockets should be put to death. Manu has prescribed death sentence for stealing elephants, horses or chariots. It has been prescribed that the thief should approach to the king with flying hair and should confess his guilt and should say - “Thus I have done, punish me”, he should carry a weapon made of khadira wood on his shoulder which should be sharp at both ends, whether he be punished or
not, the thief would become free from the guilt of theft. According to Manu, when a Brahmin steals gold of another Brahmin, he should go to the king and confessing his guilt, should say to the king, "Lord, punish me". The king should then strike him with a weapon and after his death, he would become free from crime or he may perform austerities.

Laws of Yājñavalkya:

Yājñavalkya has prescribed different types of punishment for theft. He has prescribed impalement for those who steal elephants and horses. According to Yājñavalkya, the thumbs and forefingers of a pilferer of clothes and a pickpocket should be cut off. When he commits the same crime for the second time, his one hand and one leg should be cut off. For stealing trifling articles such as earthen vessels etc., for stealing ordinary articles such as clothes etc. and for stealing valuable articles such as gold etc., punishment should be according to their values. He has prescribed that while inflicting punishment, the place and time of stealing and the power and age of the thief should be taken into consideration.

Laws of Usāna:

Usāna has prescribed the same punishment for a Brahmin for stealing gold as prescribed by Manu for a Brahmin for stealing gold of another Brahmin. According to Usāna, if anybody steals men, women, houses, tanks, wells or other watery expenses, he should perform the
Cāndrāyaṇa penance. For stealing articles of little values from another’s house, one should perform the Sāntapana penance for self purification. For pilfering rice, etc. and wealth, one may purify himself by the five ingredients supplied by the cow (Pañchagavya). According to Uṣāna, the pilferer of grass, wood, trees, flowers, garments, meat, fish etc., should fast for three nights as expiation. When a person steals diamonds, corals, precious stones, gold, silver, iron, pebbles etc., he should fast for twelve nights. He has prescribed that he who pilfers birds, medicinal herbs, should live on milk for three days.

Laws of Viṣṇu:

Regarding theft, Viṣṇu has prescribed that for stealing gold, a Brahmin should be banished from the country after impressing a dog’s foot on his forehead. According to Viṣṇu, those who steal more than ten kumbhas (a kumbha is a measure of grain equal to twenty droṇas or a little more than three bushels and three gallons) of grain, they should be put to death. Viṣṇu has prescribed the same punishment for stealing more than a hundred māṇas, the things which are usually sold by weight, such as gold and silver. When a person steals a cow or a horse or a camel or an elephant, his one hand or one foot should be cut off. If anybody steals a goat or a sheep, his one hand should be cut off. He who has stolen those sorts of grain which grow in the rainy season, he should
pay eleven times the value of grain as a fine. According to Viṣṇu, when a person steals grain, grow in winter and spring season, such as rice and barley, he should pay eleven times the value of the stolen grain as fine. He who steals gold, silver or clothes, at a value of more than fifty māṣas, his both hands should be cut off. For stealing a less amount than this, one should pay eleven times it’s value as a fine. Viṣṇu prescribes that for stealing thread, cotton, cow dung, sugar, sour milk, milk, butter milk, grass, salt, clay, ashes, birds, fish, clarified butter, oil, meat, honey, basket work, canes of bamboo, earthenware or iron pots etc., one should pay three times the value of these articles as fine. Viṣṇu has prescribed the same fines for stealing dressed food. A stealer of flowers, green grain, shrubs, creepers, climbing plants or leaves, should be punished with a fine of five kṛṣṇalas. When a person steals pot herbs, roots or fruits, he should be punished with the above fines. For stealing gems, one should be punished with the highest amercement. He has prescribed that the thieves should be compelled to restore the stolen articles to the owners and after that they should suffer the punishment that have been prescribed for them. According to Kauṭilya, a pickpocket should be punished by cutting his one hand. For stealing gold from a Brahmin, one should perform The Horse Sacrifice and visit all Tirthas.
Laws of Āpastamba:

Like other authorities, Āpastamba also has prescribed different types of punishment for the crime like theft. He has prescribed the capital punishment, besides the confiscation of property for a Śūdra for committing theft. For committing the same, a Brahmin should be made blind by tying a cloth over his eyes. According to Āpastamba, a thief should go to the king with flying hair, carrying a cudgel on his shoulder and tell him his deed. The king should give him a blow with that cudgel. If the thief dies, he would be free from his guilt or he may throw himself into the fire.

Laws of Gautama:

Like Manu, Gautama also has prescribed that a Śūdra should pay eight times, a Vaiśya should pay sixteen times, a Kṣatriya should pay thirty two times and a Brahmin should pay sixty four times of the value of the stolen object or property. Gautama has prescribed the same method of punishment for theft of gold that has been observed in the prescription of Manu and Āpastamba. Gautama has prescribed that punishment should be given after considering the status, strength of criminals, nature of crime and it should also be taken into account whether the crime is repeated or not.
Laws of Vaśiṣṭha:

According to Vaśiṣṭha, when a man steals gold belonging to a Brahmin, he should approach to the king with flying hair and utter the words like, "Ho, I am a thief; Sir, punish me!" the king then should give him a weapon made of Udumbarā wood and the thief should kill himself with that weapon or he may shave his head, anoint his body with clarified butter and cause himself to be burnt from the feet upwards, in a fire of dry cow dung.38

Laws of Kauṭilya:

Like other Dharmaśāstra and Arthaśāstra authorities, Kauṭilya also has prescribed various types of punishment for stealing articles having different values. Regarding this, Kauṭilya has prescribed that for the first crime committed by thieves and pickpockets at holy places, their middle finger and thumb should be cut off or a fine of fifty four paṇas should be imposed on them. For repeating the same crime for the second time, their five fingers should be cut off or a fine of one hundred paṇas should be imposed on them. For repeating the same for the third time, their right hand should be cut off or a fine of four hundred paṇas should be imposed on them. Kauṭilya has prescribed death penalty for them for repeating the same for the fourth time.39 Kauṭilya prescribes that those who steal cocks, mongoose, cats, dogs or pigs of less than twenty five paṇas in value, the
tip of their nose should be cut off or a fine of fifty four paṇas should be imposed on them. According to Kautilya, those who steal deer, beasts, birds or fish, caught in the snares, net or concealed pits, they should not only pay a fine equal to the value of the stolen animals, but also should restore the animals. Kautilya prescribes a fine of one hundred paṇas for those who steal deer or objects from deer parks or produce forests. According to his prescription, when a person steals deer or birds for show or pleasure, he should be fined with two hundred paṇas. For stealing small articles belonging to artisans, artists, actors or ascetics, one should be fined one hundred paṇas. For stealing big articles and agricultural goods, he should be fined two hundred paṇas. It has been prescribed that when a person steals a cart, a boat or a small animal, his one foot should be cut off or a fine of three hundred paṇas should be imposed on him. For stealing a big animal or one male or female slave, one’s both legs should be cut off or a fine of six hundred paṇas should be imposed on him. According to Kautilya, if a person steals a herd of cattle, he should be put to death. Those who steal cattle, images, persons, fields, houses, money, gold, gem or crops belonging to temple, they should be put to death without torture or the highest amercement should be imposed on them. According to Kautilya, the house thieves and those who steal an elephant, a horse or a chariot belonging to the king, should be impaled on the stake. He has prescribed that when a man, other than a soldier, steals
weapons or armour, he should be shot down by arrows and when a soldier commits the same crime, he should be punished with the highest amercement.\textsuperscript{44} Kautilya has prescribed death penalty for an officer for stealing an article of high value or a gem from mines or factories.\textsuperscript{45} He has prescribed the same punishment for stealing king’s articles of ten \textit{paṇas} and above in value.\textsuperscript{46}

From the above discussion, it appears that Kautilya has prescribed moderate punishment, in comparison with the other authorities. He has prescribed death penalty for the pickpockets for repeating the same crime for the fourth time, where the other authorities like Manu have prescribed death penalty for the pickpockets for repeating the same crime for the third time. Kautilya has prescribed different types of fines for theft in lieu of mutilation of limbs which perhaps has not been prescribed by the other authorities. Kautilya has prescribed punishment even for the officers. Here, it appears that Kautilya has covered a greater area than the other authorities by prescribing different types of punishment for stealing articles having different values.

\textbf{Homicide}:

Human being is the greatest creation of the great creator. For this reason, killing of human being has been regarded as a great crime from the very beginning of human civilization, as references of different types
of punishment have been found in the ancient Indian scriptures. The Dharmashâstra and Arthashastra authorities also have prescribed different laws of punishment for this type of heinous crime. Some of the laws may be discussed in the following way –

**Laws of Manu:**

Manu has prescribed death penalty for those, who kill women, infants or Brahmins.\(^{47}\) It has been prescribed that for killing a Brahmin unintentionally, one should make a hut in the forest and dwell in it during twelve years, subsisting on alms, making the skull of a dead man as his flag or one may unhesitatingly abandon his life for the sake of Brahmins or cows, to make himself free from the guilt of killing a Brahmin.\(^ {48}\) According to Manu, a Brahmin who, with concentrated mind, performs any of these expiations, becomes free from the guilt of killing another Brahmin.\(^ {49}\) For killing a Kṣatriya or a Vaiśya, who are engaged in or have offered a vedic sacrifice or for killing a Brahmin woman, who has bathed after monthly uncleanness, one should perform the same penance which has been prescribed for unintentional murder of a Brahmin.\(^ {50}\) Manu has prescribed the same penance for one who kills his wife or friend.\(^ {51}\) He has prescribed one fourth of the penance, (prescribed for unintentionally killing a Brahmin) for intentionally killing a Kṣatriya. One eighth of the penance has been prescribed for killing a Vaiśya and for killing a virtuous
Śūdra, he has prescribed one sixteenth of the same penance. According to Manu, when a Brahmin unintentionally kills a Kṣatriya, he should give one thousand cows and a bull or he may perform the penance, prescribed for the murder of a Brahmin during three years, controlling himself, wearing his hair in braids, staying far away from the village and dwelling at the root of a tree. When a Brahmin kills a virtuous Vaisya, he should perform the penance, (prescribed for killing a Brahmin), during one year or he may give one hundred cows and one bull. For killing a Śūdra, one should perform the same penance during six months or he may give ten white cows and one bull to a Brahmin. According to Manu, for killing adulterous women of the four castes, one should give a leathern bag, a cow, a goat or a sheep respectively.

Laws of Yājñavalkya:

Yājñavalkya has prescribed impalement for killing a person forcibly. According to Yājñavalkya, for killing a male or a female, the punishment should be the lowest or the highest according to the merit of the murderer and the person murdered. A dissolute woman, who kills an embryo or a man, if she is not pregnant at that time, she should be made to enter into the water, having a stone tied round her neck. When a woman kills her husband, spiritual guide or her children, she should be killed by an ox, after having her ears, fingers, nose and lips cut off.
Laws of Usāna:

In the prescription of Usāna, the same punishment has been observed for killing a Brahmin which has been observed in the prescription of Manu for killing a Brahmin unintentionally. According to Usāna, for killing a servant, the foremost of the twice born should give away a weapon made of crude iron.

Laws of Viṣṇu:

Concerning homicide, Viṣṇu prescribes that when a Brahmin murders another Brahmin, he should be banished after having painted a headless figure on his forehead. For killing women, children or men, Viṣṇu has prescribed the same punishment as observed in the prescription of Manu for killing women, children or Brahmin. According to Viṣṇu, killing a Brahmin is a high degree of crime and for this type of crime, one should perform a Horse Sacrifice and visit all Tīrthas on earth. Killing a Kṣatriya or a Vaiśya, engaged in a sacrifice, or a woman in her monthly illness or a pregnant woman or a woman of Brahmin caste, who has bathed after temporary uncleanness, one who has come for protection and murdering a friend are high degree of crime and for committing this type of crime, Viṣṇu has prescribed the same punishment that he has prescribed for killing a Brahmin. According to Viṣṇu, killing a Kṣatriya or a Vaiśya or a Śūdra are fourth degree of crime and for this, the
offender should perform the Cāndrāyaṇa or Parāka penance or should sacrifice a cow.\textsuperscript{66} Viṣṇu has prescribed different types of penance for killing unintentionally. According to Viṣṇu, he who has killed a Brahmin unintentionally should make a hut in a forest and dwell in it. He should bathe and perform his prayer three times a day and should collect alms going from one village to another, proclaiming his guilt. He should sleep upon grass. This is called Mahābrata. He should perform it for twelve years.\textsuperscript{67} For killing unintentionally a Kṣatriya or a Vaiśya, engaged in a sacrifice, should perform the same penance for the same period.\textsuperscript{68} For killing unintentionally a pregnant woman or a woman in her monthly courses, a woman who has taken her bath after her monthly courses, a friend, one should perform the same penance for twelve years.\textsuperscript{69} If a person kills a king unintentionally, he should perform the Mahābrata for twenty four years.\textsuperscript{70} For killing unintentionally a Kṣatriya, not engaged in sacrifice, one should perform the same penance for nine years. For killing unintentionally a Vaiśya, not engaged in sacrifice, one should perform the same penance for half of nine years and for killing unintentionally a virtuous Śūdra, one should perform it for half of above period or for three years. According to Viṣṇu, while performing this Mahābrata penance, the offender must carry on his stick the skull of the killed person, like a flag.\textsuperscript{71}
Laws of Apastamba:

Regarding homicide, it has been prescribed in the *Apastamba Dharmasūtra* that if a person kills a Kṣatriya, he should give one thousand cows and one bull to Brahmins for expiation. For killing a Vaiśya, one should give one hundred cows and a bull. One should give ten cows and one bull for killing a Śūdra. According to Apastamba, for killing women of the three castes, the same composition should be paid. According to his prescription, the person who kills a man belonging to the first two castes, who has studied the Veda or had been initiated for the performance of a Soma Sacrifice and who kills a Brahmin, who has not studied the Vedas or has not been initiated for a Soma Sacrifice, is called an *abhisasta* (literally means ‘accused’ or ‘accursed’). He is called on *abhisasta* who kills a Brahmin woman during her monthly illness. It has been prescribed that an *abhisasta* himself should erect a hut in the forest, restrain has speech, carry on his stick the skull of the person killed like a flag and should cover his body from his navel to knees with a quarter of a piece of hempen cloth. The path for him, when he goes to a village for alms, should be between the tracks of the wheels. If he sees an Ārya, he should step out of the road to the distance of two yards. He should carry a broken tray of metal of an inferior quality and go to seven houses only, crying, “who will give alms to an *abhisasta* !”. In this way he should maintain his livelihood. If he does not obtain anything at the seven
houses, he must fast. While performing this penance, he must tend cows. When the cows enter the village, he may enter the village. He should perform this penance during twelve years. After twelve years, if he takes bath with the priest at the end of a Horse Sacrifice, he would be free from his guilt.\textsuperscript{73} Āpastamba has prescribed that he who kills his father or teacher or a Brahmin, who has studied the Veda and finished the ceremonies of Soma Sacrifice, he should perform this penance until his last breath.\textsuperscript{74} Āpastamba has prescribed the confiscation of property and the capital punishment for a Sudra for committing homicide. According to Āpastamba, when a Brahmin commits this type of serious crime, he should be made blind by tying a cloth over his eyes.\textsuperscript{75}

\textbf{Laws of Gautama:}

In the prescription of Gautama, the same punishment has been observed for killing intentionally a Brahmin which has been prescribed by Manu for killing a Brahmin unintentionally.\textsuperscript{76} Gautama has prescribed the same punishment for killing a Brahmin woman who has taken her bath after her monthly uncleanness.\textsuperscript{77} For intentionally killing a Kṣatriya, besides the normal vow of continence for six years, he has prescribed the same punishment as observed in Āpastamba’s prescription for killing a Kṣatriya. For killing a Vaiśya, besides the normal vow of continence for three years, he has prescribed the same punishment as observed in
Āpastamba’s prescription for killing a Vaiśya. For killing a Śūdra, he has prescribed the same punishment as observed in Āpastamba’s prescription for killing a Śūdra, in additional to the normal vow of continence during one year. For killing a learned Brahmin, Gautama has prescribed a penance that the offender should live during ten days on milk alone or on food fit for offerings. During a second period of ten days, he should live on clarified butter and during a third period of ten days, he should live on water, partaking of such food once only each day, in the morning, keeping his garments constantly wet, he should daily offer eight oblations representing the hair, the nails, the skin, the flesh, the blood, the sinews, the bones and the marrow. The end of each mantra should be, ‘I offer in the mouth of the Ātman, in the jaws of Death.’

Laws of Vasistha:

Like Gautama, Vaśiṣṭha has also prescribed different types of expiation for this type of hateful crime. For killing a learned Brahmin, Vaśiṣṭha has prescribed the offerings of eight oblations in the fire as prescribed by Gautama for killing a learned Brahmin. Vaśiṣṭha has prescribed another punishment for killing a learned Brahmin which has been prescribed by Manu for killing a Brahmin unintentionally. For killing a Brahmin woman, who has bathed after her monthly uncleanness and for killing a Kṣatriya or a Vaiśya, engaged in a sacrifice, Vaśiṣṭha has
prescribed the same penance as he has prescribed for killing a learned Brahmin. For killing a Kṣatriya, Vaśiṣṭha has prescribed the same penance as prescribed by Viṣṇu for unintentionally killing a Kṣatriya, not engaged in sacrifice. There is only slight difference that Vaśiṣṭha has prescribed that, for this, the offender should perform the same during eight years. For killing a Vaiśya, Vaśiṣṭha has prescribed the same penance as prescribed by Viṣṇu for unintentionally killing a Vaiśya, not engaged in sacrifice. For killing a Śūdra, Vaśiṣṭha prescribes the same penance as prescribed by Viṣṇu for unintentionally killing a virtuous Śūdra. For killing a Brahmin woman, who has not bathed after her monthly uncleanness, he has prescribed the same penance as he has prescribed for killing a Kṣatriya. For the murder of female of the Kṣatriya caste, Vaśiṣṭha has prescribed the same penance, as he has prescribed for killing Vaiśya. For killing a Vaiśya woman, he has prescribed the penance which has been prescribed for killing a Śūdra. For killing a Śūdra woman, he has prescribed the same penance which has been prescribed by Viṣṇu for killing a Brahmin unintentionally for one year.

Laws of Kauṭilya:

Like the Dharmaśāstra and Arthaśāstra authorities, Kauṭilya also has prescribed different types of punishment for this type of heinous crime. It has been prescribed by Kauṭilya that if a man murders another
during a scuffle, he should be tortured to death. When a wounded person
dies within seven nights, the person who has caused the wound should be
put to death without torture. If the wounded man dies within a fortnight,
the offender should be punished with the highest amercement. When the
wounded man dies within a month, the offender should be fined five
hundred pañas and he should be compelled to pay the cost of treatment to
the bereaved. According to Kauṭilya, when a person strikes another with a
weapon in such a way that it causes death to that person, he should be put
to death.\textsuperscript{86} Kauṭilya has prescribed that he who has killed his mother,
father, son, brother, preceptor or an ascetic, he should be slain by setting
fire to the head. He has prescribed simple death penalty for killing a
person by accident. If a woman slays a man, she should be drown in
water, if she is not pregnant, if she is pregnant, then at least one month
after delivery. When a woman kills her husband, an elder or her
offspring, she should be torn by bullocks.\textsuperscript{87}

From this discussion, it appears that most of the authorities have
prescribed different types of expiation for this type of serious crime. But
Kauṭilya has prescribed death penalty, with or without torture. Here, it
has been observed that Kauṭilya has some similarity with Yājñavalkya.
Most of the authorities have prescribed punishment according to the caste
or rank, but Kauṭilya has prescribed punishment according to the seriousness of crime.

**Sexual Intercourse and Rape of Women:**

Women have been oppressed from time immemorial. From the references of various types of crime and punishment, found in the ancient Indian scriptures, it has been observed that people used to commit various types of crime against women and for which different punishments were also prescribed by the ancient Indian law givers. Among these crimes, sexual intercourse and raping of women were very common. The Dharmasāstra and Arthasāstra authorities have prescribed different laws of punishment for these types of hateful crime, which may be discussed as follows:

**Laws of Manu:**

Regarding this, Manu has prescribed that when a man other than Brahmin caste, commits adultery with the guarded wives of all the four castes, he should be put to death. **According to Manu, who violates an unwilling maiden, should instantly suffer corporal punishment.** It has been prescribed that if a man through insolence forcibly pollutes a maiden, his two fingers should be cut off and he should be compelled to pay a fine of six hundred paṇas. **He has prescribed a fine of two hundred paṇas for him who commits sexual intercourse with a willing
maiden of equal caste. If a Śūdra commits the same with a twice born woman, if she is unguarded, he should lose the offending limb and if the woman is guarded, he should lose everything, even his life. Manu has prescribed imprisonment for one year and the forfeiture of all property for a Vaiśya for committing the same with a guarded Brahmin woman. A fine of one thousand pañas and shaving with the urine of an ass has been prescribed for a Kṣatriya for committing the same crime. Manu prescribes a fine of five hundred pañas for a Vaiśya for committing adultery with an unguarded Brahmin woman and for a Kṣatriya, he has prescribed one thousand pañas for committing the same. According to Manu, if a Kṣatriya and a Vaiśya commit adultery with a Brahmin woman, who is not only a guarded one but also the wife of an eminent man, they should be punished like a Śūdra or should be burnt in a fire of dry grass. It has been prescribed that if a Brahmin commits sexual intercourse with a guarded Brahmin woman against her will, he should be punished with a fine of one thousand pañas, but if he commits sexual intercourse with a willing one, he should be fined with five hundred pañas.

Laws of Yājñavalkya:

Yājñavalkya has prescribed the highest form of pecuniary punishment for one who commits adultery with a woman of the same
caste. He has prescribed the middle form of pecuniary punishment for committing the same with a woman of a lower caste. According to Yājñavalkya, if a person commits the same with a woman of a higher caste, he should be put to death and the woman should be punished by cutting her nose etc.97 It has been prescribed that if anybody commits rape on female servants, who are prevented by their husband to visit other people, he should be punished with a fine of ten paṇas. When many people commit rape on a woman, each of them should be punished with a fine of twenty four paṇas.98 For committing sexual intercourse with a female religious mendicant, a fine of twenty four paṇas has been prescribed.99 It has been prescribed that the king should banish that person, who commits the same with a woman of a degraded caste, after branding his forehead with a figure like the generative organ of a female. When a Śūdra commits the same crime with a degraded caste woman, he should be degraded to the same caste. Yājñavalkya has prescribed that if a degraded caste man commits the same with a woman of a higher caste, he should be put to death.100

Laws of Uśana:

Uśana has prescribed that when a Brahmin commits sexual intercourse with his stepmother, he should embrace a heated iron statue of a female or he himself should cut off his generative organ and testicles
and taking them in his palms, he should proceed straight on to the south or to the west till the destruction of his body. According to Uśana, the foremost of the twice born may take the final bath in a Horse Sacrifice for committing such type of hateful crime. For committing the same, the man who has no money, leading a continent life, should always practice austerities. He should take his meal in the night of the fourth day after fasting for three days, standing or sitting and lying down on earth. He should practice this penance during three years to make himself free from the guilt. It has been prescribed that if a twice born person commits sexual intercourse with his daughter, sister or daughter-in-law, he should enter into a burning fire. According to Uśana, when a person commits the same with his mother’s sister, maternal uncle’s wife, or with his father’s sister, or sister’s daughter, maternal aunts daughter, or paternal aunts daughter, he, being self controlled, after practising hard austerities, should perform four or five Cāndrāyaṇas. For committing the same with one’s own maternal uncle’s daughter, one should perform the Cāndrāyaṇa. When a person commits the same with his wife’s friend or with her sister, he after fasting for one day and one night should perform the Tapta Kṛcchra penance. If a person commits the same with a woman in her menses, he should fast for three nights to make himself free from the guilt. According to Uśana, if a Brahmin commits adultery with a Kṣatriya woman, he should perform a Cāndrāyaṇa or a Parāka penance.
Laws of Nārada:

Regarding this type of crime, Nārada has prescribed that if a person commits adultery with a woman of the same class, he should be punished with the highest amercement. Nārada has prescribed the middle most amercement for committing the same with a person of any inferior class. It has been prescribed that if anybody commits the same with a person of any superior class, he should be given the capital punishment. For committing sexual intercourse with an unmarried woman, who consents to it, one should deck her with ornaments, worship her and should bring her to his house as his bride. According to Nārada, for committing sexual intercourse with any one of the twenty one types of women such as mother, mother’s sister, mother-in-law, maternal uncle’s wife, father’s sister, paternal uncle’s wife, friend’s wife, pupil’s wife, sister, sister’s friend, daughter-in-law, daughter, spiritual guide’s wife, a woman of the same lineage, a woman dependent on his protection, the queen, a female ascetic, a nurse, a well behaved woman and a Brahmin’s wife, one is said to be as guilty as the violator of his religious preceptor’s bed and for this type of criminal activity, one’s sexual organ should be cut off. If a person commits adultery with a woman of the lowest class, he should be punished with a fine of five hundred paṇas. It has been prescribed that when a woman commits adultery, tonsure, a low couch, mean food, a
miserable habitation and the task of removing ordures should be her punishment.\textsuperscript{111}

\textbf{Laws of Viṣṇu :}

Viṣṇu has prescribed that the mark of a female organ should be impressed on the forehead of a Brahmin for committing incest.\textsuperscript{112} He has prescribed the same punishment for committing adultery with a woman of the same caste which has been prescribed by Nārada for committing the same with a woman of the same caste.\textsuperscript{113} According to Viṣṇu, if anybody commits sexual intercourse with a woman of a lower caste, he should be punished with the middle amercement. For committing sexual intercourse with a woman of one of the lowest castes, one should be put to death.\textsuperscript{114}

\textbf{Laws of Āpastamba :}

Āpastamba has prescribed that if a man commits sexual intercourse with his mother or teacher's wife, he should cut off his sexual organ along with the testicles and taking them into his joined hands, he should walk towards the south without stopping, until his last breath. Or he may embrace a heated metal statue of woman.\textsuperscript{115} He has prescribed the confiscation of property and banishment for a man who commits sexual intercourse with a marriageable girl.\textsuperscript{116} Āpastamba has prescribed banishment for a man of any of the three higher castes for committing adultery with a Śūdra woman.\textsuperscript{117} According to Āpastamba, if a Śūdra
commits adultery with a woman of one of the first three castes, he should be put to death.\textsuperscript{118} It has been prescribed that when a woman commits adultery with a Śūdra, if she has no child, she should emaciate herself by undergoing penances and fasts.\textsuperscript{119}

**Laws of Gautama:**

Gautama has prescribed that when a Śūdra commits sexual intercourse with an Ārya woman, his sexual organ should be cut off and his all property should be confiscated. According to Gautama, if the woman has a protector, he should be executed after having undergone the punishments prescribed above.\textsuperscript{120} For committing adultery with one's mother, he has prescribed the same punishment which has been prescribed by Āpastamba for committing the same.\textsuperscript{121} Gautama has prescribed the same punishment for one who commits sexual intercourse with the wife of his friend, his sister, a female belonging to the same family, the wife of his pupil, his daughter-in-law.\textsuperscript{122} According to Gautama, if a woman commits adultery with a man of a lower caste, the king should cause her to be devoured by dogs in a public place. He has prescribed the same punishment for the adulterer also.\textsuperscript{123} Gautama has prescribed that if a man commits sexual intercourse with a female of one of the lowest caste, he should perform a Kṛcchra penance during one
year. For committing the same with a woman during her menses, he has prescribed the same penance for three days and nights.

Laws of Vaśiṣṭha:

Vaśiṣṭha has prescribed the same punishment for committing adultery with one’s mother, with teacher’s wife, wife of a son, and of a pupil, which has been prescribed by Āpastamba and Gautama. He has prescribed a Kṛcchra penance for three months for that person, who, commits sexual intercourse with that woman, who is considered as venerable in the family, with a female friend, with the female friend of his teacher, with an outcast. According to Vaśiṣṭha, if a wife commits adultery with a man of a degraded caste, she must be abandoned.

Laws of Kaūtilya:

Like the Dharmaśāstra and Arthaśāstra authorities, Kaūtilya also has dealt with sexual intercourse and rape of women with great care in his Arthaśāstra. He has prescribed different types of punishment for this type of criminal activity. In the Kautiliya Arthaśāstra, it has been prescribed that if a man commits rape on a maiden of the same caste, who has not attained sexual maturity, his hand should be cut off or a fine of four hundred pāṇas should be imposed on him. If the maiden dies in consequence, the offender should be put to death. For violating a maiden, who has attained sexual maturity, one’s middle and index fingers
should be cut or a fine of two hundred *paṇas* should be imposed on him. For this, the offender should also be compelled to pay an adequate compensation to her father. According to Kauṭilya, if a person violates a willing maiden, he should be punished with a fine of fifty four *paṇas* and the maiden with a fine of twenty seven *paṇas*. For committing the same with a woman, who has been reserved by another, the punishment should be the cutting off the hand or a fine of four hundred *paṇas* as well as the payment of the fee. It has been prescribed that the maiden, who violates herself, should become the king’s slave. According to Kauṭilya, if a person commits sexual intercourse with a courtesan’s daughter, he should not only be fined with fifty four *paṇas*, but also be compelled to give her mother sixteen times the rate for a visit. For deflowering the daughter of a male or a female slave, who is not a slave herself, he has prescribed a fine of twenty four *paṇas* and the payment of fee and ornaments for her. For violating a woman, who has been held in slavery on account of certain ransom due from her, he has prescribed a fine of twelve *paṇas* and the payment of clothes and ornaments for her.

Kauṭilya has prescribed the first amercement for the jailor, who, violates a married woman prisoner, who is a slave or pledge. For violating the wife of a thief or a rioter, he has prescribed the middlemost amercement and for violating an Arya woman, he has prescribed the highest amercement. According to Kauṭilya, when a prisoner commits the same,
he should be put to death then and there. Kautilya has prescribed the same
punishment for committing sexual intercourse with an Ārya woman, who
has been arrested in the prohibited period of night. He has prescribed the
first amercement for committing the same with a female slave.\footnote{132}
Kautilya has prescribed death penalty after cutting off of the generating
organ and testicles for one who commits the sexual intercourse with the
sister of his mother or father, his preceptor’s wife, his daughter-in-law,
daughter or sister. He has prescribed the same punishment for the willing
woman. According to Kautilya, if a woman commits the same with a
slave, a servant or a pledged man should be punished similarly.\footnote{133} The
highest amercement has been prescribed by Kautilya for a Kṣatriya for
committing sexual intercourse with an unguarded Brahmin woman. He
has prescribed the confiscation of the entire property for a Vaiśya for
committing the same. According to Kautilya, a Śūdra should be burnt in a
fire of straw for committing the same.\footnote{134} It has been prescribed that if a
person commits adultery with the queen, he should be burnt in a vessel.\footnote{135}
According to Kautilya, if a man commits sexual intercourse with a
Caṇḍāla woman, he should be banished with the mark of a headless trunk
branded on his forehead. For committing the same with a Caṇḍāla
woman, a Śūdra should be degraded to the Caṇḍāla caste. Kautilya
prescribes death penalty for a Caṇḍāla for committing the same with an
Ārya woman and for the Ārya woman; he has prescribed the cutting off
of the ears and nose. He has prescribed a fine of twenty four panas for committing sexual intercourse with a nun and for the nun who submits herself; he has prescribed the same fine.\textsuperscript{136} Kautilya has prescribed a fine of twelve panas for committing rape on a prostitute. According to Kautilya, when a number of people commit rape on a prostitute, each one should be punished with a fine of twenty four panas.\textsuperscript{137}

From this discussion, it has been observed that both Kautilya and the Dharmasāstra and Arthasastra authorities have prescribed distressing punishment for sexual intercourse and raping of women. Like the Dharmasāstra and Arthasastra authorities, Kautilya also has prescribed punishment according to the caste and status of the criminals. Both, in the prescription of Kautilya and other Dharmasāstra and Arthasastra authorities, punishment varies from caste to caste and status to status, and case to case i.e., sexual intercourse with willing or unwilling women, guarded or unguarded, married or unmarried, and rape on sexually matured or immature maiden, guarded or unguarded, married or unmarried women. Like the Dharmasāstra and Arthasastra authorities, Kautilya has also prescribed punishments for the adulteress. Here, in the prescription of Kautilya, it has been observed that Kautilya has prescribed different fines in lieu of mutilation of limbs, which perhaps has not been prescribed by the Dharmasāstra and Arthasastra authorities. He has
prescribed punishment even for committing rape on prostitutes. He has prescribed punishment even for committing the same on female prisoners by the king’s officials.

**Abuse of Defamation:**

Like other crime, abuse and defamation also has been considered by the Arthaśāstra and Dharmasāstra authorities as a crime because it causes mental pain to the people and that is why they perhaps have dealt with abuse and defamation with great care and prescribed different laws of punishment for this type of crime. Some of the laws, prescribed by the different authorities may be discussed briefly as follows:

**Laws of Manu:**

Manu has prescribed a fine of one hundred *paññas* for a Kṣatriya for defaming a Brahmin. For committing the same, Manu has prescribed a fine of one hundred and fifty or two hundred *paññas* for a Vaiśya. For a Śūdra, he has prescribed corporal punishment for defaming a Brahmin. According to Manu, if a Brahmin defames a Kṣatriya, he should be fined with fifty *paññas*. For defaming a Vaiśya, a Brahmin should be fined with twenty five *paññas* and for defaming a Śūdra, a Brahmin should be fined twelve *paññas*. It has been prescribed that if a Śūdra insults a twice born person with gross invective, his tongue should be cut off. If a Śūdra mentions the names and castes of the twice born with contumely, a red
hot iron nail, ten fingers long, should be pushed into his mouth.\textsuperscript{141} Manu has prescribed the pouring of hot oil into the mouth and ears of a Śūdra for teaching arrogantly a Brahmin.\textsuperscript{142} He has prescribed fine of one kārṣāpana for calling another as ‘one eyed’, ‘lame’ etc., though it is a fact.\textsuperscript{143} Manu has prescribed a fine of one hundred panas for defaming one’s own mother, father, wife, brother, son or teacher.\textsuperscript{144}

\textbf{Laws of Yājñāvalkya :}

Yājñāvalkya has prescribed that when a person vilifies another of the same caste for having a defective limb or for suffering from a vile disease, whether truly or falsely or by joke, he should be fined with half of thirteen panas.\textsuperscript{145} According to Yājñāvalkya, a person should be punished with a fine of twenty five panas if he vilifies another by saying – “I have known your mother or sister.”\textsuperscript{146} Yājñāvalkya has prescribed half penalty for a person of superior caste for abusing a person of inferior caste. He has prescribed double penalty for vilifying other’s wives and persons of superior castes.\textsuperscript{147} According to Yājñāvalkya, if a person threatens another by using words that he will destroy his arms, neck, eyes or thighs, he should be punished with a fine of one hundred panas. But when a person threatens another to destroy his hands or feet, ears or nose, he should be fined with fifty panas.\textsuperscript{148} An incapable man, calumniating thus, should be punished with a fine of ten panas. The
capable person should have to furnish a surety for the protection of the person abused. Yājñavalkya has prescribed the highest form of pecuniary punishment for using abusive language towards a person, who has mastered the three Vedas, towards a king or a deity. He has prescribed the second form of pecuniary punishment for using abusive language towards castes and corporate bodies. The lowest form of pecuniary punishment has been prescribed for vilifying a village or country.

Laws of Nārada:

Nārada has prescribed a fine of one hundred paṇas for a Kṣatriya for insulting a Brahmin. For committing the same, Nārada has prescribed a fine of one hundred and a half or two hundred paṇas for a Vaiśya. According to Nārada, if a Śūdra commits the same, he should be executed. A fine of fifty paṇas has been prescribed for a Brahmin for reviling a Kṣatriya. He has prescribed a fine of twenty five paṇas for a Brahmin for reviling a Vaiśya. Nārada has prescribed a fine of twelve paṇas for a Brahmin for reviling a Śūdra. A fine of twelve paṇas has been prescribed for insulting a man of the same caste. According to Nārada, a fine of twenty four paṇas should be imposed on him who abuses another by using words, which ought not to be uttered. When a man calls another as ‘blind’, ‘one-eyed’, ‘lame’ etc., though it is true, he
should be fined with not less than one kārṣāpana. It has been prescribed that if a once born person uses bad language against members of the twice born classes, his tongue should be cut off. Nārada has prescribed the same punishment for a once born person for attacking the names of the people of twice born classes or race in abusive terms, as prescribed by Manu for committing the same. He has prescribed the same punishment for a once born person for giving religious instruction to a twice born person, that has been prescribed by Manu for committing the same crime. According to Nārada, when a person defames a king persistent in the discharge of his duties, his tongue should be cut off and all his property should be confiscated.

**Laws of Viṣṇu:**

Viṣṇu has prescribed that the king should cut off that particular limb of an inferior caste person with the help of which he insults his superior in caste. According to Viṣṇu, if a person of inferior caste uses abusive language towards a person of superior caste, his tongue should be cut off. He has prescribed the pouring of hot oil into the mouth of a low born person for giving instruction to a member of the highest caste concerning his duty. For mentioning the name or caste of a superior revilingly, he has prescribed the same punishment for a low born person, as prescribed by Manu for a Śūdra for committing the same.
Visnu has prescribed a fine of two kārṣāpaṇas for calling another as ‘one eyed’, ‘a blind’ etc., though it is true. A fine of one hundred kārṣāpaṇas has been prescribed by Visnu for defaming a guru. Visnu has prescribed the second amercement for reviling a Brahmin, versed in the three Vedas, an old man or a whole caste or a corporation. He has prescribed the lowest amercement for reviling a village or a district. It has been prescribed that when a person insults another by using language such as “I shall visit your sister”, or “I shall visit your daughter”, he should be punished with a fine of one hundred kārṣāpaṇas. The highest amercement has been prescribed for insulting a man by using bad language regarding his mother such as “I shall visit your mother” etc.

Laws of Āpastamba:

Āpastamba has prescribed that if a Śūdra speaks evil of a virtuous person, belonging to one of the first three castes, his tongue should be cut off. It has been prescribed that when a person abuses another person who ought not to be abused, he must abstain from milk, pungent condiments and salt for three days. According to Apastamba, if a Śūdra commits the same, he must fast for seven days.

Laws of Gautama:

Gautama has prescribed the same punishment for a Śūdra for intentionally abusing a twice born person as prescribed by Āpastamba,
Visṇu, Nārada and Manu for committing the same. He has prescribed a fine of one kāṛṣāpaṇas for a Kṣatriya for abusing a Brahmin. According to Gautama, if a Vaiśya abuses a Brahmin, he should pay one and a half times as much as a Kṣatriya. He has prescribed a fine of fifty kāṛṣāpaṇas for a Brahmin for abusing a Kṣatriya. For abusing a Vaiśya, he has prescribed a fine of twenty five kāṛṣāpaṇas for a Brahmin.

Laws of Kauṭilya:

Kauṭilya also has prescribed different types of punishment for abuse and defamation. Here, Kauṭilya has prescribed a fine of three paṇas for one, who calls another as ‘one eyed’, ‘lame’ etc. though it is a fact. He has prescribed a fine of six paṇas for false imputation. A fine of twelve paṇas has been prescribed for insulting a ‘one eyed’ or ‘lame’ with such ironical expression as ‘a man with beautiful eyes’, etc. According to Kauṭilya, in case of vilification referring to leprosy, madness, impotence and so on, when it is true, false and contains ironical praise, the fines should be increased by twelve paṇas successively in the three cases if it is towards the persons of equal caste. If it is towards the persons of superior caste, the fine should be doubled and if it is towards the persons of inferior caste, the fine should be half. The fine should be doubled if it is towards the wives of others. The fine should be half if it is due to
mistake, intoxication, delusion and so on.\textsuperscript{177} It has been prescribed that when among Brahmins, Kṣatriyas, Vaiśyas, Śūdras and Cāndālas, any one of a lower caste abuses the character of one of a higher caste, the fine should be increased from three \textit{panas} upwards, commencing from the lowest caste. It means that when a Cāndāla abuses the character of a Śūdra, he should be punished with a fine of three \textit{paṇas}. If a Śūdra abuses the character of a Vaiśya, he should be fined six \textit{paṇas}. A fine of nine \textit{paṇas} should be imposed on a Vaiśya for abusing the character of a Kṣatriya. Kautilya has prescribed a fine of twelve \textit{paṇas} for a Kṣatriya for abusing the character of a Brahmin. He has prescribed that when anyone of a higher caste abuses one of a lower caste, the fines should decrease from two \textit{paṇas}.\textsuperscript{178} It has been prescribed that if a person threatens another by using such expression as – “I shall do this to you”, but if he does not do so, he should be punished with half of the fines that has been prescribed for doing it or causing physical injury. According to Kautilya, when a man, being unable to carry his threat into effect, pleads anger, intoxication or delusion, he should be fined twelve \textit{paṇas}. If he has feelings of enmity and is capable of doing harm, he should be compelled to give lifelong security for the well being of the intimidated person.\textsuperscript{179} Kautilya has prescribed the first amercement for him who reviles his own country and village. He has prescribed the middlemost amercement for that person who reviles his own caste or corporation. According to
Kauṭilya, if a person reviles gods and sanctuaries, he should be punished with the highest amercement.\(^{180}\) When a person reviles his mother, father, son, brother, preceptor or an ascetic, his tongue should be cut off. Kauṭilya has prescribed impalement for those who threaten another to kill.\(^{181}\)

From the above discussion, it has been observed that almost all the authorities, except Yājñavalkya, have prescribed severe punishment for the inferior caste people for defaming or abusing the superior caste people. Where as, in Kauṭilya’s prescription it has been observed that he has lessen the degree of punishment for the inferior caste for abusing or defaming the superior caste people. He has prescribed some fines for the inferior caste people for insulting or abusing the superior caste people. But like the Dharmaśāstra and Arthaśāstra authorities, in Kauṭilya’s prescription also it has been observed that the fines vary from caste to caste for the same crime. Like Manu and other authorities, Kauṭilya also has prescribed more fines for the inferior caste people for insulting or abusing the superior caste people. Though in comparison with the other authorities, Kauṭilya has prescribed moderate punishment for the inferior caste people, but he has prescribed severe punishment for reviling one’s mother, father, brother, son or an ascetic. He has prescribed very strict punishment for those who threaten another to kill. Here, it has been
observed that Kauṭilya has similarity with Yājñavalkya in dealing with the subject. Both Yājñavalkya and Kauṭilya have prescribed some fines for the inferior caste people except the mutilation of limb.

**Punishment for Assault and Causing Hurt to Men:**

The Dharmaśāstra and Arthasaśāstra authorities have prescribed different laws of punishment for assault and causing hurt to men. Some of the laws prescribed by the different authorities may be discussed as follows –

**Laws of Manu:**

Manu has prescribed that if a man of low caste causes hurt to a person of the three highest castes, his offending limb should be cut off.¹⁸² It has been prescribed that if anybody raises his hand or a stick, his hand should be cut off. He who in anger kicks another with his foot, his foot should be cut off.¹⁸³ When a man of lower caste, out of arrogance, spits on a person of superior caste, his both lips should be cut off. If he urines on him, his penis should be cut off. When a person lays hold of the hair of a superior caste person or takes him by the feet, the beard, the neck or the scrotum, his hands should be cut off.¹⁸⁴ Manu has prescribed a fine of one hundred paṇas for breaking the skin or fetching blood from a person of same caste. For cutting a muscle, he has prescribed a fine of six nishkas. Manu has prescribed banishment for breaking a bone of another.¹⁸⁵
According to Manu, if anybody injures a limb, causes a wound or fetches blood from another’s body, he should pay to the sufferer the expenses of the cure or both the usual amercement and the expenses of the cure as a fine to the king.\textsuperscript{186}

**Laws of Yājñavalkya:**

Yājñavalkya has prescribed a fine of ten \textit{panas} for throwing ashes, clay or dust on others. For touching another with an unholy things, heel or saliva, one should be punished with a fine of twenty \textit{panas}.\textsuperscript{187} According to his prescription; the above fines should be imposed when it is committed towards the persons of same caste and rank. But the fines should be double if it is committed towards the wives of others and persons of superior caste. The fines should be half if this type of crime is committed towards the persons of inferior caste.\textsuperscript{188} Yājñavalkya has prescribed the same punishment for a person of an inferior caste for causing pain to a twice born person as prescribed by Manu for committing the same. According to Yājñavalkya, if anybody raises a weapon to hurt another, he should be fined with the lowest form of pecuniary punishment. For touching merely with that weapon, the fine should be half.\textsuperscript{189} Yājñavalkya has prescribed a fine of twenty two \textit{panas} for striking another with a piece of wood etc., without shedding blood. According to Yājñavalkya, this fine should be double if marks of blood
are seen.\textsuperscript{190} The middlemost amercement has been prescribed for breaking legs, hands or teeth, for slitting ear or nose, causing a wound, for beating another almost to death.\textsuperscript{191} The second form of penalty has been prescribed for beating another in such a way that it creates problems in eating, speaking or in any other bodily movement.\textsuperscript{192} According to Yājñavalkya, when a number of persons beat a single person, each one should be punished with double of the above punishment.\textsuperscript{193} Like Manu, Yājñavalkya also has prescribed that if a person causes a wound to another, he should be compelled to pay the expenses of cure besides the imposed fine.\textsuperscript{194}

\textbf{Laws of Nārada :}

Nārada has prescribed the same punishment for a low born person for causing hurt to a Brahmin as prescribed by Manu and Yājñavalkya.\textsuperscript{195} It has been prescribed that if a person of lower caste spits on a person of superior caste, through pride, if he urines on him he should be punished with the same punishment as prescribed by Manu for committing the same.\textsuperscript{196} For seizing a person of superior caste by the hair, feet, beard, backside or testicles, he has prescribed the same punishment as prescribed by Manu for committing the same crime.\textsuperscript{197} Nārada has prescribed the same punishment for breaking the skin, fetching blood from other's body, cutting the muscle, as prescribed by Manu for the
same crime.\textsuperscript{198} According to Nārada, if a man beats even a guilty king, he should be impaled and burnt alive.\textsuperscript{199}

\textbf{Laws of Viṣṇu :}

Viṣṇu has prescribed the same punishment for a inferior caste person for causing hurt to a superior caste person as prescribed by Manu, Yājñavalkya and Nārada.\textsuperscript{200} When a person of inferior caste spits on a person of superior caste, he should be punished with the same punishment as prescribed by Manu and Nārada.\textsuperscript{201} According to Viṣṇu, when a person seizes another person of the same caste by the feet, by his hair, by his garment, or by his hand, he should be fined ten \textit{paṇas}.\textsuperscript{202} For causing pain without fetching blood from a person of equal caste, he has prescribed a fine of thirty two \textit{paṇas}.\textsuperscript{203} A fine of sixty four \textit{paṇas} has been prescribed for fetching blood from that person.\textsuperscript{204} Viṣṇu has prescribed the same punishment for mutilating or injuring a hand or a foot or a tooth, that has been prescribed by Yājñavalkya for committing the same crime.\textsuperscript{205} He has prescribed the second amercement for beating another in such a way that it creates problem to move about or to eat or to speak or for striking another violently.\textsuperscript{206} The highest amercement has been prescribed for wounding or breaking an eye or the neck or an arm or a bone or a shoulder of another.\textsuperscript{207} Viṣṇu has prescribed life imprisonment for striking out both eyes of a man.\textsuperscript{208} According to Viṣṇu, when a number of people
attack a single person, each one should be punished with double of the punishment which has been prescribed for attacking by a single person. Like Manu and Yājñavalkya, Viṣṇu also has prescribed that for causing hurt to a person, one should be compelled to pay the expenses of cure besides the imposed fine.

**Laws of Āpastamba:**

Āpastamba has prescribed that if a person cuts off a limb of another person for whose murder he would become an abhisasta, if the life of the person injured has not been endangered, he should give ten cows and a bull to Brahmins for expiation.

**Laws of Gautama:**

Gautama has prescribed the same punishment for a Śūdra for causing hurt with blows to a twice born person, which has been prescribed by Manu, Nārada, Yājñavalkya and Viṣṇu for committing the same. According to Gautama, if a Kṣatriya assaults a Brahmin, he should be punished with a fine of two hundred kāṛśāpaṇas.

**Laws of Kauṭilya:**

The different types of punishment, relating to assault and hurt to men also have been observed in the *Kauṭiliya Arthasastra*. Here, Kauṭilya has prescribed different types of punishment for causing hurt and assault to men. He has prescribed a fine of three paṇas for touching other’s body.
below the navel with the hand, mud, ashes or dust. It has been prescribed that if a person touches with hand, mud, ashes or dust when he is impure and if he touches with the foot or with spittle, he should be punished with a fine of six *paṇas*. Kauṭilya has prescribed a fine of twelve *paṇas* for touching another with vomit, urine, ordure and so on. It has been prescribed that the fines should be doubled for touching above the navel and it should be fourfold for touching the head with these things in the case of equal caste. According to Kauṭilya, these fines should be double in the case of superior caste people and wives of others and half in the case of inferior caste people and if it is due to a mistake, intoxication, delusion and so on. Kauṭilya has prescribed a fine of six *paṇas* for holding another by the feet. For holding another by the garment, he has prescribed a fine of twelve *paṇas* and for holding another by the hand he has prescribed eighteen *paṇas* as a fine. For holding another by the hair, a fine of twenty four *paṇas* has been prescribed by Kauṭilya. For pressing, squeezing in other’s arm, bending, dragging and sitting on other, he has prescribed the first amercement. For going away after throwing down another, half of the first amercement has been prescribed. It has been prescribed that the limb of a Śūdra with which he strikes a Brahmin, should be cut off. Kauṭilya has prescribed a fine of twenty four *paṇas* for causing a bloodless wound with any one of the objects made of wood, earth, stone or metal or a stick or rope. For
causing a bleeding wound, he has prescribed a fine of forty eight *paṇas* except in the case of diseased blood. The first amercement has been prescribed for beating another to the point of death without causing bleeding or causing dislocation of the hand or foot and also for breaking hands, feet or teeth cutting off the ear or nose and opening up wounds, except festering wounds.\(^{218}\) According to Kaūṭila, if a person breaks the thigh or neck of another or pierce the eye of another and hurts another in such a way that it causes obstruction in speech, movement, eating etc., he should not only be punished with the middlemost amercement but also be compelled to pay the expenses for treatment and cure. If it causes death, he should be taken for trial as a criminal by the magistrate.\(^{219}\) When a number of people beat a single person, each one should be punished with double of the punishment which has been prescribed for beating by a single person.\(^{220}\)

In light of the above discussion, it has been observed that like Manu, Yājñāvalkya and others, Kaūṭila also has prescribed severe punishment for a Śūdra for striking a Brahmin. Like Manu and others, Kaūṭila also has prescribed that for injuring a person, one should pay the expenses of treatment besides the usual fine. Like Yājñāvalkya and Viṣṇu, Kaūṭila also has prescribed double punishment for each for beating another unitedly. Both in the prescription of Kaūṭila and
Dharmaśāstra and Arthaśāstra authorities, it has been observed that fines vary from caste to caste for the same crime. But in comparison with the
Dharmaśāstra and Arthaśāstra authorities, it has been observed that Kautilya has prescribed moderate punishment for this type of crime.

**Destruction of Animals, Birds, Trees and Fishes:**

The ancient Indian lawgivers like – Manu, Uśana, Viṣṇu, Yājñavalkya and others considered the destruction of animals, birds, trees, fishes etc. as a great crime and for this they prescribed different types of punishment also. Some of which may be discussed as follows:

**Laws of Manu:**

Manu has prescribed the same penance for killing a cat, a ichneumon, a blue Jay, a frog, a dog, an iguana, an owl or a crow as he has prescribed for killing a Śūdra. According to Manu, if a Brahmin kills a snake, he should give a spade of black iron. For killing a boar, one should give a pot of clarified butter. For destroying a partridge, one should give a ċroṇa of seas-mum grains and for killing a parrot, one should give a calf of two years old. It has been prescribed that if anybody kills a crane, he should give a calf of three years old. Manu has prescribed that when a person kills a Haṃsa, Balākā, a heron, a peacock, a monkey, a falcon or a Bhāsa, he should give a cow to a Brahmin. If anybody kills a horse, he should give a garment. For killing an elephant,
one should give five black bulls. One should give a draught ox for
destroying a goat or a sheep. It has been prescribed that if anybody kills a
donkey, he should give a calf of one year old. According to Manu, if
anybody kills a carnivorous wild beast, he should give a milch cow. For
killing wild beasts other than carnivorous, one should give a heifer. For
killing a camel, one should give one krṣuṇa. Manu has prescribed that
if a twice born person is unable to atone by gifts for killing a serpent and
other living creatures mentioned above, should perform for each of them
a Ḫcchra penance in order to remove his guilt. He has prescribed the
same penance for destroying one thousand small animals that have bones
or a whole cart load of boneless animals as he has prescribed for killing a
Śūdra. According to Manu, if anybody kills small animals which have
bones, he should give some trifle to a Brahmin. Regarding the
destruction of trees, here it has been prescribed that for cutting fruit trees,
shrubs, creepers, lianas or flowering plant, one should mutter one
hundred Rikas. For destroying without any good purpose, plants
produced by cultivation or plants spontaneously spring up in the forest,
one should attend a cow during one day, subsisting on milk alone.

Laws of Yājñavalkya:

Yājñavalkya has prescribed that if anybody kills small animals as
goat etc., he should be punished with the second form of amercement and
should be made to pay the price of the animals killed to the owner. According to Yājñavalkya, this punishment should be double for killing big animals like bull etc. For cutting the branches, trunks and for the entire destruction of huge trees such as fig etc. and those which yield livelihood to the owner such as mango etc., the fine should be twenty panas, forty paṇas and eighty paṇas respectively. According to Yājñavalkya, the penalty should be double for cutting trees grown near a monument, cremation ground, a boundary line, a sacred place or a temple. The fine should be half for cutting down groves, bushes, creepers, plants and medicinal herbs grown in the above mentioned places.

**Laws of Usana:**

Usana has prescribed that when a twice born person kills a frog, mongoose, crow, cat, boar, mouse or a dog, he should perform a great penance extending over sixteen days. For unconsciously killing a dog, one should zealously drink milk for three nights. For killing a cat or a mongoose unknowingly, one should wend a way a yojana in length. When a twice born person kills a horse, he should perform a hard austerity extending over twelve days. For killing a crane, Raṅgava mouse, Kṛtalambkak-boar, a black spotted raven, Tilat, a parrot, one should give away a two years old calf. One should give a calf of three
years old for killing a heron.\textsuperscript{235} According to Uśana, if anybody kills a swan, crane, Vaka, a Titti bird, a monkey or a Bhāsa, he should make a gift of a cow to Brahmin.\textsuperscript{236} For destroying animals living on flesh or deer, one should give away a milch cow. For killing animals that do not take flesh, one should give away a calf. When a person kills a camel, he should give gold weighting five rupees.\textsuperscript{237} Uśana has prescribed that if anybody kills such animals that have bones, he should present something to a twice born person. For killing animals having no bones, one should perform pranayama.\textsuperscript{238} It has been prescribed that when a person kills a cow by mistake, he should perform the Cāndrāyaṇa and the Parāka penance.\textsuperscript{239} Regarding the destruction of trees, he has prescribed that if anybody destroys trees providing fruits, groves, creepers and large trees loaded with fruits, he should recite one hundred Rk verses.\textsuperscript{240} For destroying flowering plants, one should take clarified butter.\textsuperscript{241}

**Laws of Viṣṇu:**

Viṣṇu has prescribed that if anybody kills an elephant or a horse or a camel or a cow, his one hand and one foot should be cut off.\textsuperscript{242} According to Viṣṇu, when a person kills domestic animals, he should pay a fine of one hundred kāṛṣāpaṇas and he should also make good their value to the owner of these animals.\textsuperscript{243} For killing wild animals, he has prescribed a fine of five hundred kāṛṣāpaṇas. Ten kāṛṣāpaṇas has been
prescribed for killing birds.\textsuperscript{244} Regarding the destruction of trees, Viṣṇu has prescribed that for felling trees, yielding fruit, one should be punished with the highest amercement. He has prescribed the middlemost amercement for the feller of trees yielding blossoms.\textsuperscript{245} A fine of one hundred kārśāpaṇas has been prescribed for cutting creepers, shrubs or climbing plants.\textsuperscript{246} It has been prescribed that besides the prescribed fines, all such offenders should also make good to the owners of the trees or plants cut down by them.\textsuperscript{247}

**Laws of Āpastamba :**

Āpastamba has prescribed that a killer of a crow, a chameleon, a peacock, a swan, the vulture called Bhaśa, a frog, an ichneumon, a musk rat or a dog, should perform the same penance as he has prescribed for killing a Śūdra.\textsuperscript{248} Āpastamba has prescribed the same penance for killing a milch cow or a full grown ox without any reason and for other animals which have no bones.\textsuperscript{249} Perhaps Āpastamba has not dealt with crime and punishment relating to the destruction of trees.

**Laws of Gautama :**

Gautama has prescribed the same penance for killing one thousand small animals that have bones, a cow, as he has prescribed for killing a Vaiśya.\textsuperscript{250} According to Gautama, if any body kills a boar, he should give a pot of clarified butter. For killing a snake, one should give a bar of
iron. Like Āpastamba perhaps, Gautama also has not dealt with the crime like the destruction of trees.

Laws of Vaśiṣṭha:

Concerning the killing of animals, Vaśiṣṭha has prescribed that if anybody kills a cow, he should perform a Kṛcchra or a Taptakṛcchra penance during six months, dressed in the raw hide of that cow. He should also give a bull and cow to Brahmans. According to Vaśiṣṭha, when a person kills a dog, a cat, an ichneumon, a snake, a frog or a rat; he should perform a Kṛcchra penance during twelve days and should give something to a Brahmin. For slaying boneless animals, equal to the weight of a cow, one should perform the same penance for twelve days and give something to a Brahmin. Vaśiṣṭha has prescribed the same penance for killing a single animal that possesses bones. Like Āpastamba and Gautama; perhaps Vaśiṣṭha also has not dealt with crime and punishment relating to the destruction of birds and trees.

Laws of Kauṭilya:

Like the ancient Indian seers, Kauṭilya also felt much pain for increasingly deforestation and destruction of animals, birds etc. which has been reflected in his Arthaśāstra. He has prescribed different types of punishment for destroying animals, birds and trees, perhaps, to prevent deforestation and destruction of animals, birds etc. as without these
human existence is impossible. Here, Kautilya has prescribed that if a person kills a cock or an ichneumon or a cat or a dog or a pig, the tip of his nose should be cut off or a fine of fifty four paṇas should be imposed on him. He has prescribed half of this fine for Caṇḍālas and forest-dwellers. A fine of two hundred paṇas has been prescribed for killing deer or birs.\(^\text{254}\) Kautilya has prescribed impalement for those who kill an elephant, a horse belonging to the king.\(^\text{255}\) Regarding to the destruction of trees, Kautilya has prescribed that for cutting the shoots of trees in the city parks that bear flowers, fruits or yield shade, one should be punished with a fine of six paṇas. He has prescribed a fine of twelve paṇas for cutting small branches of these trees. A fine of twenty four paṇas has been prescribed for cutting stout branches of the same. According to Kautilya, if anybody destroys the trunks, he should be punished with the first amercement. For uprooting the same, he has prescribed the middlemost amercement.\(^\text{256}\) In the case of bushes and creepers bearing flowers or fruits or yielding shade, trees in holy places, penance groves and cremation grounds, the fines should be half and these same fines should be doubled in the case of trees at the boundaries, in sanctuaries, trees that are prominent and the trees in royal parks.\(^\text{257}\)

From the above discussion, it has been observed that most of the authorities, except Yājñavalkya and Viṣṇu, have prescribed different
types of expiation and gifts such as cows, bulls etc. In this regard, the similarity among Yājñavalkya, Viṣṇu and Kautilya has been noticed. Like Yājñavalkya and Viṣṇu, Kautilya also has prescribed different fines for this type of crime.

After making a close study of the Kauṭiliya concept of ‘Crime’ and ‘Punishment’ and the concept of the same dealt with by ancient Arthaśāstra and Dharmaśāstra authorities, it has been observed that besides the above mentioned crimes and punishments, Kauṭilya has dealt with other various types of crimes and punishment in his Arthaśāstra which have been discussed elaborately in the second chapter of the present thesis. It has also been observed that in comparison with the ancient Dharmaśāstra and Arthaśāstra authorities, Kauṭilya has covered a greater field, but with regard to mode of punishment Kauṭilya’s attitude appears to be moderate than the other authorities. As for example, it is mentionable that Kauṭilya has prescribed different types of fine in different cases in lieu of mutilation of limbs, prescribed by other authorities and here lies the relevance of Kauṭilya today.
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