

A COMPARATIVE STUDY OF DAṆḌANĪTI IN LAGHVARHANNĪTI AND ARTHAŚĀSTRA

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Abstract

The *Arthaśāstra* of Kauṭilya (350-282 BCE) and the *Laghvarhannīti* of Hemacandra (1088-1172 CE) are two important texts on polity. These ancient texts offer profound insights into the principles of governance, ethics, and statecraft in premodern India. Central to their discourse is the concept of *daṇḍanīti*, or the policy of punishment, which plays a crucial role in maintaining law and order within a state. These texts are related to different religious traditions: *Arthaśāstra* is related to the Vedic tradition and *Laghvarhannīti* to the Jain tradition. This makes the comparative study of the two works' approach to punishment of significance. This research article aims to compare the treatment of *daṇḍanīti* in these two seminal works, highlighting both their similarities and differences in approach, context, and philosophical underpinnings.

Introduction

Ancient Indian thinkers believed that there was a time in the past when people lived in peace and harmony. Originally, a state of perfection existed, in which there was no king, no kingdom, no punishment, and no chastiser. There was neither state nor rule, neither punishment nor anybody to exercise it. People used to protect one another through inmate righteousness and sense of justice.² But as time passed, people lost this idyllic life. The strong people started to destroy the weaker ones. Such a situation can be compared to *matsyanyāya*, or the law of the fishes, according to which the big fish swallow the small ones in the water.

In such a social backdrop people started to feel insecure in their lives. They felt the need for a ruler or a supreme authority to punish wrongdoers, because people started to commit crimes and they were not appropriately punished. The seers and thinkers of that time, like Manu, Śukrācārya, Uśana, Nārada, Gautama, and others, felt much pain for this. They composed a number of scriptures for the systematic running of human society, like *samhitās*, *smṛtis*, *dharmaśāstras*, and *arthaśāstras*, where they dealt with several subject matters related to human life. Beside other topics, they dealt with the concept of crime and punishment with great care in these treatises. With a view to forming a crime-free society, they prescribed different punishments for various types of crime. The *Arthaśāstra* by Kauṭilya is an outstanding example in this regard, for which India has attained the peak of immense fame. It is believed that the *Arthaśāstra* is as valuable as the *Bhagavadgītā* or the *Upaniṣads*. As the latter ones cater to the needs of a future life, the *Arthaśāstra* is concerned with the current life. Kauṭilya in his treatise dealt with the concept of crime and punishment with great care. He has prescribed different

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² *naiva rājyaṃ na rājāsīna daṇḍo na ca dāṇḍikaḥ | dharmeṇaiva prajāḥ sarvā rakṣanti ca parasparam ||* (Śānti-Parva 59.41)

types of punishment according to the specific offense or crime. It can be assumed that a study of ancient India regarding crime and punishment would be futile without the study of Kauṭilya's *Arthaśāstra*. Similarly, Hemacandra's *Laghvarhannīti* is another important text that merits consideration in this context.

Laghvarhannīti and Arthaśāstra

Ācārya Hemacandra, a renowned Jain scholar who lived in the 12th-century India, authored the *Laghvarhannīti*, a comprehensive text consisting of 918 verses divided into four distinct sections. The first section elaborates on the qualities and virtues essential for effective rulership and provides guidance on governance and leadership. The second section discusses principles related to warfare and the administration of justice, emphasizing ethical conduct in conflicts and legal matters. In the third section, Hemacandra addresses administrative authority and legal procedures, offering insights into the responsibilities of governance. Lastly, the fourth section explores the concept of atonement and spiritual purification, highlighting the significance of ethical and moral integrity. Thus, Hemacandra's *Laghvarhannīti* serves as a profound guide to governance, justice, and ethical conduct in medieval India, reflecting his deep understanding of Jain principles and societal norms.

The *Arthaśāstra*, attributed to the ancient Indian scholar Kauṭilya (also known as Cāṇakya), is a seminal treatise on statecraft, economics, and politics. Composed around the 4th century BCE, this text is structured into 15 *adhikaraṇas* (sections), 180 subsections, and 150 chapters and contains approximately 6000 verses, covering a wide range of topics essential for effective governance. It provides very detailed guidance on the principles of governance, including administration, law, diplomacy, economics, and military strategy. The *Arthaśāstra* also discusses the role of the king, statecraft, espionage, and the management of resources. Known for its pragmatic approach and Machiavellian insights, the *Arthaśāstra* has influenced strategies and policies across centuries and civilizations and it remains a timeless classic in political philosophy and governance.

Types of Punishment

The word for punishment in the Sanskrit (Śabdakalpādrum Part-1 973), Pali (Pali-English Dictionary Part-1(A) 147), and Prakrit (Pāia-Sadda-Mahaṇṇavo 451) languages is *daṇḍa*. Literally *daṇḍa* means “a club” or “a heavy stick.” In the *Amarakośa*, *daṇḍa* is one of the four *upāyas* (methods) used by kings for the purpose of administration; the other three *upāyas* are *sāma* (negotiation), *dāna* (gift), and *bheda* (division).³ Gautama connects the word *daṇḍa* to the word *damana* in the sense of “restraint” or “deterrence” of the rogues.⁴

In premodern Indian legal and political texts, such as the *Laghvarhannīti* and the *Arthaśāstra*, the categories of punishment were based on the severity of the offense committed. The concept

³ *bhedo daṇḍaḥ sāma dāna ityupāyacatuṣṭayam* | (Amarakośa 2/7/972)

⁴ *daṇḍo damanādityāhustenādāntāndamayet* | (Gautamadharmasūtrāṇi 2/2/28)

of punishment was structured into three main categories: *uttama sāhasāparādha*, *madhyama sāhasāparādha*, and *antya/prathama sāhasāparādha*.

1. Uttama Sāhasāparādha

If anyone forcibly binds a woman or a man, or releases someone who has been bound, the fine is 500 *paṇas*⁵; and for the highest offence, it is 1,000 *paṇas*.⁶ The most severe punishments, known as *uttama sāhasāparādhas*, included actions such as seizing all property, imposing death penalties, banishment, mutilation, and marking the offender. These punishments/penalties were considered appropriate for the gravest crimes and offenses against the state or society.⁷

2. Madhyama Sāhasāparādha

Madhyama sāhasāparādhas were intermediate punishments, typically involving fines ranging from 200 to 500 *paṇas*. These fines were imposed for offenses that were serious but not as severe as those warranting the highest punishments.⁸

3. Antya/Prathama Sāhasāparādha

Prathama sāhasāparādhas were the least severe punishments, involving fines ranging from 48 to 96 *paṇas*. These were generally applied for minor offenses that did not merit the more severe forms of punishment.⁹

These classifications and their respective punishments provide insights into the legal and judicial practices of premodern India, reflecting the importance placed on maintaining social order and justice within the society of that time.

Nature of Crime and Punishment in Hemacandra's Laghvarhannīti

In the section on *daṇḍanīti*, Ācārya Hemacandra refers to the *Sthānāṅgasūtra* which mentions seven types of punishments: *hakāra* (uttering a “ha” sound which is a verbal abuse or derisive utterance), *makāra* (uttering a “ma” sound which is an insulting or abusive speech), *dhikkāra* (condemnation), *paribhāsaṇa* (reviling), *maṇḍalabandhana* (confinement within a designated area), *kārākṣepaṇa* (imprisonment), and *atrachhaviccheda* (mutilating the skin/body). These punishments range from verbal reprimand to imprisonment and mutilation, each serving specific purposes in maintaining societal order and justice. Additionally, Hemacandra

⁵ The *paṇa* was a unit of currency (Monier-Williams 150).

⁶ *striyaṃ puruṣaṃ vābhiṣahya badhnato bandhayato bandhaṃ vā mokṣayataḥ pañcaśatāvaraḥ sahasrapara uttamaḥ sāhasadaṇḍa ityācāryāḥ* | (Arthaśāstra 3/17/10)

⁷ *uttamo daṇḍa ityuktaḥ sarvasvabhāvaṇaṃ vadhaḥ* | *purānnirvāsanaṃ cāṅgachedanaṃ cāṅkanaṃ tathā* || (Laghvarhannīti 2/2/26).

⁸ *mahāpaśuṃśakṣetra-grahiraṇya-suvarṇasūkṣma-vastrādīnāṃ sthūlakadravyāṇāṃ dviśatāvaraḥ pañcaśataparaḥ madhyamaḥ sāhasadaṇḍa* | (Arthaśāstra 3/17/9)

⁹ *tāvyrtakāṃsakācadantabhāṇḍādīnāṃ sthūlakadravyāṇāmaśtatvārīmśadvaṇāvaraṇaṃ paṇṇavatiparaṃ pūrvāḥ sāhasadaṇḍaḥ* | (Ibid 3/17/8)

introduces an eighth type recognized by experts in *nīti* (ethics and governance): *dravya-daṇḍa*, or monetary penalties and confiscation.¹⁰

The first three punishments — *hakāra*, *makāra*, and *dhikkāra* — are verbal reproach, rebuke, and censure respectively. *Paribhāṣaṇa* involves authoritative commands to rectify behavior. *Maṇḍalabandhana* restricts an offender's movements to a confined area. Imprisonment (*kārākṣepaṇa*) and mutilation (*atracchaviccheda*) are well-known forms of severe punishment.

These punishments are employed by rulers in two primary contexts. Firstly, they resolve disputes between individuals during legal proceedings. Secondly, they serve as deterrents to maintain public safety by curbing criminal behavior. In the latter case, the king exercises his authority independently to enforce peace and order, ensuring the well-being of the community. Hemacandra's delineation underscores the dual role of punishments in both private disputes and the broader context of public security within premodern Indian governance.

Hemacandra attributes the invention of verbal reproach, rebuke, and censure to *kulakaras* (governing monarchs), who acted to protect their subjects from evils that arose with the progression of the Kali age prior to the time of the first Tīrthaṅkara, Ṛṣabhadeva.¹¹ As for the other four kinds of punishment, Bharata receives credit for them.¹² After sketching out this history of gradual development, Hemacandra acknowledges the historical changeability of penal laws.¹³ Other forms of punishment like *dravya-daṇḍa* (fine), *jñāti-daṇḍa* (social boycott), and *tāḍana-daṇḍa* (physical punishment) (Laghvarhannīti 33) are also included among the forms of *daṇḍa*. In the treatise there was no place for social injustice, as the most important principle formulated there was that the punishment should be imposed on those who deserve it in accordance with their guilt, place, time, power or expenditure, occupation, and wealth.¹⁴

Hemacandra recommends the first three forms of *daṇḍa* (*hakāra*, *makāra*, and *dhikkāra*) for the purpose of reproof to the different *varṇas* (classes): *makāra* to the brahmin, *hakāra* to *kṣatriyas* (warriors) and *vaiśyas*, *dhikkāra* to the *śūdras*.¹⁵ The remaining forms of punishment are common to all, except that women, brahmin and ascetics may not be sentenced to mutilation or death.¹⁶ With regard to the *vaiśya* class, if a *vaiśya* sells meat or tampers with the purity of

¹⁰ *tatra jaināgame daṇḍanīṭayaḥ saptadhā smṛtāḥ |*
tāḥ syurhākaramakaradhikkārāḥ paribhāṣaṇam ||
maṇḍale bandhanam kārākṣepaṇam cāṅgakhaṇḍanam |
aṣṭamo dravyadaṇḍo'pi svīkṛto nītikovidaiḥ || (Laghvarhannīti 2/2/2-3)

¹¹ *tatrādyam daṇḍanīṭinām trikaṁ prāk prathamārhatāḥ |*
yugminām kāladoṣeṇa kalau kulakaraiḥ kṛtam || (Ibid 2/2/6)

¹² *paścāt pravṛttā aparā bharatena kṛtā api |* (Ibid 2/2/7)

¹³ *tato niścīyate daṇḍanīṭiḥ kālānusāriṇī ||* (Ibid 2/2/7)

¹⁴ *yathāparādham deśam ca kalam balamathāpi vā |*
vyavam karma ca vittam ca daḍam daṇḍyeṣupātayet || (Ibid 2/2/8)

¹⁵ *tra dvije meti daṇḍaḥ heti kṣatriyavaiśyayoh |*
dhikkārah śūdrāmātreṣu pare varṇacatuṣṭaye || (Ibid 2/2/9)

¹⁶ *jāte mahāparādhe'pi nārīvīpratapasvinām |*
nāṅgacchedo vadho naiva kuryātteṣām pravāsanam || (Ibid 2/2/10)

gold while selling it, he deserves mutilation.¹⁷ If someone takes away a man's life, he should be punished like a thief. For destroying the life of a big animal like a cow or an elephant the punishment should be half the punishment for killing a man.¹⁸ For the destruction of small creatures a fine of 200 *dramas*¹⁹ should be imposed, while for killing wild animals and birds, 50 coins.²⁰ There is a descending scale of punishments. Five *māṣas*²¹ are the fine recommended for killing a goat, sheep or donkey, while two *māṣas* are fined for the killing of a dog or a pig.²² When it comes to eating prohibited food, a brahmin is to be given the most severe of the three levels of punishment (*uttama sāhasa*), a *kṣatriya* the second most severe one, a *vaiśya* the third one, and a *śūdra* one half of the *vaiśya*'s.²³ If one embezzles from a trust, he should be fined eight times. If a *śūdra* earns his livelihood by assuming the appearance of a brahmin, he should be fined eight hundred *dramas*.²⁴ The general principle of mutilation is that it should be inflicted on the limb which has been specially used in the crime (e.g., mutilation of an arm for a thief); if one lacks wealth to pay fines, one may be imprisoned and made to do some work to repay.²⁵ The highest punishments include seizing all the offender's property, death, banishment, mutilation, and stigmatizing by marking the body.²⁶

Any man has a right to defend himself against an attacker or dangerous assailant. This category includes not only robbers, armed desperadoes, arsonists, poisoners, and those seeking to ravish one's wife or forcibly take possessions of one's fields, but also those who seek to kill old men, learned men, children, brahmin, pregnant women, teachers, parents, ascetics, and cows. Therefore, one could not only stand up for his own life, honor, and property against criminals but also defend efficiently certain public values.²⁷

¹⁷ *vaiśyaścetmāmsavikretā kūṭahemnaśca vikrayī |*
prāgaṅgahīnaṁ taṁ kṛtvā daṇḍayed drutameva ca || (Laghvarhannīti 2/2/11)

¹⁸ *manuṣyaprāṇahartā ca cauravaddaṇḍabhāḡ bhavet |*
tato'rddhaṁ gogaḡoṣṭrādibṛhājantuvinaśake || (Ibid 2/2/12)

¹⁹ The *drama* or *dramma* was a currency unit at that time (Monier-Williams 500).

²⁰ *kṣudrajīvaṇāśe tu dviśataṁ dama ucyate |*
pañcāśaddaṇḍabhāḡ syānmṛgapakṣivinaśakaḡ || (Laghvarhannīti 2/2/13)

²¹ The *māṣa* was a small currency unit (Monier-Williams 814).

²² *pañcamāṣaistu daṇḍyaḡ syādajāvīkharaghātakaḡ |*
māṣadvayena daṇḍyaśca śvaśūkaravinaśakṛt || (Ibid 2/2/14)

²³ *abhakṣyabhakṣake vipre daṇḍa uttamasāhasam |*
kṣatriye madhyamaṁ vaiśye'ntyaṁ śūdre tvarddhakaṁ bhavet || (Ibid 2/2/15)

²⁴ *jīvato dvijarūpeṇa śūdrasyāśtaśato 'drammaḡ ||* (Ibid 2/2/21)

²⁵ *yo'samartho dhanam dātum kāragāre nidhāya tam |*
kārayitvā svakaṁ karma dhanadaṇḍam vimocayet || (Ibid 2/2/25)

²⁶ *uttamo daṇḍa ityuktaḡ sarvasvaharaṇam vadhaḡ |*
purānnirvāsanam cāṅgachedanam cāṅkanam tathā || (Ibid 2/2/26)

²⁷ *vṛddham bahuśrutam bālam brāhmaṇam gurviṇīm gurum |*
mātaram pitaram caiva pravaktāram tapasvinam ||
ācārya pāṭhakaṁ cāpi gām ca ghnantaṁ hi ghātayet |
na hi sa bahudoṣī syāddaṇḍārho'pi ca no bhavet || (Ibid 2/2/31-32)

Nature of Crime and Punishment in Arthaśāstra

The *Arthaśāstra* is a unique work which throws more light on the cultural conditions and actual life of ancient India than any other work of Indian literature. The *Arthaśāstra* gives an account of the theories propounded by the ancient *dharmaśāstra* and *arthaśāstra* authorities. Kauṭilya has dealt with thousands of topics in his *Arthaśāstra*.

Kauṭilya says that *daṇḍa* is a means to attain wellness and the sum of *ānvīkṣakī* (metaphysics), *trayī* (scriptures), and *vārtā* (creation of trades).²⁸ The policy of *daṇḍa* is *daṇḍanīti*.²⁹ The nature of crime and punishment has been dealt with great care, mainly in the second, third, and fourth sections of the treatise. The second section deals with the activities of the various executive officers of the state. The third section describes the branch of civil law. Here, along with many other relevant matters, the different laws of punishment with the associated crimes, such as violence, slander, assault, dicing, gambling with the use of animals, etc., have been dealt with care. This part is unique in legal history. It can legitimately claim to be one of the earliest secular codes of law in the world. It throws a floodlight on the social, economic, and political condition of the country at that time (Bhattacharya 18). The fourth section deals with a number of topics, including public protection against deceitful fraudulent artisans and merchants, fraud in respect of weights and measures, protection from the acts of evil-doers living by secret and foul means, and protection of the people from the oppressions of government servants, among many others.

Similarities and Dissimilarities

A comparison of the two texts – *Laghvarhannīti* and the *Arthaśāstra* – reveals several significant similarities as well as differences in their approaches to crime and punishment. Both works prescribe specific penalties for a range of offences and take into consideration factors such as the nature of the offence, the social status of the offender or victim, and the circumstances surrounding the crime. At the same time, they differ in the extent to which certain social and religious groups are exempted from severe punishments and in the particular forms and degrees of penalties prescribed. The following examples illustrate these convergences and divergences in their treatment of offences relating to women, brahmin and ascetics, the killing of animals, offences against the king, the sale of articles taken from corpses, and the consumption or administration of prohibited food.

• Women, Brahmin, and Ascetics

As quoted above, in the *Laghvarhannīti*, as far as women, brahmin, and ascetics were concerned, even if they committed some grave transgression, they should not be subjected

²⁸ *ānvīkṣakītrayīvārtānām yogakśemasādhano daṇḍaḥ* | (*Arthaśāstra* 1/4/4)

²⁹ *tasya nīrtdaṇḍanītiḥ* | (*Ibid* 1/4/5)

to mutilation or death. Banishment should be the maximum punishment imposed on them. In the *Arthaśāstra*, Kauṭilya excludes women from this category.³⁰

- **Killing Animals**

As we have seen, in the *Laghvarhannīti*, for killing animals like goats, sheep, donkeys, etc. the culprit had to pay a fine of 5 *māṣas*. Similarly, in the *Arthaśāstra*, a fine of 54 *paṇas* had to be paid for killing pets.³¹

- **Spreading Evil News about the King**

Hemacandra recommends mutilation of the tongues of those who abuse the king, speak against him, are rebellious against him, violate the secrecy of royal counsel, or embezzle public funds. For these faults the clerk in the service of the king should be punished more severely.³² Similarly in the *Arthaśāstra*, it has been prescribed that if a person spreads evil news about the king or divulges secret counsel or reviles the king, his tongue should be rooted out.³³

- **Selling Articles from Corpses**

It is stated in the *Laghvarhannīti* that a seller of clothes and other goods taken from the body of a deceased person should be punished with the most severe punishment.³⁴ Kauṭilya prescribes that for selling articles from a corpse, both the offender's feet should be cut off or a fine of six hundred *paṇas* should be imposed on him.³⁵

- **Eating Forbidden Food**

As mentioned above, Hemacandra advises that a brahmin should be given the most severe of the three levels of punishment for eating prohibited food, a *kṣatriya* the second most severe one, a *vaiśya* the third one, and a *śūdra* one half of the *vaiśya*'s. It has also been prescribed that if a person causes a brahmin to partake of food or drink that is prohibited, he should be punished with the most severe punishment. When he causes a *kṣatriya* to do the same, he should be punished with the middlemost one. He should be punished with the

³⁰ *sarvāparādheṣvapīdanīyo brāhmaṇaḥ* | (*Arthaśāstra* 4/8/32)
brāhmaṇam pāpakarmāṇamuddhuṣyāṁkakṛtavraṇam |
kuryānnirviṣayam rājā vāsayedākareṣu vā || (*Ibid* 4/8/38)

³¹ *pañcaviṁśatipaṇāvareṣu kukkuṭnakulamārjārāśvasūkarasteyeṣu himsāyām vā catuṣpañcāśatpaṇo daṇḍaḥ* | (*Ibid* 4/10/5)

³² *nṛpasyākrośakarttāram tasyaivāniṣṭabhāṣiṇam* |
bhettāram nṛpamantrasya rājakoṣāpahārakam ||
bhūpapratīpatāpannam jihvām chitvā pravāsayet |
uttamena ca daṇḍyaḥ syādrājājñālekhakaḥ svayam || (*Laghvarhannīti* 2/2/16-17)

³³ *rājyākārukahastacchedane rājakoṣāyām ca jihvā cchedanam* | (*Arthaśāstra* 4/5/18)

³⁴ *mrtāṅgotsrṣṭa vikretā gurostāḍdayitā naraḥ* |
bhūpayānāsanasthāyī daṇḍyaḥ syāduṭtamena ca || (*Laghvarhannīti* 2/2/20)

³⁵ *mahāpaśumekam dāsam dāśīm vāpaharataḥ pretabhāṇḍam vā vikrīṇānasya dvipādavadhaḥ ṣaṭchato vā daṇḍaḥ* | (*Arthaśāstra* 4/11/18)

lowest one if he causes a *vaiśya* to partake of the same. For causing a *śūdra* to consume prohibited food or drink, one should be punished with a fine of fifty-four *pañas*. Kauṭilya has recommended banishment from the country for those who voluntarily consume prohibited things.³⁶

Conclusion

Comparative analysis of *daṇḍanīti* as portrayed in Hemacandra's *Laghvarhannīti* and Kauṭilya's *Arthaśāstra* reveals significant insights into ancient Indian polity and governance. Both texts, rooted in distinct religious traditions – Vedic and Jain respectively – share a common objective of maintaining societal order through a systematic approach to punishment. Kauṭilya's *Arthaśāstra* presents a pragmatic and comprehensive background, where a punishment serves the purpose of not only deterring crime but also upholding the authority and stability of the state. The meticulous categorization of crimes and corresponding punishments underscores the utilitarian approach aimed at safeguarding the interests of the kingdom.

In contrast, Hemacandra's *Laghvarhannīti* reflects a Jain perspective that emphasizes ethical considerations and compassion, even in the administration of justice. The inclusion of fines and reformation-oriented punishments signifies a preference for non-violent means of correction, reflecting Jain principles of non-injury (*ahimsā*) and respect for all forms of life. Hemacandra's account of *daṇḍanīti* shows originality as well as liberality. He admits the historical changeability of penal laws. The death penalty, especially death by diverse tortures, was a common punishment in ancient codes. Hemacandra seeks to reduce the scope of the extreme penalty and discards death by torture altogether. He supports the tendency to substitute fines for physical punishments, which is a mark of developed civilization. He shows special consideration for women and ascetics. Although certain punishments are recommended specifically for offenders belonging to particular castes, the factor of caste does not vitiate the penal system into any blatant injustice. Violence, theft, misappropriation, and sedition are treated as the principal crimes. A definite effort is made to ban the slaughter of animals and dishonest businesses.

Despite these differences, both texts converge on fundamental principles such as proportionality in punishment, context-based application of laws, and the ethical underpinnings of justice. They illustrate the dynamic nature of *daṇḍanīti*, evolving in response to changing ethical imperatives. The comparative study also highlights the adaptability of premodern Indian legal thought, accommodating diverse perspectives while addressing universal concerns of justice and social order. The insights gleaned from these texts continue to resonate in contemporary discourses on governance and ethics, offering enduring lessons for the administration of justice in complex societies.

In conclusion, while Kauṭilya's *Arthaśāstra* and Hemacandra's *Laghvarhannīti* differ in their religious affiliations and philosophical orientations, their treatments of *daṇḍanīti* jointly enrich

³⁶ *brāhmaṇam peyaṁ bhakṣyaṁ vā grāsayata uttamo daṇḍaḥ* | (*Arthaśāstra* 4/13/1)

our understanding of premodern Indian legal traditions, demonstrating a profound commitment to justice, social harmony, and ethical governance.

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