

Kaṇṭakaśodhana

Courts of Criminal Justice in Ancient India

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It is well known that litigation in courts was always between private parties, with the king or judge acting as impartial arbiters. Legal texts explicitly prohibit the king or any official of his from initiating a lawsuit. These are what would be described today as civil suits. How criminal law was enforced in ancient India has remained somewhat obscure. The Dharmaśāstras hardly speak about them, except in the context of a category called "Miscellaneous" (*prakīṛṇaka*), or what Manu calls "eradication of thorns" (*kaṇṭakaśodhana*). They do not spell out in any detail the legal procedures of the criminal justice system. Both Kane and Lingat have alluded briefly to the *kaṇṭakaśodhana* as a court system for criminal justice parallel to the system of civil courts. In the *Arthaśāstra* the civil courts are dealt with in Book III, and there the judges are called *dharmasthīya*. The next Book (IV) deals with the topic of *kaṇṭakaśodhana* and the officials in charge there are called *pradeṣṭṛ*. After Manu the concept of *kaṇṭakaśodhana* for the most part disappears from legal vocabulary; even in Manu the term is used merely as a reference to the king's duty to suppress criminals. This paper will examine the court system of *kaṇṭakaśodhana* that dealt with criminals and public crimes bringing together the data found in the *Arthaśāstra*.