



Boundary Disputes in Ancient India to Morden India- A Descriptive Discussion

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Abstract:

Boundary disputes have existed from ancient India to the modern era. Land was a crucial economic and political resource, and conflicts arose over agricultural land, village boundaries, forests, and kingdoms. Ancient Indian legal texts such as the Dharmashastras, Arthashastra, Smriti literature, and epics provide detailed rules for boundary demarcation, dispute resolution, and punishments. This research paper primarily discusses the nature of border disputes in ancient India as described in the Smriti texts, the legal principles governing them, the roles of the king and local institutions, and the punishments prescribed for violations. It also examines in detail the nature of border problems in the present time and the related laws and punishments.

Keywords: Boundary dispute, Manu, Yajnavalkya, Narada, Brihaspati, Khetrasima, samanta, witness, boundary division, IPC, punishments

1. Boundary Disputes (Sīmāvivāda) in Ancient Indian Legal Tradition

A dispute over a boundary, called boundary dispute. From ancient India there were lots of boundary disputes noted. The foundation of ancient agricultural civilization was mainly built on villages. The conflicts or problems that arose between the villages based on their boundaries were called boundary disputes. In the Dharmasutras, there was no discussion regarding boundary disputes. Mainly this topic elaborately discussed in our samhitas. It may be perceived the Dharmasutras there was no mention of vivada pads that's why there was no discussion regarding this topic. As the subject was discussed in the context of discussing the duties of the king. Boundary disputes were mentioned among the 18 vivada pada in the Manu Samhita. सीमाविवादश्च पारुष्ये....पदान्यष्टादशेतानि व्यवहारस्थिताविह" (मनु-८-६/७)९. Manu said if the boundary disputes arose between two villages, then it will be solved in the summer season. Because in the summer the symbol of division clearly visible. "सीमां प्रति समुत्पन्ने....सेतुषु" (मनु-८/२४५)। In the Manusamhita, the term boundary dispute refers only to a dispute regarding the boundary between two villages. But according to commentator Raghavananda boundary dispute means not only two villages but also countries, lands and houses dispute included. तत्र सीमा चतुर्धदिशग्रामक्षेत्रभेदेन तत्र तदुचितकालमाह सीमामिति" it means boundary dispute not only happened between two villages but in other places also. Mittakhara also said same thing in same way. Only difference was ragavananda said "deshasima" but mittakhara said "janapadasima" but both are the same. "सीमा क्षेत्रादिमर्यादा; सा चतुर्विधा- जनपदसीमा, ग्रामसीमा, क्षेत्रसीमा, गृहसीमा चेति"। Narada said same thing but different way "ध्वजिनी...." Vyasa also commented in the same way. Probably Narada Ana Vyasa divided the boundaries according to the nature of the land. Raghavananda probably divided the land according to the subject of dispute. Narada mentioned "ध्वजिनीसीमा" to divide a boundary. The boundary which is clearly visible by the boundary of trees is called "ध्वजिनीसीमा" it means the trees signify as flag or symbol. Most probably Manu enlightened mostly on "ध्वजिनीसीमा"। Manu had introduced a new aspect which nobody had introduced before. He maintained summer as the perfect time to dissolve all boundary disputes. Manu also mentioned why he had selected the month of summer avoiding all other month by the words "सुप्रकाशेषु सेतुषु ...". Commentator Medhatithi also stated clearly that boundary symbols clearly visible by the word सेतु। and the symbols are iron, stone, a special type of grass. The symbols are not clear except summer months.

So, this arrangement was introduced. "सेतवः सीमा..." Commentator Kulluka Bhatta also commented in the same way. At the time when the symbols are clearly visible it should not be crossed. In other season it may be delayed but that time boundary must be marked. Manu mentioned the long living trees like banyan tree, Ashwattha tree, A kind of tree with red flowers (Kingsuka tree) as the boundary between two villages. "शाल्मली..." Other commentator like Medhatithi, Kulluka, gavindaraj also agreed with him as all the trees are long living, they must be planted as a mark of boundary "क्षीरिन....॥" At the same time some shrubs, creepers are also mentioned. Besides some secret symbols were also mentioned. Same thing also available in Manusmriti and Brihaspatismriti also. They told the things like big stones and pebbles bones tails of cow etc are kept secretly. "करीषा..." it means the things which would not be demolished by time must be kept. Because in all the age's problems are created by the issue of land. "सीमा निर्णये सदा..." Apart from this "Bhukti" also a symbol of boundary. Means according boundary can be detected according to previous enjoyment. Though the term "Purba bhukti" refers to the enjoyment of immemorial time, not the enjoyment of three generations. "वसत पूर्वभुक्ता..." besides two villages could also be divided by flowing water. निम्नगापहत...". The term waterfalls refer to the river. In the previous discussion the rules to detect the boundary of two villages are referred. But the question remains where the dispute regarding the boundary has already been started how the king would give the judgement. According to Manu where the marker of the boundary had abolished, the statement of the witness would be accepted as proof. यदि संशय एव" Katyayana also mentioned witness as proof though he had given the place of enjoyment before the proof of witness. तस्मिन् भोग... In giving the explanation of this part Chandeswar in his book vivadaratnakar had told "तस्मिन् सीमानिर्णये.. but Yajnavalkya didn't accept the theory of Manu. We can see of the mention of the term "सामन्त" in Yajnavalkya Samhita. Though not only samanta but also milkman farmers, huntsman could give the directions to detect the boundary when dispute appeared. सीम्नो विबादे..." though he didn't directly mention the witness, he gave approval to the above-mentioned persons as witness. Manu approved both witness and above-mentioned community. But he distinguished among the others by mentioning the witness separately. Dharmasastakara's like Manu, Katyayana, Shankha, Likhita mentioned "samanta" in the absence of witness, in the absence of witness' moola' and in the absence of above-mentioned persons others might be granted as a proof. Manu said a number of "samanta" must be four. साक्ष्यभावे... Katyayana also said in the same way. Sankha and Likhita had mentioned in a little different way. They mentioned proof after detecting the place. So, it was not the fact that all proof would be accepted in the dispute of boundary. For example, they informed in the matter of house and land "samanta's "would be the proof, but in the matter of villages and cities continuous enjoyment of ten years would be the proof. The Smritisastakaras like Narada and Brihaspati had told in the same way. According to Narada "Samantas" would be the proof of land boundaries. On the other hand, Brihaspati mentioned "Samantas" as proof in the matter of boundary dispute. Though it is clear that the term "Samanta" refers to the people of nearby land of disputed land. As there was a great chance to the people of the nearby land to know about the disputed land, so they were regarded as witnesses of priority. If there was an absence of "Samantas" the alternative ways were also mentioned. Manu told "Moulya" should be asked in the absence of Samantas. In giving the definition of Moulya Manu said the people who lived in the villages from the beginning, called "Maulya, "Yajnavalkya did not use the word 'Maulya' but instead used the word 'sthaviradaya', and in the Mitakshara commentary, an explanation of this term is given. Those accomplished individuals who have witnessed a task being completed, whether they are old or not, will be called experienced or elderly. He will also be one of the witnesses in case of a dispute. Both Manu and Yajnavalkya considered the original inhabitants of the village and the people who witnessed an event from beginning to end as valid witnesses. Since both of them have been associated with that place since birth, they believe that it is most likely possible for them to determine the boundary. Brihaspati also shares the same opinion. Shankhalikhita and Narada wanted to address the matter in a slightly different way. Shankhalikhita said that if there is a lack of witnesses in any case, then documentary evidence will be accepted. In the absence of written records, the testimony of the elderly people of the village or town will be accepted as evidence. If there are no elderly people in the village or town, then possession or enjoyment for a period of ten years will be accepted as evidence. And if there is no other evidence, it will be considered the property of the king and the

Brahmin class. Essentially, Shankha and Likhita accepted all three types of evidence. On the other hand, Narada mentioned variations in witnesses based on the location. He stated that in boundary disputes, the feudal lord would be the witness, and in disputes concerning towns and villages, the town and village heads would be the witnesses. Furthermore, Manu and Brihaspati mentioned the presence of people from various professions as witnesses. Regarding boundary disputes, Manu has stated that hunters, bird catchers, shepherds, fishermen, those who uproot trees, snake charmers, gleaners, and forest dwellers should be questioned about the boundaries. Narada and Brihaspati also said the same thing. Now, the question may naturally arise: why are people from the aforementioned professions being questioned, and not those from other professions? In this regard, it is first necessary to mention that the professions mentioned by the authors of the Smriti texts are those that require people to travel to various places for work. Therefore, it is quite natural that they would possess knowledge about these areas. This is how the authors of the Smriti texts have very skillfully included them in their writings. So far, we have discussed who can be a witness. But what is the procedure in cases where the dispute has already begun and witnesses are already present? In this situation, the legal scholars have described several unusual procedures. Manu, Yajnavalkya, and Brihaspati, almost all of them, have stated in a similar manner that the witnesses should take an oath, holding a clod of earth on their heads, wearing garlands of red flowers and red garments, and swear to tell the truth regarding the boundary dispute. The smritisastrakaras have not provided any satisfactory answer as to why red flowers and garments were specifically mentioned, leaving out all other colors. but the commentator and interpreters attempted to explain it, however. The commentator Medhatithi has said that the adoption of the color red signifies the instilling of fear. Medhatithi said- भयास्तु लोहिते प्रयोगे रक्तो गौर्लोहित इति। And taking an oath in the name of virtue is, in a way, a form of intimidation. In other words, the writers of the legal texts seem to have intended to describe all possible measures to ensure that the witness does not lie. Looking at modern judicial procedures, it is evident that even today, before testimony is given in court, witnesses are made to swear an oath while touching a religious book. It is easy to understand that the oath taken in the name of virtue in ancient times is equivalent to touching a religious book in modern times. The final verdict is delivered after the witness proceedings. The judgement depends entirely on the witnesses. Manu stated that if the witnesses speak the truth, they are considered virtuous witnesses, but if they give false testimony, they will be punished. Each of them will be punished with two hundred *Pana* (if samantas did the same thing will be punished with five hundred *Pana*). Yajnavalkya stated the same thing but different terms. He stated that, they will be punished *Madhyama Sahasa Dandya* (540 *pana*). The same problems have persisted in land disputes from ancient times to the modern era.

2. Types of Boundary Disputes in Modern Era

Private Boundary Disputes

- Between neighbors or family members
- Often caused by encroachment, inheritance disputes, or incorrect land surveys

Community and Village Boundary Disputes

- Between villages, panchayats, or tribal areas
- Usually involve forest land, grazing land, or common property. (In ancient times, this type of boundary dispute was primarily what was prevalent.)

Inter-State Boundary Disputes

- Between Indian states (e.g., Assam–Mizoram, Karnataka–Maharashtra)
- Governed by constitutional provisions

International Boundary Disputes

- Between India and other countries
- Governed by international law and diplomacy.
- If the boundary problem has happened then there is some procedure for resolving the boundaries disputes.

Survey and Demarcation

- Conducted by revenue authorities
- Use of land records, maps, and measurement tools.

Civil Court Proceedings

- Filing of suit
- Evidence through documents and witnesses
- Appointment of court commissioners.

Criminal Proceedings

- Preventive action to maintain public order
- Police intervention in case of violence.

Inter-State Dispute Resolution

- Negotiation and mediation
- Tribunal or Supreme Court adjudication.

3. Punishment and Legal Consequences

Civil Remedies

- Eviction of encroacher
- Compensation or damages
- Permanent injunction Criminal Punishments

Criminal Trespass (IPC Section 447)

- Imprisonment up to 3 months, or
- Fine up to ₹500, or both
- Mischief (IPC Section 427)
- Imprisonment up to 2 years, or fine, or both.

Criminal Laws

- Indian Penal Code (IPC) • Section 441 – Criminal trespass
- Section 447 – Punishment for criminal trespass
- Section 427 – Mischief causing damage

Code of Criminal Procedure (CrPC)

- Section 145 – Disputes concerning land likely to cause breach of peace.

Contempt of Court • Punishment for disobeying court orders.

4. Conclusion

In conclusion, it can be said that the disputes over boundaries between two villages that were observed in ancient times have now seemingly escalated from two villages to two countries in modern times. Looking at the ancient judicial system, it is evident that boundary disputes were considered a matter of considerable importance. The same importance is given to such disputes in the modern era as well.

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