

Penance and Punishment: Marking the Body in Criminal Law and Social Ideology of Ancient India

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Abstract: This article deals with the twin systems of penance and punishment for offences against the moral and the penal codes found in the ancient Indian legal treatises, the Dharmaśāstras. The two systems parallel each other and often overlap and present one of the central legitimations of social structures. Both systems often mark the body of the sinner/criminal in ways that parallel the marking of the body by the rebirth process within the ideology of karmic retribution. Thus, the legal/moral codes and the religious/criminal justice systems are presented as anchored in the very working of cosmic law rather than as contingent and humanly created systems subject to historical changes.

In his groundbreaking work on criminal justice, *Discipline and Punish: the Birth of the Prison*, Michel Foucault (1995) presents the body as the primary site of social control over individuals articulated in the most extreme way in the torture and execution of criminals. The criminal body, bloody and mutilated, stands as both the symbol of social order restored and a warning against attempts to subvert it. Foucault begins his study with the citation of the decree for the execution of Damiens, the regicide issued on 2 March 1757:

On a scaffold that will be erected there, the flesh will be torn from his breasts, arms, thighs, and calves with red-hot pincers, his right hand, holding the knife with which he committed the said parricide, burnt with sulphur, and, on those places where the flesh will be torn away, poured molten lead, boiling oil, burning resin, wax, and sulphur melted together and then his body drawn and quartered by four horses, and his limbs and body consumed by fire, reduced to ashes and his ashes thrown to the winds. (Foucault 1995, p. 3)

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The actual execution was a far more difficult and gruesome task, as seen from an eyewitness account of the event:

The horses tugged hard, each pulling straight on a limb, each horse held by an executioner. After a quarter of an hour, the same ceremony was repeated and finally, after several attempts, the direction of the horses had to be changed. . . . Two more horses had to be added to those harnessed to the thighs, which made six horses in all. Without success. . . . After two or three attempts, the executioner Samson and he who had used the pincers each drew out a knife from his pocket and cut the body at the thighs instead of severing the legs at the joints; the four horses gave a tug and carried off the two thighs after them . . . then the same was done to the arms, the shoulders, the arm-pits, and the four limbs; the flesh had to be cut almost to the bone, the horses pulling hard carried off the right arm first and the other afterwards. (Foucault 1995, pp. 4–5)

A parallel scene, this time in the context of carrying out a penance for an especially heinous crime, is depicted in the legal treatise of Manu. The bloody and mutilated body of the penitent parallels the tortured body of the criminal.

A man who had sex with an elder's wife should proclaim his crime and lie down on a heated iron bed, or embrace a red-hot metal cylinder; he is purified by death. Or, he should cut off his penis and testicles by himself, hold them in his cupped hands, and walk straight towards the south-west until he falls down dead.¹ (*Mānava Dharmasāstra* (MDh) 11.104–105)

I

This article brings together two interests of mine: ancient Indian law as articulated in the *Dharmasāstras* and the social/cultural creation of the human body, especially the ways in which the human body is culturally conceived, constructed, articulated, and controlled in such ways as to sustain a particular social order. Both law and the social creation of the body in India are anchored in specific religious ideologies and ritual systems that constitute the ultimate legitimising force for the established social order. In this article, I deal specifically with the ritual system and ideology surrounding penance, which is the voluntary undertaking of ritual acts aimed at rectifying an offence against the moral order as articulated within the Brahmanical ideology. In the realm of law, I focus on punishment, which is the endproduct of a judicial system constructed to enforce the law, a social act inflicted upon a criminal and aimed at rectifying an offence against the social order. Penance and punishment share a common characteristic in that both are anchored in a particular conception of social or moral order; both presuppose that

an individual has violated the rules governing that order; and both are ritualised and public performances (Foucault 1995, p. 34).

A couple of caveats are in order at the outset. First, the very distinction between a 'moral order' and 'a social order', between morality and law, and even between penance and punishment, can be called into question within the context of traditional societies, in general, and ancient India, in particular. The entire realm of discourse and experience that we have demarcated through these technical terms of modern scholarship is encompassed in Indian Sanskrit discourse under the term *dharma*. Both are dealt without distinction in the ancient Indian *Dharmaśāstras*. Yet, to make distinctions, to classify, is at the very heart of the scholarly enterprise, and indeed it is at the very heart also of Indian scholasticism beginning many centuries before the common era. So, we must raise issues relating to the connections and distinctions between what we today call religion and law, and in this particular study, between penance and punishment.

A second caveat is with regard to sources. It is easy but wrong to pass off what is found in Sanskrit *Dharmaśāstras*,² or for that manner in the broad range of Brahmanical writings, as the social reality of ancient India. *Brāhmaṇas* were a male, priestly, and elite minority within ancient Indian society. They were, however, influential in establishing the kinds of categories that become hegemonic, categories with which the political elite and perhaps even some sub-altern groups thought and experienced social reality. Yet, I want to make clear that what I have to say here derives exclusively from the Brahmanical presentation of social reality. How this presentation was internalised by various segments of society is hard to tell. The *Dharmaśāstras* provide but a single narrow window into that ancient society, and it is good to keep this in mind; our conclusions should be as limited as our sources.

II

Human beings are unique, as Peter Berger (1969) and Berger and Luckmann (1967) have pointed out, in that they have an imperfectly structured genetic world for dealing with their experiences and environment, what Berger (1969, p. 5) calls the 'unfinished character of the human organism'. Humans instead have to construct symbolic worlds within which they can relate to themselves and to their physical and social environments. The most significant part of such humanly created worlds is society itself, which is 'that aspect of non-material culture that structures man's ongoing relations with his fellowmen' (Berger 1969, p. 7). The hallmark of the humanly constructed worlds, as opposed to genetically constructed ones, however, is their intrinsic instability. These worlds are not hard-wired or programmed into our genetic make-up; they need to be internalised and accepted by individual humans occupying those worlds. Here we come to the need for the legitimation of a humanly created world, which includes all cultural products, social structures, and laws.

Fortunately, much of what is given by the symbolic world into which an individual is born is accepted as self-evident or natural by that individual through a process of socialisation that 'seeks to ensure a continuing consensus concerning the most important features of the social world' (Berger 1969, p. 29). Few, if any, born in England will, for example, question why they must speak English and participate in that humanly created linguistic world; neither will a child born in China question why she must speak Chinese. People hardly challenge the social requirement of wearing clothes, or the gender specificity of clothing and bodily ornamentation. The ability of the humanly constructed world to hide its contingent nature and to present itself as an objective facticity, what Marx called 'alienation', is remarkable. It is this ability to naturalise the humanly created worlds, as Bourdieu puts it, which makes them somewhat stable.

There are, however, areas of a humanly created world that are not readily accepted as a matter of fact. There are also individuals in any society who are imperfectly socialised into the prevalent symbolic world; there are individuals and groups who do ask embarrassing questions, such as: why this individual should be the king or why certain groups or castes are given privileged positions within the society? There are also historical events, such as foreign invasions, plagues, and famines, which may lead to the questioning of the inherited world. It is at these significant margins that a constructed world requires special maintenance through strategies of legitimation. These strategies, at least in traditional societies, are principally two-fold: religious ideologies and rituals on the one hand (involving sin and penance), and state apparatus with attendant powers of enforcement and coercion (involving crime and punishment), on the other.

These are the twin strategies of legitimation that I focus on here. It is well known that the power of religious legitimation comes principally from its ability to ground temporary, historical, and contingent realities in an eternal, unchanging, and transcendent realm, whether it is the transcendent *dharma* of India or the will and law of God in Abrahamic religions. Given that both secular power and religion in India are grounded on *dharma*, we have a transcendent ground in which are anchored these twin forms of legitimation, ritual, and coercion. Thus, the state can be, in Bourdieu's (1998, p. 40) terms, presented as *natural* and even transcendent.

Both religious rituals accompanying the system of penance and the ritualised punishment within the criminal justice system of ancient India have as their primary focus the human body, which is the third leg of my article. Anthropologists, beginning at least with Marcel Mauss (1973) in his 1936 essay on the techniques of the body, have long commented on the social creation of the human body as a parallel to and a metaphor for the social body. Mary Douglas (1982, p. 65) puts it clearly: 'The social body constrains the way the physical body is perceived. The physical experience of the body, always modified by the social categories through which it is known, sustains a particular view of society.' Michel Foucault (1995, p. 25), likewise, speaks of the 'political economy of the body'. 'The body', he says,

'is also directly involved in the political field; power relations have an immediate hold upon it; they invest it, mark it, train it, torture it, force it to carry out tasks, to perform ceremonies, to emit signs'. This is especially true in judicial punishment, where 'the body has produced and reproduced the truth of the crime' (Foucault 1995, p. 47). The tortured, mutilated, scared, and branded body speaks the truth of the crime, the truth of the violated order, and the truth of the social/judicial process that has inflicted the punishment.

The ways in which a particular society chooses to portray and to manipulate the human body sustain and legitimise the particular world constructed by that society. The body as the root metaphor for society is perhaps nowhere as central as in ancient India, at least within the sociology articulated by the Brahmanical tradition. One of the most ancient cosmogonic myths recorded in the *Puruṣa* hymn of the *R̥gveda* (10.90) shows that the entire universe was created out of the dismembered body of a primeval man. In a special way, the social hierarchy enshrined in the system of four *varṇas*, the ideological predecessor of the caste system, is depicted as originating from that primeval body: the various classes of society rise from the various parts of that body, and the position of that part in the physical body of the creator legitimises the position that class occupies within the social body. This became the paradigmatic metaphor and ideological cornerstone of the ancient Indian sociology and system of law created by the Brahmanical tradition.

The focus on the body enables the humanly created world and social order to be presented and internalised as a natural phenomenon, to be accepted as an objective fact just in the same way as my own body. The same creative process that gave rise to the sun and the moon also gave rise to the structures of human society. The distinction between the *Brāhmaṇa* and the *Śūdra* is as natural as that between the head and the foot. The dual system of penance and punishment, I will attempt to show, also conspires to present the symbolic world within which moral and criminal laws are located as a natural phenomenon and as a cosmic process beyond the contingency of human laws, norms, and judgements, and the various interests and prejudices of hegemonic groups.

III

Penance and punishment are distinct areas of discourse within the legal literature of *Dharmaśāstra*. It is significant that the modern distinction between penance and punishment has a parallel in the Sanskrit system of classification. The technical term for penance is *prāyaścitta*, and it is discussed within the context of sin. The technical term for punishment is *daṇḍa*, and it is discussed within the context of criminal law and the suppression of crime within a kingdom. Often, as in the *Yājñavalkya Dharmaśāstra* (*YDh*), these topics are discussed in two separate sections of the text. Further, undergoing a penance implies that the sinner voluntarily acknowledges that he or she has violated the moral code, while a criminal undergoing punishment has been convicted of a crime. It is unnecessary for him or her

to confess to the crime, although the very ritual of a public court case with clearly articulated procedural rules makes a public pronouncement that the criminal is truly guilty of the crime. Interestingly, however, legal texts and medieval commentators call a judgement based on a confession a judgement based on *dharma*, whereas a judgement arrived at through evidence is called a judgement based on *vyavahāra*, that is, legal procedure.³

Nevertheless, the two systems share many commonalities. First of all, in both systems there is a public pronouncement about the truth of the crime or sin, whether it is a public confession by the criminal or sinner or a just pronouncement by a legitimately constituted court. It is assumed that a penance for a particular sin will either be enjoined in legal texts or determined by a properly constituted body of *Brāhmaṇas* (*pariṣad*) that would look into the sin and the background of the sinner and pronounce an appropriate punishment (*Baudhāyana Dharmasūtra* (*BDh*) 1.1.7–16). A similar public ritual takes place when a sinner is excommunicated from and readmitted into his community (*BDh* 2.1.36). Pences are not acts carried out privately and in secret; they are public acts that bear witness to the fact that the sinner has transgressed the moral order. Penance and punishment, therefore, have public dimensions. Indeed, Manu warns that a sinner must not perform a penance under the pretext that he is performing a religious observance (*MDh* 4.198). His penance must be publicly recognised for what it is.

Both penance and punishment are, moreover, given transcendental status. We can readily understand this with regard to penance, because it is supposed to have the effect of cancelling sins and avoiding hell and evil rebirth after death. Punishment for crime imposed by the king, however, is likewise ascribed a transcendental origin. Manu personifies ‘punishment’ as a divinity without whom human society will degenerate into a chaotic state following the maxim of the fish, the bigger eating the smaller:

For the king’s sake, the Lord formerly created Punishment, his son—the Law and protector of all beings—made from the energy of Brahman. It is the fear of him that makes all beings, both the mobile and the immobile, accede to being used and do not deviate from the Law proper to them. The king should administer appropriate Punishment on men who behave improperly, after examining truthfully the place and the time, as well as their strength and learning. Punishment is the king; he is the male; he is the leader; he is the ruler; and, tradition tells us, he stands as the surety for the Law with respect to the four orders of life. Punishment disciplines all the subjects, Punishment alone protects them, and Punishment watches over them as they sleep—Punishment is the Law, the wise declare. When he is wielded properly after careful examination, he gives delight to all the subjects; but when he is administered without careful examination, he wreaks total havoc. If the king fails to administer Punishment tirelessly on those who ought to be punished, the stronger would grill the weak like fish on a spit; crows would devour the sacrificial cakes; dogs would lap up the sacrificial offerings; no one would have any

right of ownership; and everything would turn topsy-turvy. The whole world is subdued through Punishment, for an honest man is hard to find; clearly, it is the fear of Punishment that makes the whole creation accede to being used. Gods, demons, Gandharvas, fiends, birds, and snakes—even these accede to being used only when coerced by Punishment. All the social classes would become corrupted, all boundaries would be breached, and all the people would revolt, as a result of blunders committed with respect to Punishment. Wherever Punishment, dark-hued and red-eyed, prowls about as the slayer of evil-doers, there the subjects do not go astray—so long as its administrator ascertains correctly.⁴ (*MDh* 7.14–25)

In the minds of the authors of legal texts also the two systems appear to work in tandem, sometimes even overlapping with each other. In the *Āpastamba Dharmasūtra* (*ĀpDh*), for example, the issue is sexual intercourse with the wife of an elder or teacher (*guru*), a form of incest. Under penance *Āpastamba* (*ĀpDh* 1.25.1–2) says: ‘A man who has had sex with the wife of an elder should cut off his penis together with the testicles and, holding them in his cupped hands, walk towards the south without turning back; or else he should end his life by embracing a red-hot metal column.’⁵ Incest, however, is not just a sin, it is also a crime. Under criminal punishment for sex with another man’s wife the same text (2.26.20) states: ‘If intercourse took place, his penis should be cut off along with the testicles.’⁶ Note that in both cases the sin and crime are recorded on the body of the perpetrator with the cutting off of the organ with which the crime was committed; the body bears the mark of the crime. This becomes a common feature in the two parallel systems of penance and punishment. So, a *Śūdra* hurling abuse at a *Brāhmaṇa* has his tongue cut off (*MDh* 8.270); if he uses a hand or a leg to assault a *Brāhmaṇa*, that hand or leg is cut off (*MDh* 8.279); and for incest, a man is branded on the forehead with the mark of a vagina (*MDh* 9.237).

Likewise, within the system of penance, it is said that a man who has stolen gold ‘his hair disheveled and carrying a pestle on his shoulder, should go to the king and confess his deed. The king should slay him with that pestle, and, when he is killed, he is absolved’⁷ (*ĀpDh* 1.25.4). This provision is given under penance in five texts: *ĀpDh* 1.25.4; *BDh* 2.1.16–17; *Vasiṣṭha Dharmasūtra* (*VaDh*) 20.41; *Viṣṇu Dharmasūtra* (*ViDh*) 52.1–2; and *YDh* 3.257. Here we have the significant phenomenon of the king acting as the agent of a penance that involves both confession and execution. The same provision, however, is given not under penance but under punishment in the texts of Gautama (*Gautama Dharmasūtra* (*GDh*) 12.43–5) and Manu (*MDh* 8.314–6). The two systems were thus very much permeable, sin and crime, and penance and punishment, operating within the single symbolic world encapsulated in the term *dharma*. Thus, the *Āpastamba Dharmasūtra* (*ĀpDh* 2.10.12–16, 11.1) clearly states that the preceptor should impose a penance when those whom he has instructed go astray, but if they fail to comply he sends them to the king, who will impose punishments on them including the death penalty.

Further, in the *Vaiṣṇava Dharmasāstra*, at the very beginning of the discussion on sins, we have the statement: 'Now, those who are guilty of a grievous sin causing loss of caste, except Brāhmaṇas, should be executed' (*ViDh* 5.1).⁸ It is clear from other provisions of ancient Indian law that only the king had the authority to execute someone. The language of the text also makes it clear that it is the king who imposed lesser punishments on a *Brāhmaṇa*: 'He (= King) should brand a Brāhmaṇa and expel the man from his territory'⁹ (*ViDh* 5.3). The subject of all these provision is the king, who here acts as the enforcer of punishment for sins; or is it penance? The line between sin and crime, between penance and punishment, indeed, gets blurred.

Likewise, Manu, after enumerating grievous sins that cause loss of caste (*mahāpātaka*), points to the king as the enforcer of penance when the sinner refuses to undergo the penance voluntarily:

If any of these four fails to perform the penance, the king should determine for them a punishment, both corporal and pecuniary, that accords with the Law. For sex with an elder's wife, the man should be branded with the mark of a vagina; for drinking liquor, with the sign of a tavern; for stealing, with the figure of a dog's foot; and for killing a Brāhmaṇa, with the figure of a headless man. These wretched men—with whom one is not permitted to eat, to participate at a sacrifice, to recite the Veda, or to contract marriages—shall roam the earth, excluded from all activities relating to the Law. Branded with marks, they shall be forsaken by their paternal and maternal relations; they should be shown no compassion and paid no reverence—that is Manu's decree. If they do perform the prescribed penance, on the other hand, the king should not brand the higher classes on the forehead, but make them pay the highest fine.¹⁰ (*MDh* 9.236–40)

Here the king intervenes when a sinner fails to perform the required penance, and the intervention is in the form of corporal punishment, whereas if they do perform the penance only a fine is imposed.

The most severe corporal penance or punishment is the one resulting in the elimination of the body altogether, namely, the death of the sinner and criminal. There are several major categories of sin, especially the murder of a *Brāhmaṇa*, sex with the wife of an elder, stealing gold, and drinking liquor, where the penance results in the death of the sinner. The clearly articulated theological position is that a person is freed from these sorts of sins only when he is freed from the body that committed the sin: the refrain is 'he will be purified after death' (*maraṇāt pūtā bhavati*; *VaDh* 20.22). In the system of punishment, the death penalty is prescribed for a wide range of crimes:

defiling a Brāhmaṇa with liquor; untouchable person touching upper class persons; reselling a land that has been mortgaged; selling human flesh; bearing false witness; stealing gold, silver and clothes; stealing gems of great value; habitual

thieves and robbers; pickpockets for third offense; abducting men from illustrious families, and women; adultery; man deflowering a virgin; forging royal edicts, corrupting constituents of the realm, giving aid to enemies of state; breaking into treasury, armory, or temple; stealing horses, elephants, and chariots; murder; grievous sins (*mahāpātaka*) committed by non-Brāhmaṇas.

In both systems, death is often preceded by mutilation of the body, a topic dealt with at length by Foucault in the context of medieval Europe. We already saw the cutting off of the penis and testicles and walking until he falls down dead on the part of a man who has had sex with an elder's wife. In the system of punishment, the final execution is often preceded by mutilation, the kind of execution called *citravadha* (lit., 'colorful execution'). A robber who enters a house by cutting through a wall, for example, has his hands cut off first, and then he is impaled publicly (*MDh* 9.276). Sometimes, the very methods of execution implies torture; these include impaling, burning, and devouring by dogs. The non-torturous execution is called *śuddhavadha* ('clean execution'), that is, beheading.

A range of bodily mutilations are prescribed for lesser offences. The basic offence from which ancient Indian jurists operated is theft; thus, for example, they state frequently that the punishment for an offence X is the same as for theft. Bodily mutilation is standard for serious theft. Manu (*MDh* 8.334) states: 'The king should deprive a thief of the very limb with which he commits a crime against men, to serve as a deterrent.'¹¹ Here is Manu's provision for a pickpocket: 'After the first offense, he should have two fingers of a pickpocket cut off; after the second, the hands and the feet; and after the third, he ought to be executed'¹² (*MDh* 9.277). We have a similar provision for a man or a woman who breaks the virginity of a girl using the fingers: 'If a man arrogantly violates a virgin by force, two of his fingers should be cut off immediately'¹³ (*MDh* 8.367); 'When a woman violates a virgin, however, her head ought to be shaved immediately—alternatively, two of her fingers should be cut off—and she should be paraded on a donkey'¹⁴ (*MDh* 8.370). The disfigurement caused by corporal punishment is viewed as a deterrent not only to the perpetrator but also to others. Manu says (*MDh* 8.352) 'When men violate the wives of others, the king should disfigure their bodies with punishments that inspire terror and then execute them.'¹⁵ There is a series of mutilation by cutting various parts of the body prescribed for a variety of crimes also in the famous *Arthaśāstra* of Kauṭilya (*AŚ* 4.10–13):

cutting the tip of the nose for stealing animals;
cutting ears and nose of an adulterous woman and for aiding a thief or an adulterer;
cutting the tongue for reviling a Brāhmaṇa and divulging state secrets;
cutting the thumb and middle finger for pickpocketing (first offense);
cutting the middle finger and forefinger for deflowering a virgin using the fingers;

cutting all five fingers for pickpocketing (second offense);
 cutting one hand for deflowering a pre-pubescent virgin or a betrothed virgin,
 and for cheating at gambling;
 cutting the right hand for pickpocketing (third offense);
 cutting the Achilles' heel for entering the fort without permission;
 cutting one foot for stealing a cart, boat, or small animal;
 cutting one foot and one hand for striking a *Brāhmaṇa*;
 cutting both feet for stealing a big animal or a slave and for selling articles from
 a corpse;
 cutting the left hand and both feet for a variety of offenses including freeing a
 thief, changing a royal edict, kidnapping a virgin, and selling forbidden
 meat.

We do not have much discussion of prisons in the *Dharmaśāstras* or the *Arthaśāstra*, besides simple statements about their existence. Imprisonment is not given as a punishment for any crimes listed in these documents. Yet, in a telling passage of Manu we see that prisons located on major highways and the tortured bodies exhibited in them had the character of public display: 'He should locate all prisons along the royal highway where people will see the criminals, grieving and mutilated'¹⁶ (*MDh* 9.288). Here the term *pāpakārin* crosses the boundary between sin and crime.

Shaving the head is another form of bodily marking present in both the penance and punishment systems. Sometimes it accompanies a penance or punishment, sometimes it is a substitute. It is also a type of branding, albeit much less severe and temporary. I do not want to dwell on the deep symbolism of shaving the head (Olivelle 1998), but in many cases it appears to be a substitute for decapitation (for example, in the case of a *Brāhmaṇa* exempt from execution) or castration (for example, in the case of a man guilty of incest).

Another significant feature of the two systems is that the severity of the penance or punishment is dictated not just by the severity of the crime but also by the social standing of the criminal *vis-à-vis* the victim. This is stated openly in the *Vaiṣṇava Dharmaśāstra*: 'For other crimes also the king should consult with *Brāhmaṇas* and determine a punishment, taking into account the caste, wealth, and age of the criminal' (*ViDh* 5.195).¹⁷ This principle applies across the board in ancient Indian law as articulated by the *Dharmaśāstras*. Regarding rates of interest, for example, the same text states: 'The interest is two, three, four, or five percent per month according to the direct order of classes' (*ViDh* 6.2).¹⁸ One of the more significant outcomes of this rule is that *Brāhmaṇas* are exempt from capital punishment and mutilation, at least in the opinion of the *Dharmaśāstras*. The substitute for them is either shaving the head or branding on the forehead. Thus, Baudhāyana recommends the following alternatives in the case of a *Brāhmaṇa*: 'A *Brāhmaṇa*, clearly, is not subject to capital punishment for any crime. When a *Brāhmaṇa* kills a *Brāhmaṇa*, has sex with the wife of an elder, steals gold, or

drinks liquor, the king should brand the man's forehead with the mark of a headless corpse, a vagina, a jackal, or a tavern banner, respectively, using a heated iron and banish him from his kingdom'¹⁹ (*BDh* 1.18.17–18).

At the opposite end of the spectrum, a *Śūdra*, the lowest in the social hierarchy, is subject to the harshest penalties.²⁰ Manu says:

If a once-born man (*Śūdra*) hurls grossly abusive words at twice-born men, his tongue shall be cut off, for he originated from the lowest part.²¹ If he invokes their names and castes with disdain, a red-hot iron nail ten fingers long should be driven into his mouth. If he arrogantly gives instruction on the Law to *Brāhmaṇas*, the king should pour hot oil into his mouth and ears.²² (*MDh* 8.270–2)

Manu continues:

When a lowest-born man uses a particular limb to injure a superior person, that very limb of his should be cut off—that is Manu's decree. If he charges with his hand or with a stick, his hand ought to be cut off; if he strikes with his foot in anger, his foot ought to be cut off. If a low-born man attempts to occupy the same seat as a man of a high rank, the king should brand him on the hip and send him into exile or have his buttocks slashed. If he arrogantly spits at such a person, the king should cut off both his lips; if he urinates at him, his penis; and if he breaks wind at him, his anus. If he grabs him by the hair, the king should cut off both his hands without a second thought, as also if he grabs him by the feet, the beard, the neck, or the testicles.²³ (*MDh* 8.279–283)

We also see a gradation of fines depending on social position: 'For assailing a *Brāhmaṇa*, a *Kṣatriya* ought to be fined 100 (*Paṇas*), and a *Vaiśya* 150 or 200; but a *Śūdra* ought to suffer corporal punishment.²⁴ A *Brāhmaṇa* should be fined 50 for abusing a *Kṣatriya*, 25 for abusing a *Vaiśya*, and 12 for abusing a *Śūdra*'²⁵ (*MDh* 8.267–8). The same is true within the penance system. Take murder, for example, (*MDh* 11.127): 'One-fourth (the penance) for the murder of a *Brāhmaṇa* is prescribed by tradition for the murder of a *Kṣatriya*; one-eighth for the murder of a virtuous *Vaiśya*; and one-sixteenth for the murder of a *Śūdra*.'²⁶ The systems of penance and punishment, thus, sustain the established social order and, as we shall see, are themselves anchored in a broader cosmic ideology.

Even when the punishment is a fine, which is the most usual form of punishment in Indian legal codes, the body is still the focus. I want to argue that possessions, whether it is house, land, cattle, or money, are in some way extensions of the body. Manu, for example, appears to see a man's wealth or property as one more bodily site for inflicting punishment: 'Manu, the son of the Self-existent One, has proclaimed ten places upon which punishment may be inflicted. . . . They are: genitals, stomach, tongue, and hands; feet are the fifth; and then, eyes, nose, ears, wealth, and body [probably execution]'²⁷ (*MDh* 8.124–25). Coming as it does in the middle of the list of body parts, it is presented as one more organ of the criminal to

be cut off. Before the advent of the monetised economy, fines were probably calculated in terms of movable and immovable property. The argument that depriving a person of possessions is in some way a mutilation, a public statement that the person is now less than he was before is also supported by texts that give monetary equivalencies of corporal punishment. Thus, for example, the *Arthaśāstra* (AŚ 4.10)²⁸ gives the following equivalencies: cutting the Achilles' tendon = 200 (*Paṇas*); cutting one foot = 300; cutting one hand = 400; cutting ears and nose = 500; cutting both feet = 600; cutting one hand and one foot = 700; blinding = 800; and cutting left hand and both feet = 900. Exile and banishment from the realm and from one's ancestral land becomes the ultimate form of such punishment. In place of cutting off a hand or a foot, here a person is cut off from his extended community and support system, a punishment paralleling the excommunication from caste as a penalty for grievous sins.

The underlying theme in much of the penance and punishment systems is that the criminal bears the marks of his crime on his body. This is literally true when, as in the above passage, a man is branded with symbols of his crime, a vagina for rape, for instance, or when a part of the body responsible for the offence is cut off. Torture is not the result of a sadistic culture that delights in inflicting pain. As Foucault (1995, p. 23) has shown, torture and bodily mutilation are a political act aimed not just at the criminal but at society, and hence the public spectacle of the tortured body of the criminal. There is an obvious symbolic dimension; people without their thumb and middle fingers can easily be recognised as violators of virgins, those without the thumb and forefinger as pickpockets. There is, however, a deeper ideology behind this marking of the body in India, to which I now turn.

IV

It is well known that within the Indian ideology of rebirth and karmic retribution an individual is born in conformity with his or her previous *karma*, the good and evil performed in previous lives. The kinds of body individuals carry in this life—gender, bodily and mental distinctions and defects, social position, animal species, and the like—are determined by what they did in previous lives, or even in this life (*MDh* 11.48). An early statement of this principle is given by *Āpastamba*, the author of the oldest extant *Dharmaśāstra*:

Upon a man's return to earth, by virtue of the residue of his merits he obtains a high birth, a beautiful body, a fine complexion, strength, intelligence, wisdom, wealth, and an inclination to follow the Law. So, going around like a wheel, he remains happy in both worlds. This is similar to the way the seeds of plants and trees, when they are sown on a well-plowed field, increase their fruit. This example explains also the way the fruits of sins increase. When a thief or a heinous sinner, whether he is a Brāhmaṇa, a Kṣatriya, or a Vaiśya, completes his sojourn in the next world living in an interminable hell, he is born

here again—a Brāhmaṇa as a Cāṇḍāla, a Kṣatriya as a Paulkasa, and a Vaiśya as a Vaiṇa. In like manner, others, when they fall from their social classes as a result of their sinful acts, are born as outcastes in wombs that are the aftermath of their sins.²⁹

This ideology as developed in later *Dharmaśāstras* links specific sins to specific animal bodies. Manu has a long and specific list of animal wombs (and even plants) entered by people committing specific sins and crimes:

A murderer of a Brāhmaṇa enters the wombs of a dog, a pig, a donkey, a camel, a cow, a goat, a sheep, a deer, a bird, a Cāṇḍāla, and a Pulkasa. A Brāhmaṇa who drinks liquor enters the wombs of worms, insects, moths, birds that feed on excrement, and vicious animals. A Brāhmaṇa who steals enters thousands of times the wombs of spiders, snakes, lizards, aquatic animals, and vicious ghouls. A man who has sex with an elder's wife enters hundreds of times the wombs of grasses, shrubs, creepers, carnivorous animals, fanged animals, and creatures that commit cruel deeds. Vicious individuals become carnivorous animals; those who eat forbidden food become worms. . . . By stealing grain, one becomes a rat; by stealing bronze, a ruddy goose; by stealing water, a Plava coot; by stealing honey, a gnat; by stealing milk, a crow; by stealing sweets, a dog; by stealing ghee, a mongoose; by stealing meat, a vulture; by stealing fat, a Madgu cormorant; by stealing oil, a cockroach; by stealing salt, a cricket; by stealing curd, a Balāka flamingo; by stealing silk, a partridge; by stealing linen, a frog; by stealing cotton cloth, a Krauñca crane; by stealing a cow, a monitor lizard; by stealing molasses, a flying fox; by stealing fine perfumes, a muskrat; by stealing leafy vegetables, a peacock; by stealing various kinds of cooked food, a porcupine; by stealing uncooked food, a hedgehog; by stealing fire, a Baka heron; by stealing household utensils, a mason-wasp; by stealing dyed clothes, a francolin partridge; by stealing a deer or an elephant, a wolf; by stealing a horse, a tiger; by stealing fruits or flowers, a monkey; by stealing a woman, a bear; by stealing water, a cuckoo; by stealing vehicles, a camel; and by stealing farm animals, a goat. If a man steals anything at all belonging to some one else by force or eats an oblation before the offering has been completed, he inevitably becomes an animal. Women also, when they steal in the above manner, incur guilt; they become the wives of the very same creatures.³⁰ (*MDh* 12.55–69)

But much more relevant for my argument is the linkage made between certain kinds of human bodies and specific crimes. The system comprehends both bodies differentiated according to caste and gender and people with bodily deformities. Physical disabilities are here linked to moral depravity and lead to social and ritual disabilities. The clearest articulation of this position is found in Manu (*MDh* 11.48–54):³¹

Some evil men become disfigured because of the bad deeds committed in this world, and some because of deeds done in a previous life. A man who steals gold

gets rotten nails; a man who drinks liquor, black teeth; the murderer of a Brāhmaṇa, consumption; a man who has sex with his elder's wife, skin disease; a slanderer, a smelly nose; an informant, a smelly mouth; a man who steals grain, the loss of a limb; a man who adulterates grain, an excess limb; a man who steals food, dyspepsia; a man who steals speech, dumbness; a man who steals clothes, leukoderma; and a man who steals horses, lame legs. In this way, as a result of the remnants of their past deeds, are born individuals despised by good people: the mentally retarded, the mute, the blind, and the deaf, as well as those who are deformed. Therefore, one should always do penances to purify oneself; for individuals whose sins have not been expiated are born with detestable characteristics.³²

Penance is the only way to avoid the bodily marking resulting from sin.

Humans, therefore, bear their sins and crimes on their bodies.³³ Such deformities have social and ritual consequences. People lacking a limb or suffering from a skin disease, for example, are not allowed to eat at an ancestral offering (*śrāddha*). Likewise, lists of people who cannot be called as witnesses in a court of law include those missing a limb, people with bad nails, black teeth, or skin disease (*Nārada Smṛti* (*NSm*) 1.159–69). The impotent (or sexually dysfunctional: *klība*), those suffering incurable diseases, and those lacking a limb or organ (*vikala*) cannot inherit the paternal estate (*ViDh* 15.32).

Having interpreted both the diverse bodily species in the world and the bodily variations and deformities of human beings within the ethico-cosmic ideology of *karma*, the upholders of the established order are able to anchor the moral and legal systems in the very working of the cosmos; they become naturalised. No questions can be asked of the systems, because they are presented not as a humanly constructed world but as a natural world working according to automatic and natural laws of the cosmos.

The ideology that sees sins as marking the body gives a new and naturalistic dimension also to the working of the criminal justice system. Cutting the hands of a thief in any context is a good deterrent that the man will no longer be a thief and a warning to other would-be thieves. Yet, within the specifically Indian ideology, this symbolic violence of marking the body by the state parallels its marking within the rebirth process. Punishment can thus be presented not as something contingent but as part of a natural cosmic process. As one can judge the past moral quality of a person born blind or with a skin disease, so one can judge the moral quality of a person whose arms, feet, or fingers have been amputated by the state. In both cases, the physical body carries the outward manifestation of an individual's transgressions against the cosmic laws of morality and criminality. The criminal body and the sinful body parallel each other, both bearing the stigmata of their depraved state and status and upholding the established world and social hierarchy.

There is an added dimension to the strict relationship established here between the natural order on the one hand, and penance and punishment on the other.

It is clear from the ideology of the penitential system that the marking of the body in the next life happens only when the appropriate penances for sins have not been carried out. In other words, penance is a substitute for bodily marking in the next life; penance erases the effects of sins. Thus, when one sees a person born blind or lame, there can be another judgement made; the individual has not only committed a sin but also refused to perform the required penance; he has refused to acknowledge the moral order and his infringement of that order. Penance and the accompanying acknowledgement of the legitimacy of the established moral order, therefore, have a cosmic effect, and thus becomes part of the cosmic process.

Whether punishment meted out by the criminal justice system has a similar salvific effect is not altogether clear, but I want to argue that there appears to be just such a connection with the possible proviso that the criminal should confess his crime and accept the punishment voluntarily—the *dharma* model of justice as opposed to the *vyavahāra* model outlined above. Thus, for example, in the case of the thief cited above, he goes to the king with a pestle on his shoulder asking the king to administer punishment by hitting him over the head with the pestle and killing him. The text goes on to say that whether the king kills him or not, the thief is absolved of his crime and sin. The strict parallelism between the systems of penance and punishment, furthermore, indicates that the workings of the two systems were viewed as similar in their effects.

One significant way in which the powerful within a society exercises hegemony over the majority is in providing the people with the categories of thought, the classificatory systems, within which they understand themselves and the world. If the marginalised majority can be taught to think in terms of the categories of thought provided by the powerful minority, then their alienation is complete and the power of the minority is secure. We are, of course, ignorant of the ways in which the Brahmanical world and categories were internalised by the vast majority of the ancient Indian population. Given the stability of the hierarchical world as envisaged by the Brahmanical categories—for example, the ubiquitous *varṇa* system mentioned even in royal inscriptions—it is fair to assume that at least a majority of the population began to think with those categories and to internalise, and thus legitimise the Brahmanical world. This was clearly true of the ruling classes who over the centuries reached out to the Brahmanical community for support and legitimation.

The system of marking the body in penance and punishment, together with its ideological underpinnings, was one significant way in which the humanly created world, with its social hierarchy and socio-political system, was legitimised by making it part of the natural world, part of the cosmic process.

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Notes

- 1 *gurutalpago 'bhibhāṣainas tapte svapyād ayomaye | sūrmīm jvalantīm vāśliṣyen mṛtyunā sa viśudhyati || svayaṃ vā śiśnavṛṣaṇāv utkr̥tyādhāya cāñjalau | nairr̥tīm diśam ātiṣṭhed ā nipātād ajihmagāḥ ||*
- 2 I do not subscribe to the view of some scholars that the *Dharmaśāstras* were simply the imaginary or theological formulations of *Brāhmaṇas*. As Wezler (2009) and Lariviere (2009) have shown, the *Dharmaśāstras* are the codifications of actual customary practices. For a longer discussion, see Olivelle (2010).
- 3 See AŚ 3.1.39–40; *Bṛhaspati Smṛti* 1.18; Vijñāneśvara's *Mitākṣarā* commentary on the *YDh* 2.96.
- 4 *tasyārthe sarvabhūtānāṃ goptāraṃ dharmam ātmajam | brahmatejomayaṃ daṇḍam asṛjat pūrvam īsvaraḥ || tasya sarvāṇi bhūtāni sthāvarāṇi carāṇi ca | bhayād bhogāya kalpante svadharmān na calanti ca || taṃ deśakālau śaktim ca vidyāṃ cāvekṣya tattvataḥ | yathārhatāḥ sampraṇayen nareṣv anyāyavartīṣu || sa rājā puruṣo daṇḍaḥ sa netā śāsītā*

- ca saḥ | caturṇām āsramāṇām ca dharmasya pratibhūḥ smṛtaḥ || daṇḍaḥ śāsti prajāḥ sarvā daṇḍa evābhirakṣati | daṇḍaḥ supteṣu jāgarti daṇḍam dharmam vidur budhāḥ || samīkṣya sa dhṛtaḥ samyak sarvā rañjayati prajāḥ | asamīkṣya prañītas tu vināśayati sarvataḥ || yadi na pranayed rājā daṇḍam daṇḍyeṣv atandritaḥ | śūle matsyān ivāpakṣyan durbalān balavattarāḥ || adyāt kākaḥ puroḍāṣam śvāvalihyād dhavis tathā | svāmyam ca na syāt kasmīṃscit pravartetādharottaram || sarvo daṇḍajito loko durlabho hi śucir naraḥ | daṇḍasya hi bhayāt sarvaṃ jagad bhogāya kalpate || devadānavagandharvā rakṣāṃsi patagoragāḥ | te 'pi bhogāya kalpante daṇḍenaiva nipīḍitāḥ || duṣyeyuḥ sarvavarṇās ca bhidyeraṇ sarvasetavaḥ | sarvalokaprapośā ca bhaved daṇḍasya vibhramāt || yatra śyāmo lohitaḥ daṇḍāś carati pāpāḥ | prajāś tatra na muhyanti netā cet sādhu paśyati ||
- 5 gurutalpagāmī savṛṣaṇam śīśnam parivāsyāñjalāv ādhāya dakṣiṇām dīśam anāvṛtṭim vrajet | jvalitām vā sūrimiṃ pariṣvaya samāpnuyāt ||
- 6 saṃnipāte vṛtte śīśnacchedanam savṛṣaṇasya ||
- 7 stenaḥ prakīrṇakeṣo 'mṣe musalam ādāya rājānam gatvā karmācakaṣīta | tenaṇam hanyāt | vadhe mokṣaḥ ||
- 8 aṭha mahāpātakino brāhmaṇavarjaṃ vadhyāḥ ||
- 9 svadeśād brāhmaṇam kṛtāṅkam vivāsayet ||
- 10 caturṇām api caiteṣāṃ prāyaścittam akurvātām | śarīradhanasamyuktaṃ daṇḍam dharmyam prakalpayet || gurutalpe bhagaḥ kāryaḥ surāpāne surādhvajaḥ | steye tu śvapadaṃ kāryam brahmahany aśirāḥ pumān || asaṃbhoyā hy asaṃyājyā asaṃpāṭhyāvivāhināḥ | careyuh pṛthivīm dīnāḥ sarvadharmabahiṣkṛtāḥ || jñāti-saṃbandhibhis tv ete tyaktavyāḥ kṛtalakṣaṇāḥ | nirdaya nirmaskārās tan manor anuśāsanam || prāyaścittam tu kurvāṇāḥ pūrve varṇā yathoditam | nāñkhyā rājñā lalāṭe syur dāpyās tūttamasāhasam ||
- 11 yena yena yathāṅgena steno nṛṣu viceṣṭate | tat tad eva haret tasya pratyādeśāya pārthivaḥ || That such punishment for theft was not simply a Brahmanical precept is indicated by the interesting conversation between the Buddhist monk Nāgasena and the Bactrian king Menander (Milinda), where it is admitted that in spite of the Buddhist precept regarding benevolence and non-injury, a thief may be punished by cutting off the hands, torture, and execution. However, such acts are viewed here as not arbitrary but the result of the thief's own actions (*Milindapañho*, IV.3.37; Trenckner, p. 186).
- 12 aṅgulī granthibhedasya chedayet prathame grahe | dviṭīye hastacaraṇau tṛṭīye vadham arhati ||
- 13 abhiśahya tu yaḥ kanyām kuryād darpeṇa mānavaḥ | tasyāśu kartye aṅgulyau . . . ||
- 14 yā tu kanyām prakuryāt strī sā sadyo maunḍyam arhati | aṅgulyor eva vā chedaṃ khareṇodvahanam tathā ||
- 15 paradārābhimarṣeṣu pravṛttān nṛṇ mahīpatiḥ | udvejanakarair daṇḍaiś cihnayitvā pravāsayet || Note here the technical use of the term pravāsayet (to execute) borrowed from the Arthasāstric tradition.
- 16 bandhanāni ca sarvāṇi rājamārge niveśayet | duḥkhitā yatra dṛśyeraṇ vikṛtāḥ pāpakāriṇaḥ ||
- 17 āgaḥsu ca tathānyeṣu jñātvā jātiṃ dhanam vayaḥ | daṇḍam prakalpayet rājā saṃmantrya brāhmaṇaiḥ saha ||
- 18 dvikaṃ trikaṃ catuṣkaṃ pañcakaṃ śataṃ varṇānukrameṇa pratimāsam ||

- 19 *avadhyo vai brāhmaṇaḥ sarvāparādheṣu | brāhmaṇasya brahmahatyāgurutalpagamana-
suvarṇasteyasurāpāneṣu kusindhabhagaṣṭgālasurādhvajāms taptenāyasā lalāṭe 'nikayitvā
viśayān nirdhamanam ||*
- 20 The only exception is theft, where the higher classes are punished more severely, because they should set an example to the rest of the population. Manu (8.337–8) states: 'With respect to theft, the liability for a Śūdra is eight times; for a Vaiśya, sixteen times; for a Kṣatriya, thirty-two times; and for a Brāhmaṇa, sixty-four times, or fully 100 times, or twice sixty-four times; for he knows whether it is good or bad.'
- 21 This is, of course, a reference to the *Puruṣa* hymn (Ṛgveda 10.90) to which I have already drawn attention.
- 22 *ekajātir dvijātiṃs tu vācā dāruṇayā kṣipān | jihvāyāḥ prāpnuyāc chedaṃ jaghanyaprabh-
avo hi saḥ || nāmajātigrahaṃ tv eṣāṃ abhidroheṇa kurvataḥ | nikheyo 'yomayaḥ śānkur
jvalann āsye daśāṅgulaḥ || dharmopadeśaṃ darpeṇa viprāṇāṃ asya kurvataḥ | taptam
āsecayet tailaṃ vaktre śrotre ca pāṛthivaḥ ||*
- 23 *yena kenacid aṅgena hiṃsyāc cec chreṣṭham antyajaḥ | chettavyaṃ tat tad evāsyā tan
manor anuśāsanam || pāṇim udyamya daṇḍaṃ vā pāṇicchedanam arhati | pādena praharan
kopāt pādacchedanam arhati || sahāsanam abhiprepsur utkrṣṭasyāvakṣṭajaḥ | kaṭyāṃ
kṛtāṅko nirvāsyāḥ sphicaṃ vāsyāvakartayet || avaniṣṭhivato darpād dvāv oṣṭhau chedayen
nṛpaḥ | avamūtrayato meḍhram avasardhayato gudam || keśeṣu gṛhṇato hastau chedayen
avicārayan | pādāyor dādḥikāyāṃ ca grīvāyāṃ vṛṣaṇeṣu ca ||*
- 24 The term *vadha* may also mean execution, although in the current context that is unlikely.
- 25 *śataṃ brāhmaṇam ākruśya kṣatriyo daṇḍam arhati | vaiśyo 'dhyardhaśataṃ dve vā śūdras
tu vadham arhati || pañcāśad brāhmaṇo daṇḍyaḥ kṣatriyasyābhiśaṃsane | vaiśye syād
ardhapañcāśac chūdre dvādaśako damaḥ ||*
- 26 *turīyo brahmahatyāyāḥ kṣatriyasya vadhe smṛtaḥ | vaiśye 'ṣṭamāṃśo vṛttasthe śūdre
jñeyas tu ṣoḍaśaḥ ||*
- 27 *daśa sthānāni daṇḍasya manuḥ svāyaṃbhuvo 'bravīt | . . . || upastham udaraṃ jihvā hastau
pāḍau ca pañcamam | cakṣur nāsā ca karṇau ca dhanam dehas tathaiva ca ||*
- 28 See also, the *Bṛhaspati Smṛti* 9.19 for the monetary equivalences for bodily mutilations.
- 29 *tataḥ parivṛttau karmaphalaśeṣeṇa jātiṃ rūpaṃ varṇaṃ balaṃ prajñāṃ dravyāṇi
dharmānuṣṭhānam iti pratipadyate | tac cakravad ubhayor lokayoḥ sukha eva vartate |
yathauśadhivanaspatināṃ bijasya kṣetrakarmaviśeṣe phalaparivṛddhir evam | etena
doṣaphalaparivṛddhir uktā | steno 'bhiśasto brāhmaṇo rājanyo vaiśyo vā parasmiṃ loka
'parimite niraye vṛtte jāyate caṇḍālo brāhmaṇaḥ paulkaso rājanyo vaiṇo vaiśyaḥ | etenānye
doṣaphalāḥ karmabhiḥ paridhvaṃsā doṣaphalāsu yoniṣu jāyante varṇaparidhvaṃsāyām ||*
- 30 *śvasūkarakharauṣṭrāṇāṃ go'jāvīmṛgapakṣiṇām | caṇḍālapulkasānāṃ ca brahmahā yonim
ṛcchati || kṛmikiṭapataṅgānāṃ viḍbhujāṃ caiva pakṣiṇām | hiṃsrāṇāṃ caiva sattvānāṃ
surāpo brāhmaṇo vrajat || lūtāhisaraṭānāṃ ca tiraścāṃ cāmbucāriṇāṃ | hiṃsrāṇāṃ ca
piśācānāṃ steno vipraḥ sahasraśaḥ || tṛṇagulmalatānāṃ ca kravadyādāṃ daṃṣṭriṇāṃ api |
krūrakarmakṛtāṃ caiva śataśo gurutalpaḡaḥ || hiṃsrā bhavanti kravadyādāḥ kṛmayo
'amedhyabhakṣiṇaḥ | parasparādinaḥ stenāḥ pretyāntyastrīniṣevinaḥ || saṃyogaṃ patitair
gatvā parasyaiva ca yoṣitam | apahrtya ca viprasvaṃ bhavati brahmarākṣasaḥ ||
maṇimuktāpravālāni hṛtvā lobhena mānavaḥ | vividhāni ca ratnāni jāyate hemakartṛṣu ||
dhānyaṃ hṛtvā bhavaty ākhuḥ kāmṣyaṃ haṃso jalam plavaḥ | madhu daṃśaḥ payah kāko*

rasaṃ śvā nakulo gṛhṭam || māṃsaṃ gṛdhro vasāṃ madgus tailaṃ tailapakaḥ khagaḥ |
 cīrīvākas tu lavaṇaṃ balākā śakunir dadhi || kauśeyaṃ tittirir hṛtvā kṣaumaṃ hṛtvā tu
 darduraḥ | kārpāsātāntavaṃ krauñco godhā gāṃ vāggudo guḍam || chucchundariḥ śubhān
 gandhān pattraśākaṃ tu barhiṇaḥ | śvāvīt kṛtānnaṃ vividham akṛtānnaṃ tu śalyakaḥ ||
 bako bhavati hṛtvāgniṃ gṛhakāri hy upaskaram | raktāni hṛtvā vāsāṃsi jāyate jīvajīvakaḥ ||
 vṛko mṛgebhaṃ vyāghro 'śvaṃ phalapuṣpaṃ tu markāṭaḥ | strīm ṛkṣaḥ stokako vāri yānāny
 uṣṭraḥ paśūn ajaḥ || yad vā tad vā paradravayam apahr̥tya balān naraḥ | avaśyaṃ yāti
 tiryaktvaṃ jagdhvā caivāhutaṃ haviḥ || striyo 'py etena kalpena hṛtvā doṣam avāpnuyuh |
 eteṣāṃ eva jantūnāṃ bhāryātvam upayānti tāḥ ||

31 A very similar statement is made in the ViDh 45.1–20.

32 iha duścāritaiḥ kecit kecit pūrvakṛtais tathā | prāpnuvanti durātmāno narā
 rūpaviparyayam || suvarṇacauraḥ kaunakhyaṃ surāpaḥ śyāvadantatām | brahmahā
 kṣayarogitvaṃ dauścarmyaṃ gurutalpagaḥ || piśunaḥ pūtināsatvaṃ sūcakaḥ pūtivaktra-
 tām | dhānyacauro 'ṅgahīnatvam ātiraikeyaṃ tu miśrakaḥ || annahartāmayāvitvaṃ
 maukyam vāgapahāraḥ | vastrāpahāraḥ śvaitryam paṅgutām āsvahāraḥ ||
 evaṃ karmāvaśeṣeṇa jāyante sadvigarhitāḥ | jaḍamūkāndhabadhirā vikṛtākṛtayas tathā ||
 caritavyam ato nityaṃ prāyaścittaṃ viśuddhaye | nindyair hi lakṣaṇair yuktā jāyante
 'niṣkṛtainasaḥ || See also VaDh 20.43–44.

33 For a detailed discussion of the bodily deformities, as well as animal births, produced by bad *karma*, with helpful charts, see Rocher (1980).