

ANCIENT HINDU LAW

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Preface

"Changing Role of Teachers in Education" navigates the intricate journey of educators amidst the dynamic shifts in the educational

Preface

Ancient Hindu Law, rooted in the Vedas, Smritis, and other texts, served as the legal and moral compass for Indian society for centuries. These laws were primarily embodied in texts like the Manusmriti, Dharmashastra, and Arthashastra, which outlined principles governing various aspects of life, from social conduct to property rights.

One key aspect of Ancient Hindu Law was its emphasis on dharma, the concept of righteousness and duty. Dharma was seen as the foundation of law and morality, guiding individuals to fulfill their responsibilities and obligations within society.

Family law held a central place in Ancient Hindu Law, with detailed regulations regarding marriage, inheritance, and succession. These laws prescribed rituals for marriage, defined relationships within the family, and established rules for the distribution of property among heirs.

Property law in Ancient Hindu society was based on the concept of ownership and possession. Land, houses, and other assets were subject to legal rules governing their acquisition, transfer, and inheritance, ensuring stability and order in property relations.

Contracts were considered binding agreements in Ancient Hindu Law, with principles of fairness, honesty, and mutual consent underpinning contractual relations. Breach of contract could lead to legal remedies, including compensation or specific performance.

Criminal law in Ancient Hindu society addressed offenses such as theft, assault, and adultery. Punishments varied depending on the severity of the crime and the social status of the perpetrator, with the aim of maintaining social order and harmony.

Ancient Hindu Law also encompassed procedural aspects, including rules for dispute resolution and legal proceedings. Courts, known as Dharmasalas, administered justice based on legal principles and precedents established in the texts.

The book on Ancient Hindu Law offers profound insights into the legal and social structures of ancient Indian civilization, illuminating the principles of dharma governing family, property, contracts, and crimes.

–Author

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Hindu Law

Hindu law, as a historical term, refers to the code of laws applied to Hindus, Buddhists, Jains and Sikhs in British India. Hindu law, in modern scholarship, also refers to the legal theory, jurisprudence and philosophical reflections on the nature of law discovered in ancient and medieval era Indian texts. It is one of the oldest known jurisprudence theories in the world.

Hindu tradition, in its surviving ancient texts, does not universally express the law in the canonical sense of *ius* or of *lex*. The ancient term in Indian texts is Dharma, which means more than a code of law, though collections of legal maxims were compiled into works such as the Nâradasmṛti. The term “Hindu law” is a colonial construction, and emerged after the colonial rule arrived in South Asia, and when in 1772 it was decided by British colonial officials, that European common law system would not be implemented in India, that Hindus of India would be ruled under their “Hindu law” and Muslims of India would be ruled under “Muslim law” (Sharia).

The substance of Hindu law implemented by the British was derived from a Dharmasûtra named Manusmṛiti, one of the many treatises (sâtra) on *Dharma*.

The British, however, mistook the Dharmasûtra as codes of law and failed to recognise that these Sanskrit texts were not used as statements of positive law until the British colonial officials chose to do so. Rather, Dharmasûtra contained jurisprudence commentary, i.e., a theoretical reflection upon practical law, but not a statement of the law of the land as such. Scholars have also questioned the authenticity and the corruption in the Manusmṛiti manuscript used to derive the colonial era Hindu law.

In colonial history context, the construction and implementation of Hindu law and Islamic law was an attempt at “legal pluralism” during the British colonial era, where people in the same region were subjected to different civil and criminal laws based on the religion of the plaintiff and defendant. Legal scholars state that this divided the Indian society, and that Indian law and politics have ever since vacillated between “legal pluralism - the notion that religion is the basic unit of society and different religions must have different legal rights and obligations” and “legal universalism – the notion that individuals are the basic unit of society and all citizens must have uniform legal rights and obligations”.

TERMINOLOGY AND NOMENCLATURE

In Hinduism, law is discussed as a subset of *dharma* which signifies behaviours that are considered in accord with *rta*, the order that makes life and the universe possible, and includes duties, rights, laws, conduct, virtues and “right way of living”. The concept of *Dharma* includes Hindu law.

In ancient texts of Hinduism, the concept of *dharma* incorporates the principles of law, order, harmony, and truth. It is explained as the necessary law of life and equated to *satya*, in hymn 1.4.14 of Brhadaranyaka Upanishad, as follows:

Nothing is higher than Dharma. The weak overcomes the stronger by Dharma, as over a king. Truly that Dharma is the Truth (*Satya*); Therefore, when a man speaks the Truth, they say, “He speaks the Dharma”; and if he speaks Dharma, they say, “He speaks the Truth!” For both are one.

—*Brihadaranyaka Upanishad, 1.4.xiv*

NATURE AND SOURCES OF HINDU LAW

NATURE OF HINDU LAW

Hindu law is considered to be of divine origin. It proceeds on the theory that Hindu law was revealed to the sages who had attained great spiritual heights and they were in communication with supreme power i.e., God. According to Hindu jurists, law is the enforceable part of *Dharma*. *Dharma* does not emanate from sovereign. It generally includes all kinds of rules, religious, moral, legal, physical, metaphysical, in the same way as the law does, in its widest sense.

According to *Mayne*, Hindu law is the law of ‘*Smritis*’ as expounded in the Sanskrit Commentaries and Digests, which as modified and supplemented by custom, is administered by the courts. According to *Dahrmashastra* writers, law was taken to be dynamic i.e., it should respond to the needs and requirements of the given period. Hindu law is not a king made law unlike the concept given by Austin.

Under Hindu law the sovereign or the King is not immune from *Dharma*. King was considered to be law enforcer and not law-giver. Hindu law is not *lex-*

loci but personal law. It follows therefore, that on the migration of Hindu from one part to another part, it is presumed that he retains the laws and customs of the region from where he comes.

SOURCES OF HINDU LAW

Different jurists and *dharamshastris* have told about various sources of Hindu law. According to *Manu*, four sources of *Dharma* are *Vedas*, the *Smritis*, *Sadachara* (approved customs and usages) and what is agreeable to one's conscience.

According to *Yajnavalkya*, "the *Sruti*, *Smriti*, the approved usage, what is agreeable to one's good conscience and desires, sprung from due deliberation are ordained as the foundation of *Dharma* (Law). Source of law is a basis which enables the court to interpret law. It is a method by which rules are discovered or created.

The sources of Hindu Law can be divided into two categories:

1. Traditional sources
2. Modern sources

Traditional sources: The traditional sources of Hindu Law are as under:

- (a) *Shruti*: The name is derived from the root 'Sru' which signifies 'what is heard'. It is believed to contain the very words of deity revealed to sages. The *Srutis* consist of four *Vedas*, namely, *Rig Veda*, *Yajur Veda*, *Sam Veda* and *Atharva Veda* and 18 *Upanishads* dealing mainly with religious rites and the means of attaining true knowledge and salvation.
- (b) *Smriti*: It means 'what was remembered'. It is believed to be the recollection of *Rishis* handed down to us, constituting the principal sources of Hindu law. *Smritis* are embody what sages remember through revelation. *Smritis* are divided into the Primary and Secondary *Smritis*. The Primary *Smriti* is further classified into *Dharma Sutras* and *Dharma Shastras*.
- (c) *Commentaries & Digest*: The commentaries and digests were also the records of the traditional customs recorded in the *Smritis* as well as the new customs claiming for and found worthy for recognition. The commentaries explained, modified and enlarged the traditions recorded therein to bring them into harmony and accord with prevalent practices. The principal commentaries are –
 - (1) *Mitakshara*, (2) *Dayabhaga*, (3) *Viramitodaya*, (4) *Vivada Chintamoni*, (5) *Vivada Ratnakara*, (6) *Dayatattwa*, (7) *Dayakramasangraha*, (8) *Smriti Chandrika*, (9) *Parashara Madhaviya*, (10) *Vyavhar Mayukha*. Out of all the commentaries, the *Mitakshara* and *Dayabhaga* occupy a very high position from the point of their acceptability as authoritative sources of law.
- (d) *Customs*: It is regarded as one of the most important source of law. In *Deivanai Achi v. Chidambaram*, AIR 1954 Mad. 667, it was held that a custom to have the force of law, must be ancient, certain and

reasonable. In Section 3(a) of the Hindu Marriage Act, 1955 the expression 'custom' and 'usage' has been defined. It signifies any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area or tribe, community, group or family. The rule has to be certain and not unreasonable or opposed to public policy. It must be ancient, certain and reasonable.

Modern Sources: From long before the end of the British period and the commencement of the Constitution and the enactment of the Hindu Law Acts of 1955-1956, following become paramount sources of law:

- (a) *Judicial Precedent:* A precedent is also a source of law and the courts are bound to follow these precedents. In *Luhar Amritlal v. Doshi Jayantilal*, AIR 1960 SC 964, Supreme Court observed that the judicial decisions have become part and parcel of Hindu law. Judicial decisions have modified and supplemented the pure Hindu law and they have emerged as important sources of the present Hindu law.
- (b) *Legislation:* This source has played a significant role in the development of Hindu law. Most of them are in the direction of reforming Hindu law and some of them supersede Hindu law. It consolidated various principles of Hindu law scattered in different parts of the country. Many important Acts have been passed which have the effect of changing the religious nature of Hindu law at several instances. For example, The Caste Disabilities Removal Act, 1850, Hindu Marriage Act, 1955, Hindu Succession Act, 1956, etc.
- (c) *Equity, Justice and Good Conscience:* Equity means the principles or rules emerging in the course of administration of justice particularly in those cases where on account of inadequacy of law, the judges evolve certain general principles on the basis of justness, fairness and propriety. The Supreme Court has recognized equity, justice and good conscience as a source of law in *Gurunath v. Kamlabai*, (1951) S.C.R. 1135 where it observed that it is now well established that in the absence of any rule of Hindu law, the courts have authority to decide cases on the principles of justice, equity and good conscience unless in doing so, decision would be repugnant to or inconsistent with any doctrine or theory of Hindu law.

ANGLO-HINDU LAW

As East India Company obtained political and administrative powers, in parts of India, in the late 18th century, it was faced with various state responsibilities such as legislative and judiciary functions. The East India Company desired a means to establish and maintain the rule of law, and property rights, in a stable political environment, to expedite trade, and with minimal expensive military engagement. To this end the Company pursued a path of least resistance, relying upon local intermediaries that were mostly Muslims

and some Hindus in various Indian states. The British exercised power by avoiding interference and adapting to local law practices, as explained by the local intermediaries. The colonial state thus sustained what were essentially pre-colonial religious and political law and conflicts, well into the late nineteenth century. The colonial policy on the system of personal laws for India, for example, was expressed by Governor-General Hastings in 1772 as follows,

That in all suits regarding inheritance, marriage, caste and other religious usages or institutions, the law of the Koran with respect to Mahometans, and those of the Shaster with respect to Gentoos shall be invariably be adhered to.

—*Warren Hastings, August 15, 1772*

For Muslims of India, the code of Muslim law was readily available in al-Hidaya and Fatawa-i Alamgiri written under sponsorship of Aurangzeb. For Hindus and other non-Muslims such as Buddhists, Sikhs, Jains, Parsis and Tribal people, this information was unavailable. The British colonial officials, for practice, attempted to extract from the Dharmauâstra the English categories of law and religion for the purposes of colonial administration.

The early period of Anglo-Hindu Law (1772-1828) was structured along the lines of Muslim law practice. It included the extracted portions of law from one Dharmauâstra by British colonial government appointed scholars (especially Jones, Henry Thomas Colebrooke, Sutherland, and Borrodaile) in a manner similar to Islamic al-Hidaya and Fatawa-i Alamgiri. It also included the use of court pandits in British courts to aid British judges in interpreting Shastras just like Qadis (Maulavis) for interpreting the Islamic law.

The arrival of William Bentinck as the Governor-General of British India in 1828, marked a shift towards universal civil code, whose administration emphasized same law for all human beings, individualism and equal treatment to help liberate, empower and end social practices among Hindus and Muslims of India that had received much public coverage in Britain through the publications of Christian missionaries and individuals such as Thomas Macaulay.

Governor-General Dalhousie, in 1848, extended this trend and stated his policy that the law must “treat all natives much the same manner”. Over time, between 1828 and 1855, a series of British parliamentary acts were passed to revise the Anglo-Hindu and Anglo-Muslim laws, such as those relating to the right to religious conversion, widow remarriage, and right to create wills for inheritance. In 1832, the British colonial government abolished accepting religious fatwa as a source of law. In 1835, the British began creating a criminal code that would replace the existing criminal code which was a complex conflicting mixture of laws derived from Muslim texts (Quran) and Hindu texts (Shastras), and this common criminal code was ready by 1855. These changes were welcomed by Hindu law reform movement, but considered abrogating religion-defined rules within the Muslim law. The changes triggered discontent, call for jihad and religious war, and became partly responsible for the 1857 Indian revolt against the British rule. In 1864, after the East India Company was dissolved and India became a formal part of the British Empire, Anglo-

Hindu law entered into a second phase (1864–1947), one in which British colonial courts in India relied less on the Muslim Qadis and Hindu Pandits for determining the respective religious laws, and relied more on a written law. A universal criminal code in India, that did not discriminate between people based on their religion, was adopted for the first time in 1864. It was expanded to include a universal procedural and commercial code by 1882, which overruled pre-existing Anglo-Hindu and Anglo-Muslim laws. However, the personal laws for Muslims remained sharia-based, while the Anglo-Hindu law was enacted independent of any text on matters such as marriage, divorce, inheritance and the Anglo-Hindu law covered all Hindus, Jains, Sikhs and Buddhists in India. In 1872, the British crown enacted the Indian Christian Marriage Act which covered marriage, divorce and alimony laws for Indian Christians of all denominations except the Roman Catholics.

The development of legal pluralism, that is separate law based on individual's religion, was controversial in India from the very start.

Legislation introduced by the British Government was a powerful tool in implementing reforms within the Hindu society.

Some important legislations were:

1. Ban on the practice of *sati* in Hindu society
2. Legal recognition to remarriage of Hindu widows & a childless widow's right to inherit her deceased husband's property
3. Abolition of slavery in Hindu society by the Indian Penal Code in 1861
4. Legal recognition to dissolution of a Hindu marriage in case of the husband converting to Christianity or Islam by The Native Converts' Marriage Dissolution Act (1866)
5. Ban on the practice of female infanticide observed by certain upper caste Hindu communities in northern India
6. Introduction of the concept of 'age of consent' in Hindu society & criminalizing consummation of child-marriages
7. Legal recognition to right of a Hindu man to pass down his property to anybody via legal declaration (last will) apart from the heirs identified in religious laws (like children & relatives) by the Indian Succession Act (1925).
8. Legal recognition to the right of a diseased/handicapped Hindu to inherit property
9. Legal abolition of child-marriage in Hindu society
10. Legal recognition to the right of Dalits for entering Hindu temples by The Madras Temple Entry Authorisation and Indemnity Act (1939)
11. Legal recognition to the right of a Hindu married woman to live apart from her husband by The Hindu Married Women's Right to Separate Residence and Maintenance Act (1944)
12. Legal abolition of bigamy in Hindu society by The Bombay (Prevention of Hindu Bigamy) Marriage Act (1946)

These laws had generated widespread protests & condemnation from the orthodox elements of the Hindu society. The British government failed to strictly

implement laws against child-marriages & consummation of child marriages due to fears of the Hindu society rising up in open revolt against them.

CLASSICAL HINDU LAW

John Mayne, in 1910, wrote that the classical Hindu law has the oldest pedigree of any known system of jurisprudence. Mayne noted that while being ancient, the conflicting texts on almost every question presents a great difficulty in deciding what the classical Hindu law was. As more literature emerges, and is translated or interpreted, Mayne noted that the conflict between the texts on every matter of law has multiplied, and that there is a lack of consensus between the Western legal scholars resident in India.

Ludo Rocher states that Hindu tradition does not express law in the sense of *ius* nor of *lex*. The term “Hindu law” is a colonial construction, and emerged when the colonial rule arrived in South Asia, and when in 1772 it was decided by British colonial officials in consultation with Mughal rulers, that European common law system would not be implemented in India, that Hindus of India would be ruled under their “Hindu law” and Muslims of India would be ruled under sharia (Muslim law). However, Hindu law was neither mentioned, nor in use, nor codified, during the 600 years of Islamic rule of India. An attempt was made to find any old surviving Sanskrit text that mentioned elements of law, and this is how Western editors and translators arrived at the equation that “dharma shastra equals lawbook, code or Institute”, states Rocher.

Scholars such as Derrett, Menski and others have repeatedly asked whether and what evidence there is that the Dharmasastras were the actual legal authority before and during the Islamic rule in India. They have also questioned whether the Dharmasastras contain “precepts” or “recommendations”, that is whether the jurisprudence mentioned in Dharmasastras was actually ever used in disputes in Indian society. Early scholars during the British colonial rule such as John Mayne suggested that it is probable that Dharma-smriti texts reflect the “practical administration of law”, at least before the arrival of Islam in India. However, most later scholars state that Dharma texts of Hinduism are “purely or mostly concerned with moral and religious norms which have some but not a very close relationship to legal practice”.

A few scholars have suggested that the Dharma-related Smritis such as Manusmriti, Naradasmriti and Parashara Smriti do not embody the Hindu law but are commentaries and scholarly notes on more ancient authoritative legal texts that have been lost or yet to be found.

Classical Hindu law, states Donald Davis, “represents one of the least known, yet most sophisticated traditions of legal theory and jurisprudence in world history. Hindu jurisprudential texts contain elaborate and careful philosophical reflections on the nature of law and religion. The nature of Hindu law as a tradition has been subject to some debate and some misunderstanding both within and especially outside of specialist circles.” In South India, temples were intimately involved in the administration of law.

SOURCES OF DHARMA

Āruti have been considered as the authority in the Hindu Dharma. The *Smritis*, such as Manusmṛiti, Naradaśmṛiti and Parashara Smṛiti, contribute to the exposition of the Hindu Dharma but are considered less authoritative than *Āruti*s (the Vedic corpus that includes early Upanishads). The root texts of ancient Hindu jurisprudence and law are the *Dharma-sūtras*. These express that the Shruti, Smṛiti and Achara are sources of jurisprudence and law. The precedence of these sources is declared in the opening verses of each of the known, surviving Dharma-sūtras. For example,

The source of Dharma is the Veda, as well as the tradition [Smṛiti], and practice of those who know the Veda.

—Gautama Dharma-sūtra 1.1-1.2

The Dharma is taught in each Veda, in accordance with which we will explain it. What is given in the tradition [Smṛiti] is the second, and the conventions of cultured people are the third.

—Baudhayana Dharma-sūtra 1.1.1-1.1.4

The Dharma is set forth in the vedas and the Traditional Texts [Smṛiti]. When these do not address an issue, the practice of cultured people becomes authoritative.

—Vâsistha ha Dharma-sūtra 1.4-1.5

—*Translated by Donald Davis, The Spirit of Hindu Law*

The *Smritis*, such as Manusmṛiti, Naradaśmṛiti, Yajñavalkya Smṛiti and Parashara Smṛiti, expanded this definition, as follows,

Translation 1: The whole Veda is the (first) source of the sacred law, next the tradition and the virtuous conduct of those who know the (Veda further), also the customs of holy men, and (finally) self-satisfaction (*Atmanastushti*).

Translation 2: The root of the religion is the entire Veda, and (then) the tradition and customs of those who know (the Veda), and the conduct of virtuous people, and what is satisfactory to oneself.

—*Manusmṛiti 2.6*

Translation 1: The Veda, the sacred tradition, the customs of virtuous men, and one's own pleasure, they declare to be the fourfold means of defining the sacred law.

Translation 2: The Veda, tradition, the conduct of good people, and what is pleasing to oneself – they say that is four fold mark of religion.

— *Manusmṛiti 2.12*

As a source of *Dharma*, only three of the four types of texts in the Vedas have behavioural precepts. Lingat notes (abridged),

For the Hindu all belief takes its source and its justification in the Vedas [*Āruti*]. Consequently every rule of *dharma* must find its foundation in the Veda. Strictly speaking, the Samhitas do not even include a single precept which could be used directly as a rule of conduct. One can find there only references

to usage which falls within the scope of *dharma*. By contrast, the Brahmanas, the Aranyakas and the Upanishads contain numerous precepts which propound rules governing behaviour.

—Robert Lingat

Bilimoria states the role of *Shruti* in Hindu Dharma has been inspired by “the belief in a higher natural cosmic order (*Rta* succeeded later by the concept *Dharma*) that regulates the universe and provides the basis for its growth, flourishing and sustenance – be that of the gods, human beings, animals and eco-formations”.

Levinson states that the role of *Shruti* and *Smriti* in Hindu law is as a source of guidance, and its tradition cultivates the principle that “the facts and circumstances of any particular case determine what is good or bad”. The later Hindu texts include fourfold sources of *Dharma*, states Levinson, which include *Atmanastushti* (satisfaction of one’s conscience), *Sadachara* (local norms of virtuous individuals), *Smriti* and *Sruti*.

CITED TEXTS

Unlike the Bible & Quran, the Vedas don’t discuss about societal matters directly. Classical Hindu law is derived from the following sources.

Dharmasutra

As a part of the Kalpa texts within the Vedanga corpus of literature, they deal with personal conduct (alongside the Grihya Sutras) & social regulations in accordance to the principles of the Vedas. The texts are

Veda	Dharmasutra
Rigveda	Vasistha Dharmasutra
Samaveda	Gautama Dharmasutra
Krishna Yajurveda	Apastambha Dharmasutra Harita Dharmasutra Hiranyakesi Dharmasutra Vaikhanasa Dharmasutra Vishnu Dharmasutra
Sukla Yajurveda	Sankha-Likhita Dharmasutra
Atharvaveda	Aushanasa Dharmasutra

Dharmashastra

These texts, whose authorships are traditionally attributed to the Vedic sages, elaborate the topics discussed in the *dharmasutras*.

Dharmashastras available in printed format are

1. Angirasa smriti
2. Atri smriti
3. Apastambha smriti
4. Aushanasa smriti
5. Brihaspati smriti
6. Brihat Parashara smriti
7. Daksha smriti

8. Devala smriti
9. Gobhila smriti
10. Gautama smriti
11. Harita smriti
12. Katyayana smriti
13. Kashyapa smriti
14. Laghu Atri smriti
15. Laghu Harita smriti
16. Laghu Vishnu smriti
17. Laghu Shankha smriti
18. Likhita smriti
19. Manu smriti
20. Narada smriti
21. Parashara smriti
22. Prajapati smriti
23. Samvarta smriti
24. Shankha smriti
25. Shankha-Likhita smriti
26. Shatatapa smriti
27. Vasistha smriti
28. Vyasa smriti
29. Vishnu smriti
30. Vriddha Atreya smriti
31. Yajnavalkya smriti
32. Yama smriti

Dharmashastras whose existence is known through citations by commentators & nibandhakaras but didn't survive in complete manuscript form till now are:

1. Budha smriti
2. Chhagaleya smriti
3. Cyavana smriti
4. Jamadagni smriti
5. Jabala smriti
6. Marichi smriti
7. Prachetas smriti
8. Pitamaha smriti
9. Paithinasi smriti
10. Rishyasringa smriti
11. Sumantu smriti
12. Shaunaka smriti
13. Vishwamitra smriti

Commentaries

Commentaries on the above-mentioned texts composed by erudite scholars discuss on their practical applications & execution of the statements in the *dharmasutras & dharmashastras*.

Nibandhas

Digests & compendiums composed by various scholars attempt to resolve difference of opinion on similar topics among the various texts & authors.

REGIONAL VARIATIONS

In the *Collector of Madhura Vs Mottoo Ramalinga Sathupathy* case (1869), the Privy Council observed that there was no uniformity in the observance of law (as described in the *dharmashastras*, commentaries & digests composed by various Hindu scholars) by Hindus throughout the realm. The court observed that

- *On the basis of adherence to property law, Hindus are divided into 2 schools:*
 1. The Dayabhaga school, observed by Hindus in Bengal & Assam
 2. The Mitakshara school observed by all other Hindu communities of the Indian subcontinent.
- *The Mitakshara school is subdivided into:*
 1. The Benaras school which cites the *Viramitrodaya* & *Nirnayasindhu* as authority and is observed by Hindus of United Provinces, Central Provinces & Odisha.
 2. The Mithila school which cites *Vivadachintamani* & *Vivadaratnakara* as authority & is observed by Hindus of Mithila
 3. The Dravida school which cites *Smritichandrika* & Madhavacharya's commentary on *Parashara smriti* as authority & is observed by Hindus of Madras Presidency.
 4. The Maratha School which cites *Vyavaharamayukha* & *Smritikaustubha* as authority and is observed by Hindus of Bombay Presidency.
 5. The Punjab school which cites tradition & *Nirnayasindhu* as authority and is observed by Hindus of Punjab.
- Regarding adoption, Bengal & Dravida schools follow the *Dattakachandrika* of Devannabhata while the Benaras & Mithila school follow the *Dattakamimamsa* of Nandapandita.

LAWYERS IN CLASSICAL HINDU LAW

While texts on ancient Hindu law have not survived, texts that confirm the existence of the institution of lawyers in ancient India have. The Sanskrit text *Vivadarnavasetu*, for example, states,

If the plaintiff or defendant have any excuse for not attending the court, or for not pleading their own cause, or, on any other account, excuse themselves, they shall, at their own option, appoint a person as their lawyer; if the lawyer gains the suit, his principal also gains; if the lawyer is cast, his principal is cast also.

In a cause where the accusation is for murder, for a robbery, for adultery, for (...), the principals shall plead and answer in person; but a woman, a minor, an insane, or a person lacking mental competency may be represented by a lawyer.

—*Vivadarnavasetu, Classical Hindu Law Process*

PUNISHMENT IN CLASSICAL HINDU LAW

Ancient texts of the Hindu tradition formulate and articulate punishment. These texts from the last 2500 years, states Terence Day, imply or recognize key elements in their theories of fair punishment: (1) the texts set a standard of Right, in order to define a violation that warrants punishment; (2) they discuss the possibility of a violation thereby defining a wrongdoing; (3) they discuss a theory of responsibility and assignability of a wrongdoing; (4) the texts discuss degrees of guilt, and therewith the form and severity of punishment must match the transgression; (5) they discuss approved and authorized forms of punishments and how these may be properly administered.

The goal of punishment, in Hindu law, has been retributive and reformative. Hindu law, states Sarkar, developed the theory of punishment from its foundational theory of what it believed was necessary for the prosperity of the individual and a collection of individuals, of state and non-state.

There are wide variations in the statement of crime and associated punishment in different texts. Some texts for example discuss punishment for crimes such as murder, without mentioning the gender, class or caste of the plaintiff or defendant, while some discuss and differentiate the crime based on gender, class or caste. It is unclear, states Terence Day, whether these were part of the original, because the stylistic, structural and substantive evidence such as inconsistencies between versions of different manuscripts of the same text suggest changes and corruption of the original texts.

The harshest of the all punishments were exclusively applied in case of Shudras while Brahmins were to receive little punishment for the same crime. Brahmins were also exempted from receiving corporal punishment & death sentence.

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The Legal Framework of Ancient Indian Society

"In some respects the judicial system of ancient India was theoretically in advance of our own today." - John W. Spellman

History of Judicial system in India can be classified in to III stages, (i) Judicial System in ancient India i.e Pre-Islamic invasion (ii) Judicial System in Medieval Age (iii) Judicial System in British Rule. For our discussion we shall take first stage.

India has the oldest judiciary in the world. No other judicial system has a more ancient or exalted pedigree. But before describing the judicial system of ancient India I must utter a warning. The reader must reject the colossal misrepresentation of Indian Jurisprudence and the legal system of ancient India by certain British writers. I shall give a few specimens. Henry Maine described the legal system of ancient India "as an apparatus of cruel absurdities". An Anglo-Indian jurist made the following remark about what he called "the oriental habits of life" of the Indians before the British turned up in India: "It (British rule in India) is a record of experiments made by foreign rulers to govern alien races in a strange land, to adapt European institutions to Oriental habits of life, and to make definite laws supreme amongst peoples who had always associated government with arbitrary and uncontrolled authority."

Alan Gledhill, a retired member of the Indian Civil Service, wrote that when the British seized power in India, "there was a dearth of legal principles." For Bernard Cohn, the ancient constitution rendered Indian history as antique, static and theocratic.

These statements are untrue. It is not for me to guess why they were made. They may be due to sheer ignorance, or imperialist self-interest, or contempt for Indian culture and civilization which was a part of the imperialist outlook which dominated British Jurists, historians, and thinkers in the heyday of imperialism. But the effect of this misrepresentation, which has few parallels in history, was to create a false picture of the Indian judicial system both in India and outside. These are the words of Hon'ble Justice S. S. Dhavan High Court, Allahabad; it is true that Legal System in ancient India was much better and matured that, impartial English Historians themselves admitted its superiority. Whereas others as mentioned above, in their utter ignorance or with a view to defy Indian culture and thereby dominate Indian civilization distorted, by creating false impression as to social conditions of pre-British India.

JUDICIARY IN ANCIENT INDIA

Sacred law (Dharma), evidence (Vyavahāra), history (Charitra), and edicts of kings (Rājasāsana) are the four legs of Law, of these four in order: the later is superior to the previously mentioned. Dharma is eternal truth holding its sway over the world; Vyavahāra, evidence, is in witnesses; Charitra, history, is to be found in the tradition (sangraha), of the people; and the order of kings is what is called sāsana (legislations). These principles of were administered by Court, in 'Sangrahana', 'Karvatik', 'Dronamukha', and 'Sthānīya', and at places where districts meet, three members acquainted with Sacred Law (dharmasthas) and three ministers of the King (amātyas) shall carry on the administration of Justice. 'Sangrahana' is centre for 10 villages, 'Karyatik' for 200 Villages, 'Dronamukha' for 400 villages and 'Sthaniya' for 800 villages. This arrangement of judiciary suggests that there were sufficient number of Courts at different levels of administration, and for district (Janapadasandhishu) there were Circuit Courts.

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In villages, the local village councils or Kulani, similar to modern panchayat, consisted of a board of five or more members to dispense justice to villagers. It was concerned with all matters relating to endowments, irrigations, cultivable land, punishment of crime, etc., village councils dealt with simple civil and criminal cases. At higher level in towns and districts the Courts were presided over by the government officer under the authority of King to administer the justice. The link between the village assembly in the local and the official administration was the head man of the village. In each village, local head man was holding hereditary office and was required to maintain order and administer justice, he was also a member of village council he acted both as the leader of the village and mediator with the government.

In order to deal with the disputes amongst member of various guild or association of trader or artisans, (sreni), various corporations, trade bills, guilds were authorized to exercise an effective jurisdiction over their member. These tribunals consisting of a president and three or five co-adjutors were allowed to decide their civil cases regularly just like other Courts. No doubt, it was possible

go in appeal from the tribunal of the guild to local Court, then to Royal judges and from this finally to the King but such situation rarely arises. Due to the prevailing institution of joint Family system Family Courts were also established, 'puga' assemblies made up of groups of families in the same village decide civil disputes amongst the family members.

GROUND OF LITIGATION

Manu mentions following grounds on which litigation may be instituted, (1) Non-payments of debts; (2) deposits; (3) sale without ownership; (4) partnership; (5) non-delivery of gifts; (6) non-payment of wages; (7) Breach of Contract; (8) cancellation of a sale or purchase; (9) disputes between owners and herdsmen; (10) the law on boundary disputes; (11) verbal assault; (12) physical assault; (13) theft; (14) violence; (15) sexual crimes against women; (16) law concerning husband and wife; (17) partition of inheritance; and (18) gambling and betting.

According to Brihaspati Smiriti, there was a hierarchy of Courts in Ancient India beginning with the family Courts and ending with the King. The lowest was the family arbitrator. The next higher Court was that of the judge; the next of the Chief Justice who was called Praadivivaka, or adhyaksha; and at the top was the King's Court. The jurisdiction of each was determined by the importance of the dispute, the minor disputes being decided by the lowest Court and the most important by the king. The decision of each higher Court superseded that of the Court below.

According to Vachaspati Misra, "The binding effect of the decisions of these tribunals, ending with that of the king, is in the ascending order, and each following decision shall prevail against the preceding one because of the higher degree of learning and knowledge".

Duties and manners: to be observed by the king in administration of justice were very clearly laid down in Sacred Texts, Manu's code says, a king, desirous of investigating law cases, must enter his Court of justice, preserving a dignified demeanour, together with Brahmans and with experienced councilors. There, either seated or standing, raising his right arm, without ostentation in his dress and ornaments, let him examine the business of suitors. Manu cautions King by saying, "Justice, being violated, destroys; justice, being preserved, preserves: therefore justice must not be violated, least violated justice destroys us". Further he opines 'the only friend of men even after death is justice; for everything else is lost at the same time when the body (perishes)'. If judicial system fails to dispense justice Manu says that, one quarter of (the guilt of) an unjust (decision) falls on him who committed (the crime), one quarter on the (false) witness, and one quarter on all the judges, one quarter on the king.

As the duty of a king consists in protecting his subjects by dispensing justice its observance leads him to heaven. He who does not protect his people or upsets the social order wields his royal scepter (danda) in vain. It is power and power (danda) alone which, only when exercised by the king with impartiality and in proportion to guilt either over his son or his enemy, maintains both this world and

the next. The king who administers justice in accordance with sacred law (Dharma), evidence (vyavahára), history (samsthá) and edicts of kings (Nyáya) which is the fourth will be able to conquer the whole world bounded by the four quarters (Chaturantám mahím). A king who properly inflicts punishment prospers with respect to those three means of happiness; but if he is voluptuous, partial, and deceitful he will be destroyed, even through the unjust punishment, which he inflicts. Manu felt that the judicial administration should not rest in the hands of a feeble minded king. If judicial administration were given to such a king he would destroy the whole country. Punishment cannot be inflicted justly by one who has no assistant, (nor) by a fool, (nor) by a covetous man, (nor) by one whose mind is unimproved, (nor) by one addicted to sensual pleasures.

JURY SYSTEM

It is found that jury system existed in Manu's period and Manu recommended the king to give the power of judicial administration to Brahmins in his absence. Jurors were called as 'sabhasada' or councilors who acted as assessors or adviser of the King. They were the equivalent of the modern jury, with one important difference. The jury of today consists of laymen- "twelve shopkeepers"-whereas the councilors who sat with the Sovereign were to be learned in law. Yajanvalkya enjoins: "The Sovereign should appoint as assessors of his Court persons who are well versed in the literature of the law, truthful, and by temperament capable of complete impartiality between friend and foe."

These assessors or jurors were required to express their opinion without fear, even to the point of disagreeing with the Sovereign and warning him that his own opinion was contrary to law and equity. Katyayana says: 'The assessors should not look on when they perceive the Sovereign inclined to decide a dispute in violation of the law; if they keep silent they will go to hell accompanied by the King.' The same injunction is repeated in an identical verse in Shukr-nitisara. The Sovereign-or the presiding judge in his absence-was not expected to overrule the verdict of the jurors; on the contrary he was to pass a decree (Jaya-patra) in accordance with their advice. Shukr-nitisara says: "The King after observing that the assessors have given their verdict should award the successful party a decree (Jaya-patra)." Their status may be compared to the Judicial Committee of the Privy Council which "humbly advises" their Sovereign, but their advice is binding. It may also be compared to the peoples' assessors under the Soviet judicial system who sits with the professional judge in the People's Court but are equal in status to him and can overrule him. However, if the decision of the Sabhyas (Judge) were fined and removed from the post, banished their property was also forfeited. They compelled to make good the loss. If the decision of Sabhyas is promoted by greed, fear, friendship, etc each one was fined twice.

JUDICIAL PSYCHOLOGY

Manusmriti has specified the part of the judge's function to probe the heart of the accused and the witness by studying their posture, mind and changes in

voice and eyes. Chapter VIII, 25 (Para) - By external Signs let him discover the internal disposition of men, by their voice, their colour, their motions, their aspect, their eyes, and their gestures. 26 (Para) - The internal (working of the) mind is perceived through the aspect, the motions, the gait, the gestures, the speech, and the changes in the eye and of the face. This is unique it is the only ancient legal text which is the first code of law to take account of judicial psychology. It is further held that his flattering voice, licking the corner of his lips, speaking incoherently, loss of colour of his face and frequent coughing indicate the probability of his untruthfulness in the eyes of the Mitaksara of the Yajanvalkya Smriti.

LAW RELATING TO WITNESSES

In ancient India to hearsay was not allowed, but a witness in a foreign country can give his evidence in writing before a learned man in the three Vedas and the writing sent by him may be read in the Court. As regards the number of witnesses, it is said that this number may be, 2, 3, 4, 5, 7, or 9. But a single witness is not accepted. But Narada Smriti states that a single witness may be accepted, if it is approved by both the parties. Kautilya states that a single witness can be accepted, if the very transaction has taken in secret.

Qualifications for witness, he should be a man of good character, trustworthy, knows Dharma and acts up to it. Witness from the same caste is to be prepared, and in cases relating to women a woman can be witness. As regards the nature of incompetent witnesses, it may be said that the persons having no faith in the Dharma, the persons who are very old persons, minors, oil presser, intoxicated person, lunatic, distressed, inattentive, undertaking long journeys, gambler, etc.

Narada further gives us five-fold classification of incompetent witnesses, (1) the learned Brahmanas, and ascetics practising austerities. (2) Thieves, robbers, gamblers (3) witnesses are to be rejected on the ground of contradiction in their evidence (4) one who comes of his own accord for leading an evidence is also treated as incompetent, (5) When a person dies, he names some persons as witnesses for the transaction, they can come as witnesses and the person who is informed by the parties in a general way and not in a specific way is not to be admitted as a witness. Ordinarily the witnesses are to be examined in the presence of the parties and never behind their back. Further, a witness should be examined by his tone, change of colour, eyes gestures etc

The judge should address a Brahmana witness by 'speak and swear by veracity'. He should address the Ksatriya witness as speak the truth and he should swear by the animal he rides and his weapon. A Vasisya should swear by kine, gold, and grian and a Sudra should swear by all grave sins. The view of majority witnesses shall be prepared, in case where there is no majority opinion is possible, and then the quality of statement made by the witnesses is to be taken into consideration. The claim is not said to be established when witnesses depose more or less than that mentioned in the statement or pliant of plaintiff and the disposition has not taken place at all and in such a case no fine is to be

imposed. When there is conflict among the witnesses as regards time, place, property, amount, then the dispositions are as good as not taken place. Generally no ordeals (divyas) are to be resorted to when the witnesses are available. The oaths are to be employed in the disputes of small value and the ordeals are to be resorted to in serious disputes of crimes.

Punishment for false witnesses, (a) where a witness denies deposing in the Court matter, after giving promise to that effect along with other witnesses, (b) if for unfavourable circumstances, a witness denies to depose, (c) if a witness gives false evidence frequently, in all these cases witness shall be punished with fine and in last case physical punishment can also be imposed on such witness.

CLASSIFICATION OF VIVADA (DISPUTES)

Apart from 18 subject matters of legal proceedings (as classified by Manu), distinction has been made between Artha-Vivada (civil dispute) and Himsra samudbhava Vivada (criminal disputes), amongst criminal dispute there are 4 sub division (i) Danda Parusya (assault and battery) (ii) Vak- Parusya (Defamation) (iii) Sahasa (Murder and other violation) and (iv) Strisangrahana (adultery).

A cause of action arises when a person, being harassed in a way contrary to the rules of Smriti and usage, lodges a complaint. The judicial proceedings usually comprise four parts, namely complaint, reply, evidence and judgment. Replies can probably be of four kinds, and these are admission, denial, a special plea, relating to a former judgment.

Three types of evidences are mentioned namely document, possession and witness. As regards the rules for summoning, it is evident that the opponent or the defendant, against whom the suit is filed, must be summoned to the Court. (2) Even other persons connected with the defendant (in the suit) may also be summoned. (3) When, however, some persons like soldiers, Agriculturists, cowherds, etc., are fully occupied with their work, their representative may be allowed to appear before the Court, as held by the Narada Smriti. (4) In serious matters, however, the persons are allowed to appear in person before the Court, particularly with proper safeguards (5) in more serious matters like Murder of Woman, Adultery with her, as held by the Mitakashara on the Yajanvalkay Smriti no representative is allowed. But in such matters, the concerned must appear before the Court (6) it should be noted that the presence of some persons like the deceased, very old (more than Seventy years old), persons in calamities, engaged in religious rites, in king's duties, a woman whose family is in bad condition, is actually condoned. (7) If, however after serving the summons defendant fails to come before the Court the King should wait for 30 days or 15 days and pass the Judgment in favour of the plaintiff. (8) But if there is an invasion by enemy or famine, or epidemic, than the King should not fine the defendant who is thus prevented from coming to the Court (9) However agents can be allowed to represent on behalf of his disabled Master.

Representation by lawyer: the question also arises whether in ancient India, the system of lawyers is allowed or not. The views of Narada, Katyayana and Brhaspati show that the skilled help was required in the litigations. The commentary of Asahaya on the Narada Smriti indicates that those who are well-versed in the Smriti literature could afford help for monetary consideration to the parties that have appeared before Court. (Which is also recognized in C. P. C. 1908 Order III Rule 2). Fees of such skilled persons were also fixed and he was appointed by parties not by Court.

INTERPRETATION OF LEGAL DOCUMENTS

Artha Shastra and Manu Smriti are considered as significant treatises as far as the legal system is concerned. In ancient Indian societies, an independent school of legal practices existed. Some general principles in connection with the judicial proceedings state that in case of disagreement between two texts of Smriti, justice according to usage is to be followed. In case of conflict between a text of Smriti associated with the dharma and one relating to artha, the former prevails. The former one sets rules regarding things unnoticed or otherworldly, while the latter one is more concerned with everyday matters.

Judges were required to decide cases, criminal and civil, according to law (samyak, yath-shastram, shastro ditena vidhina). This involved interpretation of the written text of the law- a task which created many problems such as the elucidation of obscure words and phrases in the text, reconciliation of conflicting provisions in the same law, solution of conflict between the letter of the law and principles of equity, justice and good conscience, adjustment of custom and smritis, and so on. This branch of law was highly developed and a number of principles were enunciated for the guidance of the Courts. The most important of them related to the conflict between the dharm-shastra and the artha-shastra.

Three systems of substantive law were recognized by the Court, the dharm-shastra, the arth-shastra, and custom which was called sadachara or charitra. The first consisted of laws which derived their ultimate sanction from the smritis and the second of principles of government. The border line between the two often overlapped. But the real distinction between the smritis and arth-shastra is uniformly secular, but that of the dharm-shastra not always so. In fact so remarkably secular is the arth-shastra in its approach to the problems of government that this has induced some writers to advance the theory that the artha-shastra (literal meaning: the science of 'artha' or pursuit of material welfare), did not evolve from the dharm-shastra but had an independent origin and developed parallel to it.

Legal system in ancient India also includes adverse possession and different modes of acquisition. Adverse possession grants right to the possessor if the owner who, even while seeing his property adversely possessed, does not raise any objection. A permanent property vests in the person adversely possessing it for 12 years without any objection from the owner. In case of movables, the period is ten years. The suitable modes of attainment of a property are purchase,

gift, etc. Generally acquisition, by a valid mode, is stronger proof than possession. Acquisition, without even slight possession, is not valid. A mortgage vests in the mortgagee if it is not redeemed even after the principal amount is doubled. A mortgage, with a time-limit, lapses after the expiry of that time.

JUDICIAL SYSTEM IN ANCIENT INDIA

The concept of Dharma that ruled Indian civilization, from Vedic period up to Muslim invasion from King to his last servant everyone was bound by Dharma. The word Dharma is derived from "dhr" to mean to uphold, sustain or nourish. The Seers often use it in close association with 'rta' and 'satya'. Sri Vidyaranya defines 'rta' as the mental perception and realization of God. The Taittiriya Upanishad also uses it with 'satya' and 'dharma'. It exhorts students to speak the truth and practice dharma (Satyam vadha: Dharmam chara). According to Sankara Bhagavatpada 'satya' means speaking the truth and 'dharma' means translating it (Satya) into action.

In this regard, the explanation given by Sri.K.Balasubramania Aiyar is relevant: "An analysis of the significance of these three words (rta, satya and dharma) brings out clearly to us the fundamental basis of dharma as the ideal for an individual. While 'rta' denotes the mental perception and realization of truth and 'satya' denotes the exact true expression in words of the truth as perceived by the mind, dharma is the observance, in the conduct of life, of truth. In fact, dharma is the way of life which translates into action the truth perceived by the man of insight as expressed by him truly. In short, 'rta' is truth in thought, 'satya' is truth in words and 'dharma' is truth in deed."

Manusmriti written by the ancient sage Manu prescribes ten essential rules for the observance of Dharma: Patience (dhruti), forgiveness (kshama), piety or self control (dama), honesty (asteya), sanctity (shauch), control of senses (indriya-nigrah), reason (dhi), knowledge or learning (vidya), truthfulness (satya) and absence of anger (krodha). Manu further writes, "Nonviolence, truth, non-coveting, purity of body and mind, control of senses are the essence of Dharma". Therefore dharmic laws govern not only the individual but all in society

Dharma is generally mean 'principle of righteousness' or 'duty', principle of holiness and also the principle of unity. Yudhishtira says in his instructions to Bhishma that whatever creates conflict is Adharma, and whatever puts an end to conflict and brings about unity and harmony is Dharma. Anything that helps to unite all and develop pure divine love and universal brother hoodness is Dharma. Dharma advocates if the Paramatman is to draw us unto himself we must, without fail; perform our duties to him as well as to the world. It is these duties that constitute what is called dharma. Again, it is dharma that serves us when we dwell in our body and when we cease to dwell in it. It serves us in life and afterlife. There need be no doubt or confusion about the dharma we ought to follow. We are all steeped in the dharma that our, great men have pursued from generation to generation. They have inwardly realized eternal beatitude

and we know for certain that they lived without any care, unlike people in our own generation who are always discontented and are embroiled in agitations and demonstrations of all kinds. All we need to do is to follow the dharma that they practiced. If we tried to create a new dharma for ourselves it might mean trouble and all the time we would be torn by doubts as to whether it would bring us good or whether it would give rise to evil. It is best for us to follow the dharma practiced by the great men of the past, the dharma of our forefathers. It does not mean that 'Dharma' is immutable; 'Dharma' has two aspects one 'Sanatana Dharma' another is 'Yuga Dharma' later is valid one for an age. The Smritis themselves recognize this principle of social change, Manu says, "There is one set of dharma for men in the kritayuga; a different set for each of tretayuga, dvapara and kaliyugas; the dharma change according to the change of yuga. "The Hindu (i.e Sanatana Dharma) view makes room for essential changes. There must be no violent break with social heredity, and yet the new stresses, conflicts and confusions will have to be faced and overcome; while the truths of spirit are permanent the rules change from age to age".

Dharma is unique blend of rigidity and flexibility it protects eternal principles and accepts continued valid traditions, Shurtis stands for universal, eternal, and fundamental principles and Smritis stands for a group of values derived from these principles and finding their expression in limited, temporary and relative field of social life. Swami Vivekananda said, "We know that, in our books, a clear distinction is made between two sets of truths.

The one set is that which abides forever, being built on the nature of man, the nature of soul, the souls's relation to God and so on. The other set comprises the minor laws, which guide the working of our everyday life..... They belong more properly to the puranas, to the Smritis, and not the shruti.....custom of one age, of one yuga, have not been the customs of another, and as yuga comes after yuga they will have to change".

Henry Maine classified Indian Society and its legal system as 'Static', this is because of his utter ignorance he might have relied his counterpart's explanation (distorted) rather than understanding Indian Society as it stood, in India the King himself was subject to the law; that arbitrary power was unknown to Indian political theory and jurisprudence and the king's right to govern was subject to the fulfillment of duties the breach of which resulted in forfeiture of kingship; that the judges were independent and subject only to the law; that ancient India had the highest standard of any nation of antiquity as regards the ability, learning, integrity, impartiality, and independence of the judiciary, and these standards have not been surpassed till today; that the Indian judiciary consisted of a hierarchy of judges with the Court of the Chief Justice (Praadvivaka) at the top, each higher Court being invested with the power to review the decision of the Courts below; that disputes were decided essentially in accordance with the same principles of natural justice which govern the judicial process in the modern State today; that the rules of procedure and evidence were similar to those followed today; that supernatural modes of proof like the ordeal were discourage;

that in criminal trials the accused could not be punished unless his guilt was proved according to law; that in civil cases the trial consisted of four stages like any modern trial – plaint, reply, hearing and decree; that such doctrines as Res Judicata (prang nyaya) were familiar to Indian jurisprudence; that all trials, civil or criminal, were heard by a bench of several judges and rarely by a judge sitting singly; that the decrees of all Courts except the King were subject to appeal or review according to fixed principles; that the fundamental duty of the Court was to do justice "without favour or fear".

RULE OF LAW IN ANCIENT INDIA

The British while justifying their colonial rule in India claimed Indians lacked civilized system of self rule and their presence in this country gave India a sense of justice and Rule of law. Many Indians today held these views in their heart. These views are not only incorrect but they are blatant lies. In fact there was no match for Rule of law that existed in ancient India; even Englishman's Rule of Law looks too conservative before that lofty ideal of ancient Indian rule of law. In the Mahabharata, it was laid down "A King who after having sworn that he shall protect his subjects fails to protect them should be executed like a mad dog."

"The people should execute a king who does not protect them, but deprives them of their property and assets and who takes no advice or guidance from any one. Such a king is not a king but misfortune." Kautilya describes the duties of a king in the Arth-shastra thus: "In the happiness of his subjects lies the King's happiness; in their welfare his welfare; whatever pleases him he shall not consider as good, but whether pleases his people he shall consider to good."

It is ironical, that in a country where 'King can do no wrong' principal is in existence, how dare they may be to conclude Indian ancient legal system is full of absurdities,

The so-called progressive politician, who treats Indian history as a book no longer read, tells us that we must look forward and not backward; that we can no longer build as Akbar built; that India can gain little or nothing by studying her own past; that East must be west and forget that she was East. Pretending to be a real with a scientific political programme based upon actualities, he is ignorant of the fundamental economic and social conditions by which a prudent and far-seeing State policy must be governed and blind to the things of everyday Indian life which pass before his own eye. The logic of history, ancient or modern, Indian or European, is lost upon him..... The British factory-hand and dweller in city slums sings when he goes to war because war is for him a release from servitude and misery often far more degrading than the Indian caste system at its worst. He does not sing in times of peace. He is then chained down to a daily life in which there is no joy or freedom—the slavery of modern industrialism. He struggles vainly to free himself from it by the organization of trade unions, and only adds to the political machine another form of tyranny which often is a menace to the whole imperial fabric⁸. This what the observation

made by great English Historian E.B. Havell. In the heyday of imperialism defying observation were made about Indian Legal system by some the European Historians, Prof. J.S.Patil in his discourse always reminds us, that Historians of Europe always used to see India through their English glasses, for this reason there observations remained far from reality. In India, the concept of Rule of law can be traced to Upanishad. It provides that the law is the king of kings. It is more powerful and rigid than the kings. There is nothing higher than law. By its powers the weak shall prevail over the strong and justice shall triumph. Thus, in monarchy, the concept of law developed to control the exercise of arbitrary powers of the monarchs who claimed divine powers to rule. In democracy, the concept has assumed different dimension and means that the holders of public powers must be able to justify publicly that the exercise of power is legally valid and socially just.

3

Precepts Established in Vedic Legal Codes

- The Veda is the source of the sacred law,
- And the tradition and practice of those who know the (Veda).
- Transgression of the law and violence are observed (in the case) of (those) great (men); but both are without force (as precedents) on account of the weakness of the men of later ages.
- If (authorities) of equal force are conflicting, (either may be followed at) pleasure.
- The initiation of a Brahmana (shall ordinarily take place) in his eighth year;
- (It may also be performed) in the ninth or fifth (years) for the fulfilment of (some particular) wish.
- The number of years (is to be calculated) from conception.
- That (initiation) is the second birth.
- The (person) from whom he receives that (Sacrament is called) the Akarya (teacher).
- And (the same title is also bestowed) in consequence of the teaching of the Veda.
- (The initiation) of a Kshatriya (shall ordinarily take place) in the eleventh (year after conception), and that of a Vaisya in the twelfth.
- Up to the sixteenth year the time for the Savitri of a Brahmana has not passed,
- Nor (for the initiation) of a Kshatriya up to the twentieth (year).

- (And the limit for that) of a Vaisya (extends) two years beyond (the latter term).
- The girdles (worn by students) shall be strings of Munga grass, a bowstring, or a (wool) thread, according to the order (of the castes).
- (Their upper garments shall be) skins of black-bucks, spotted deer, (or) he-goats.
- Hempen or linen cloth, the (inner) bark (of trees), and woollen blankets (may be worn as low garments by students) of all (castes),
- And undyed cotton cloth.
- Some (declare that it) even (may be dyed) red.
- (In that case the garment) of a Brahmana (shall be dyed with a red dye) produced from a tree,
- (And those of students) of the other two (castes shall be) dyed with madder or turmeric.
- The staff (carried by a student) of the Brahmana (caste shall be) made of Biliva or Palasa wood.
- Staves made of Asvattha or Pilu wood (are fit) for (students of) the remaining (two castes).
- Or (a staff cut from a tree) that is fit to be used at a sacrifice (may be carried by students) of all (castes).
- (The staves must be) unblemished, bent (at the top) like a sacrificial post, and covered by their bark.
- They shall reach the crown of the head, the forehead, (or) the tip of the nose (according to the caste of the wearer).
- (It is) optional (for students) to shave (their heads), to wear the hair tied in a braid, (or) to keep (merely) a lock on the crown of the head tied in a braid (shaving the other portions of the head).
- If he becomes impure while holding things in his hands, he shall (purify himself) by sipping water without laying (them on the ground).
- (As regards) the purification of things, (objects) made of metal must be scoured, those made of clay should be thoroughly heated by fire, those made of wood must be planed, and (cloth) made of thread should be washed.
- (Objects made of) stone, jewels, shells, (or) mother-of-pearl (must be treated) like those made of metal.
- (Objects made of) bone and mud (must be treated) like wood.
- And scattering (earth taken from a pure spot is another method of purifying defiled) earth.
- Ropes, chips (of bamboo), and leather (must be treated) like garments.
- Or (objects) that have been defiled very much may be thrown away.
- Turning his face to the east or to the north, he shall purify himself from personal defilement.
- Seated in a pure place, placing his right arm between his knees, arranging his dress (or his sacrificial cord) in the manner required for a sacrifice to the gods, he shall, after washing his hands up to the wrist,

three or four times, silently, sip water that reaches his heart; twice wipe (his lips); sprinkle his feet and (his head); touch the cavities in the head (severally) with (certain fingers of his) right hand; (and finally) place (all the fingers) on the crown of his head and (on the navel).

- After sleeping, dining, and sneezing (he shall) again (sip water though he may have done so before).
- (Remnants of food) adhering to the teeth (do not make the eater impure as little) as his teeth, except if he touches them with his tongue.
- Some (declare, that such remnants do not defile) before they fall (from their place).
- If they do become detached, he should know that he is purified by merely swallowing them, as (in the case of) saliva.
- Drops (of saliva) falling from the mouth do not cause impurity, except if they fall on a limb of the body.
- Purification (from defilement) by unclean substances (has been effected) when the stains and the (bad) smell have been removed.
- That (should be done) by first (using) water and (afterwards) earth,
- When urine, faces, or semen fall on a (limb) and when (a limb) is stained (by food) during meals (water should be sipped).
- And in case the Veda ordains (a particular manner of purification, it must be performed according to the precept).
- Taking hold with (his right) hand of the left hand (of his teacher), but leaving the thumb free, (the pupil) shall address his teacher, (saying): ‘Venerable Sir, recite!’
- He shall fix his eyes and his mind on the (teacher).
- He shall touch with Kusa grass the (seat of the) vital airs.
- He shall thrice restrain his breath for (the space of) fifteen moments;
- And he shall seat himself on (blades of Kusa grass) the tops of which are turned towards the east.
- The five Vyahritis must (each) be preceded by (the syllable) Om and end with Satya.
- (Every) morning the feet of the teacher must be embraced (by the pupil),
- And both at the beginning and at the end of a lesson in the Veda.
- After having received permission, the pupil shall sit down to the right (of his teacher), turning his face towards the east or towards the north,
- And the Savitri must be recited;
- (All these acts must be performed) at the beginning of the instruction in the Veda.
- The syllable Om (must precede the recitation of) other (parts of the Veda) also,
- If (any one) passes between (the teacher and the pupil) the worship (of the teacher must be performed) once more.
- If a dog, an ichneumon, a snake, a frog, (or) a cat (pass between the teacher and the pupil) a three days’ fast and a journey (are necessary).

- (In case the same event happens) with other (animals, the pupil) must thrice restrain his breath and eat clarified butter,
- And (the same expiation must be performed), if (unwittingly) a lesson in the Veda has been given on the site of a burial-ground.

RULES FOR CHILD

- Before initiation (a child) may follow its inclinations in behaviour, speech, and eating. (It shall) not partake of offerings. (It shall remain) chaste. It may void urine and faeces according to its convenience.
- No rule of (purification by) sipping water is prescribed for it. But (the stains of impure substances) shall be removed by wiping, by washing, or by sprinkling water.
- (Other persons) cannot be defiled by the touch of such (a child).
- But one must not employ a (child) to perform oblations in the fire or Bali-offerings;
- Nor must one make it recite Vedic texts, except in pronouncing Svadha.
- The restrictive rules, (which will be enumerated hereafter, must be obeyed) after initiation,
- And (for a student the duty of) chastity, which has been prescribed (above for a child is likewise obligatory),
- (Also) to offer (daily) sacred fuel in the fire, and to beg, to speak the truth, (and) to bathe (daily).
- Some (declare, that the duty) to bathe (exists) after (the performance of) the Godana (only).
- And the morning and evening devotions (Sandhya must be performed) outside (the village).
- Silent he shall stand during the former, and sit during the latter, from (the time when one) light (is still visible) until (the other) light (appears).
- He shall not look at the sun.
- He shall avoid honey, meat, perfumes, garlands, sleep in the daytime, ointments, collyrium, a carriage, shoes, a parasol, love, anger, covetousness, perplexity, garrulity, playing musical instruments, bathing (for pleasure), cleaning the teeth, elation, dancing, singing, calumny, (and) terror,
- (And) in the presence of his Gurus, covering his throat, crossing his legs, leaning (against a wall or the like, and) stretching out his feet,
- (As well as) spitting, laughing, yawning, cracking the joints of the fingers,
- To gaze at and to touch women, if there is danger of a breach of chastity,
- Gambling, low service, to take things not offered, to injure animate beings,
- To pronounce the names of the teacher, of the (teacher's) sons and wives, and of a person who has performed the Dikshaniyeshti of a Soma-sacrifice,

- To make bitter speeches.
- A Brahmana (shall) always (abstain from) spirituous liquor.
- (A student) shall occupy a seat and a couch lower (than those of his teacher), shall rise before (him) and retire to rest after (him).
- He shall keep his tongue, his arms, and his stomach in subjection.
- (If it is absolutely necessary to pronounce), his teacher's name and family-name, he ought to indicate it by (using) a synonymous term.
- (He must speak) in the same (respectful) manner of a man who is (generally) revered and of his betters.
- (If the teacher speaks to him), he shall answer after having risen from his couch or seat (in case he was lying down or sitting).
- At the command (of his teacher) he shall approach, though the (teacher) may not be visible.
- And if he sees his teacher standing or sitting in a lower place or to the leeward or to the windward, he shall rise (and change his position).
- If (his teacher) is walking, he shall walk after him, informing him of the work (which he is going to do and) telling (him what he has done).
- He shall study after having been called (by the teacher, and not request the latter to begin the lesson).
- He shall be intent on (doing) what is pleasing and serviceable (to the teacher).
- And (he shall behave) towards (the teacher's) wives and sons just as (towards the teacher),
- But not eat their leavings, attend them while bathing, assist them at their toilet, wash their feet, shampoo them nor embrace their feet.
- On returning from a journey he shall embrace the feet of the wives of his teacher.
- Some declare, that (a pupil) who has attained his majority is not (to act thus) towards young (wives of his teacher).
- Alms may be accepted from men, of all castes, excepting Abhisastas and outcasts.
- (In begging) the word 'Lady' must be pronounced in the beginning, in the middle, or at the end (of the request), according to the order of the castes.
- (He may beg in the houses) of the teacher, of blood relations, (or) of Gurus, and in his own, if he obtains no (alms) elsewhere.
- Among these he shall avoid each preceding one (more carefully than those named later).
- Having announced to the teacher (what he has received) and having received his permission, the (student) may eat (the collected food).
- If (the teacher) is not present, (he shall seek the permission to eat) from his (teacher's) wives or sons, from fellow-students or virtuous (strangers).
- Having placed water by his side, (he shall eat) in silence, contented, (and) without greed.

- (As a rule) a pupil shall not be punished corporally.
- If no (other course) is possible, (he may be corrected) with a thin rope or a thin cane.
- If (the teacher) strikes him with any other (instrument), he shall be punished by the king.
- He shall remain a student for twelve years in order (to study) one (recension of the Veda),
- Or, if (he studies) all (the Vedas) twelve years for each,
- Or during (as long a period as he requires for) learning (them).
- On completion of the instruction the teacher must be offered a fee.
- After (the pupil) has paid (that) and has been dismissed, he may, at his pleasure, bathe (as is customary on completion of the studentship).
- The teacher is chief among all Gurus.
- Some (say) that the mother (holds that place).

THE FOUR ORDERS

- Some (declare, that) he (who has studied the Veda) may make his choice (which) among the orders (he is going to enter).
- (The four orders are, that of) the student, (that of) the householder, (that of) the ascetic (bhikshu), (and that of) the hermit in the woods (vaikhanasa).
- The householder is the source of these, because the others do not produce offspring.
- Among them a (professed) student (must follow the rules) given (in the preceding chapters).
- He shall remain obedient to his teacher until (his) end.
- In (the time) remaining after (he has attended to) the business of his Guru, he shall recite (the Veda).
- If the Guru dies, he shall serve his son,
- (Or) if there is no (son of the teacher), an older fellow-student, or the fire.
- He who lives thus, gains the heaven of Brahman, and (of him it is said that) he has subdued his organs (of sense and action).
- And these (restrictions imposed on students Must also be observed by men) of other (orders, provided they are) not opposed (to their particular duties).
- An ascetic shall not possess (any) store.
- (He must be) chaste,
- He must not change his residence during the rainy season.
- He shall enter a village (only) in order to beg.
- He shall beg late (after people have finished their meals), without returning (twice),
- Abandoning (all) desire (for sweet food).
- He shall restrain his speech, his eyes, (and) his actions.

- He shall wear a cloth to cover his nakedness.
- Some (declare, that he shall wear) an old rag, after having washed it.
- He shall not take parts of plants and trees, except such as have become detached (spontaneously).
- Out of season he shall not dwell a second night in (the same) village.
- He may either shave or wear a lock on the crown of the head.
- He shall avoid the destruction of seeds.
- (He shall be) indifferent towards (all) creatures, (whether they do him) an injury or a kindness.
- He shall not undertake (anything for his temporal or spiritual welfare).
- A hermit (shall live) in the forest subsisting on roots and fruits, practising austerities.
- Kindling the fire according to the (rule of the) Sramanaka (Sutra, he shall offer oblations in the morning and evening).
- He shall eat wild-growing (vegetables only).
- He shall worship gods, manes, men, goblins, and Rishis.
- He shall receive hospitably (men of) all (castes) except those (with whom intercourse is) forbidden.
- He may even use the flesh of animals killed by carnivorous beasts.
- He shall not step on ploughed (land),
- And he shall not enter a village.
- He shall wear (his hair in) braids, and dress in (garments made of) bark and skins.
- He shall not eat anything that has been hoarded for more than a year.
- But the venerable teacher (prescribes) one order only, because the order of householders is explicitly prescribed (in the Vedas).

MARRIAGE RULES

- A householder shall take a wife (of) equal (caste), who has not belonged to another man and is younger (than himself).
- A marriage (may be contracted) between persons who have not the same Pravaras,
- (And) who are not related within six degrees on the father's side,
- Or on the side of the begetter,
- (Nor) within four degrees on the mothers side.
- (If the father) gives (his daughter) dressed (in two garments) and decked with ornaments to a person possessing (sacred) learning, of virtuous conduct, who has relatives and a (good) disposition, (that is a) Brahma (wedding).
- At the Pragapatya (wedding) the marriage formula is, 'Fulfil ye the law conjointly.'
- At the Arsha (wedding the bridegroom) shall present a cow and a bull to him who has (authority over) the maiden.
- (If the bride) is given, decked with ornaments to a priest at the altar, that is a Daiva wedding.

- The spontaneous union with a willing (maiden is called) a Gandharva wedding.
- If those who have (authority over) a female are propitiated by money, (that is) an Asura wedding.
- (If the bride) is taken by force, (that is) a Rakshasa wedding.
- If (a man) embraces a female deprived of consciousness, (that is) a Paisaka wedding.
- The first four (rites) are lawful;
- Some say, (the first) six.
- (Children) born in the regular order of wives of the next, second or third lower castes (become) Savarnas, Ambashthas, Ugras, Nishadas, Daushyantas or Parasavas.
- (Children born) in the inverted order (of wives of higher castes become) Sutas, Magadhas, Ayogavas, Kshattris, Vaidehakas or Kandalas.
- Some declare, that a woman of the Brahmana caste has born successively to (husbands of) the (four) castes, sons (who are) Brahmanas, Sutas, Magadhas or Kandalas;
- (And that) a woman of the Kshatriya caste (has born) to the same, Murdhavasiktas, Kshatriyas, Dhivaras, Pulkasas;
- Further, a woman of the Vaisya caste to the same, Bhrigyakanthas, Mahishyas, Vaisyas, and Vaidehas;
- (And) a woman of the Sudra caste to the same, Parasavas, Yavanas, Karanas, and Sudras.
- In the seventh (generation men obtain) a change of caste, either being raised to a higher one or being degraded to a lower one.
- The venerable teacher declares (that this happens) in the fifth (generation).
- And (the same rule applies) to those born (from parents of different classes that are) intermediate between (two of the castes originally) created (by Brahman).
- But those born in the inverse order (from fathers of a lower and mothers of a higher caste stand) outside (the pale of) the sacred law,
- As well as (those born in the regular order) from a female of the Sudra caste.
- But he whom a Sudra (begets) on a female of unequal caste shall be treated like an outcast.
- The last (named, the Kandala), is the foulest.
- Virtuous sons (born of wives of equal caste) and wedded according to approved rites sanctify (their father's family).
- (A son born of a wife married) according to the Arsha rite (saves) three ancestors (from hell),
- (A son born of a wife married) according to the Daiva rite ten,
- (A son born of a wife married) according to the Pragapatya rite, also ten.
- (But) the son of a wife married according to the Brahma rite (saves) ten ancestors, ten descendants, and himself.

CUSTOMS AND RITUALS

- (A householder) shall approach (his wife) in the proper season,
- Or (he may do so) at any time except on the forbidden (days).
- He shall worship gods, manes, men, goblins, (and) Rishis.
- Every day he shall recite privately (a portion of the Veda),
- And the (daily) libation of water to the manes (is obligatory on him).
- Other (rites than these he may perform) according, to his ability.
- The (sacred) fire (must be kindled) on his marriage or on the division of the family estate.
- The domestic (ceremonies must be performed) with (the aid of) that (fire).
- (Also) the sacrifices to the gods, manes, (and) men? and the private recitation (and) the Bali-offerings.
- The oblations (which are thrown) into the (sacred) fire (at the Vaisvadeva-sacrifice are offered) to Agni, to Dhanvantari, to all the gods, to Pragapati, (and to Agni) Svishtakrit;
- And (Bali-offerings must be given) to the deities presiding over the (eight) points of the horizon, in their respective places,
- At the doors (of the house) to the Maruts,
- To the deities of the dwelling inside (the house),
- To Brahman in the centre (of the house),
- To the Waters near the water-pot,
- To the Ether in the air,
- And to the Beings walking about at night in the evening.
- A gift of food shall be preceded by a libation of water and (it shall be presented) after (the recipient) has been made to say, 'May welfare attend thee,'
- And the same (rule applies) to all gifts presented for the sake of spiritual merit.
- The reward of a gift (offered) to a person who is not a Brahmana is equal (to the value of the gift), those (of presents given) to a Brahmana twofold, to a Srotriya thousandfold, to one who knows the whole Veda (vedaparaga) endless.
- Presents of money (must be given) outside the Veda to persons begging for their Gurus, (or) in order to defray the expenses of their wedding, (or to procure) medicine for the sick, to those who are without means of subsistence, to those who are going to offer a sacrifice, to those engaged in study, to travellers, (and) to those who have performed the Visvagit-sacrifice.
- Prepared food (must be given) to other beggars.
- For an unlawful purpose he shall not give (anything), though he may have promised it.
- An untruth spoken by people under the influence of anger, excessive fear, pain (or) greed, by infants, very old men, persons labouring under a delusion, those being under the influence of drink (or) by mad men does not cause (the speaker) to fall.

- Before (a householder eats) he shall feed his guests, the infants, the sick people, the pregnant women, the females under his protection, the very aged men, and those of low condition (who may be in his house).
- But (when) his teacher, parents (or intimate) friends (visit his house), he shall proceed to the preparation of the dinner after asking them (for orders).
- When an officiating priest, his teacher, his father-in-law, paternal or maternal uncles visit (him), a Madhuparka (or honey-mixture must be offered to them).
- (If they have been once honoured in this manner, the ceremony need be) repeated (only) after a year.
- (But) on (the occasion of) a sacrifice and of the wedding (a Madhuparka must be offered, though) less than a year (has passed since the last visit of the persons thus honoured).
- And to a king) who is a Srotriya (a Madhuparka must be offered as often as he comes),
- (But to a king) who is not a Srotriya a seat and water.
- But for a Srotriya he shall cause to be prepared a foot-bath, an Arghya, and food of a superior quality.
- Or his usual food distinguished by a (particularly careful) preparation.
- To a (Brahmana) who is not learned in the Vedas, (but) of good conduct, food of a middling (quality) shall be given,
- To one who is the reverse (of virtuous) grass, water, and earth,
- (Or) at least a welcome.
- Honour (must be shown to a guest, and the host must) not dine better (than his guest).
- A couch, a seat, (and) a lodging (of the) same (quality as the host uses must be given) to (a guest) of equal condition and to one's betters; they must be accompanied (on departure) and respectfully attended to (during their stay).
- (The host shall show similar) though less (attention) to (a guest) who is inferior (to himself).
- He is called a guest who, belonging to a different village (and) intending to stay for one night only, arrives when the sun's beams pass over the trees.
- According (to his caste a guest) must be asked about his well-being (kusala), about his being free from hurt (anamaya), or about his health (arogya).
- The last (formula must also be used in addressing a Sudra.
- A man of a lower caste (is) not (to be considered) a guest by a Brahmana, except if he has approached on (the occasion of) a sacrifice.
- But a Kshatriya must be fed after the Brahmana (guests).
- (Men of) other (castes he shall feed) with his servants for mercy's sake.

RULES FOR SALUTING

- (To salute) every day on meeting (by) an embrace of the feet,
- And (particularly) on return from a journey,
- (Is prescribed in the case) of parents, of their blood relations, of elder (brothers), of persons venerable on account, of their learning, and of the Gurus of the latter.
- On meeting (several persons, to whom such a salutation is due), together, the most venerable (must be saluted first).
- On meeting persons who understand (the rule of returning salutes) one shall salute (them) pronouncing one's name, and (saying) 'I N. N. (ho! salute thee).'
- Some (declare that) there is no restrictive rule for salutations between man and wife.
- (The feet of) other female (relations) than the mother, a paternal uncle's wife and (elder) sisters (need) not (be embraced, nor need they be saluted) except on return from a journey.
- The feet of wives of brothers and of the mother-in-law (need) not be embraced (on any occasion).
- But (on the arrival of an) officiating priest, a father-in-law, paternal and maternal uncles who are younger (than oneself), one must rise; they need not be saluted (as prescribed above, Sutra 5).
- In like manner (any) other aged fellow-citizen, even a Sudra of eighty years and more, (must be honoured) by one young enough to be his son,
- (And) an Arya, though (he be) younger, by a Sudra;
- And he shall avoid (to pronounce) the name of that (person who is worthy of a salutation).
- And an official who (is) not (able to) recite (the Veda shall avoid to pronounce the name) of the king.
- A contemporary who is born on the same day (shall be addressed with the terms) bhoh or bhavan (your honour),
- (Likewise) a fellow-citizen who is ten years older (than oneself),
- (Also) an artist who is five years (older),
- And a Srotriya belonging to one's own Vedic school who is three years older,
- (Further), Brahmanas destitute of learning and those who follow the occupations of Kshatriyas or Vaisyas,
- And (a contemporary) who has performed the Dikshaniyeshti of a Soma-sacrifice before he buys (the Soma).
- Wealth, relations, occupation, birth, learning, and age must be honoured; (but) each later named [paragraph continues] (quality) is more important (than the preceding ones).
- But sacred learning is more important than all (other good qualities),
- Because that is the root of the sacred law,

- And because the Veda (expressly declares it).
- Way must be made for a man seated in a carriage, for one who is in his tenth (decade), for one requiring consideration, for a woman, for a Snataka, and for a king.
- But a king (must make way) for a Srotriya.

RULES FOR BRAHMANA STUDY

- The rule for (times of) distress (is) that a Brahmana may study under a teacher who is not a Brahmana.
- (A student is bound) to walk behind and to obey (his non-Brahmanical teacher).
- (But), when (the course of study) has been finished, the Brahmana (pupil is more) venerable (than his teacher).
- (In times of distress it is permissible) to offer sacrifices for (men of) all (castes), to teach (them), and to accept (presents from them).
- Each preceding (mode of living is) preferable (to those named later).
- On failure of the (occupations lawful for a Brahmana) he may live by the occupations of a Kshatriya.
- On failure of those, he may live by the occupations of a Vaisya.
- (Goods) that may not be sold by a (Brahmana are),
- Perfumes, substances (used for) flavouring (food), prepared food, sesamum, hempen and linen cloth, skins,
- Garments dyed red or washed,
- Milk and preparations from it,
- Roots, fruits, flowers, medicines, honey, flesh, grass, water, poison,
- Nor animals for slaughter,
- Nor, under any circumstances, human beings, heifers, female calves, cows big with young.
- Some (declare, that the traffic in) land, rice, barley, goats, sheep, horses, bulls, milch-cows, and draught-oxen (is) likewise (forbidden).
- But (it is permissible) to barter,
- One kind of substances used for flavouring others,
- And animals (for animals).
- Salt and prepared food (must) not (be bartered),
- Nor sesamum.
- But for present use an equal (quantity of) uncooked (food may be exchanged) for cooked (food).
- But if no (other course is) possible (a Brahmana) may support himself in any way except by (following the occupations) of a Sudra.
- Some (permit) even this in case his life is in danger.
- But to mix with that (caste) and forbidden food must be avoided (even in times of distress).
- If his life is threatened, even a Brahmana may use arms.
- (In times of distress) a Kshatriya (may follow) the occupations of a Vaisya.

THE MORAL ORDER

- A king and a Brahmana, deeply versed in the Vedas, these two, uphold the moral order in the world.
- On them depends the existence of the fourfold human race, of internally conscious beings, of those which move on feet and on wings, and of those which creep,
- (As well as) the protection of offspring, the prevention of the confusion (of the castes and) the sacred law.
- He is (called) deeply versed in the Vedas,
- Who is acquainted with the (ways of the) world, the Vedas (and their) Aegras (auxiliary sciences),
- Who is skilled in disputations (and), in (reciting) legends and the Purana,
- Who looks to these (alone), and lives according to these,
- Who has been sanctified by the forty sacraments (samskara),
- Who is constantly engaged in the three occupations (prescribed for all twice-born men),
- Or in the six (occupations prescribed specially for a Brahmana),
- (And) who is well versed in the duties of daily life settled by the agreement (of those who know the law).
- (Such a Brahmana) must be allowed by the king immunity from (the following) six (kinds of opprobrious treatment):
- (*I.e.*) he must not be subjected to corporal punishment, he must not be imprisoned, he must not be fined, he must not be exiled, he must not be reviled, nor be excluded.
- The Garbhadhana (or ceremony to cause conception), the Pumsavana (or ceremony to cause the birth of a male child), the Simantonnayana (or arranging the parting of the pregnant wife's hair), the Gatakarman (or ceremony on the birth of the child), the ceremony of naming the child, the first feeding, the Kaula (or tonsure of the head of the child), the initiation,
- The four vows (undertaken) for the study of the Veda,
- The bath (on completion of the studentship), the taking of a help-mate for the fulfilment of the religious duties, the performance of the five sacrifices to gods, manes, men, goblins, and Brahman,
- And (the performance) of the following (sacrifices):
- The seven kinds of Pakayagnas (or small sacrifices), *viz.* the Ashtaka, the Parvana Sthalipaka, offered on the new and full moon days), the funeral oblations, the Sravani, the Agrahayani, the Kaitri, and the Asvayugi;
- The seven kinds of Haviryagnas, *viz.* the Agnyadheya, the Agnihotra, the Darsapaurnamasas, the Agrayana, the Katurmasyas, the Nirudhapasubandha, and the Sautramani;
- The seven kinds of Soma-sacrifices, *viz.* the Agnishtoma, the Atyagnishtoma, the Ukthya, the Shodasin, the Atiratra, and the Aptoryama;

- These are the forty sacraments.
- Now (follow) the eight good qualities of the soul,
- (*Viz.*) compassion on all creatures, forbearance, freedom from anger, purity, quietism, auspiciousness, freedom from avarice, and freedom from covetousness.
- He who is sanctified by these forty sacraments, but whose soul is destitute of the eight good qualities, will not be united with Brahman, nor does he reach his heaven.
- But he, forsooth, who is sanctified by a few only of these forty sacraments, and whose soul is endowed with the eight excellent qualities, will be united with Brahman, and will dwell in his heaven.

RULES AFTER COMPLETION OF STUDIES

- Such (a man) shall bathe, after (having fulfilled) the law (regarding studentship), take unto him a wife, and, fulfilling the duties of a householder which have been declared above, in addition obey the following ordinances
- (He shall be) always pure (and) sweet-smelling (and) bathe frequently.
- If he possesses wealth, he shall not be dressed in old or dirty clothes;
- Nor shall he wear dyed or sumptuous garments, nor such as have been worn (before) by others,
- Nor a garland and shoes (that have been worn by others).
- (He may wear a cast-off garment) which has been washed, if he is unable (to afford a new one).
- He shall not allow his beard to grow without a (sufficient) reason.
- He shall not carry water and fire at the same time.
- He shall not drink out of his joined hands.
- He shall not sip water standing, nor (shall he sip) water drawn up (from a well),
- Nor (water) that is offered by a Sudra or an impure man, or that has been taken up with one hand.
- Facing or within sight of wind, fire, Brahmanas, the sun, water, (images of the) gods, and cows he shall not eject urine or faces or other impurities.
- He shall not stretch out his feet towards those divine beings.
- He shall not remove urine or faces with leaves, clods of earth, or stones.
- He shall not stand upon ashes, hair, nail (parings), husks (of grain), pot-sherds, or impure substances.
- He shall not converse with barbarians, impure or wicked men.
- If he has conversed (with such persons), he shall meditate on virtuous (men),
- Or he may speak with a Brahmana.
- He shall call (a cow that is) not a milch-cow a cow that will become a milch-cow.

- (An event) that is not lucky (he shall call) lucky.
- (In speaking of) a skull (he shall use the word) bhagala instead of kapala,
- (And in speaking of) a rainbow, manidhanus (the jewelled bow) instead of indradhanus, (Indra's bow).
- Let him not announce it to others, if a cow suckles (her calf),
- Nor let him prevent her (from doing it).
- After conjugal intercourse he shall at once clean himself
- Let him not recite the daily portion of the Veda (lying) on that couch (on which he lies with his wife).
- And when he has studied during the third watch of the night, he shall not again retire to rest.
- Let him not have intercourse with his wife when she is ill,
- Nor during her courses;
- Nor let him embrace her (during that period),
- Nor an unmarried female.
- He shall avoid to blow the fire with his mouth, to contend with words, to show himself covered with perfumed ointments or wearing garlands, to scratch himself with any impure (implement), to take his meals with his wife, to look at (a woman) who is anointing herself, to enter (his village) by a back-gate, to wash one foot with the other, to eat food deposited on a chair, to cross a river swimming, to ascend trees and dangerous (places), or to descend therefrom, and to imperil his life (in any other manner).
- Let him not ascend a ship (of) doubtful (solidity).
- He shall protect himself by all (possible) means.
- In the daytime he shall not wrap up his head while walking about;
- But at night he shall cover it,
- And while voiding urine and faeces.
- (Let him) not (ease nature) without (first) covering the ground (with grass or the like),
- Nor close to his dwelling,
- Nor on ashes, on cow-dung, in a ploughed field, in the shade (of a tree), on a road, in beautiful (spots).
- Let him eject both urine and faeces, facing the north in the daytime,
- And in the twilight,
- But at night, facing the south.
- Let him avoid to use a seat, clogs, a stick for cleaning the teeth (and other implements) made of Palasa-wood.
- With shoes on (his feet), he shall not eat, sit down, salute, or worship (the gods).
- Let him not pass idly (any part of the day, be it) morning, midday, or evening; (but) according to his ability (he shall make each useful) by the acquisition of spiritual merit or of wealth, and by taking his pleasure.
- But among those (three aims of human life) he shall chiefly attend to the acquisition of spiritual merit.

- Let him not look at a naked woman wedded to another man.
- Let him not draw a seat towards himself with his foot.
- He shall keep his organ, his stomach, his hands, his feet, his tongue, and his eyes under due restraint.
- Let him avoid to cut, to break, to scratch, and to crush (anything), or to make (his joints) crack, without a (sufficient) reason.
- Let him not step over a rope (to which) a calf (is tied).
- Let him not be a stay-at-home.
- Let him not go to (perform) a sacrifice without being chosen (to officiate as priest).
- But at his pleasure (he may go) to see it.
- Let him not eat food (that he has placed) in his lap,
- Nor what has been brought at night by a servant.
- He shall not eat (substances) from which the fat has been extracted, Such as milk from which the cream has separated, butter, oil-cake, buttermilk, and the like.
- But he shall take his meals in the morning and in the evening, blessing his food, not grumbling at it.
- He shall never sleep naked at night;
- Nor shall he bathe (naked);
- And he shall perform whatever (else) aged (Brahmanas), of subdued senses, who have been properly obedient (to their teachers), who are free from deceit, covetousness, and error, and who know the Vedas, declare (to be right).
- In order to acquire wealth and for the sake of security he may go to a ruling (king),
- (But) to no other (being) except the gods, his Gurus, and righteous (Brahmanas).
- He shall seek to dwell in a place where firewood, water, fodder, Kusa grass, (materials for making) garlands and roads exist in abundance, which is chiefly inhabited by Aryans, which is rich in industrious (men), and which is governed by a righteous (ruler).
- He shall pass excellent (beings and things), auspicious (objects), temples of the gods, crossroads, and the like with his right turned towards them.
- The rule for times of distress (is, that) he shall mentally perform all (that is required by the rule of) conduct.
- He shall always speak the truth.
- He shall conduct himself (as becomes) an Aryan.
- He shall instruct virtuous (men only).
- He shall follow the rules of purification taught (in the Sastras).
- He shall take pleasure in the (study of the) Veda.
- He shall never hurt (any being), he shall be gentle, (yet) firm, ever restrain his senses, and be liberal.

- A Snataka who conducts himself in this manner will liberate his parents, his ancestors, and descendants from evil, and never fall from Brahman's heaven.

LAWS FOR OCCUPATION

- (The lawful occupations common) to (all) twice-born men are studying the (Veda), offering sacrifices (for their own sake), and giving (alms).
- Teaching, performing sacrifices for others, and receiving alms (are) the additional (occupations) of a Brahmana.
- But the former (three) are obligatory (on him).
- Instruction in the Veda (may be given) without the above-mentioned (vows and ceremonies) in case a teacher, blood relations, friends or Gurus (receive it), and in case (the Veda) is exchanged for money or learning.
- Agriculture and trade (are) also (lawful for a Brahmana) provided he does not do the work himself,
- Likewise lending money at interest.
- To protect all created beings is the additional (occupation) of a king,
- And to inflict lawful punishments.
- He shall support (those) Srotriyas, (who are) Brahmanas,
- And people unable to work, (even if they are) not Brahmanas,
- And those who are free from taxes,
- And (needy) temporary students.
- And (to take) measures for ensuring victory (is another duty of a king),
- Especially when danger (from foes threatens the kingdom);
- And (to learn) the management of chariots and the use of the bow (is a further duty of the king),
- As well as to stand firm in battle and not to turn back.
- No sin (is committed) by injuring or slaying (foes) in battle,
- Excepting those who have lost their horses, charioteers, or arms, those who join their hands (in supplication), those who flee with flying hair, those who sit down with averted faces, those who have climbed (in flight) on eminences or trees, messengers, and those who declare themselves to be cows or Brahmanas.
- If another Kshatriya is supported by (the king), he shall follow the same occupations as his (master).
- The victor shall receive the booty gained in battle.
- But chariots and animals used for riding (belong) to the king,
- And a preferential share, except when the booty has been gained in single combat.
- But the king shall equitably divide (all) other (spoils).
- Cultivators (must) pay to the king a tax (amounting to) one-tenth, one-eighth, or one-sixth (of the produce).

- Some declare, that (there is a tax) also on cattle and gold, (*viz.*) one-fiftieth (of the stock).
- In the case of merchandise one-twentieth (must be paid by the seller) as duty,
- (And) of roots, fruits, flowers, medicinal herbs, honey, meat, grass, and firewood one-sixtieth.
- For it is the duty (of the king) to protect the (tax-payers).
- But to (the collection of) these (taxes) he shall always pay particular attention.
- He shall live on the surplus.
- Each artisan shall monthly do one (day's) work (for the king).
- Hereby (the taxes payable by) those who support themselves by personal labour have been explained,
- And (those payable by) owners of ships and carts.
- He for him must feed these (persons while they work).
- The merchants shall (each) give (every month one) article of merchandise for less than the market value.
- Those who find lost (property) the owner of which is not (known), shall announce it to the king.
- The king shall cause it to be proclaimed (by the public crier), and (if the owner does not appear) hold it in his custody for a year.
- Afterwards one-fourth (of the value goes) to the finder (and) the remainder to the king.
- A (man becomes) owner by inheritance, purchase, partition, seizure, or finding.
- Acceptance is for a Brahmana an additional (mode of acquisition);
- Conquest for a Kshatriya;
- Gain (by labour) for a Vaisya or Sudra.
- Treasure-trove is the property of the king,
- Excepting (such as is found) by a Brahmana who lives according to (the law).
- Some declare, that a finder of a non-Brahmanical caste even, who announces (his find to the king), shall obtain one-sixth (of the value).
- Having recovered property stolen by thieves, he shall return it to the owner;
- Or (if the stolen property is not recovered) he shall pay (its value) out of his treasury.
- The property of infants must be protected until they attain their majority or complete their studentship.
- The additional (occupations) of a Vaisya are, agriculture, trade, tending cattle, and lending money at interest.
- The Sudra (belongs to) the fourth caste, which has one birth (only).
- For him also (are prescribed) truthfulness, meekness, and purity.
- Some (declare), that instead of sipping water, he shall wash his hands and feet.

- (He shall also offer) the funeral oblations,
- Maintain those depending upon him,
- Live with his wife (only),
- And serve the higher (castes).
- From them he shall seek to obtain his livelihood.
- (He shall use their) cast-off shoes, umbrellas, garments, and mats (for sitting on),
- (And) eat the remnants of their food;
- And (he may) live by (practising) mechanical arts;
- And the Arya under whose protection he places himself, must support him even if he (becomes) unable to work.
- And a man of higher caste (who is his master and has fallen into distress must be maintained) by him.
- His hoard shall serve this purpose.
- If permission has been given to him, he may use the exclamation namah (adoration) as his Mantra.
- Some (declare), that he himself may offer the Pakayagnas.
- And all men must serve those who belong to higher castes.
- If Aryans and non-Aryans interchange their occupations and conduct (the one taking that of the other, there is) equality (between them).

RULES FOR THE KING

- The king is master of all, with the exception of Brahmanas.
- (He shall be) holy in acts and speech,
- Fully instructed in the threefold (sacred science) and in logic,
- Pure, of subdued senses, surrounded by companions possessing excellent qualities and by the means (for upholding his rule).
- He shall be impartial towards his subjects;
- And he shall do (what is) good for them.
- All, excepting Brahmanas, shall worship him who is seated on a higher seat, (while they them-selves sit on a) lower (one).
- The (Brahmanas), also, shall honour him.
- He shall protect the castes and orders in accordance with justice;
- And those who leave (the path of) duty, he shall lead back (to it).
- For it is declared (in the Veda) that he obtains a share of the spiritual merit (gained by his subjects).
- And he shall select as his domestic priest (purohita) a Brahmana who is learned (in the Vedas), of noble family, eloquent, handsome, of (a suitable) age, and of a virtuous disposition, who lives righteously and who is austere.
- With his assistance he shall fulfil his religious duties.
- For it is declared (in the Veda): ‘Kshatriyas, who are assisted by Brahmanas, prosper and do not fall into distress.’
- He shall, also, take heed of that which astrologers and interpreters of omens tell (him).

- For some (declare), that the acquisition of wealth and security depend also upon that.
- He shall perform in the fire of the hall the rites ensuring prosperity which are connected with expiations (santi), festivals, a prosperous march, long life, and auspiciousness; as well as those that are intended to cause enmity, to subdue (enemies), to destroy (them) by incantations, and to cause their misfortune.
- Officiating priests (shall perform) the other (sacrifices) according to the precepts (of the Veda).
- His administration of justice (shall be regulated by) the Veda, the Institutes of the Sacred Law, the Aegas, and the Purana.
- The laws of countries, castes, and families, which are not opposed to the (sacred) records, (have) also authority.
- Cultivators, traders, herdsmen, money-lenders, and artisans (have authority to lay down rules) for their respective classes.
- Having learned the (state of) affairs from those who (in each class) have authority (to speak he shall give) the legal decision.
- Reasoning is a means for arriving at the truth.
- Coming to a conclusion through that, he shall decide properly.
- If (the evidence) is conflicting, he shall learn (the truth) from (Brahmanas) who are well versed in the threefold sacred lore, and give his decision (accordingly).
- For, (if he acts) thus, blessings will attend him (in this world and the next).
- It has been declared in the Veda: 'Brahmanas, united with Kshatriyas, uphold gods, manes, and men.
- They declare, that (the word) danda (rule or punishment) is derived from (the verb) damayati (he restrains); therefore he shall restrain those who do not restrain themselves.
- (Men of) the (several) castes and orders who always live according to their duty enjoy after death the rewards of their works, and by virtue of a remnant of their (merit) they are born again in excellent countries, castes, and families, (endowed) with beauty, long life, learning in the Vedas, (virtuous) conduct, wealth, happiness, and wisdom.
- Those who act in a contrary manner perish, being born again in various (evil conditions).
- The advice of the spiritual teacher and the punishment (inflicted by the king) guard them.
- Therefore a king and a spiritual teacher must not be reviled.

LAWS FOR SUDRAS

- A Sudra who intentionally reviles twice-born men by criminal abuse, or criminally assaults them with blows, shall be deprived of the limb with which he offends.

- If he has criminal intercourse with an Aryan woman, his organ shall be cut off, and all his property be confiscated.
- If (the woman had) a protector, he shall be executed after (having undergone the punishments prescribed above).
- Now if he listens intentionally to (a recitation of) the Veda, his ears shall be filled with (molten) tin or lac.
- If he recites (Vedic texts), his tongue shall be cut out.
- If he remembers them, his body shall be split in twain.
- If he assumes a position equal (to that of twice-born men) in sitting, in lying down, in conversation or on the road, he shall undergo (corporal) punishment.
- A Kshatriya (shall be fined) one hundred (Karshapanas) if he abuses a Brahmana,
- In case of an assault, twice as much.
- A Vaisya (who abuses a Brahmana, shall pay) one and a half (times as much as a Kshatriya).
- But a Brahmana (who abuses) a Kshatriya (shall pay) fifty (Karshapanas),
- One half of that (amount if he abuses) a Vaisya,
- (And if he abuses) a Sudra, nothing.
- A Kshatriya and a Vaisya (who abuse one another shall pay the same fines) as a Brahmana and a Kshatriya.
- (The value of) property which a Sudra unrighteously acquires by theft, must be repaid eightfold.
- For each of the other castes (the fines must be) doubled.
- If a learned man offends, the punishment shall be very much increased.
- If fruits, green corn, and vegetables are appropriated in small amounts, (the fine is) five Krishnalas (of copper).
- If damage is done by cattle, the responsibility falls on the owner.
- But if (the cattle) were attended by a herdsman, (it falls) on the latter.
- (If the damage was done) in an unenclosed field near the road, (the responsibility falls) on the herdsman and on the owner of the field.
- Five Mashas (are the fine to be paid) for (damage done by) a cow,
- Six for a camel or a donkey,
- Ten for a horse or a buffalo,
- Two for each goat or sheep.
- If all is destroyed, (the value of) the whole crop (must be paid and a fine in addition).
- If (a man) always neglects the prescribed (duties) and does that which is forbidden, his property beyond (the amount required for) raiment and food shall be taken from him (until he amends).
- He may take, as his own, grass for a cow, and fuel for his fire, as well as the flowers of creepers and trees and their fruit, if they be unenclosed.
- The legal interest for money lent (is at the rate of) five Mashas a month for twenty (Karshapanas).

- Some (declare, that this rate should not be paid) longer than a year.
- If (the loan) remains outstanding for a long time, the principal may be doubled (after which interest ceases).
- A loan secured by a pledge that is used (by the creditor) bears no interest;
- Nor money tendered, nor (a debt due by a debtor) who is forcibly prevented (from paying).
- (Special forms of interest are) compound interest, periodical interest,
- Stipulated interest, corporal interest, daily interest, and the use of a pledge.
- The interest on products of animals, on wool, on the produce of a field, and on beasts of burden (shall) not (increase) more than the fivefold (value of the object lent).
- The property of (a person who is) neither an idiot nor a minor, having been used by strangers before his eyes for ten years, (belongs) to him who uses it,
- (But) not (if it is used) by Srotriyas, ascetics, or royal officials.
- Animals, land, and females are not lost (to the owner) by (another's) possession.
- The heirs shall pay the debts (of a deceased person).
- Money due by a surety, a commercial debt, a fee (due to the parents of the bride), debts contracted for spirituous liquor or in gambling, and a fine shall not involve the sons (of the debtor).
- An (open) deposit, a sealed deposit, an object lent for use, an object bought (but not paid), and a pledge, being lost without the fault of the holder, (shall not involve) any blameless person.
- A man who has stolen (gold) shall approach the king, with flying hair, holding a club in his hand, and proclaim his deed.
- Whether he be slain or be pardoned, he is purified (of his guilt).
- If the king does not strike, the guilt falls on him.
- Corporal punishment (must) not (be resorted to in the case) of a Brahmana.
- Preventing (a repetition of) the deed, publicly proclaiming his crime, banishment, and branding (are the punishments to which a Brahmana, may be subjected).
- That (king) who does not do his duty (by inflicting punishment) becomes liable to perform a penance.
- (A man who) knowingly (becomes) the servant (of a thief shall be treated) like a thief,
- Likewise he who (knowingly) receives (goods) from (a thief or) an unrighteous man.
- The award of the punishment (must be regulated) by a consideration (of the status) of the criminal, of his (bodily) strength, of (the nature of) the crime, and whether the offence has been repeated.
- Or a pardon (may be given) in accordance with the opinion of an assemblage of persons learned in the Vedas.

COURT LAWS

- In disputed cases the truth shall be established by means of witnesses.
- The (latter) shall be many, faultless as regards the performance of their duties, worthy to be trusted by the king, and free from affection for, or hatred against either (party).
- (They may be) Sudras even.
- But a Brahmana must not be forced (to give evidence) at the word of a non-Brahmana, except if he is mentioned (in the plaint).
- (Witnesses) shall not speak singly or without being asked,
- And if, (being asked,) they do not answer, they are guilty of a crime.
- Heaven is their reward, if they speak the truth; in the contrary case hell (will be their portion).
- (Persons) not mentioned (in the plaint), must also give evidence.
- No objection (can be raised against witnesses) in a case of (criminal) hurt.
- Nor if they have spoken inadvertently.
- If the sacred law or the rules (referring to worldly matters) are violated, the guilt (falls) on the witnesses, the assessors, the king, and on the offender.
- Some (declare, that the witnesses) shall be charged on oath to speak the truth.
- In the case of others than Brahmanas that (oath shall be sworn) in the presence of the gods, of the king, and of Brahmanas.
- By false evidence concerning small cattle a witness kills ten,
- (By false evidence) regarding cows, horses, men, or land, in each succeeding case ten times as many (as in the one mentioned before),}
- Or (by false evidence) regarding land the whole (human race).
- Hell (is the punishment) for a theft of land.
- (By false evidence) concerning water (he incurs) the same (guilt) as (for an untruth) about land,
- Likewise (by false evidence) regarding (criminal) intercourse.
- (By false evidence) regarding honey or clarified butter (he incurs) the same (guilt) as (by an untruth) about small cattle,
- (By false evidence) about clothes, gold, grain, and the Veda, the same as (by an untruth) about kine,
- (And by false evidence) regarding a carriage (or a beast of burden) the same as (by an untruth) about horses.
- A witness must be reprimanded and punished for speaking an untruth.
- No guilt is incurred by giving false evidence, in case the life (of a man) depends thereon.
- But (this rule does) not (hold good) if the life of a very wicked (man depends on the evidence of a witness).
- The king, or the judge, or a Brahmana learned in the Sastras (shall examine the witnesses).

- (The litigant) shall humbly go to seek the judge.
- If (the defendant) is unable to answer (the plaint) at once, (the judge) may wait for a year.
- But (in an action) concerning kine, draught oxen, women, or the procreation (of offspring), the defendant (shall answer) immediately,
- Likewise in a case that will suffer by delay.
- To speak the truth before the judge is more important than all (other) duties.

LAWS REGARDING IMPURITY AND PURITY

- The Sapindas become impure by the death (of a relative) during ten (days and) nights, except those who officiate as priests, who have performed the Dikshaniyeshti (or initiatory ceremony of a Srauta sacrifice), and those who are students.
- (The impurity) of a Kshatriya lasts for eleven (days and) nights,
- (That) of a Vaisya twelve (days and) nights,
- (Or), according to some, half a month,
- (And that) of a Sudra a whole month.
- If during (a period of impurity) another (death) happens, the (relatives) shall be pure after (the lapse of) the remainder of that (first period).
- (But) if one night (only of the period of impurity) remains (and another death happens, they shall become pure) after (the lapse of) two (days and nights).
- (If the second death happens) on the morning (after the completion of the period of impurity, they shall be purified) after three (days and nights).
- (The relatives) of those who are slain for the sake of cows and Brahmanas (become pure) immediately after the burial,
- And (those of men destroyed) by the anger of the king,
- (Further, those of men killed) in battle,
- Likewise (those) of men who voluntarily (die) by starving themselves to death, by weapons, fire, poison, or water, by hanging themselves, or by jumping (from a precipice).
- Sapinda-relationship ceases with the fifth or the seventh (ancestor).
- (The rules regarding impurity caused by the death of a relative apply) to the birth (of a child) also.
- (In) that (case the impurity falls) on the parents,
- Or on, the mother (alone).
- (The impurity) for a miscarriage (lasts for a number of days and) nights equal to (the number of) months from conception,
- Or three days.
- And if he hears (of the death of a Sapinda) after (the lapse of) ten (days and nights, the impurity lasts for) one night together with the preceding and following days,

- Likewise when a relative who is not a Sapinda, a relative by marriage, or a fellow-student (has died).
- For a man who studies the same recension of the Veda (the impurity lasts) one day,
- Likewise for a Srotriya who dwells in the same house.
- On touching (*i.e.*, on carrying out) a corpse from an interested motive, the impurity lasts for ten days.
- (The duration of the impurity) of a Vaisya and of a Sudra (in the same case) has been declared (by Sutras 3-5).
- Or (it shall last for these two) as many nights as there are seasons (in the year);
- And (the same rule may be made applicable) to the two higher (castes).
- Or (the impurity lasts) three days.
- And if the teacher, his son or wife, a person for whom (a Brahmana) sacrifices or a pupil (has been carried out, the duration of the impurity is) the same.
- And if a man of lower caste carries, out (the corpse of) one of higher caste, or a man of higher caste (carries out the body of) one of lower caste, (the duration of) the impurity in these (cases) is determined by (the caste of) the dead man.
- On touching an outcast, a Kandala, a woman impure on account of her confinement, a woman in her courses, or a corpse, and on touching persons who have touched them, he shall purify himself by bathing dressed in his clothes,
- Likewise if he has followed a corpse (that was being carried out),
- And (if he has come into contact) with a dog.
- Some (declare), that (the limb) which (a dog) may touch (must be washed).
- The Sapindas shall offer (libations of) water for (a deceased relative) whose Kaula-karman (or tonsure) has been performed,
- As well as for the wives and daughters of such (a person).
- Some (declare, that it must be done in the case) of married female relatives (also).
- (During the period of impurity) all (the mourners) shall sleep and sit on the ground and remain chaste.
- They shall not clean (themselves);
- Nor shall they eat meat until (the funeral oblation) has been offered.
- On the first, third, fifth, seventh, and ninth (days after the death) water (mixed with sesamum) must be offered.
- And the garments (worn during that ceremony) must be changed,
- But on the last (day they must be given) to men of the lowest castes.
- The parents (shall offer water for a son who dies) after he has teethed.
- If infants, (relatives) who live in a distant country, those who have renounced domestic life, and those who are not Sapindas, (die), the purification is instantaneous.

- Kings (remain always pure), lest their business be impeded,
- And a Brahmana, lest his daily study of the Veda be interrupted.

RULES FOR FUNERALS

- Now (follow the rules regarding) funeral oblations (Sradha).
- He shall offer (them) to the Manes on the day of the new moon,
- Or in the dark half (of the month) after the fourth (lunar day),
- Or on any day (of the dark half) according to (the results he may) desire;
- Or if (particularly appropriate) materials or (particularly holy) Brahmanas are at hand, or (the sacrificer is) near a (particularly sacred) place, no restriction as to time (need be observed):
- Let him select as good food as he can afford, and have it prepared as well as possible.
- He shall feed an uneven number (of Brahmanas), at least nine,
- Or as many as he is able (to entertain).
- (Let him feed such as are) Srotriyas and endowed with eloquence and beauty, of a (suitable) age, and of a virtuous disposition.
- It is preferable to give (food at a Sradha) to young (men in the prime of life).
- Some (declare, that the age of the guests shall be) proportionate to (that of) the Manes.
- And he shall not try to contract a friendship by an (invitation to a Sradha).
- On failure of sons (the deceased person's) Sapindas, the Sapindas of his mother, or his pupils shall offer (the funeral oblations),
- On failure of these an officiating priest or the teacher.
- The Manes are satisfied for a month by gifts of sesamum, Masha-beans, rice, barley, and water,

For (three) years by fish and the flesh of common deer, spotted deer, hares, turtles, boars, and sheep,

For twelve years by cow's milk and messes made of milk,

For a very long time by the flesh of (the crane called) Vardhrinasa, by Ocyrnurn sanctum (sacred Basil), and by the flesh of goats, (especially) of a red (he-goat), and of a rhinoceros, (if these dishes are) mixed with honey.

- Let him not feed a thief, a eunuch, an outcast, an atheist, a person who lives like an atheist, the destroyer of the sacred fire; (the husband of) a younger sister married before the elder, the husband of an elder sister whose youngest sister was married first, a person who sacrifices for women or for a multitude of men, a man who tends goats, who has given up the fire-worship, who drinks spirituous liquor, whose conduct is blamable, who is a false witness, who lives as a doorkeeper;
- Who lives with another man's wife, and the (husband) who allows that (must not be invited);
- (Nor shall he feed) a man who eats the food of a person born from adulterous intercourse, a seller of Soma, an incendiary, a poisoner, a

man who during studentship has broken the vow of chastity, Who is the servant of a guild, who has intercourse with females who must not be touched, who delights in doing hurt, a younger brother married before the elder brother, an elder brother married after his younger brother, an elder brother whose junior has kindled the sacred fire first, a younger brother who has done that, a person who despairs of himself, a bald man, a man who has deformed nails, or black teeth, who suffers from white leprosy, the son of a twice-married woman, a gambler, a man who neglects the recitation (of the sacred texts), a servant of the king, any one who uses false weights and measures, whose only wife is a Sudra female, who neglects the daily study, who suffers from spotted leprosy, a usurer, a person who lives by trade or handicrafts, by the use of the bow, by playing musical instruments, or, by beating time, by dancing, and by singing;

- Nor, (sons) who have enforced a division of the family estate against the wish of their father.
- Some (allow) pupils and kinsmen (to be invited).
- Let him feed upwards of three (or) one (guest) endowed with (particularly) excellent qualities.
- If he enters the bed of a Sudra female immediately after partaking of a funeral repast, his ancestors will lie for a month in her ordure.
- Therefore he shall remain chaste on that day.
- If (a funeral offering) is looked at by dogs, Kandalas, or outcasts, it is blemished.
- Therefore he shall offer it in an enclosed (place),
- Or he shall scatter grains of sesamum over it,
- Or a man who sanctifies the company shall remove the blemish.
- Persons who sanctify the company are, any one who knows the six Aegas, who sings the Gyeshtha-samans, who knows the three texts regarding the Nakiketa-fire, who knows the text which contains thrice the word Madhu, who knows the text which thrice contains the word Suparna, who keeps five fires, a Snataka, any one who knows the Mantras and Brahmanas, who knows the sacred law, and in whose family the study and teaching of the Veda are hereditary.
- (The same rule applies) to sacrifices offered to gods and men.
- Some (forbid the invitation of) bald men and the rest to a funeral repast only.

RULES FOR LEARNING THE VEDAS

- The annual (term for studying the Veda) begins on the full moon of the month Sravana (July-August); or let him perform the Upakarman on (the full moon of) Bhadrapada (August-September) and study the Vedic texts,
- During four months and a half, or during five months, or as long as the sun moves towards the South.

- Let him remain chaste, let him not shave, nor eat flesh (during that period);
- Or (this) restrictive rule may (be observed) during two months.
- He shall not recite the Veda, if the wind whirls up the dust in the daytime,
- Nor if it is audible at night,
- Nor if the sound of a Vana, of a large or a small drum, the noise of a chariot, and the wail of a person in pain (are heard),
- Nor if the barking of many dogs and jackals, or the braying of many donkeys (is heard),
- Nor if (the sky appears flaming) red, a rainbow (is seen), or hoarfrost (lies on the ground),
- Nor if clouds rise out of season.
- (Let him not study) when he feels the necessity to void urine or excrements,
- Nor at midnight, in the twilight, and (while standing) in the water,
- Nor while rain falls.
- Some (declare, that the recitation of the Veda must be interrupted only) when (the rain) is dripping from the edge of the roof.
- (Nor shall he study) when the teachers (of the gods and Asuras, *i.e.*, the planets Jupiter and Venus) are surrounded by a halo,
- Nor (when this happens) to the two (great) lights (the sun and the moon),
- (Nor) while he is in fear, riding in a carriage or on beasts of burden, or lying down, nor while his feet are raised,
- (Nor) in a burial-ground, at the extremity of a village, on a highroad, nor during impurity,
- Nor while a foul smell (is perceptible), while a corpse or a Kandala (is) in (the village), nor in the neighbourhood of a Sudra,
- Nor while (he suffers from) sour eructations.
- The Rigveda and the Yagur-veda (shall not be studied) while the sound of the Samans (is heard).
- The fall of a thunderbolt, an earthquake, an eclipse, and (the fall of) meteors (are reasons for discontinuing the reading of the Veda) until the same time (next day),
- Likewise when it thunders and rains and when lightning (flashes out of season) after the fires have become visible (in the twilight).
- (If these phenomena appear) during the (rainy) season, (the reading must be interrupted) for a day (or a night),
- And if lightning (is observed) during the night, (the recitation of the Veda shall be interrupted) until the third watch.
- If (lightning) flashes during the third part of the day or later, (the Veda must not be read) during the entire (following night).
- (According to the opinion) of some, a fiery meteor (has the same effect) as lightning,

- Likewise thunder (which is heard) during the last part of the day,
- (Or) also in the twilight.
- (If thunder is heard) before midnight, (the study of the Veda must be interrupted) during the whole night.
- (If it is heard) during the (early part of the) day, (the interruption must continue) as long as the sun shines,
- Likewise if the king of the country has died.
- If one (pupil) has gone on a journey (and) another (stays) with (the teacher, the study of the Veda shall be interrupted until the absentee returns).
- When an attack (is made on the village), or a fire (breaks out), when one Veda has been completed, after (an attack of) vomiting, when he has partaken of a funeral repast or of a dinner on the occasion of a sacrifice offered to men, (the study of the Veda shall be interrupted) for a day and a night,
- Likewise on the day of the new moon.
- (On the latter occasion it may also be interrupted) for two days.
- (The Veda shall not be studied for a day and a night) on the full moon days of the months Karttika, Phalguna, and Ashadha.
- On the three Ashtakas (the Veda shall not be studied) for three (days and) nights.
- Some (declare, that the rule applies) to the last Ashtaka (only).
- (On the occasion of) the annual (Upakarman and Utsarga the reading shall be interrupted) on the day (of the ceremony) and those preceding and following it.
- All (teachers declare, that the reading shall be interrupted for three days) when rain, thunder, and lightning (are observed) simultaneously,
- When the rain is very heavy, (the reading shall be interrupted as long as it lasts).
- On a festive day (the reading shall be stopped) after the (morning) meal,
- And he who has begun to study (after the Upakarman shall not read) at night for four Muhurtas.
- Some (declare, that the recitation of the Veda is) always (forbidden) in a town.
- While he is impure (he shall) not even (recite the Veda) mentally.
- (The study) of those who offer a funeral sacrifice (must be interrupted) until the same time next day,
- Even if uncooked grain is offered at the funeral sacrifice.
- And (those rules regarding the stoppage of the reading must be observed), which they teach in the several schools.

FOODING RULES FOR STUDENTS

- A Brahmana may eat the food given by twice-born men, who are praised for (the faithful performance of their) duties,

- And he may accept (other gifts from them).
- Fire-wood, water, grass, roots, fruits, honey, (a promise of) safety, food brought unsolicited, a couch, a seat, shelter, a carriage, milk, sour milk, (roasted) grain, small fish, millet, a garland, venison, and vegetables, (spontaneously offered by a man) of any (caste) must not be refused,
- Nor anything else that may be required for providing for (the worship of the) Manes and gods, for Gurus and dependents.
- If the means for sustaining life cannot (be procured) otherwise, (they may be accepted) from a Sudra.
- A herdsman, a husbandman, an acquaintance of the family, a barber, and a servant are persons whose food may be eaten,
- And a trader, who is not (at the same time) an artisan.
- (A householder) shall not eat every day (the food of strangers).
- Food into which a hair or an insect has fallen (must not be eaten),
- (Nor) what has been touched by a woman during her courses, by a black bird, or with the foot,
- (Nor) what has been looked at by the murderer of a learned Brahmana,
- (Nor) what has been smelt at by a cow,
- (Nor) what is naturally bad,
- Nor (food) that (has turned) sour by itself, excepting sour milk,
- (Nor) what has been cooked twice,
- (Nor) what (has become) stale (by being kept), except vegetables, food that requires mastication, fatty and oily substances, meat and honey.
- (Food given) by a person who has been cast off (by his parents), by a woman of bad character, an Abhisasta, a hermaphrodite, a police-officer, a carpenter, a miser, a jailer, a surgeon, one who hunts without using the bow, a man who eats the leavings (of others), by a multitude (of men), and by an enemy (must not be eaten),
- Nor what is given by such men who defile the company at a funeral dinner, as have been enumerated before bald men;
- (A dinner) which is prepared for no (holy) purpose or where (the guests) sip water or rise against the rule,
- Or where (one's) equals are honoured in a different manner, and persons who are not (one's) equals are honoured in the same manner (as oneself, must not be eaten),
- Nor (food that is given) in a disrespectful manner.
- And the milk which a cow gives during the first ten days after calving (must not be drunk),
- Nor (that) of goats and buffalo-cows (under the same conditions).
- (The milk) of sheep, camels, and of one-hoofed animals must not be drunk under any circumstances,
- Nor (that) of animals from whose udders the milk flows spontaneously, of those that bring forth twins, and of those giving milk while big with young,

- Nor the milk of a cow whose calf is dead or separated from her.
- And five-toed animals (must) not (be eaten) excepting the hedgehog, the hare, the porcupine, the iguana, the rhinoceros, and the tortoise,
- Nor animals which have a double row of teeth, those which are covered with an excessive quantity of hair, those which have no hair, one-hoofed animals, sparrows, the (heron called) Plava, Brahmani ducks, and swans,
- (Nor) crows, herons, vultures, and falcons, (birds) born in the water, (birds) with red feet and beaks, tame cocks and pigs,
- (Nor) milch-cows and draught-oxen,
- Nor the flesh of animals whose milk-teeth have not fallen out, which are diseased, nor the meat of those (which have been killed) for no (sacred) purpose,
- Nor young sprouts, mushrooms, garlic, and substances exuding (from trees),
- Nor red (juices) which issue from incisions.
- Woodpeckers, egrets, ibis, parrots, cormorants, peewits, and flying foxes, (as well as birds) flying at night, (ought not to be eaten).
- Birds that feed striking with their beaks, or scratching with their feet, and are not web-footed may be eaten,
- And fishes that are not misshapen,
- And (animals) that must be slain for (the fulfilment of) the sacred law.
- Let him eat (the flesh of animals) killed by beasts of prey, after having washed it, if no blemish is visible, and if it is declared to be fit for use by the word (of a Brahmana).

LAWS FOR THE WIFE

- A wife is not independent with respect to (the fulfilment of) the sacred law.
- Let her not violate her duty towards her husband.
- Let her restrain her tongue, eyes, and (organs of) action.
- A woman whose husband is dead and who desires offspring (may bear a son) to her brother-in-law.
- Let her obtain the permission of her Gurus, and let her have intercourse during the proper season only.
- (On failure of a brother-in-law she may obtain offspring) by (cohabiting with) a-Sapinda, a Sagotra, a Samanpravara, or one who belongs to the same caste.
- Some (declare, that she shall cohabit) with nobody but a brother-in-law.
- (She shall) not (bear) more than two (sons).
- The child belongs to him who begat it,
- Except if an agreement (to the contrary has been made).
- (And the child begotten at) a living husband's (request) on his wife (belongs to the husband).

- (But if it was begotten) by a stranger (it belongs) to the latter,
- Or to both (the natural father and the husband of the mother).
- But being reared by the husband, (it belongs to him.)
- (A wife must) wait for six years, if her husband has disappeared. If he is heard of, she shall go to him.
- But if (the husband) has renounced domestic life, (his wife must refrain) from intercourse (with other men).
- (The wife) of a Brahmana (who has gone to a foreign country) for the purpose of studying (must wait) twelve years.
- And in like manner if an elder brother (has gone to a foreign country) his younger brother (must wait twelve years) before he takes a wife or kindles the domestic fire.
- Some (declare, that he shall wait) six years.
- A (marriageable) maiden (who is not given in marriage) shall allow three monthly periods to pass, and afterwards unite herself, of her own will, to a blameless man, giving up the ornaments received from her father or her family).
- A girl should be given in marriage before (she attains the age of) puberty.
- He who neglects it, commits sin.
- Some (declare, that a girl shall be given in marriage) before she wears clothes.
- In order to defray the expenses of a wedding, and when engaged in a rite (enjoined by) the sacred law, he may take money (by fraud or force) from a Sudra,
- Or from a man rich in small cattle, who neglects his religious duties, though he does not belong, to the Sudra caste,
- Or from the owner of a hundred cows, who does not kindle the sacred fire,
- Or from the owner of a thousand cows, who does not drink Soma.
- And when he has not eaten (at the time of six meals he may take) at the time of the seventh meal (as much as will sustain life), not (such a quantity as will serve) to make a hoard,
- Even from men who do not neglect their duties.
- If he is examined by the king (regarding his deed), he shall confess (it and his condition).
- For if he possesses sacred learning and a good character, he must be maintained by the (king).
- If the sacred law is violated and the (king) does not do (his duty), he commits sin.

LAWS OF CASTE AND ORDER

- The law of castes and of orders has been declared.
- Now, indeed, man (in) this (world) is polluted by a vile action, such as sacrificing for men unworthy to offer a sacrifice, eating forbidden food, speaking what ought not to be spoken, neglecting what is prescribed, practising what is forbidden.

- They are in doubt if he shall perform a penance for such (a deed) or if he shall not do it.
- (Some) declare, that he shall not do it,
- Because the deed does not perish.
- The most excellent (opinion is), that he shall perform (a penance).
- For it is declared in the Veda, that he who has offered a Punastoma (may) again come to (partake of) the libations of Soma,
- Likewise he who has offered a Vratyastoma.
- (The Veda says) further: 'He who offers a horse-sacrifice, conquers all sin, he destroys the guilt of the murder of a Brahmana;
- Moreover: 'He shall make an Abhisasta perform an Agnishtut sacrifice.'
- Reciting the Veda, austerity, a sacrifice, fasting, giving gifts are the means for expiating such a (blamable act).
- The purificatory (texts are), the Upanishads, the Vedantas, the Samhita-text of all the Vedas, the (Anuvakas called) Madhu, the (hymn of) Aghamarshana, the Atharvasiras, the (Anuvakas called the) Rudras, the Purusha-hymn, the two Samans (called) Ragana and Rauhineya, the Brihat (Saman) and the Rathantara, the Purushagati (Saman), the Mahanamnis, the Mahavairaga (Saman), the Mahadivakirtya (Saman), any of the Gyeshta Samans, the Bahishpavamana (Saman), the Kushmandas, the Pavamanis, and the Savitri.
- To live on milk alone, to eat vegetables only, to eat fruits only, (to live on) barley-gruel prepared of a handful of grain, to eat gold, to eat clarified butter, and to drink Soma (are modes of living) which purify.
- All mountains, all rivers, holy lakes, places of pilgrimage, the dwellings of Rishis, cow-pens, and temples of the gods (are) places (which destroy sin).
- Contenance, speaking the truth, bathing morning, noon, and evening, standing in wet clothes, sleeping on the ground, and fasting (are the various kinds of) austerity.
- Gold, a cow, a dress, a horse, land, sesamum, clarified butter, and food are the gifts (which destroy sin).
- A year, six months, four (months), three (months), two (months), one (month), twenty-four days, twelve days, six days, three days, a day and a night are the periods (for penances).
- These (acts) may be optionally performed when no (particular penance) has been prescribed,
- (Viz.) for great sins difficult (penances), and for trivial faults easy ones.
- The Krikkhra and the Atikrikkhra, (as well as) the Kandrayana, are penances for all (offences).

LAWS FOR PUNISHMENT

- Let him cast off a father who assassinates a king, who sacrifices for Sudras, who sacrifices for his own sake (accepting) money from Sudras,

who divulges the Veda (to persons not authorised to study it), who kills a learned Brahmana, who dwells with men of the lowest castes, or (cohabits) with a female of one of the lowest castes.

- Having assembled the (sinner's) spiritual Gurus and the relatives by marriage, (the sons and other kinsmen) shall perform (for him) all the funeral rites, the first of which is the libation of water,
- And (afterwards) they shall overturn his water-vessel (in the following manner):
- A slave or a hired servant shall fetch an impure vessel from a dust-heap, fill it (with water taken) from the pot of a female slave and, his face turned towards the south upset it with his foot, pronouncing (the sinner's) name (and saying): 'I deprive N. N. of water.'
- All (the kinsmen) shall touch him (the slave) passing their sacrificial cords over the right shoulder and under the left arm, and untying the locks on their heads.
- The spiritual Gurus and the relatives by marriage shall look on.
- Having bathed, they (all shall) enter the village.
- He who afterwards unintentionally speaks to the (outcast sinner) shall stand during one night, reciting the Savitri.
- If he intentionally (converses with the outcast, he must perform the same penance) for three nights.
- But if an (outcast sinner) is purified by (performing) a penance, (his kinsmen) shall, after he has become pure, fill a golden vessel (with water) from a very holy lake or a river, and make him bathe in water (taken) from that (vessel).
- Then they shall give him that vessel and he, after taking it, shall mutter (the following Mantras): 'Cleansed is the sky, cleansed is the earth, cleansed and auspicious is the middle sphere; I here take that which is brilliant.'
- Let him offer clarified butter, (reciting) these Yagus formulas, the Pavamanis, the Taratsamandis, and the Kushmandas.
- Let him present gold or a cow to a Brahmana,
- And to his teacher.
- But he, whose penance lasts for his (whole) lifetime, will be purified after death.
- Let (his kinsmen) perform for him all the funeral rites, the first of which is the libation of water.
- This same (ceremony of bathing in) water consecrated for the sake of purification (must be performed) in the case of all minor offences (upapatakas).

LAWS OF PUNISHMENT FOR KILLING A BRAHMAN

- The murderer of a Brahmana, he who drinks spirituous liquor, the violator of a Guru's bed, he who has connection with the female

relatives of his mother and of his father (within six degrees) or with sisters and their female offspring, he who steals (the gold of a Brahmana), an atheist, he who constantly repeats blamable acts, he who does not cast off persons guilty of a crime causing loss of caste, and he who forsakes blameless (relatives), become outcasts,

- Likewise those who instigate others to acts causing loss of caste,
- And he who for a (whole) year associates with outcasts.
- To be an outcast means to be deprived of the right to follow the lawful occupations of twice-born men,
- And to be deprived after death of the rewards of meritorious deeds.
- Some call (this condition) hell.
- Manu (declares, that) the first three (crimes, named above) cannot be expiated.
- Some (declare, that a man) does not become an outcast (by having connection) with female (relatives), except (when he violates) a Guru's bed.
- A woman becomes an outcast by procuring abortion, by connection with a (man of) lower (caste) and (the like heinous crimes).
- Giving false evidence, calumnies which will reach (the ears of) the king, an untrue accusation brought against a Guru (are acts) equal to mortal sins (mahapataka).
- (The guilt of a) minor offence (upapataka) rests on those who (have been declared to) defile the company (at a funeral dinner and have been named above) before the bald man, on killers of kine, those who forget the Veda, those who pronounce Vedic texts for the (last-mentioned sinners), students who break the vow of chastity, and those who allow the time for the initiation to pass.
- An officiating priest must be forsaken, if he is ignorant (of the rules of the sacrifice), a teacher, if he does not impart instruction, and (both) if they commit crimes causing loss of caste.
- He who forsakes (them) under any other circumstances, becomes an outcast.
- Some declare, that he, also, who receives (a person who has unjustly forsaken his priest or teacher, becomes an outcast).
- The mother and the father must not be treated improperly under any circumstances.
- But (the sons) shall not take their property.
- By accusing a Brahmana of a crime (the accuser commits) a sin equal (to that of the accused).
- If (the accused is) innocent, (the accuser's guilt is) twice (as great as that of the crime which he imputed to the other).
- And he who, though able to rescue a weak man from injury, (does) not (do it, incurs as much guilt as he who injures the other).
- He who in anger raises (his hand or a weapon) against a Brahmana, will be banished from heaven for a hundred years.

- If he strikes, (he will lose heaven) for a thousand (years).
- If blood flows, (he will lose heaven) for a number of years equal to (that of the particles of) dust which the spilt (blood) binds together.

THE PENANCES

- (Now follows the description of the) penances.
- He who has (intentionally) slain a Brahmana shall emaciate himself, and thrice throw himself into a fire,
- Or he may become in battle a target for armed men,
- Or, remaining chaste, he may, during twelve years, enter the village (only) for the purpose of begging, carrying the foot of a bedstead and a skull in his hand and proclaiming his deed.
- If he meets an Arya, he shall step out of the road.
- Standing by day, sitting at night, and bathing in the morning, at noon, and in the evening, he may be purified (after twelve years),
- Or by saving the life of a Brahmana,
- Or if he is, at least, thrice vanquished in (trying to recover) the property (of a Brahmana) stolen (by robbers),
- Or by bathing (with the priests) at (the end of) a horse-sacrifice,
- Or at (the end of) any other (Vedic) sacrifice, provided that an Agnishtut (sacrifice) forms part of it.
- (The same penances must be performed) even if he has attempted the life of a Brahmana, but failed to kill him,
- Likewise if he has killed a female (of the Brahmana caste) who had bathed after temporary uncleanness,
- Also for (destroying) the embryo of a Brahmana, though (its sex) may be not distinguishable.
- For (intentionally) killing a Kshatriya the normal vow of continence (must be kept) for six years; and he shall give one thousand cows and one bull.
- For (killing) a Vaisya (the same penance must be performed) during three years; and he shall give one hundred cows and one bull.
- For (killing) a Sudra (the same penance must be performed) during one year; and he shall give ten cows and one bull.
- And the same (rule applies) if a female (has been killed) who was not in the condition (described in Sutra 12).
- (The penance for killing) a cow is the same as for (the murder of) a Vaisya,
- And for injuring a frog, an ichneumon, a crow, a chameleon, a muskrat, a mouse, and a dog,
- And for killing one thousand (small animals) that have bones,
- Also for (killing) an ox-load of (animals) that have no bones;
- Or he may also give something for (the destruction of) each animal that has bones.

- For (killing) a eunuch (he shall give) a load of straw and a masha of lead;
- For (killing) a boar, a pot of clarified butter;
- For (killing) a snake, a bar of iron;
- For (killing) an unchaste woman, who is merely in name a Brahmani, a leather bag;
- (For killing a woman who subsists) by harlotry, nothing at all.
- For preventing that (a Brahmana) obtains a wife, food, or money, (he must) in each case (remain chaste) during a year,
- For adultery two years,
- (For adultery with the wife) of a Srotriya three years.
- And if he has received a present (from the woman), he shall throw it away,
- Or restore it to the giver.
- If he has employed Vedic texts for people (with whom such intercourse is) forbidden, (he shall remain chaste for a year), provided (the portion of the Veda thus employed) contained one thousand words.
- And the same (penance must be performed) by him who extinguishes the (sacred) fires, who neglects the daily recitation of the Veda, or (who is guilty) of a minor offence (upapataka),
- Also by a wife who violates her duty (to her husband): but, being guarded, she shall receive food.
- For committing a bestial crime, excepting (the case of) a cow, (he shall offer) an oblation of clarified butter, (reciting) the Kushmanda texts.
- They shall pour hot spirituous liquor into the mouth of a Brahmana who has drunk such liquor; he will be purified after death.
- If he has drunk it unintentionally, (he shall drink) for three days hot milk, clarified butter, and water, and (inhale hot) air. That (penance is called the Tapta-)krikkhra. Afterwards he shall be again initiated.
- And (the same penance must be performed) for swallowing urine, excrements, or semen,
- And (for eating) any part of a carnivorous beast, of a camel or of an ass,
- And of tame cocks or tame pigs.
- If he smells the fume (exhaled) by a man who has drunk spirituous liquor, (he shall) thrice restrain his breath and eat clarified butter,
- Also, if he has been bitten by (one of the animals mentioned) above (Sutras 4-5).
- He who has defiled the bed of his Guru shall extend himself on a heated iron bed,
- Or he shall embrace the red-hot iron image of a woman.
- Or he shall tear out his organ and testicles and, holding them in his hands, walk straight towards the southwest, until he falls down dead,
- He will be purified after death.

- (The guilt of him who has intercourse) with the wife of a friend, a sister, a female belonging to the same family, the wife of a pupil, a daughter-in-law, or with a cow, is as great as that of (him who violates his Guru's) bed.
- Some (declare, that the guilt of such a sinner is equal to) that of a student who breaks the vow of chastity.
- A woman who commits adultery with a man of lower caste the king shall cause to be devoured by dogs in a public place.
- He shall cause the adulterer to be killed (also).
- (Or he shall punish him in the manner) which has been declared (above).
- A student who has broken the vow of chastity shall offer an ass to Nirriti on a cross-road.
- Putting on the skin of that (ass), with the hair turned outside, and holding a red (earthen) vessel in his hands, he shall beg in seven houses, proclaiming his deed.
- He will be purified after a year.
- For an involuntary discharge caused by fear or sickness, or happening during sleep, and if for seven days the fire-oblations and begging have been neglected, (a student) shall make an offering of clarified butter or (place) two pieces of fuel (in the fire) reciting the two (verses called) Retasya.
- Let him who was asleep when the sun rose remain standing during the day, continent and fasting, and him who was asleep when the sun set (remain in the same position) during the night, reciting the Gayatri.
- He who has looked at an impure (person), shall look at the sun and restrain his breath (once).
- Let him who has eaten forbidden food [or swallowed impure substances], (fast until) his entrails are empty.
- (In order to attain that), he must entirely abstain from food at least for three (days and) nights.
- Or (he becomes pure) after eating during seven (days and) nights fruits that have become detached spontaneously, avoiding (all other food).
- (If, he has eaten forbidden food mentioned above) before five-toed animals, he must throw it up and eat clarified butter.
- For abuse, speaking an untruth, and doing injury, (he shall practise) austerities for no longer period than three (days and) nights.
- If (the abuse) was merited, (he shall offer) burnt-oblations, reciting (the Mantras) addressed to Varuna and (the hymns) revealed by Manu.
- Some (declare, that) an untruth (spoken) at the time of marriage, during dalliance, in jest or while (one suffers severe) pain is venial.
- But (that is) certainly not (the case) when (the untruth) concerns a Guru.
- For if he lies in his heart only to a Guru regarding small matters even, he destroys (himself), seven descendants, and seven ancestors.
- For intercourse with a female (of one) of the lowest castes, he shall perform a Krikkhra penance during one year.

- (For committing the same sin) undesignedly, (he shall perform the same penance) during twelve (days and) nights.
- For connection with a woman during her courses, (he shall perform the same penance) for three (days and) nights.
- A secret penance (must be performed) by him whose sin is not publicly known.
- He who desires to accept or has accepted (a gift) which ought not to be accepted, shall recite the four Rik-verses (IX, 58, 1-4), (beginning) Tarat sa mandi, (standing) in water.
- He who desires to eat forbidden food, shall scatter earth (on it).
- Some (declare, that) he who has connection with a woman during her courses becomes pure by bathing.
- Some (declare, that this rule holds good) in the case of (one's own) wives (only).
- The (secret) penance for killing a learned Brahmana (is as follows):, Living during ten days on milk (alone) or (on food fit for offerings), during a second (period of ten days) on clarified butter, and during a third (period of ten days) on water, partaking of (such food) once only each day, in the morning, and keeping his garments constantly wet, he shall (daily) offer (eight) oblations, (representing) the hair, the nails, the skin, the flesh, the blood, the sinews, the bones, (and) the marrow. The end of each (Mantra) shall be, 'I offer in the mouth of the Atman (the Self), in the jaws of Death.'
- Now another (penance for the murder of a Brahmana will be described):
- The rule (as to eating and so forth), which has been declared (above, Sutra 6, must be observed),
- (And) he shall offer clarified butter, reciting (the sacred text Rigveda I, 189, 2), 'O fire, do thou ferry over,' the Mahavyahritis, and the Kushmandas;
- Or, for the murder of a Brahmana, for drinking spirituous liquor, for stealing (gold), and for the violation of a Guru's bed, he may perform that (same vow), tire himself by repeatedly stopping his breath, and recite (the hymn seen by) Aghamarshana. That is equal (in efficacy) to the final bath at a horse-sacrifice;
- Or, repeating the Gayatri a thousand times, he, forsooth, purifies himself;
- Or, thrice repeating (the hymn of) Aghamarshana while immersed in water, he is freed from all sins.

LAWS FOR HIDDEN OFFENCES

- Now they say: 'How many (gods) does a student enter who violates the vow of chastity?'
- (And they answer): 'His vital spirits (go to) the Maruts (winds), his strength to Indra, his eminence in sacred learning to Brihaspati, all the remaining parts to Agni.'

- He kindles the fire in the night of the new moon, and offers, by way of penance, two oblations of clarified butter.
- (Reciting these two sacred texts), 'Defiled by lust am I, defiled am I, oh Lust; to Lust svaha;' 'Injured by lust am I, injured am I, oh Lust; to Lust svaha.' (Next) he (silently) places one piece of sacred fuel (on the fire), sprinkles water round the fire, offers the Yagnavastu (oblation), and approaching (the fire) worships it, thrice (reciting the text), 'May the waters sprinkle me.'
- These worlds are three; in order to conquer these worlds, in order to gain mastery over these worlds, (this rite must be performed.)
- According to some, the above (described) rite is a penance (for all hidden offences) in general, (and they say) regarding it, 'He who may be impure, as it were, shall offer burnt-oblations in this manner, and shall recite sacred texts in this manner; the fee (of the officiating priest shall be) whatever he may choose.'
- He who has been guilty of cheating, of calumniating, of acting contrary to the rule of conduct, of eating or drinking things forbidden, of connection with a woman of the Sudra caste, of an unnatural crime, and even of performing magic rites with intent (to harm his enemies), shall bathe and sprinkle himself with water, reciting the texts addressed to the Waters, or those addressed to Varuna, or other purificatory texts.
- For offences committed by speaking or thinking of forbidden things, the five Vyahritis (must be recited).
- Or for all (offences) he may sip water, (reciting) in the morning (the text), 'May the day and the sun purify me;' and in the evening, 'The night and Varuna.'
- Or he may offer eight pieces of sacred fuel, [paragraph continues] (reciting the texts beginning) 'Devakritasya.' By merely offering them he becomes free from all sin.

DIFFICULT PENANCES

- Now, therefore, we will describe three Krikkhras (or difficult penances).
- (During three days) he shall eat at the morning-meal food fit for offerings, and fast in the evening.
- Next, he shall eat (food fit for offerings), during another period of three days, in the evening (only).
- Next, during another period of three days, he shall not ask anybody (for food).
- Next, he shall fast during another period of three days.
- He who desires (to be purified) quickly, shall stand during the day, and sit during the night.
- He shall speak the truth.
- He shall not converse with anybody but Aryans.
- He shall daily sing the two (Samans called) Raurava and Yaudhagaya.

- He shall bathe in the morning, at noon, and in the evening reciting, the three (verses which begin) 'For ye waters are,' and he shall dry himself reciting the eight purificatory (verses which begin) 'The golden-coloured.'
- Next (he shall offer) libations of water.
- Adoration to him who creates self-consciousness, who creates matter, who gives gifts, who destroys (sin), who performs penance, to Punarvasu, adoration. Adoration to him who is worthy of (offerings) consisting of Munga grass, who is worth), of (offerings of) water, who conquers wealth, to him who conquers the universe, adoration. Adoration to him who gives success, who gives full success, who gives great success, to him who carries (all undertakings) to a successful issue, adoration. Adoration to Rudra, the lord of cattle, the great god, the triocular, solitary, supreme lord Hari, to dread Sarva, to Isana who carries the thunderbolt, to the fierce wearer of matted locks, adoration. Adoration to the Sun, to Aditi's offspring, adoration. Adoration to him whose neck is blue, to him whose throat is dark-blue, adoration. Adoration to the black one, to the brown one, adoration. Adoration to Indra, the first-born, the best, the ancient, to chaste Harikesa, adoration. Adoration to the truthful purifier, to fire-coloured Kama, who changes his form at pleasure, adoration. Adoration to the brilliant one, to him whose form is brilliant, adoration. Adoration to the fierce one, to him whose form is fierce, adoration. Adoration to Sobhya, the beautiful, the great male, the middle male, the highest male, to the student of the Veda, adoration. Adoration to him who wears the moon on his forehead, to him whose garment is a skin, adoration.
- The worship of Aditya (the sun) must be performed with the same (texts).
- Offerings of clarified butter (must be made with the help of) the same (texts).
- At the end of the period of twelve days he shall boil rice and make offerings to the following deities,
- (*Viz.*) to Agni svaha, to Soma svaha, to Agni and Soma (conjointly), to Indra and Agni (conjointly), to Indra, to all the gods, to Brahman, to Pragapati, (and) to Agni Svishtakrit.
- Afterwards (he must feed) Brahmanas.
- By the above (rules) the Atikrikkhra (or exceedingly difficult) penance has been explained.
- (But when he performs that), he shall eat (only) as much as he can take at one (mouthful).
- The third (Krikkhra) is that where water is the (only) food, and it is called Krikkhratikrikkhra (or the most difficult penance).
- He who has performed the first of these (three) becomes pure, sanctified, and worthy (to follow) the occupations (of his caste).

- He who has performed the second is freed from all sins which he commits, excepting mortal sins (mahapataka).
- He who has performed the third, removes all guilt.
- Now he who performs these three Krikkhras becomes perfect in all the Vedas, and known to all the gods;
- Likewise he who knows this.

LUNAR PENANCES

- Now, therefore, the Kandrayana (or lunar penance will be described).
- The (general) rules prescribed for a Krikkhra (are applicable) to that.
- (The hair must be) shaved, in case it (is performed as) a penance.
- He shall fast on the day preceding the full moon.
- And (he shall offer) libations (of water), oblations of clarified butter, consecrate the sacrificial viands, and worship the moon, reciting these (rikas), 'Increase' (Rigveda I, 91, 17), 'May milk be joined with thee' (Rigveda I, 91, 18, and) 'Ever new' (Rigveda X, 85, 19).
- He shall offer (clarified butter), reciting the four (rikas beginning) 'Yad deva devahedanam.'
- And at the end (of the offering of clarified butter he shall offer) pieces of sacred fuel, reciting (the texts beginning) 'Devakritasya.'
- Each mouthful of food must be consecrated by the mental recitations (of one) of the following (words): Om, bhuh, bhuvah, svah, austerity, truth, fame, prosperity, vigour, refreshment, strength, lustre, soul, law, Shiva.
- Or (he may consecrate) all (of them at once, saying), Adoration svaha.
- The size of a mouthful (shall be such) as not to cause a distortion of the mouth (in swallowing it).
- The sacrificial viands are, boiled rice, food obtained by begging, ground barley, grain separated from the husk, barley-gruel, vegetables, milk, sour milk, clarified butter, roots, fruits, and water; (among these) each succeeding one is preferable (to those enumerated earlier).
- He shall eat on the day of the full moon fifteen mouthfuls, and during the dark half (of the month) daily diminish his portion by one (mouthful).
- He shall fast on the day of the new moon, and during the bright half (of the month) daily increase (his portion) by one (mouthful).
- According to some (the order shall be) inverted.
- That (is called) a month, occupied by the Kandrayana penance.
- He who has completed that, becomes free from sin and free from crime, and destroys all guilt.
- He who has completed a second (month, living according to that rule), sanctifies himself, ten ancestors, and ten descendants, as well as (any) company (to which he may be invited);
- And he who has lived for a year (according to that rule), dwells (after death) in the world of the moon.

LAWS FOR INHERITATION

- After the father's death let the sons divide his estate,
- Or, during his lifetime, when the mother is past child-bearing, if he desires it,
- Or the whole (estate may go) to the first-born; (and) he shall support (the rest) as a father.
- But in partition there is an increase of spiritual merit.
- (The additional share) of the eldest (son consists of) a twentieth part (of the estate), a male and a female (of animals with one row of front teeth, such as cows), a carriage yoked with animals that have two rows of front teeth, (and) a bull.
- (The additional share) of the middlemost (consists of) the one-eyed, old, hornless, and tailless animals, if there are several.
- (The additional share) of the youngest (consists of) the sheep, grain, the iron (utensils), a house, a cart yoked (with oxen), and one of each kind of (other) animals.
- All the remaining (property shall be divided) equally.
- Or let the eldest have two shares,
- And the rest one each.
- Or let them each take one kind of property, (selecting), according to seniority, what they desire,
- Ten head of cattle.
- (But) no (one brother shall) take (ten) one-hoofed beasts or (ten) slaves.
- (If a man has several wives) the additional share of the eldest son is one bull (in case he be born of a later-married wife);
- (But the eldest son) being born of the first-married wife (shall have) fifteen cows and one bull;
- Or (let the eldest son) who is born of a later-married wife (share the estate) equally with his younger (brethren born of the first-married wife).
- Or let the special shares (be adjusted) in each class (of sons) according to their mothers.
- A father who has no (male) issue may appoint his daughter (to raise up a son for him), presenting burnt offerings, to Agni (fire) and to Pragapati (the lord of creatures), and addressing (the bridegroom with these words), 'For me be (thy male) offspring.'
- Some declare, that (a daughter becomes) an appointed daughter solely by the intention (of the father).
- Through fear of that (a man) should not marry a girl who has no brothers.
- Sapindas (blood relations within six degrees), Sagotras (relations bearing a common family name), (or) those connected by descent from the same Rishi [paragraph continues] (vaidika gotra), and the wife shall share (the estate) of a person deceased without (male) issue (or an appointed daughter).

- Or (the widow) may seek to raise up offspring (to her deceased husband).
- (A son) begotten on a (widow) whose husband's brother lives, by another (relative), is excluded from inheritance.
- A woman's separate property (goes) to her unmarried daughters, and (on failure of such) to poor (married daughters).
- The sister's fee belongs to her uterine brothers, if her mother be dead.
- Some (declare, that it belongs to them) even while the mother lives.
- The heritage of not reunited (brothers) deceased [paragraph continues] (without male issue goes) to the eldest (brother).
- If a reunited coparcener dies (without male issue) his reunited coparcener takes the heritage.
- A son born after partition takes exclusively (the wealth) of his father.
- What a learned (coparcener) has acquired by his own efforts, he may (at his pleasure) withhold from his unlearned (coparceners).
- Unlearned (coparceners) shall divide (their acquisitions) equally.
- A legitimate son, a son begotten on the wife (by a kinsman), an adopted son, a son made, a son born secretly, and a son abandoned (by his natural parents) inherit the estate (of their fathers).
- The son of an unmarried damsel, the son of a pregnant bride, the son of a twice-married woman, the son of an appointed daughter, a son self-given, and a son bought belong to the family (of their fathers).
- On failure of a legitimate son or (of the) other (five heirs) they receive a fourth (of the estate).
- The son of a Brahmana by a Kshatriya wife, being the eldest and endowed with good qualities, shares equally (with a younger brother, born of a Brahmani);
- (But he shall) not (obtain) the additional share of an eldest son.
- If there are sons begotten (by a Brahmana) on wives of the Kshatriya and Vaisya castes (the division of the estate between them takes place according to the same rules) as (between) the (son by a Kshatriya wife) and the son by a Brahmani.
- And (the sons by a Kshatriya wife and by a Vaisya wife share in the same manner) if (they have been begotten) by a Kshatriya (father).
- The son by a Sudra wife even, if he be obedient like a pupil, receives a provision for maintenance (out of the estate) of a (Brahmana) deceased without (other) male issue.
- According to some, the son of a woman of equal caste even does not inherit, if he be living unrighteously.
- Srotriyas shall divide the estate of a childless Brahmana.
- The king (shall take the property of men) of other (castes).
- An idiot and a eunuch must be supported.
- The (male) offspring of an idiot receives (his father's) share.
- (Sons begotten) on women of higher castes (by men of lower castes shall be treated) like sons (begotten by a Brahmana) on a Sudra wife.

- Water, (property destined for) pious uses or sacrifices, and prepared food shall not be divided;
- Nor (shall a partition be made) of women connected (with members of the family).
- In cases for which no rule has been given, (that course) must be followed of which at least ten (Brahmanas), who are well instructed, skilled in reasoning, and free from covetousness, approve.
- They declare, that an assembly (parishad, shall consist) at least (of the ten following (members, viz.) four men who have completely studied the four Vedas, three men belonging to the (three) orders enumerated first, (and) three men who know (three) different (institutes of) law.
- But on failure of them the decision of one Srotriya, who knows the Veda and is properly instructed (in the duties, shall be followed) in doubtful cases.
- For such a man is incapable of (unjustly) injuring or (unjustly) favouring created beings.
- He who knows the sacred law obtains heavenly bliss, more than (other) righteous men, on account of his knowledge of, and his adherence to it.
- Thus the sacred law (has been explained).

4

Property Regulations in Ancient India

- ‘O sinless One, the whole sacred law, (applicable) to the four castes, has been declared by thee; communicate to us (now), according to the truth, the ultimate retribution for (their) deeds.’
- To the great sages (who addressed him thus) righteous Bhṛigu, sprung from Manu, answered, ‘Hear the decision concerning this whole connexion with actions.’
- Action, which springs from the mind, from speech, and from the body, produces either good or evil results; by action are caused the (various) conditions of men, the highest, the middling, and the lowest.
- Know that the mind is the instigator here below, even to that (action) which is connected with the body, (and) which is of three kinds, has three locations, and falls under ten heads.
- Coveting the property of others, thinking in one’s heart of what is undesirable, and adherence to false (doctrines), are the three kinds of (sinful) mental action.
- Abusing (others, speaking) untruth, detracting from the merits of all men, and talking idly, shall be the four kinds of (evil) verbal action.
- Taking what has not been given, injuring (creatures) without the sanction of the law, and holding criminal intercourse with another man’s wife, are declared to be the three kinds of (wicked) bodily action.
- (A man) obtains (the result of) a good or evil mental (act) in his mind, (that of) a verbal (act) in his speech, (that of) a bodily (act) in his body.

- In consequence of (many) sinful acts committed with his body, a man becomes (in the next birth) something inanimate, in consequence (of sins) committed by speech, a bird, or a beast, and in consequence of mental (sins he is reborn in) a low caste.
- That man is called a (true) tridandin in whose mind these three, the control over his speech (vagdanda), the control over his thoughts (manodanda), and the control over his body (kayadanda), are firmly fixed.
- That man who keeps this threefold control (over himself) with respect to all created beings and wholly subdues desire and wrath, thereby assuredly gains complete success.
- Him who impels this (corporeal) Self to action, they call the Kshetragna (the knower of the field); but him who does the acts, the wise name the Bhutatman (the Self consisting of the elements).
- Another internal Self that is generated with all embodied (Kshetragnas) is called Giva, through which (the Kshetragna) becomes sensible of all pleasure and pain in (successive) births.
- These two, the Great One and the Kshetragna, who are closely united with the elements, pervade him who resides in the multiform created beings.
- From his body innumerable forms go forth, which constantly impel the multiform creatures to action.
- Another strong body, formed of particles (of the) five (elements and) destined to suffer the torments (in hell), is produced after death (in the case) of wicked men.
- When (the evil-doers) by means of that body have suffered there the torments imposed by Yama, (its constituent parts) are united, each according to its class, with those very elements (from which they were taken).
- He, having suffered for his faults, which are produced by attachment to sensual objects, and which result in misery, approaches, free from stains, those two mighty ones.
- Those two together examine without tiring the merit and the guilt of that (individual soul), united with which it obtains bliss or misery both in this world and the next.
- If (the soul) chiefly practises virtue and vice to a small degree, it obtains bliss in heaven, clothed with those very elements.
- But if it chiefly cleaves to vice and to virtue in a small degree, it suffers, deserted by the elements, the torments inflicted by Yama.
- The individual soul, having endured those torments of Yama, again enters, free from taint, those very five elements, each in due proportion.
- Let (man), having recognised even by means of his intellect these transitions of the individual soul (which depend) on merit and demerit, always fix his heart on (the acquisition of) merit.

- Know Goodness (sattva), Activity (ragas), and Darkness (tamas) to be the three qualities of the Self, with which the Great One always completely pervades all existences.
- When one of these qualities wholly predominates in a body, then it makes the embodied (soul) eminently distinguished for that quality.
- Goodness is declared (to have the form of) knowledge, Darkness (of) ignorance, Activity (of) love and hatred; such is the nature of these (three) which is (all-) pervading and clings to everything created.
- When (man) experiences in his soul a (feeling) full of bliss, a deep calm, as it were, and a pure light, then let him know (that it is) among those three (the quality called) Goodness.
- What is mixed with pain and does not give satisfaction to the soul one may know (to be the quality of) Activity, which is difficult to conquer, and which ever draws embodied (souls towards sensual objects).
- What is coupled with delusion, what has the character of an undiscernible mass, what cannot be fathomed by reasoning, what cannot be fully known, one must consider (as the quality of) Darkness.
- I will, moreover, fully describe the results which arise from these three qualities, the excellent ones, the middling ones, and the lowest.
- The study of the Vedas, austerity, (the pursuit of) knowledge, purity, control over the organs, the performance of meritorious acts and meditation on the Soul, (are) the marks of the quality of Goodness.
- Delighting in undertakings, want of firmness, commission of sinful acts, and continual indulgence in sensual pleasures, (are) the marks of the quality of Activity.
- Covetousness, sleepiness, pusillanimity, cruelty, atheism, leading an evil life, a habit of soliciting favours, and inattentiveness, are the marks of the quality of Darkness.
- Know, moreover, the following to be a brief description of the three qualities, each in its order, as they appear in the three (times, the present, past, and future).
- When a (man), having done, doing, or being about to do any act, feels ashamed, the learned may know that all (such acts bear) the mark of the quality of Darkness.
- But, when (a man) desires (to gain) by an act much fame in this world and feels no sorrow on failing, know that it (bears the mark of the quality of) Activity.
- But that (bears) the mark of the quality of Goodness which with his whole (heart) he desires to know, which he is not ashamed to perform, and at which his soul rejoices.
- The craving after sensual pleasures is declared to be the mark of Darkness, (the pursuit of) wealth (the mark) of Activity, (the desire to gain) spiritual merit the mark of Goodness; each later) named quality is) better than the preceding one.

- I will briefly declare in due order what transmigrations in this whole (world a man) obtains through each of these qualities.
- Those endowed with Goodness reach the state of gods, those endowed with Activity the state of men, and those endowed with Darkness ever sink to the condition of beasts; that is the threefold course of transmigrations.
- But know this threefold course of transmigrations that depends on the (three) qualities (to be again) threefold, low, middling, and high, according to the particular nature of the acts and of the knowledge (of each man).
- Immovable (beings), insects, both small and great, fishes, snakes, and tortoises, cattle and wild animals, are the lowest conditions to which (the quality of) Darkness leads.
- Elephants, horses, Sudras, and despicable barbarians, lions, tigers, and boars (are) the middling states, caused by (the quality of) Darkness.
- Karanas, Suparnas and hypocrites, Rakshasas and Pisakas (belong to) the highest (rank of) conditions among those produced by Darkness.
- Ghallas, Mallas, Natas, men who subsist by despicable occupations and those addicted to gambling and drinking (form) the lowest (order of) conditions caused by Activity.
- Kings and Kshatriyas, the domestic priests of kings, and those who delight in the warfare of disputations (constitute) the middling (rank of the) states caused by Activity.
- The Gandharvas, the Guhyakas, and the servants of the gods, likewise the Apsarases, (belong all to) the highest (rank of) conditions produced by Activity.
- Hermits, ascetics, Brahmanas, the crowds of the Vaimanika deities, the lunar mansions, and the Daityas (form) the first (and lowest rank of the) existences caused by Goodness.
- Sacrificers, the sages, the gods, the Vedas, the heavenly lights, the years, the manes, and the Sadhyas (constitute) the second order of existences, caused by Goodness.
- The sages declare Brahma, the creators of the universe, the law, the Great One, and the Undiscernible One (to constitute) the highest order of beings produced by Goodness.
- Thus (the result) of the threefold action, the whole system of transmigrations which (consists) of three classes, (each) with three subdivisions, and which includes all created beings, has been fully pointed out.
- In consequence of attachment to (the objects of) the senses, and in consequence of the non-performance of their duties, fools, the lowest of men, reach the vilest births.
- What wombs this individual soul enters in this world and in consequence of what actions, learn the particulars of that at large and in due order.

- Those who committed mortal sins (mahapataka), having passed during large numbers of years through dreadful hells, obtain, after the expiration of (that term of punishment), the following births.
- The slayer of a Brahmana enters the womb of a dog, a pig, an ass, a camel, a cow, a goat, a sheep, a deer, a bird, a Kandala, and a Pukkasa.
- A Brahmana who drinks (the spirituous liquor called) Sura shall enter (the bodies) of small and large insects, of moths, of birds, feeding on ordure, and of destructive beasts.
- A Brahmana who steals (the gold of a Brahmana shall pass) a thousand times (through the bodies) of spiders, snakes and lizards, of aquatic animals and of destructive Pisakas.
- The violator of a Guru's bed (enters) a hundred times (the forms) of grasses, shrubs, and creepers, likewise of carnivorous (animals) and of (beasts) with fangs and of those doing cruel deeds.
- Men who delight in doing hurt (become) carnivorous (animals); those who eat forbidden food, worms; thieves, creatures consuming their own kind; those who have intercourse with women of the lowest castes, Pretas.
- He who has associated with outcasts, he who has approached the wives of other men, and he who has stolen the property of a Brahmana become Brahmarakshasas.
- A man who out of greed has stolen gems, pearls or coral, or any of the many other kinds of precious things, is born among the goldsmiths.
- For stealing grain (a man) becomes a rat, for stealing yellow metal a Hamsa, for stealing water a Plava, for stealing honey a stinging insect, for stealing milk a crow, for stealing condiments a dog, for stealing clarified butter an ichneumon;
- For stealing meat a vulture, for stealing fat a cormorant, for stealing oil a winged animal (of the kind called) Tailapaka, for stealing salt a cricket, for stealing sour milk a bird (of the kind called) Balaka.
- For stealing silk a partridge, for stealing linen a frog, for stealing cotton-cloth a crane, for stealing a cow an iguana, for stealing molasses a flying-fox;
- For stealing fine perfumes a musk-rat, for stealing vegetables consisting of leaves a peacock, for stealing cooked food of various kinds a porcupine, for stealing uncooked food a hedgehog.
- For stealing fire he becomes a heron, for stealing household-utensils a mason-wasp, for stealing dyed clothes a francolin-partridge;
- For stealing a deer or an elephant a wolf, for stealing a horse a tiger, for stealing fruit and roots a monkey, for stealing a woman a bear, for stealing water a black-white cuckoo, for stealing vehicles a camel, for stealing cattle a he-goat.
- That man who has forcibly taken away any kind of property belonging to another, or who has eaten sacrificial food (of) which (no portion) had been offered, inevitably becomes an animal.

- Women, also, who in like manner have committed a theft, shall incur guilt; they will become the females of those same creatures (which have been enumerated above).
- But (men of the four) castes who have relinquished without the pressure of necessity their proper occupations, will become the servants of Dasyus, after migrating into despicable bodies.
- A Brahmana who has fallen off from his duty (becomes) an Ulkamukha Preta, who feeds on what has been vomited; and a Kshatriya, a Kataputana (Preta), who eats impure substances and corpses.
- A Vaisya who has fallen off from his duty becomes a Maitrakshagyotika Preta, who feeds on pus; and a Sudra, a Kailasaka (Preta, who feeds on moths).
- In proportion as sensual men indulge in sensual pleasures, in that same proportion their taste for them grows.
- By repeating their sinful acts those men of small understanding suffer pain here (below) in various births;
- (The torture of) being tossed about in dreadful hells, Tamisra and the rest, (that of) the Forest with sword-leaved trees and the like, and (that of) being bound and mangled;
- And various torments, the (pain of) being devoured by ravens and owls, the heat of scorching sand, and the (torture of) being boiled in jars, which is hard to bear;
- And births in the wombs (of) despicable (beings) which cause constant misery, and afflictions from cold and heat and terrors of various kinds,
- The (pain of) repeatedly lying in various wombs and agonizing births, imprisonment in fetters hard to bear, and the misery of being enslaved by others,
- And separations from their relatives and dear ones, and the (pain of) dwelling together with the wicked, (labour in) gaining wealth and its loss, (trouble in) making friends and (the appearance of) enemies,
- Old age against which there is no remedy, the pangs of diseases, afflictions of many various kinds, and (finally) unconquerable death.
- But with whatever disposition of mind (a man) forms any act, he reaps its result in a (future) body endowed with the same quality.
- All the results, proceeding from actions, have been thus pointed out; learn (next) those acts which secure supreme bliss to a Brahmana.
- Studying the Veda, (practising) austerities, (the acquisition of true) knowledge, the subjugation of the organs, abstention from doing injury, and serving the Guru are the best means for attaining supreme bliss.
- (If you ask) whether among all these virtuous actions, (performed) here below, (there be) one which has been declared more efficacious (than the rest) for securing supreme happiness to man,
- (The answer is that) the knowledge of the Soul is stated to be the most excellent among all of them; for that is the first of all sciences, because immortality is gained through that.

- Among those six (kinds of) actions (enumerated) above, the performance of) the acts taught in the Veda must ever be held to be most efficacious for ensuring happiness in this world and the next.
- For in the performance of the acts prescribed by the Veda all those (others) are fully comprised, (each) in its turn in the several rules for the rites.
- The acts prescribed by the Veda are of two kinds, such as procure an increase of happiness and cause a continuation (of mundane existence, pravritta), and such as ensure supreme bliss and cause a cessation (of mundane existence, nivritta).
- Acts which secure (the fulfilment of) wishes in this world or in the next are called pravritta (such as cause a continuation of mundane existence); but acts performed without any desire (for a reward), preceded by (the acquisition) of (true) knowledge, are declared to be nivritta (such as cause the cessation of mundane existence).
- He who sedulously performs acts leading to future births (pravritta) becomes equal to the gods; but he who is intent on the performance of those causing the cessation (of existence, nivritta) indeed, passes beyond (the reach of) the five elements.
- He who sacrifices to the Self (alone), equally recognising the Self in all created beings and all created beings in the Self, becomes (independent like) an autocrat and self-luminous.
- After giving up even the above-mentioned sacrificial rites, a Brahmana should exert himself in (acquiring) the knowledge of the Soul, in extinguishing his passions, and in studying the Veda.
- For that secures the attainment of the object of existence, especially in the case of a Brahmana, because by attaining that, not otherwise, a twice-born man has gained all his ends.
- The Veda is the eternal eye of the manes, gods, and men; the Veda-ordinance (is) both beyond the sphere of (human) power, and beyond the sphere of (human) comprehension; that is a certain fact.
- All those traditions (smriti) and those despicable systems of philosophy, which are not based on the Veda, produce no reward after death; for they are declared to be founded on Darkness.
- All those (doctrines), differing from the (Veda), which spring up and (soon) perish, are worthless and false, because they are of modern date.
- The four castes, the three worlds, the four orders, the past, the present, and the future are all severally known by means of the Veda.
- Sound, touch, colour, taste, and fifthly smell are known through the Veda alone, (their) production (is) through the (Vedic rites, which in this respect are) secondary acts.
- The eternal lore of the Veda upholds all created beings; hence I hold that to be supreme, which is the means of (securing happiness to) these creatures.

- Command of armies, royal authority, the office of a judge, and sovereignty over the whole world he (only) deserves who knows the Veda-science.
- As a fire that has gained strength consumes even trees full of sap, even so he who knows the Veda burns out the taint of his soul which arises from (evil) acts.
- In whatever order (a man) who knows the true meaning of the Veda-science may dwell, he becomes even while abiding in this world, fit for the union with Brahman.
- (Even forgetful) students of the (sacred) books are more distinguished than the ignorant, those who remember them surpass the (forgetful) students, those who possess a knowledge (of the meaning) are more distinguished than those who (only) remember (the words), men who follow (the teaching of the texts) surpass those who (merely) know (their meaning).
- Austerity and sacred learning are the best means by which a Brahmana secures supreme bliss; by austerities he destroys guilt, by sacred learning he obtains the cessation of (births and) deaths.
- The three (kinds of evidence), perception, inference, and the (sacred) Institutes which comprise the tradition (of) many (schools), must be fully understood by him who desires perfect correctness with respect to the sacred law.
- He alone, and no other man, knows the sacred law, who explores the (utterances) of the sages and the body of the laws, by (modes of) reasoning, not repugnant to the Veda-lore.
- Thus the acts which secure supreme bliss have been exactly and fully described; (now) the secret portion of these Institutes, proclaimed by Manu, will be taught.
- If it be asked how it should be with respect to (points of) the law which have not been (specially) mentioned, (the answer is), 'that which Brahmanas (who are) Sishtas propound, shall doubtlessly have legal (force).'
- Those Brahmanas must be considered as Sishtas who, in accordance with the sacred law, have studied the Veda together with its appendages, and are able to adduce proofs perceptible by the senses from the revealed texts.
- Whatever an assembly, consisting either of at least ten, or of at least three persons who follow their prescribed occupations, declares to be law, the legal (force of) that one must not dispute.
- Three persons who each know one of the three principal Vedas, a logician, a Mimamsaka, one who knows the Nirukta, one who recites (the Institutes of) the sacred law, and three men belonging to the first three orders shall constitute a (legal) assembly, consisting of at least ten members.

- One who knows the Rigveda, one who knows the Yagur-veda, and one who knows the Samaveda, shall be known (to form) an assembly consisting of at least three members (and competent) to decide doubtful points of law.
- Even that which one Brahmana versed in the Veda declares to be law, must be considered (to have) supreme legal (force, but) not that which is proclaimed by myriads of ignorant men.
- Even if thousands of Brahmanas, who have not fulfilled their sacred duties, are unacquainted with the Veda, and subsist only by the name of their caste, meet, they cannot (form) an assembly (for settling the sacred law).
- The sin of him whom dunces, incarnations of Darkness, and unacquainted with the law, instruct (in his duty), falls, increased a hundredfold, on those who propound it.
- All that which is most efficacious for securing supreme bliss has been thus declared to you; a Brahmana who does not fall off from that obtains the most excellent state.
- Thus did that worshipful deity disclose to me, through a desire of benefiting mankind, this whole most excellent secret of the sacred law.
- Let (every Brahmana), concentrating his mind, fully recognise in the Self all things, both the real and the unreal, for he who recognises the universe in the Self, does not give his heart to unrighteousness.
- The Self alone is the multitude of the gods, the universe rests on the Self; for the Self produces the connexion of these embodied (spirits) with actions.
- Let him meditate on the ether as identical with the cavities (of the body), on the wind as identical with the organs of motions and of touch, on the most excellent light as the same with his digestive organs and his sight, on water as the same with the (corporeal) fluids, on the earth as the same with the solid parts (of his body);
- On the moon as one with the internal organ, on the quarters of the horizon as one with his sense of hearing, on Vishnu as one with his (power of) motion, on Hara as the same with his strength, on Agni (Fire) as identical with his speech, on Mitra as identical with his excretions, and on Pragapati as one with his organ of generation.
- Let him know the supreme Male (Purusha, to be) the sovereign ruler of them all, smaller even than small, bright like gold, and perceptible by the intellect (only when) in (a state of) sleep (-like abstraction).
- Some call him Agni (Fire), others Manu, the Lord of creatures, others Indra, others the vital air, and again others eternal Brahman.
- He pervades all created beings in the five forms, and constantly makes them, by means of birth, growth and decay, revolve like the wheels (of a chariot).

- He who thus recognises the Self through the Self in all created beings, becomes equal (-minded) towards all, and enters the highest state, Brahman.
- A twice-born man who recites these Institutes, revealed by Manu, will be always virtuous in conduct, and will reach whatever condition he desires.

5

Legal Codes in Yajnavalkya's Texts

Tribal cosmogony refers to a fivefold order that sets forth the timeless sequence of creation, preservation and dissolution of the world of matter. First Order is set in 'nothingness'. In the beginning there was nothing, nothing at all but water or clouds and mist, or two eggs soft and shone like gold. Second Order causes primary creation of elements from the element of the first order. The first creation was asexual.

The golden eggs collided and both broke open. From the one came the earth, from the other the sky. When the sky made love to the earth every kind of tree, grass and all living creatures came into being.

In another story the earth, the cosmic Mother, died of her own accord and every part of her body became the part of the world. Third Order causes natural identity and differentiation in terms of colour, direction and form. Smell is another element of the Third Order; it makes communication between the form and the formless possible. Fourth Order causes the return to primordial state. Water is the self-existing element from which all other elements originate and to which they all return. Fifth Order is the Order of all orders. It creates the scenario of the world in which everything has its proper place, and everything grows and allows others to grow. It is inviolable.

Tribal myths can be parallel in the Vedic textual description of origins. According to the hymn of origins, first there was nothing Rigvedic—neither being nor nonbeing, no air nor yet sky beyond. Darkness was there, all wrapped around by darkness. The origin of reality is described by the symbol of the golden egg which becomes the God of Gods, Father of earth, of the heavens, of the waters and of all beings.

Another most important hymn reveals the creation and all-embracing function in which the entire universe is involved. Purusa, the cosmic Man, the personal aspect of the whole of reality, performs an act of self-immolation so that the universe may come into being. From the limbs of the cosmic Man came all things both animate and inanimate: animals of every type, liturgical formulas, the four castes of men, the cosmic powers. From his spirit comes the moon, from the eyes the sun, from his mouth Indra and Agni (fire), from his breath the wind, from his navel the air, from his head the sky, from his feet the earth, from the ears the points of the compass — nothing, nobody is omitted.

Traditions differ in respect of both identification and enumeration of elements, but all of which seem to agree that elements of nature are subject to a fivefold order. Origination: From nothingness, everything originated. A break in the radical solidarity gave origins to male-female principle. Heterogeneity is a fundamental aspect in the origin and development of species. The built-in-order of cosmic unity is 'One-and-many'. Binding: Elements of nature have a binding ability. Each element has a form, a location and a dependent relation with another element.

Interlocking: form and life are cross-linked. Interlocking of elements is described metaphorically. Earth and sky are universal parents. Fire and wind are brothers as water and mist are brothers. Earth and wind, water and fire are negatively linked; they have always been enemies. Wind is the friend of fire against water and he fights the rain in order to drive it before him.

The more complex interlocking is perceived in the textual tradition. The five primary elements (earth, water, fire, air and sky) are linked with other elements or aspects of nature such as colour, form, sense-organs, physical character, property, functions, etc. They are also linked with psychological attributes called *Gunās*. Each element is tied with a divinity and its related aspects such as mantras, etc. Overlapping: Elements have both personal (material) and universal (spiritual) attributes. Water and egg which appeared in the beginning have a fundamental feature of sacredness.

In tribal perception, the world is divided into two halves—the sky and the earth. There is a world beyond the sky and another below the earth. The five elements overlap in their formation and so does the world of matter and the other worlds. Transcending: Cosmogonic myths describe how the limits of the natural state are transcended. The state of the primordial solidarity was transcended as the egg broke open and the universe revealed itself.

The natural order of self-origination was transcended by the origin of the male-female principle. The order of self-organization was transcended by the interlocking of various elements. The spatial order of the pluriverse was transcended by the overlapping of spheres in dreaming and trance. Life transcends the limits of the form. Death transcends all attributes of the elements, including the limits of the temporal time. There is no intrinsic disorder in nature; dissolution in an integral aspect of the transcendent order of nature. Transcendence is the Order of all orders. It is inviolable.

The concept of Sunya Brahman as a coherent reality provides us with a framework of thought behind the cosmogonic myths of origin (from nothingness) which appear utterly mystified.

The ancient sage Yajnavalkya had defined Brahman as:

*That from which beings are born,
that by which, once born they live,
that into which, once dead, they enter.*

Amazingly, and not so amazingly, the modern science has said so precisely in the same language. In quantum physics something can come out of nothing for a while, but eventually the debt has to be paid. The manner of the demise of the universe as a whole is determined by the nature of its birth. Cosmologists are of the opinion that about hundred billion stars, including the sun, make up the Milky Way Galaxy, a wheel-shaped structure. The galaxy is itself a part of a group of galaxies that form a cluster, while the cluster in turn form the supercluster of many thousands of galaxies. Powerful telescopes reveal that this pattern of hierarchical clustering prevails throughout the cosmos. What binds the universe together are the cosmic strings which are hypothesized to have some bizarre properties. Long long ago Yajnavalkya had said this to his disciple Aruni: This world and the next world and all beings and all natural phenomenon are strung together by the thread, the Inner Controller the Immortal, the Brahman.

Kabir, a medieval saint poet, has described the mystery of the world in the same language:

*No one knows the secret of the weaver
who spreads his warp through the universe.
He dug two ditches, sky, and earth,
made two spools, sun and moon,
filled his shuttle with a thousand threads,
and weaves till today: a difficult length!
Kabir says, they are joined by actions.
Good threads and bad,
that fellow weaves both.*

The spiritual metaphor and the scientific metaphor converge with common insights. Creation mythologies and quantum mechanics meet in their intuition about the universe. The polaristic position in the anthropological theory of nature and culture is nullified by traditional vision and modern science, both providing the picture of a coherent self-organizing universe. In human thoughts things may appear separable, in reality they are not so.

The research and activity of the IGNCA aim at redefining the arts and re-establishing the unity of the human cultures in a non-linear relationship as existing in the honeycomb. Inter-relationship of things in the living universe must be taken for granted. Difference between one culture and another or between the people of the past and the present are simply differences of emphasis. Further, the approach of the IGNCA in all its work is inter-disciplinary. Here, theory and practice, textual and oral, verbal, visual and kinetic are seen as a semiotic whole and not as single items to be aggregated.

VISHNU SMRITI

The Vishnu-smṛiti or Vaiṣṇava Dharmasāstra or Vishnu-sūtra is in the main a collection of ancient aphorisms on the sacred laws of India, and as such it ranks with the other ancient works of this class which have come down to our time. It may be styled a Dharma-sūtra, though this ancient title of the Sūtra works on law has been preserved in the MSS. of those Smṛitis only, which have been handed down, like the Dharma-sūtras of Apastamba, Baudhayana, and Hiranyakesin, as parts of the respective Kalpa-sūtras, to which they belong.

The size of the Vishnu-sūtra, and the great variety of the subjects treated in it, would suffice to entitle it to a conspicuous place among the five or six existing Dharma-sūtras; but it possesses a peculiar claim to interest, which is founded on its close connection with one of the oldest Vedic schools, the Kathas, on the one hand, and with the famous code of Manu and some other ancient law-codes, on the other hand.

To discuss these two principal points, and some minor points connected with them, as fully as the limits of an introduction admit of, will be the more necessary, because such a discussion can afford the only safe basis for a conjecture not altogether unsupported regarding the time and place of the original composition of this work, and may even tend to throw some new light on the vexed question as to the origin of the code of Manu. Further on I shall have to speak of the numerous interpolations traceable in the Vishnu-sūtra, and a few remarks regarding the materials used for this translation, and the principles of interpretation that have been followed in it, may be fitly reserved for the last.

There is no surer way for ascertaining the particular Vedic school by which an ancient Sanskrit law-book of unknown or uncertain origin was composed, than by examining the quotations from, and analogies with, Vedic works which it contains.

Thug the Gautama Dharmasāstra might have originated in any one among the divers Gautama Karanas with which Indian tradition acquaints us. But the comparatively numerous passages which its author has borrowed from the Samhita and from one Brahmana of the Samaveda prove that it must belong to one of those Gautama Karanas who studied the Samaveda. Regarding the code of Yagnavalkya we learn from tradition that a Vedic teacher of that name was the reputed author of the White Yagur-veda.

But this coincidence might be looked upon as casual, if the Yagnavalkya-smṛiti did not contain a number of Mantras from that Vedic Samhita, and a number of very striking analogies, in the section on funeral ceremonies particularly, with the Grihya-sūtra of the Vāgasaneyins, the Kātiya Grihya-sūtra of Paraskara. In the case of the Vishnu-sūtra an enquiry of this kind is specially called for, because tradition leaves us entirely in the dark as to its real author. The fiction that the laws promulgated in Chapters II-XCVII were communicated by the god Vishnu to the goddess of the earth, is of course utterly worthless for historical purposes; and all that it can be made to show is that those parts of this work in which it is started or kept up cannot rival the laws themselves in antiquity.

Now as regards, first, the Vedic Mantras and Pratikas (beginnings of Mantras) quoted in this work, it is necessary to leave aside, as being of no moment for the present purpose, 1. very well-known Mantras, or, speaking more precisely, all such Mantras as are frequently quoted in Vedic works of divers Sakhas; 2. the purificatory texts enumerated under the title of *Sarva-veda-pavitranī* in LVI.

The latter can afford us no help in determining the particular Sakha to which this work belongs, because they are actually taken, as they profess to be, from all the Vedas indiscriminately, and because nearly the whole of Chapter LVI is found in the *Vasishtha-smṛiti* as well (see further on), which probably does not belong to the same Veda as this work.

Among the former class of Mantras may be included, particularly, the Gayatri, the *Purushasukta*, the *Aghamarshana*, the *Kushmandis*, the *Vyahritis*, the *Gyeshtha Samans*, the *Rudras*, the *Trinakiketa*, the *Trisuparna*, the *Vaishnava*, *Sakra*, and *Barhaspatya* Mantras mentioned in XC, 3, and the Mantra quoted in XXVIII, 51 (= *Gautama's 'Retasya'*). Among the twenty-two Mantras quoted in Chapters XLVIII, LXIV, LXV (including repetitions, but excluding the *Purushasukta*, *Gayatri*, *Aghamarshana*) there are also some which may be referred to this class, and the great majority of them occur in more than one Veda at the same time.

But it is worthy of note that no less than twelve, besides occurring in at least one other Sakha, are either actually found in the *Samhita* of the *Karayaniya-kathas*, the *Kathaka* (or *Karaka-sakha?*), or stated to belong to it in the *Commentary*, while one is found in the *Kathaka* alone, a second in the *Atharva-veda* alone, a third in the *Taittiriya Brahmana* alone, and a fourth does not occur in any Vedic work hitherto known. A far greater number of Mantras occurs in Chapters XXI, LXVII, LXXIII, LXXIV, LXXXVI, which treat of daily oblations, *Sraddhas*, and the ceremony of setting a bull at liberty. Of all these Mantras, which,—including the *Purushasukta* and other such well-known Mantras as well as the short invocations addressed to *Soma*, *Agni*, and other deities, but excluding the invocations addressed to *Vishnu* in the spurious *Sutra*, LXVII, 2,—are more than a hundred in number, no more than forty or so are found in Vedic works hitherto printed, and in the law-books of *Manu*, *Yagnavalkya*, and others; but nearly all are quoted, exactly in the same order as in this work, in the *Karayaniya-kathaka Grihya-sutra*, while some of them have been traced in the *Kathaka* as well.

And what is even more important, the *Kathaka Grihya* does not contain those Mantras alone, but nearly all the *Sutras* in which they occur; and it may be stated therefore, secondly, that the *Vishnu-sutra* has four long sections, *viz.* Chapter LXXIII, and Chapters XXI, LXVII, LXXXVI, excepting the final parts, in common with that work, while the substance of Chapter LXXIV may also be traced in it. The agreement between both works is very close, and where they differ it is generally due to false readings or to enlargements on the part of the *Vishnu-sutra*. However, there are a few cases, in which the version of the latter work is evidently more genuine than that of the former, and it follows, therefore,

that the author of the Vishnu-sutra cannot have borrowed his rules for the performance of Sraddhas &c. from the Kathaka Grihya-sutra, but that both must have drawn from a common source, *i.e.*, no doubt from the traditions current in the Katha school, to which this work is indebted for so many of its Mantras as well.

For these reasons I fully concur in the view advanced by Dr. Buhler, that the bulk of the so-called Vishnu-smṛiti is really the ancient Dharma-sutra of the Karayaniya-kathaka Sakha of the Black Yagur-veda. It ranks, like other Dharma-sutras, with the Grihya and Srauta-sutras of its school; the latter of which, though apparently lost now, is distinctly referred to in the Grihya-sutra in several places, and must have been in existence at the time when the Commentaries on Katyayana's Srauta-sutras were composed, in which it is frequently quoted by the name of Katha-sutra on divers questions concerning Srauta offerings, and at the time, when the Kasmirian Devapala wrote his Commentary on the Kathaka Grihya-sutra, which was, according to the Kasmirian tradition, as explored by Dr. Buhler, before the conquest of Kashmir by the Muhammadans. Devapala, in the Introduction to his work, refers to 'thirty-nine Adhyayas treating of the Vaitanika (= Srauta) ceremonies,' by which the Grihya-sutra was preceded, from which statement it may be inferred that the Kathaka Srauta-sutras must have been a very voluminous work indeed, as the Grihya-sutra, which is at least equal if not superior in extent to other works of the same class, forms but one Adhyaya, the fortieth, of the whole Kalpa-sutra, which, according to Devapala, was composed by one author.

It does not seem likely that the Vishnu-sutra was composed by the same man, or that it ever formed part of the Kathaka Kalpa-sutra, as the Dharma-sutras of Baudhayana, Apastamba, and Hiranyakesin form part of the Kalpa-sutras of the respective schools to which they belong. If that were the case, it would agree with the Grihya-sutra on all those points which are treated in both works, such as *e.g.*, the terms for the performance of the Samskaras or sacraments, the rules for a student and for a Snataka, the enumeration and definition of the Krikkhras or 'hard penances,' the forms of marriage, &c. Now though the two works have on those subjects a number of such rules in common as occur in other works also, they disagree for the most part in the choice of expressions, and on a few points lay down exactly opposite rules, such as the Vishnu-sutra (XXVIII, 28) giving permission to a student to ascend his spiritual teacher's carriage after him, whereas the other work prescribes, that he shall do so on no account.

Moreover, if both works had been destined from the first to supplement one another, they would, instead of having several entire sections in common, exhibit such cross-references as are found *e.g.*, between the Apastamba Grihya and Dharma-sutras; though the absence of such references might be explained, in the case of the Vishnu-sutra, by the activity of those who brought it into its present shape, and who seem to have carefully removed all such references to other works as the original Dharmasutra may have contained. Whatever the

precise nature of the relations between this work and the other Sutra works of the Karayaniya-kathaka school may have been, there is no reason for assigning to it a later date than to the Kathaka Srauta and Grihya-sutras, with the latter of which it has so much in common, and it may therefore claim a considerable antiquity, especially if it is assumed, with Dr. Buhler, that the beginning of the Sutra period differed for each Veda.

The Veda of the Kathas, the Kathaka, is not separated from the Sutra literature of this school by an intermediate: Brahmana stage; yet its high antiquity is testified by several of the most eminent grammarians of India from Yaska down to Kaiyata. Thus the Kathaka is the only existing work of its kind, which is quoted by the former grammarian (Nirukta X, 5; another clear quotation from the Kathaka, XXVII, 9, though not by name, may be found, Nirukta III, 4), and the latter places the Kathas at the head of all Vedic schools, while Patatangi, the author of the Mahabhashya, assigns to the ancient sage Katha, the reputed founder of the Katha or Kathaka school of the Black Yagur-veda, the dignified position of an immediate pupil of Vaisampayana, the fountainhead of all schools of the older or Black Yagur-veda, and mentions, in accordance with a similar statement preserved in the Ramayana (II, 32, 18, 19 ed. Schlegel), that in his own time the 'Kalapaka and the Kathaka' were 'proclaimed in every village.' The priority of the Kathas before all other existing schools of the Yagur-veda may be deduced from the statements of the Karanavyuha, which work assigns to them one of the first places among the divers branches of the Karakas, whom it places at the head of all schools of the Yagur-veda.

Though the statements of the Mahabhashya and Ramayana regarding the widespread and influential position of the Kathas in ancient times are borne out by the fact that the Karanavyuha mentions three subdivisions of the Kathas, *viz.* the Kathas proper, the Prakya Kathas, and the Kapishtala Kathas, to which the Karayanias may be added as a fourth, and by the seeming identity of their name with the name of the (Greek Kaoaioi) in the Pangab on the one hand, and with the first part of the name of the peninsula of Kattivar on the other hand, it seems very likely nevertheless that the original home of the Kathas was situated in the north-west, *i.e.*, in those regions where the earliest parts of the Vedas were composed. Not only the (Greek Kaoaioi), but the (Greek Kambisooloi) as well, who have been identified with the Kapishtala Kathas, are mentioned by Greek writers as a nation living in the Pangab; and while the Prakya Kathas are shown by their name ('Eastern Kathas') to have lived to the east of the two other branches of the Kathas, it is a significant fact that adherents of the Karayaniya-kathaka school survive nowhere but in Kashmir, where all Brahmanas perform their domestic rites according to the rules laid down in the Grihya-sutra of this school.

Kashmir is moreover the country where nearly all the yet existing works of the Kathaka school have turned up, including the Berlin MS. of the Kathaka, which was probably written by a Kasmirian. It is true that some of the geographical and historical data contained in that work, especially the way in

which it mentions the Pankalas, whose ancient name, as shown by the Satapatha Brahmana (XIII, 5, 4, 7) and Rig-veda (VIII, 20, 24; VIII, 22, 12), was Krivi, take us far off from the north-west, the earliest seat of Aryan civilization, into the country of the Kuru-Pankalas in Hindustan proper. But it must be borne in mind that the Kathaka, if it may be identified with the 'Karaka-sakha,' must have been the Veda of all the Karakas except perhaps the Maitrayanias and Kaphishthalas, and may have been altered and enlarged, after the Kathas and Karakas had spread themselves across Hindustan. The Sutras of a Sakha which appears to have sprung up near the primitive home of Aryan civilization in India, which was probably the original home of the Kathas at the same time, may be far older than those of mere Sutra schools of the Black Yagur-veda, which have sprung up, like the Apastamba school, in South India, *i.e.*, far older than the fourth or fifth century B.C.

But sufficient space has been assigned to these attempts at fixing the age of the Kathaka-sutras which, besides remaining only too uncertain in themselves, can apply with their full force to those parts of the Vishnu-sutra only, which have been traced in the Kathaka Grihya-sutra. It will be seen afterwards that even these sections, however closely connected with the sacred literature of the Kathas, have been tampered with in several places, and it might be argued, therefore, that the whole remainder of the Vishnu-sutra, to which the Kathaka literature offers no parallel, may be a subsequent addition. But the antiquity of the great majority of its laws can be proved by independent arguments, which are furnished by a comparison of the Vishnu-sutra with other works of the same class, whose antiquity is not doubted.

In the notes to my translation I have endeavoured to give as complete references as possible to the analogous passages in the Smritis of Manu, Yagnavalkya, Apastamba, and Gautama, and in the four Grihya-sutras hitherto printed. A large number of analogous passages might have been traced in the Dharma-sutras of Vasishtha and Baudhayana as well, not to mention Hiranyakesin's Dharma-sutra, which, according to Dr. Buhler, is nearly identical with the Dharma-sutra of Apastamba.

Two facts may be established at once by glancing at these analogies, *viz.* the close agreement of this work with the other Sutra works in point of form, and with all the above-mentioned works in point of contents. As regards the first point, the Sutras or prose rules of which the bulk of the Vishnu-sutra is composed, show throughout that characteristic laconism of the Sutra style, which renders it impossible in many cases to make out the real meaning of a Sutra without the help of a Commentary; and in the choice of terms they agree as closely as possible with the other ancient law-books, and in some cases with the Grihya-sutras as well. Numerous verses, generally in the Sloka metre, and occasionally designed as 'Gathas,' are added at the end of most chapters, and interspersed between the Sutras in some; but in this particular also the Vishnu-sutra agrees with at least one other Dharma-sutra, the Vasishtha-smriti, and it contains in its law part, like the latter work, a number of verses in the ancient Trishtubh metre.

Four of these Trishtubhs are found in the Vasishtha-smriti, and three in Yaska's Nirukta as well, and the majority of the Slokas has been traced in the former work and the other above-mentioned law-books, and in other Smritis. In point of contents the great majority both of the metrical and prose rules of the Vishnu-sutra agrees with one, or some, or all of the works named above. The Grihya-sutras, excepting the Kathaka Grihya-sutra, naturally offer a far smaller number of analogies with it than the Smritis, still they exhibit several rules, in the Snataka-dharmas and otherwise, that have not been traced in any other Smriti except the work here translated.

Among the Smritis again, each single one maybe seen from the references to contain a number of such rules, as are only met with in this work, which is a very important fact because, if the laws of the Vishnu-sutra were found either in all other Smritis, or in one of them only, its author might be suspected of having borrowed them from one of those works. As it is, meeting with analogous passages now in one work, and then in another, one cannot but suppose that the author of this work has everywhere drawn from the same source as the other Sutrakaras, *viz.* from ancient traditions that were common to all Vedic schools. There are, moreover, a number of cases in which this work, instead of having borrowed from other works of the same class, can be shown to have been, directly or indirectly, the source from which they drew, and this fact constitutes a third reason in favour of the high antiquity of its laws. The clearest case of this kind is furnished by the Vasishtha-smriti, with which this work has two entire chapters in common, which are not found elsewhere. I subjoin in a note the text of Vasishtha XXVIII, 10-15, with an asterisk to those words which contain palpable mistakes (not including blunders in point of metre), for comparison with Chapter LVI of this work in the Calcutta edition, which is exceptionally correct in this chapter and in Chapter LXXXVII, which latter corresponds to Vasishtha XXVIII, 18-22.

In both chapters Vishnu has mainly prose Sutras and throughout a perfectly correct text, whereas Vasishtha has bad Slokas which, supported as they are by the Commentary or by the metre or by both, can only be accounted for by carelessness or clerical mistakes in some cases, and by a clumsy versification of the original prose version preserved in this work in others. Another chapter of the Vishnu-sutra, the forty-eighth, nowhere meets with a parallel except in the third Prasna of the Dharma-sutra of Baudhayana, where it recurs almost word for word. An examination of the various readings in both works shows that in some of the Slokas Baudhayana has better readings, while in one or two others the readings of Vishnu seem preferable, though the unsatisfactory condition of the MS. consulted renders it unsafe to pronounce a definitive judgment on the character of Baudhayana's readings. At all events he has a few Vedic Mantras more than Vishnu, which however seem to be very well-known Mantras and are quoted by their Pratikas only.

But he omits the two important Sutras 9 and 10 of Vishnu, the latter of which contains a Mantra quoted at full, which, although corrupted (see Vagas. Samh.

IV, 12) and hardly intelligible, is truly Vedic in point of language; and he adds on his part a clause at the end of the whole book, which inculcates the worship of Ganesha or Shiva or both, and would be quite sufficient in itself to cast a doubt on the genuineness and originality of his version. It is far from improbable that both Vasishtha and Baudhayana may have borrowed the sections referred to directly from an old recension of this work, as Baudhayana has borrowed another chapter of his work from Gautama, while Vasishtha in his turn has borrowed the same chapter from Baudhayana. It may be added in confirmation of this view, that as far as Vasishtha is concerned, his work is the only Smṛiti, as far as I know, which contains a quotation from the 'Kathaka' (in XXIX, 18).

The Dharma-sutras of Apastamba and Gautama have nowhere a large number of consecutive Sutras in common with the Vishnu-sutra, but it is curious to note that the rule, which the latter (X, 45) quotes as the opinion of 'some' (eke), that a non-Brahmanical finder of a treasure, who announces his find to the king, shall obtain one-sixth of the value, is found in no other law-book except in this, which states (III, 61) that a Sudra shall 'divide a treasure-trove into twelve parts, two of which he may keep for himself.

Of the metrical law-books, one, the Yagnavalkya-smṛiti, has been shown by Professor Max Muller to have borrowed the whole anatomical section (III, 84-104 including the simile of the soul which dwells in the heart like a lamp (III, 109, III, 201), from this work (XCVI, 43-96; XCVII, 9); and it has been pointed out by the same scholar, that the verse in which the author of the former work speaks of the Aranyaka and of the Yoga-sastra as of his own works (III, 110) does not occur in the Vishnu-sutra, and must have been added by the versificator, who brought the Yagnavalkya-smṛiti into its present metrical form.

Several other Slokas in Yagnavalkya's description of the human body (111, 99, 105-108), and nearly the whole section on Yoga (Y. III, 111-203, excepting those Slokas, the substance of which is found in this work and in the code of Manu, viz. 131-140, 177-182, 190, 198-201) may be traced to the same source, as may be also the omission of Vishnu's enumeration of the 'six limbs' (XCVI, 90) in the Yagnavalkya-smṛiti, and probably all the minor points on which it differs from this work.

Generally speaking, those passages which have been justly noticed as marking the comparatively late period in which that law-book must have been composed: such as the allusions to the astrology and astronomy of the Greeks (Y. I, 80, 295), which render it necessary to refer the metrical redaction of the Yagnavalkya-smṛiti to a later time than the second century A. D.; the whole passage on the worship of Ganesha and of the planets (I, 270-307), in which, moreover, a heterodox sect is mentioned, that has been identified with the Buddhists; the philosophical doctrines propounded in I, 349, 350; the injunctions regarding the foundation and endowment of monasteries (II, 185 seq.)—all these passages have no parallel in this work, while it is not overstating the case to say that nearly all the other subjects mentioned in the Yagnavalkya-smṛiti are treated in a similar way, and very often in the same terms, in the Vishnu-sutra as well.

Some of those rules, in which the posteriority of the Yagnavalkya-smṛiti to other law-books exhibits itself, do occur in the Vishnu-sūtra, but without the same marks of modern age.

Thus the former has two Slokas concerning the punishment of forgery (II, 240, 241), in which coined money is referred to by the term Nanaka; the Vishnu-sūtra has the identical rule (V, 122, 123; cf. V, 9). But the word nanaka does not occur in it. Yagnavalkya, in speaking of the number of wives which a member of the three higher castes may marry (I, 57), advocates the Puritan view, that no Sudra wife must be among these; this work has analogous rules (XXIV, 1-4), in which, however, such marriages are expressly allowed.

The comparative priority of all those Sūtras of Vishnu, to which similar Slokas of Yagnavalkya correspond, appears probable on general grounds, which are furnished by the course of development in this as in other branches of Indian literature; and to this it may be added, as far as the civil and criminal laws are concerned, that the former enumerates them quite promiscuously, just like the other Dharma-sūtras, with which he agrees besides in separating the law of inheritance from the body of the laws, whereas Yagnavalkya enumerates all the laws in the order of the eighteen 'titles of law' of Manu and the more recent law-books, though he does not mention the titles of law by name.

However much the Vishnu-sūtra may have in common with the Yagnavalkya-smṛiti, there is no other law-book with which it agrees so closely as with the code of Manu. This fact may be established by a mere glance at the references in the notes to this translation, in which Manu makes his appearance far more frequently and constantly than any other author, and the case becomes the stronger, the more the nature of these analogies is inquired into. Of Slokas alone Vishnu has upwards of 160 in common with Manu, and in a far greater number of cases still his Sūtras agree nearly word for word with the corresponding rules of Manu.

The latter also, though he concurs in a very great number of points with the other law authors as well, agrees with none of them so thoroughly as with Vishnu. All the Smṛitis of Apastamba, Baudhayana, Vasishtha, Yagnavalkya, and Narada contain, according to an approximate calculation, no more than about 130 Slokas, that are found in the code of Manu as well. The latter author and Vishnu differ of course on a great many minor points, and an exhaustive discussion of this subject would fill a treatise; I must therefore confine myself to notice some of those differences, which are particularly important for deciding the relative priority of the one work before the other. In a number of Slokas Manu's readings are decidedly older and better than Vishnu's. Thus the latter (XXX, 7) compares the three 'Atigurus' to the 'three gods,' *i.e.*, to the post-Vedic Trimurti of 'Brahman, Vishnu, and Shiva,' as the commentator expressly states, whereas Manu in an analogous Sloka (II, 230) refers to the 'three orders' instead.

At the end of the section on inheritance (XVIII, 44) Vishnu mentions among other indivisible objects 'a book,' pustakam; Manu (IX, 219) has the same Sloka, but for pustakam he reads prakakshate. Now pustaka is a modern word, and

Varahamihira, who lived in the sixth century A. D., appears to be the first author, with a known date, by whom it is used. It occurs again, Vishnu-sutra XXIII, 56 (prokshanena ka pustakam), and here also Manu (V, 122) has a different reading (punahpakena mrinmayam). The only difference between Vishnu-sutra XXII, 93 and Manu V, 110 consists in the use of singular forms (te, srinu) in the former work, and of plural forms (vah, srinuta) in the latter. Now there are a great many other Smritis besides the Manu-smriti, such as *e.g.*, the Yagnavalkya and Parasara Smritis, in which the fiction is kept up, that the laws contained in them are promulgated to an assembly of Rishis; but there are very few Smritis of the least notoriety or importance besides the Vishnu-sutra, in which they are proclaimed to a single person.

Other instances in which Manu's readings appear preferable to Vishnu's may be found, LI, 60 (pretya keha ka nishkritim) = Manu V, 38 (pretya ganmani ganmani); LI, 64 (iti kathankana) = M. V, 41 (ity abravimmanuh); LI, 76 (tasya) = M. V, 53 (tayoh); LIV, 27 (brahmanyat) = M. XI, 193 (brahmana); LVII, 11 (purastad anukoditam) = M. IV, 248; Vasishtha XIV, 16; Apastamba I, 6, 19, 14 (purastad aprakoditam); LXVII, 45 (sayampratas tvatithaye) = M. III, 99 (sampraptaya tvatithaye), &c. But these instances do not prove much, as all the passages in question may have been tampered with by the Vishnuitic editor, and as in some other cases the version of Vishnu seems preferable. Thus 'practised by the virtuous' (sadhuhiska nishevitam, LXXI, 90) is a very common epithet of 'akara,' and reads better than Manu's nibaddham sveshu karmasu (IV, 155); and krikkhraatikrikkhram (LIV, 30) seems preferable to Baudhayana's and Manu's krikkhraatikrikkhrau (XI, 209).

What is more important, the Vishnu-sutra does not only contain a number of verses in the ancient Trishtubh metre, whereas Manu has none, but it shows those identical three Trishtubhs of Vasishtha and Yaska, which Dr. Buhler has proved to have been converted into Anushtubh Slokas by Manu (II, 114, 115, 144) and Manu seems to have taken the substance of his three Slokas from this work more immediately, because both he (II, 144) and Vishnu, (XXX, 47) have the reading avrinoti for atrinatti, which truly Vedic form is employed both by Vasishtha and Yaska. The relative antiquity of Vishnu's prose rules, as compared to the numerous corresponding Slokas of Manu, may be proved by arguments precisely similar to those which I have adduced above in speaking of the Yagnavalkya-smriti.

As regards those points in the code of Manu, which are usually considered as marks of the comparatively late date of its composition, it will suffice to mention, that the Vishnu-sutra nowhere refers to South Indian nations such as the Dravidas and Andhras, or to the Yavanas; that it shows no distinct traces of an acquaintance with the tenets of any other school of philosophy except the Yoga and Sankhya systems; that it does not mention female ascetics disparagingly, and in particular does not contain Manu's rule (VIII, 363) regarding the comparatively light punishment to be inflicted for violation of (Buddhist and other) female ascetics; and that it does not inveigh (see XV, 3),

like Manu (IX, 64-68), against the custom of Niyoga or appointment of a widow to raise offspring to her deceased husband. It is true, on the other hand, that in many cases Vishnu's rules have a less archaic character than the corresponding precepts of Manu, not only in the Slokas, but in the Sutra part as well.

Thus written documents and ordeals are barely mentioned in the code (if Manu (VIII, 114, 115, 168; IX, 232); Vishnu on the other hand, besides referring in divers places to royal grants and edicts, to written receipts and other private documents, and to books, devotes to writings (lekhyā) an entire chapter, in which he makes mention of the caste of Kayasthas, 'scribes,' and he lays down elaborate rules for the performance of five species of ordeals, to which recourse should be had, according to him, in all suits of some importance.

But in nearly all such cases the antiquity of Vishnu's rules is warranted to a certain extent by corresponding rules occurring in the Smritis of Yagnavalkya and Narada; and the evidence for the modifications and entire transformations, which the code of Manu must have undergone in a number of successive periods, is so abundant, that the archaic character of many of its rules cannot be considered to constitute a sufficient proof of the priority of the whole code before other codes which contain some rules of a comparatively modern character.

To this it must be added that the Narada-smṛiti, though taken as a whole it is decidedly posterior to the code of Manu, is designated by tradition as an epitome from another and more bulky recession of the code of Manu than the one which we now possess; and if this statement may be credited, which is indeed rather doubtful, the very particular resemblance between both works in the law of evidence and in the rules regarding property (see LVIII) can only tend to corroborate the assumption that the Vishnu-sutra and the Manu-smṛiti must have been closely connected from the first.

This view is capable of further confirmation still by a different set of arguments. The so-called code of Manu is universally assumed now to be an improved metrical edition of the ancient Dharma-sutra of the (Maitrayaniya) Manavas, a school studying the Black Yagur-veda; and it has been shown above that the ancient stock of the Vishnu-sutra, in which all the parts hitherto discussed may be included, represents in the main the Dharma-sutra, of the Karayaniya-kathas, another school studying the Black Yagur-veda.

Now these two schools do not only belong both to that Veda, but to the same branch of it, as may be seen from the Karanavyuha, which work classes both the Kathas and Karayanias on the one hand, and the Manavas together with the six or five other sections of the Maitrayanias on the other hand, as subdivisions of the Karaka Sakha of the Black Yagur-veda.

What is more, there exists a thoroughgoing parallelism between the literature of those two schools, as far as it is known. To begin with their respective Samhitas, it has been shown by L. Schroder that the Maitrayani Samhita has more in common with the Kathaka, the Samhita of the Kathas, than with any other Veda. As the Kathas are constantly named, in the Mahabhashya and other old works, by the side of the Kalapas, whereas the name of the Maitrayanias

does not occur in any Sanskrit work of uncontested antiquity, it has been suggested by the same scholar that the Maitrayaniyas may be the Kalapas of old, and may not have assumed the former name till Buddhism began to prevail in India.

However this may be, the principal Sutra works of both schools stand in a similar relation to one another as their Samhitas. Some of those Mantras, which have been stated above to be common to the Vishnu-sutra and Kathaka Grihya only, and to occur in no other Vedic work hitherto printed, have been traced in the Manava Srauta-sutra, in the chapter on Pinda-pitriyagna (I, 2 of the section on Praksoma), and the conclusion is, that if the Srauta-sutra of the Kathaka school were still in existence, it would be found to exhibit a far greater number of analogies with the Srauta-sutra of the Manavas. The Grihya-sutra of this school agrees with the Kathaka Grihya-sutra even more closely than the latter agrees with the Vishnu-sutra, as both works have not only several entire chapters in common (the chapter on the Vaisvadeva sacrifice among others, which is found in the Vishnu-sutra also), but concur everywhere in the arrangement of the subject-matter and in the choice of expressions and Mantras.

The Brahmana stage of Vedic literature is not represented by a separate work in either of the two schools, but a further argument in favour of their alleged historical connection may be derived from their respective geographical position. If it has been rightly conjectured above, that the original seats of the Kathas were in the north-west, whence they spread themselves over Hindustan, the Maitrayaniyas, though now surviving nowhere except in some villages 'near the Satpuda mountain, which is included in the Vindhya.' Must have been anciently their neighbours, as the territory occupied by them extended 'from the Mayura mountain into Gujarat,' and reached 'as far as the north-western country' (vayavyadesa).

Considering all this evidence regarding the original connection between the Kathas and Manavas, it may be said without exaggeration, that it would be far more surprising to find no traces of resemblance between their respective Dharma-sutras, such as we possess them, than to find, as is actually the case, the contrary; and it may be argued, vice versa, that the supposed connection of the two works with the Vedic schools of the Kathas and Manavas, respectively, is confirmed by the kinship existing between these two schools.

In turning now from the ancient parts of the Vishnu-sutra to its more recent ingredients, I may again begin by quoting Professor Max Muller's remarks on this work, which contain the statement, that it is 'enlarged by modern additions written in Slokas.' After him, Dr. Buhler pointed out that the whole work appears to have been recast by an adherent of Vishnu, and that the final and introductory chapters in particular are shown by their very style to have been composed by another author than the body of the work.

If the latter remark were in need of further confirmation, it might be urged that the description of Vishnu as 'the boar of the sacrifice' (yagnavaraha) in the first chapter is bodily taken from the Harivamsa (2226-2237), while most of the

epithets given to Vishnu in I, 49-61 and XCVIII, 7-100 may be found in another section of the Mahabharata, the so-called Vishnu-sahasranama. Along with the introductory and final chapters, all those passages generally are distinctly traceable to the activity of the Vishnuitic editor, in which Vishnu (Purusha, Bhagavat, Vasudeva, &c.) is mentioned, or his dialogue with the goddess of the earth carried on, viz. I; V, 193; XIX, 24; XX, 16-21; XXII, 93; XXIII, 46; XXIV, 35; XLVII, 10; XLIX; LXIV, 28, 29; LXV; LXVI; LXVII, 2; XC, 3-5, 17-23; XCVI, 97, 98; XCVII, 7-21; XCVIII-C.

The short invocation addressed to Vishnu in LXVII, 12 is proved to be ancient by its recurrence in the corresponding chapter of the Kathaka Grihya-sutra, and Chapter LXV contains genuine Kathaka Mantras transferred to a Vishnuitic ceremony. Chapter LXVI, on the other hand, though it does not refer to Vishnu by name, seems to be connected with the same Vishnuitic rite, and becomes further suspected by the recurrence of several of its rules in the genuine Chapter LXXIX. The contents of Chapter XCVII, in which it is attempted to reconcile some of the main tenets of the Sankhya system, as propounded in the Sankhya-karika, Sankhya-pravakanabhashya, and other works, with the Vaishnava creed and with the Yoga; the fact that the two Slokas in XCVI (97, 98) and part of the Slokas in XCVII (15-21) have their parallel in similar Slokas of the Bhagavad-gita and of the Bhagavata-purana; the terms Mahatpati, Kapila, and Sankhyakarya, used as epithets of Vishnu (XCVIII, 26, 85, 86); and some other passages in the Vishnuitic chapters seem to favour the supposition that the editor may have been one of those members of the Vishnuitic sect of the Bhagavatas, who were conspicuous for their leaning towards the Sankhya and Yoga systems of philosophy.

The arrangement of the Vishnu-sutra in a hundred chapters is no doubt due to the same person, as the Commentary points out that the number of the epithets given to Vishnu in XCVIII is precisely equal to the number of chapters into which the laws promulgated by him are divided (II-XCVII); though the number ninety-six is received only by including the introductory and final invocations (XCVIII, 6, 101) among the epithets of Vishnu. It seems quite possible, that some chapters were inserted mainly in order to bring up the whole figure to the round number of a hundred chapters, and it is for this reason chiefly that the majority of the following additions, which show no Vishnuitic tendencies, may also be attributed to the Vishnuitic editor.

- Most or all of the Slokas added at the end of Chapters XX (22-53) and XLIII (32-45) cannot be genuine; the former on account of their great extent and partial recurrence in the Bhagavad-gita, Mahabharata, and other works of general note, and because they refer to the self-immolation of widows and to Kala, whom the commentator is probably right in identifying with Vishnu; the latter on account of their rather extravagant character and decidedly Puranic style, though the Garuda-purana, in its very long description of the hells, offers no strict parallel to the details given here. The verses in which the Brahmanas and cows

are celebrated (XIX, 22, 23; XXIII, 57-61) are also rather extravagant; however, some of them are Trishtubhs, and the verses in XIX are closely connected with the preceding Sutras. The two final Slokas in LXXXVI (19, 20) may also be suspected as to their genuineness, because they are wanting in the corresponding chapter of the Kathaka Grihya-sutra; and a number of other verses in divers places, because they have no parallel in the Smriti literature, or because they have been traced in comparatively modern works, such as the Bhagavad-gita, the Pankatantra, &c.

- The week of the later Romans and Greeks, and of modern Europe (LXXVIII, 1-7), the self-immolation of widows (XXV, 14; cf. XX, 39), and the Buddhists and Pasupatas (LXIII, 36) are not mentioned in any ancient Sanskrit work. Besides, the passages in question may be easily removed, especially the Sutras referring to the seven days of the week, which form clearly a subsequent addition to the enumeration of the Nakshatras and Tithis immediately following (LXXVIII, 8-50), and the rule concerning the burning of widows (XXV, 14), which is in direct opposition to the law concerning the widow's right to inherit (XVII, 4) and to other precepts regarding widows. That the three terms kashayin, pravragita, malina in LXIII, 36 refer to members of religious orders seems clear, but it maybe doubted whether malina denotes the Pasupatas, and even whether kashayin (cf. pravragita XXXVI, 7) denotes the Buddhists, as dresses dyed with Kashaya are worn by Brahmanical sects also, and prescribed for students, and for ascetics likewise, by some of the Grihya-and Dharma-sutras. Still the antiquity of the Sutra in question can hardly be defended, because the acquaintance of the Vishnuitic editor with the Buddhistic system of faith is proved by two other Sutras (XCVIII, 40, 41), and because the whole subject of good and evil omens is not treated in any other ancient Smriti. On the other hand, such terms as vedaninda and nastikata (XXXVII, 4, 31, &c.) recur in most Smritis, and can hardly be referred to the Buddhists in particular.
- The Tirthas enumerated in LXXXV, some of which are sacred to Vishnu and Shiva, belong to all parts of India, and many of them are situated in the Dekhan, which was certainly not included within the limits of the 'Aryavarta' of the ancient Dharma-sutra (LXXXIV, 4). As no other Smriti contains a list of this kind, the whole chapter may be viewed as a later addition.
- The ceremonies described in XC are not mentioned in other Smritis, while some of them are decidedly Vishnuitic, or traceable in modern works; and as all the Sutras in XC hang closely together, this entire chapter seems also to be spurious.
- The repetitions in the list of articles forbidden to sell (LIV, 18-22); the addition of the two categories of atipatakani, 'crimes in the highest

degree,' and prakirntakam, 'miscellaneous crimes' (XXXIII, 3,5; XXXIV; XLII), to Manu's list of crimes; the frequent references to the Ganges river; and other such passages, which show a modern character, without being traceable in the Smritis of Yagnavalkya and Narada, may have been added by the Vishnuistic editor from modern Smritis, either for the sake of completeness, or in order to make up the required number of chapters.

- All the passages hitherto mentioned are such as have no parallel in other ancient Smritis. But the Vishnuistic editor did evidently not confine himself to the introduction of new matter into the ancient Dharma-sutra. That he did not refrain, occasionally, from altering the original text, has been conjectured above with regard to his readings of some of those Slokas, which are found in the code of Manu as well; and it can be proved quite clearly by comparing his version of the Vrishotsarga ceremony (LXXXVI) with the analogous chapter of the Kathaka Grihya-sutra. In one case (LI, 64; cf. XXIII, 50 = M. V, 131) he has replaced the words, which refer the authorship of the Sloka in question to Manu, by an unmeaning term.

The superior antiquity of Manu's reading (V, 41) is vouched for by the recurrence of the same passage in the Grihya-sutra of Sankhayana (II, 16, 1) and in the Vasishtha-smriti (IV, 6), and the reference to Manu has no doubt been removed by the Vishnuistic editor, because it would have been out of place in a speech of Vishnu. References to sayings of Manu and other teachers and direct quotations from Vedic works are more or less common in all Dharma-sutras, and their entire absence in this work is apparently due to their systematical removal by the editor. On the other hand, the lists of Vedic and other works to be studied or recited may have been enlarged in one or two cases by him or by another interpolator, namely, XXX, 37 (cf. V, 191), where the Atharva-veda is mentioned after the other Vedas by the name of 'Atharvana' (not Atharvangirasas, as in the code of Manu and most other ancient works), and LXXXIII, 7, where Vyakarana, 'Grammar,' *i.e.*, according to the Commentary the grammars of Panini and others, is mentioned as distinct from the Vedangas. The antiquity of the former passage might indeed be defended by the example of Apastamba, who, though referring like this work to the 'three Vedas' both separately and collectively, mentions in another place the 'Atharvana-veda.' Besides the above works, and those referred to in LVI, the laws of Vishnu name no other work except the Puranas, Itihasas, and Dharmasastras.

- As the Vishnuistic editor did not scruple to alter the import of a certain number of passages, the modernisation of the language of the whole work, which was probably as rich in archaic forms and curious old terms as the Kathaka Grihya-sutra and as the Dharma-sutra of Apastamba, may be likewise attributed to him.

As it is, the Vishnu-sutra agrees in style and expressions more closely with the Smritis of Manu and Yagnavalkya than with any other work, and it is at

least not inferior to the former work in the preservation of archaic forms. Thus the code of Manu has seven aorist forms, while the Vishnu-sutra contains six, not including those occurring in Vedic Mantras which are quoted by their Pratikas only. Of new words and meanings of words the Vishnu-sutra contains also a certain number; they have lately been communicated by me to Dr. von Bohtlingk for, insertion in his new Dictionary.

All the points noticed render it necessary to assign a comparatively recent date to the Vishnuitic editor; and if the introduction of the week of the Greeks into the ancient Dharma-sutra has been justly attributed to him, he cannot be placed earlier than the third or fourth century A. D. The lower limit must be put before the eleventh century, in which the Vishnu-sutra is quoted in the Mitakshara of Vignanesvara, From that time downwards it is quoted in nearly every law digest, and a particularly large number of quotations occurs in Apararka's Commentary, on Yagnavalkya, which was composed in the twelfth century. Nearly all those quotations, as far as they have been examined, are actually found in the Vishnu-sutra; but the whole text is vouched for only by Nandapandita's Commentary, called Vaigayanti, which was composed in the first quarter of the seventeenth century.

The subscriptions in the London MSS. of the Vaigayanti contain the statement, which is borne out by the Introduction, that it was composed by Nandapandita, the son of Ramapandita, Dharmadhikarin, an inhabitant of Banaras, at the instigation of the Maharaga Kesavanayaka, also called Tammasanayaka, the son of Kodapanayaka; and a passage added at the end of the work states, more accurately, that 'Nandasarman (Nandapandita) wrote it at Kasi (Benares) in the year 1679 of the era of Vikramabhasvara (= A. D. 1622), by Command of Kesavanayaka, his own king.

These statements regarding the time and place of the composition of the Vaigayanti are corroborated by the fact that it refers in several cases to the opinions of Haradatta, who appears to have lived in the sixteenth century, while Nandapandita is not among the numerous authors quoted in the Viramitrodaya of Mitramisra, who lived in the beginning of the seventeenth century, and who was consequently a contemporary of Nandapandita, if the above statement is correct; and that he attacks in a number of cases the views of the 'Eastern Commentators' (Prakyas), and quotes a term from the dialect of Madhyadesa.

The subjoined translation is based upon the text handed down by Nandapandita nearly everywhere except in some of the Mantras, which have been rendered according to the better readings preserved in the Kathaka Grihya-sutra. The two Calcutta editions of the Vishnu-sutra, the second of which is a mere reprint of the first, will be found to agree in the main with the text here translated. They are doubtless based upon the Vaigayanti, as they contain several passages in which portions of Nandapandita's Commentary have crept into the text of the Sutras.

But the MS. used for the first Calcutta edition must have been a very faulty one, as both Calcutta editions, besides differing from the best MSS. of the

Vaigayanti on a very great number of minor points, entirely omit the greater part of Chapter LXXXI (3-22), the genuineness of which is proved by analogous passages in the other Smritis. An excellent copy of the Vaigayanti in possession of Dr. Buhler has, together with three London MSS. of that work and one London MS. containing the text only, enabled me to establish quite positively nearly in every case the readings sanctioned by Nandapandita. I had hoped to publish a new edition of the text prepared from those MSS., and long ready for the press, before publishing my English version.

This expectation has not been fulfilled, but it is hoped that in the mean time this attempt at a translation will be welcome to the students of Indian antiquity, and will facilitate the understanding of the text printed in Givananda Vidyasagara's cheap edition, which is probably in the hands of most Sanskrit scholars. The precise nature of the relation in which the text of my forthcoming edition stands to the Calcutta editions may be gathered from the large specimens of the text as given in the best MSS., that have been edited by Dr. Buhler in the Bombay Digest, and by myself in two papers published in the Transactions of the Royal Bavarian Academy of Science.

Nandapandita has composed, besides the Vaigayanti, a treatise on the law of adoption, called Dattaka-mimamsa, a commentary on the code of Parasara, a work called Vidvanmanohara-smritisindhu, one called Sraddhakalpa-lata, and commentaries on the Mitakshara and on Adityakarya's Asaukanirnaya. All these works belong to the province of Hindu law, and both his fertility as a writer in that branch of Indian science, and the reputation enjoyed by some of his works even nowadays, must raise a strong presumption in favour of his knowledge of the subject. The general trustworthiness of his Commentary on the Vishnu-sutra is further confirmed by the frequent references which it contains to the opinions of earlier commentators of that work; and the wide extent of his reading, though he often makes an unnecessary display of it, has been eminently serviceable to him in tracing the connection of certain chapters and Mantras with the Kathaka literature. On the other hand, his very learning, combined with a strict adherence to the well-known theory of Hindu commentators regarding the absolute identity between the teaching of all Smritis, has frequently misled him into a too extensive method of interpretation.

Even in commenting the Slokas he assigns in many cases an important hidden meaning to such particles as ka, va, tatha, and others, and to unpretending epithets and the like, which have clearly been added for metrical reasons only. This practice, besides being contrary to common sense, is nowhere countenanced by the authority of Kulluka, in his remarks on the numerous identical Slokas found in the code of Manu. With the Sutras generally speaking the case is different: many of them would be nearly or quite unintelligible without the explanatory remarks added, in brackets from Nandapandita's Commentary, and in a number of those cases even, where his method jars upon a European mind, the clauses supplied by him are probably correct. The same may be said of his interpretations of the epithets of Vishnu, excepting those which are based on utterly fanciful

etymologies, as the style of the introductory and final chapters is as artificial, though in another way, as the Sutra style. Though, however, in works composed in the latter style, every ka, va, or iti, &c., which is not absolutely required by the sense, was probably intended by their authors to convey a special meaning, it is a question of evidence in every single case, whether those meanings which Nandapandita assigns to these and other such particles and expletive words are the correct ones. In several cases of this or of a similar kind he is palpably wrong, and in many others the interpretations proposed by him are at least improbable, because the authoritative passages he quotes in support of them are taken from modern works, which cannot have been known to the author of the Vishnu-sutra.

Interpretations of this class have, therefore, been given in the notes only; and they have been omitted altogether in a number of cases where they appeared quite frivolous, or became too numerous, or could not be deciphered completely, owing to clerical mistakes in the MSS. But though it is impossible to agree with some of his general principles of interpretation, or with his application of them, Nandapandita's interpretations of difficult terms and Sutras are invaluable, and I have never deviated from them in my translation without strong reasons to the contrary, which have in most cases been stated in the notes.

Besides the extracts given in the notes, a few other passages from the Commentary and several other additions will be given in p. 312; and I must apologize to my readers for having to note along with the Addenda a number of Corrigenda, which will be found in the same page. In compiling the Index of Sanskrit words occurring in this work, which it has been thought necessary to add to the General Index, I have not aimed at completeness except as regards the names of deities and of penances. My forthcoming edition of the Sanskrit text will be accompanied by a full Index of words.

6

Manu's on the Social Laws

Also known as the *Manu Samhita*, *Manu Smṛti*, or *Manava Dharma Shastra*, *The Laws of Manu* form the basis of what has been called “the most authoritative and influential text of ancient Indian laws” (Bhatia & Sharma 363). *The Laws of Manu* addresses social, moral, and legal questions, and has gradually gained precedence in Hinduism. Scholars disagree as to its exact age, most commonly placing its original publication date between 200BCE to 400CE. Hindu tradition states that it was dictated by a visionary named Manu to a group of seers, or *rsi*. This means that *The Laws of Manu* is not *sruti* literature, but *smṛti*, or “remembered” literature.

The Laws of Manu is divided into sections dealing with different aspects of Hindu life. One of the most well-known sections deals with the roles of women in society. *The Laws of Manu* takes a firm stance in rejecting the independence of women and places them firmly in subjugation to their fathers, brothers, or husbands.

“By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house,” states *The Laws of Manu* (Muller 1886:195). It describes how a woman should behave if she is a daughter, sister, wife, or widow, and urges chastity and self-sacrifice. Wives must be cheerful, clever, and clean; even the names of women must be pleasing and auspicious (Muller 1886:35).

They must also respect their husband in the manner of a god-husband, or *patideva*, regardless of his actions. Because of the perceived patriarchal position of *The Laws of Manu*, it has attracted modern critics. Barbara Ramusack (2005) writes of the authorization of “patriarchal, patrilineal, patrilocal family structures,” while Lisa Lassell Hallstrom (1999) describes *The Laws of Manu*'s “need to control women.”

Ramusack (1999) also says that the *Laws* “represent the effort of brahmins [*sic*] to impose their ideals as the dominant practice in Hindu society.” This is certainly true; the *Laws* firmly establish the boundaries between the Hindu classes, or *varnas*.

The four main *varnas* described in the text are the *brahmins*, *ksatriyas*, *vaisyas*, and *sudras*. *The Laws of Manu* goes even further than these four, describing the various categories of people that arise due to inter-class marriages. The first three *varnas* are the “twice-borns,” while the *sudras* (the lowest of the four *varnas*) are “once-borns.”

Each *varna* has different duties and must follow a different *dharma*. *The Laws of Manu* goes into great detail regarding the correct dharmic action for each class. *Brahmins*, the priestly class, are commanded to teach, study, and sacrifice, while *ksatriyas* are ordered to bear arms as the warrior class (Muller 1886:419).

Vaisyas should pursue trade or agriculture, and *sudras* should look for employment serving the upper *varnas*. A *sudra* can serve the *brahmins*, *ksatriyas*, or *vaisyas*, but only serving the *brahmins* will “bear him fruit” (Muller 1886:429). Even the personal names of Hindus should be influenced by their *varna*; *brahmins* should be given names that are auspicious and happy, *ksatriyas* should be given powerful names connected with protection, *vaisyas* should have names evoking wealth, and *sudras* should have names denoting service (Muller 1886:35).

In addition to providing a background of class duties, *The Laws of Manu* also provides a description of the stages of life. The studentship stage, or *brahmacarya*, can last anywhere from nine to thirty-six years, during which time the Vedas are studied. After this stage, the householder stage can then be entered.

This is known as the *grhastha* stage. Marriage is an essential part of the householder stage, and criteria for a suitable wife are described at length in the *Laws*. A good candidate has male children in their family, neither too much body hair nor too little, no obvious health problems, and is not named after a constellation, tree, mountain, or bird (Muller 1886:76). Men should look to their own caste when finding a first wife, and then take their next wives from the lower classes.

While we have seen that some of the views found in *The Laws of Manu* are patriarchal, in this section the text states that “women must be honoured and adorned by their fathers, brothers, husbands, and brothers-in-law” (Muller 1886:85).

After the householder stage is complete and a Hindu man has grandchildren (and possesses white hair and a wrinkled face), he may enter the next stage, *vanaprastha*, and become a forest-dweller. A forest-dweller lives a simple life in the wilderness privately reciting the Vedas (Muller 1886:199). After spending some time in this manner, a man is ready to enter the fourth stage of life and become a renouncer, “abandoning all attachment to worldly objects” (Muller 1886:205). This last stage is the *samnyasin* stage.

While *The Laws of Manu* provides a framework for society, it also deals with theological issues, such as the Creation. According to *The Laws of Manu*, before the Creation there was merely darkness.

Out of the darkness arose “the divine self-existent,” or Svayambhuva, which compelled the universe with “irresistible” power (Muller 1886:3). According to Manu, this force is indiscernible and cannot be comprehended by human beings.

This force wished to create beings from its own body, and so created water and planted its seed. This seed grew into a golden egg out of which sprung Brahman, a manifestation of Purusa. Brahman remained in the egg for a year, and then mentally divided the egg into the heavens and the earth (Muller 1886:6). He himself was divided, with the different *varnas* sprouting from his different body parts.

The concept of time is also discussed in *The Laws of Manu*. The text describes the different *yugas*, or ages, and tells how virtue steadily decreases in each age. Our current age, the Kali Yuga, is one of “liberality alone” (Muller 1886:24). Men live shorter lives and the end of the world will come relatively soon. *The Laws of Manu* states that the distinction between *varnas* is necessary to maintain the order of this fragile universe.

The Laws of Manu is a very important work, but it has not always been viewed as the most important dharmic text in Hinduism. According to Asma (2013), “traditional Indian culture has not recognized a one-size-fits-all universal moral code.” *The Laws of Manu* had competition in the form of other legal and moral codes, like those of King Asoka (304-232 BCE) (Bhatia & Sharma 363). *The Laws of Manu* contains ancient materials, and is generally regarded as a compendium of knowledge regarding contemporary moral codes, rather than an original work (Muller 2011:161). The section on time, for example, shares verses with the *Mahabharata* (Trautmann 189).

The question of authorship regarding *The Laws of Manu* is debated. According to the text itself, there are seven Manus, all sons of the aforementioned Svayambhuva (Trautmann, 188). Every age has its own Manu. The Manu of this age heard the moral code from Brahma, the Creator, and then taught it to the *rsis*. Among these *rsis* was Bhrigu, who is said to have transcribed them.

While we cannot know for certain how old *The Laws of Manu* is, or who its exact author was, it is safe to say that it is one document that has influenced many aspects of Hindu life today.

CREATION & THE ORIGIN OF THE SACRED LAW

- The Manusmriti begins with the concept of *Nirguna Brahma*, the unmanifest, supreme cosmic reality; to be experienced with the aid of practices in breath regulation (*Pranayama*), prayer (*Japa*) and meditation on the fundamental syllable „*Aum* (*Dhyana*)
- The cosmos came into existence when *God* awakened from the primeval sleep.

- *Nirguna Brahman* becomes manifest in the endless cosmic cycles, the rest of it remains unmanifest.
- According to Manu *karma-yoga* is the most important yoga as it includes both *Pravritti* (regulation of desires) and *Nivritti* (total eradication of desires)

Ten Characteristics of Dharma

- Patience
- Forgiveness
- Restraint
- Not steal
- Cleanliness
- Keep in mortify
- Wisdom
- Knowledge
- Truth and
- Do not be angry (be angry)

Five Basic Rules of Dharma

Vedah Smritih Sadacharah Swasya cha priyamatmanah
Atachchaturvidham parhuh Sakshaddharmasya lakshanam (II.12)

The Vedas, the Smriti, good conduct, and self-complacency of ones own conscience – these four are the positive proofs of virtue.

- Not to indulge in violence [mental or physical] against others;
- Truthfulness;
- Not to acquire illegitimate wealth [by methods such as theft, robbery, cheating, bribery, making undue profit in trade or business, exploiting the needs of others, unreasonable professional charges, commercialization of service-oriented professions, such as Lawyers, Doctors and Teachers, etc., by resorting to professional exploitation];
- Cleanliness in thought, word and deed [Trikarana Shuddi]; and
- Control of senses.
 - (a) Conflict between good and evil is a fact of nature. And good implies participation in the cosmic process in our effort to move Beyond.
 - (b) Doctrine of repayment of debts to Gods, teachers, parents and society at large. To pay back this debt is human endeavour. The first stage in this endeavour is to serve ones immediate superior that is ones master and ones mother and father.

STRUCTURE OF FOUR VARNA (AND SIMILAR IMAGINATION OF THE DIVISION OF GREEK SOCIETY)

Functional division of society (V.R. Mehta) men are equal not in their executive capacities, but in terms of their enjoyment of desires. Since the

capacities vary, each person must perform the functions for which he is naturally fitted. People must be given different powers and stations in proportion to the qualities and talents they possess.

The kings power grows and he prospers in this world and the next when he prevents the confusion of castes (VIII.172):

- Brahmins (teacher and priests)
- Kshatriyas (administrators and army men)
- Vaishyas (traders, farmers and herdsmen) and
- Shudras (slaves).

Migration within Varnas

- Brahmin can become Shudra and Shudra can become Brahmin. Similarly Kshatriyas and Vaishyas can also change their Varnas.(v.10.65)
- If a Shudra (uneducated) serves the educated ones, is polite, devoid of ego and stays in respectful company of knowledgeable ones, he/she is considered as having a noble birth and stature. (v.9.335)
- He who has not been initiated with teaching of the Vedas is a Sudra. (v. 2.172.)
- A Brahmin acquires brilliance through company of noble persons and avoiding bad company. On contrary, if he indulges in bad company, he becomes a Shudra.(v. 4.245.)
- Even if he is a Brahmin otherwise, a person who does not politely respond to a greeting is actually a Shudra (uneducated person). (v.2.126.)

Ashram Dharma

- Brahmacharya
- Gr hastha
- Sanyâsa
- Vânaprastha

Manusmriti and Women

- Respect for Woman
 - (a) *Yatra Naryastu Pujyante Ramante tatra devtah* (III.56): The intra-cosmic Gods smile on the family where females are honoured or held in respect.
 - (b) Marriage was considered equivalent to initiation (Upnayana) ceremony.
- Autonomy of Women
 - (a) Women be given complete charge of internal management of the household
 - (b) Considered that both husband and wife to keep each other happy and satisfied.

- (c) Wife as soul of her husband
- (d) Women is neither an object of enjoyment nor a wage earner.
- (e) Complementarity of Vedic period shifted to relative dependence (V.R. Mehta)
- Protection of Women
 - (a) Considering wife physically weak and vulnerable, she should be protected by father, husband and sons
- Marriage of Women
- Property Rights of Women
- Strict Punishment for harming Women
- Ladies First

Family

- As foundation of Hindu social organization and central to social existence
- Serves students, old people, the forefathers and Gods
- No domination of others; strive to attain happiness of others
- Wealth for fulfilment of needs and performance of one's duties towards parents, teachers and society.
- Mutual conjugal fidelity for both husband and wife
- Wife subjected to punishment for disobeying husband
- Daughter occupied secondary position concerning mental and physical abilities
- Women's inseparability with man in religious matters with inferior place to women
- *Upanayana* a mere formality, without Vedic mantras
- Women could not perform sacrifices independently

The Duties of Women

- By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house.
- In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent.
- She must not seek to separate herself from her father, husband, or sons; by leaving them she would make both her own and her husband's families contemptible.
- Education no longer remained important for women
- Lowering of marriageable age of girls (pre-puberty marriages)
- Upanayana Samskara reduced to mere formality and then dropped out altogether.
- Female students disappeared in *Dharmashastras*.
- Women lost the status of Dvija (twice born) and reduced to the status of Shudras – unfit for reciting Vedic prayers.

- Widow was to lead a chaste life, not debarred from taking part in ceremonial festivities
- Did not recommend practice of Sati
- Levirate (Niyoga: unwilling widow was not forced) (Main Reason: Unwillingness to share proprietary) and
- Remarriage (Reference in *Atharvaveda* and recommended by Kautilya, however, Widow had to relinquish any claim on Proprietary including Stridhana; while Manu opposed it)

7

Ancient Indian Matrimonial Laws

- I will now propound the eternal laws for a husband and his wife who keep to the path of duty, whether they be united or separated.
- Day and night woman must be kept in dependence by the males (of their families), and, if they attach themselves to sensual enjoyments, they must be kept under one's control.
- Her father protects (her) in childhood, her husband protects (her) in youth, and her sons protect (her) in old age; a woman is never fit for independence.
- Reprehensible is the father who gives not (his daughter in marriage) at the proper time; reprehensible is the husband who approaches not (his wife in due season), and reprehensible is the son who does not protect his mother after her husband has died.
- Women must particularly be guarded against evil inclinations, however trifling (they may appear); for, if they are not guarded, they will bring sorrow on two families.
- Considering that the highest duty of all castes, even weak husbands (must) strive to guard their wives.
- He who carefully guards his wife, preserves (the purity of) his offspring, virtuous conduct, his family, himself, and his (means of acquiring) merit.
- The husband, after conception by his wife, becomes an embryo and is born again of her; for that is the wifeness of a wife (gaya), that he is born (gayate) again by her.
- As the male is to whom a wife cleaves, even so is the son whom she brings forth; let him therefore carefully guard his wife, in order to keep his offspring pure.

- No man can completely guard women by force; but they can be guarded by the employment of the (following) expedients:
- Let the (husband) employ his (wife) in the collection and expenditure of his wealth, in keeping (everything) clean, in (the fulfilment of) religious duties, in the preparation of his food, and in looking after the household utensils.
- Women, confined in the house under trustworthy and obedient servants, are not (well) guarded; but those who of their own accord keep guard over themselves, are well guarded.
- Drinking (spirituous liquor), associating with wicked people, separation from the husband, rambling abroad, sleeping (at unseasonable hours), and dwelling in other men's houses, are the six causes of the ruin of women.
- Women do not care for beauty, nor is their attention fixed on age; (thinking), '(It is enough that) he is a man,' they give themselves to the handsome and to the ugly.
- Through their passion for men, through their mutable temper, through their natural heartlessness, they become disloyal towards their husbands, however carefully they may be guarded in this (world).
- Knowing their disposition, which the Lord of creatures laid in them at the creation, to be such, (every) man should most strenuously exert himself to guard them.
- (When creating them) Manu allotted to women (a love of their) bed, (of their) seat and (of) ornament, impure desires, wrath, dishonesty, malice, and bad conduct.
- For women no (sacramental) rite (is performed) with sacred texts, thus the law is settled; women (who are) destitute of strength and destitute of (the knowledge of) Vedic texts, (are as impure as) falsehood (itself), that is a fixed rule.
- And to this effect many sacred texts are sung also in the Vedas, in order to (make) fully known the true disposition (of women); hear (now those texts which refer to) the expiation of their (sins).
- 'If my mother, going astray and unfaithful, conceived illicit desires, may my father keep that seed from me,' that is the scriptural text.
- If a woman thinks in her heart of anything that would pain her husband, the (above-mentioned text) is declared (to be a means for) completely removing such infidelity.
- Whatever be the qualities of the man with whom a woman is united according to the law, such qualities even she assumes, like a river (united) with the ocean.
- Akshamala, a woman of the lowest birth, being united to Vasishtha and Sarangi, (being united) to Mandapala, became worthy of honour.
- These and other females of low birth have attained eminence in this world by the respective good qualities of their husbands.

- Thus has been declared the ever pure popular usage (which regulates the relations) between husband and wife; hear (next) the laws concerning children which are the cause of happiness in this world and after death.
- Between wives (striyah) who (are destined) to bear children, who secure many blessings, who are worthy of worship and irradiate (their) dwellings, and between the goddesses of fortune (sriyah, who reside) in the houses (of men), there is no difference whatsoever.
- The production of children, the nurture of those born, and the daily life of men, (of these matters) woman is visibly the cause.
- Offspring, (the due performance on religious rites, faithful service, highest conjugal happiness and heavenly bliss for the ancestors and oneself, depend on one's wife alone.
- She who, controlling her thoughts, speech, and acts, violates not her duty towards her lord, dwells with him (after death) in heaven, and in this world is called by the virtuous a faithful (wife, sadhvi)
- But for disloyalty to her husband a wife is censured among men, and (in her next life) she is born in the womb of a jackal and tormented by diseases, the punishment of her sin.
- Listen (now) to the following holy discussion, salutary to all men, which the virtuous (of the present day) and the ancient great sages have held concerning male offspring.
- They (all) say that the male issue (of a woman) belongs to the lord, but with respect to the (meaning of the term) lord the revealed texts differ; some call the begetter (of the child the lord), others declare (that it is) the owner of the soil.
- By the sacred tradition the woman is declared to be the soil, the man is declared to be the seed; the production of all corporeal beings (takes place) through the union of the soil with the seed.
- In some cases the seed is more distinguished, and in some the womb of the female; but when both are equal, the offspring is most highly esteemed.
- On comparing the seed and the receptacle (of the seed), the seed is declared to be more important; for the offspring of all created beings is marked by the characteristics of the seed.
- Whatever (kind on seed is sown in a field, prepared in due season, (a plant) of that same kind, marked with the peculiar qualities of the seed, springs up in it.
- This earth, indeed, is called the primeval womb of created beings; but the seed develops not in its development any properties of the womb.
- In this world seeds of different kinds, sown at the proper time in the land, even in one field, come forth (each) according to its kind.
- The rice (called) vrihi and (that called) sali, mudga-beans, sesamum, masha-beans, barley, leeks, and sugar-cane, (all) spring up according to their seed.

- That one (plant) should be sown and another be produced cannot happen; whatever seed is sown, (a plant of) that kind even comes forth.
- Never therefore must a prudent well-trained man, who knows the Veda and its Angas and desires long life, cohabit with another's wife.
- With respect to this (matter), those acquainted with the past recite some stanzas, sung by Vayu (the Wind, to show) that seed must not be sown by (any) man on that which belongs to another.
- As the arrow, shot by (a hunter) who afterwards hits a wounded (deer) in the wound (made by another), is shot in vain, even so the seed, sown on what belongs to another, is quickly lost (to the sower).
- (Sages) who know the past call this earth (prithivi) even the wife of Prithu; they declare a field to belong to him who cleared away the timber, and a deer to him who (first) wounded it.
- He only is a perfect man who consists (of three persons united), his wife, himself, and his offspring; thus (says the Veda), and (learned) Brahmanas propound this (maxim) likewise, 'The husband is declared to be one with the wife.'
- Neither by sale nor by repudiation is a wife released from her husband; such we know the law to be, which the Lord of creatures (Pragapati) made of old.
- Once is the partition (of the inheritance) made, (once is) a maiden given in marriage, (and) once does (a man) say, 'I will give;' each of those three (acts is done) once only.
- As with cows, mares, female camels, slave-girls, buffalo-cows, she-goats, and ewes, it is not the begetter (or his owner) who obtains the offspring, even thus (it is) with the wives of others.
- Those who, having no property in a field, but possessing seed-corn, sow it in another's soil, do indeed not receive the grain of the crop which may spring up.
- If (one man's) bull were to beget a hundred calves on another man's cows, they would belong to the owner of the cows; in vain would the bull have spent his strength.
- Thus men who have no marital property in women, but sow their seed in the soil of others, benefit the owner of the woman; but the giver of the seed reaps no advantage.
- If no agreement with respect to the crop has been made between the owner of the field and the owner of the seed, the benefit clearly belongs to the owner of the field; the receptacle is more important than the seed.
- But if by a special contract (a field) is made over (to another) for sowing, then the owner of the seed and the owner of the soil are both considered in this world as sharers of the (crop).
- If seed be carried by water or wind into somebody's field and germinates (there), the (plant sprung from that) seed belongs even to the owner of the field, the owner of the seed does not receive the crop.

- Know that such is the law concerning the offspring of cows, mares, slave-girls, female camels, she-goats, and ewes, as well as of females of birds and buffalo-cows.
- Thus the comparative importance of the seed and of the womb has been declared to you; I will next propound the law (applicable) to women in times of misfortune.
- The wife of an elder brother is for his younger (brother) the wife of a Guru; but the wife of the younger is declared (to be) the daughter-in-law of the elder.
- An elder (brother) who approaches the wife of the younger, and a younger (brother who approaches) the wife of the elder, except in times of misfortune, both become outcasts, even though (they were duly) authorised.
- On failure of issue (by her husband) a woman who has been authorised, may obtain, (in the) proper (manner prescribed), the desired offspring by (cohabitation with) a brother-in-law or (with some other) Sapinda (of the husband).
- He (who is) appointed to (cohabit with) the widow shall (approach her) at night anointed with clarified butter and silent, (and) beget one son, by no means a second.
- Some (sages), versed in the law, considering the purpose of the appointment not to have been attained by those two (on the birth of the first), think that a second (son) may be lawfully procreated on (such) women.
- But when the purpose of the appointment to (cohabit with) the widow has been attained in accordance with the law, those two shall behave towards each other like a father and a daughter-in-law.
- If those two (being thus) appointed deviate from the rule and act from carnal desire, they will both become outcasts, (as men) who defile the bed of a daughter-in-law or of a Guru.
- By twice-born men a widow must not be appointed to (cohabit with) any other (than her husband); for they who appoint (her) to another (man), will violate the eternal law.
- In the sacred texts which refer to marriage the appointment (of widows) is nowhere mentioned, nor is the remarriage of widows prescribed in the rules concerning marriage.
- This practice which is reprehended by the learned of the twice-born castes as fit for cattle is said (to have occurred) even among men, while Vena ruled.
- That chief of royal sages who formerly possessed the whole world, caused a confusion of the castes (varna), his intellect being destroyed by lust.
- Since that (time) the virtuous censure that (man) who in his folly appoints a woman, whose husband died, to (bear) children (to another man).

- If the (future) husband of a maiden dies after troth verbally plighted, her brother-in-law shall wed her according to the following rule.
- Having, according to the rule, espoused her (who must be) clad in white garments and be intent on purity, he shall approach her once in each proper season until issue (be had).
- Let no prudent man, after giving his daughter to one (man), give her again to another; for he who gives (his daughter) whom he had before given, incurs (the guilt of) speaking falsely regarding a human being.
- Though (a man) may have accepted a damsel in due form, he may abandon (her if she be) blemished, diseased, or deflowered, and (if she have been) given with fraud.
- If anybody gives away a maiden possessing blemishes without declaring them, (the bridegroom) may annul that (contract) with the evil-minded giver.
- A man who has business (abroad) may depart after securing a maintenance for his wife; for a wife, even though virtuous, may be corrupted if she be distressed by want of subsistence.
- If (the husband) went on a journey after providing (for her), the wife shall subject herself to restraints in her daily life; but if he departed without providing (for her), she may subsist by blameless manual work.
- If the husband went abroad for some sacred duty, (she) must wait for him eight years, if (he went) to (acquire) learning or fame six (years), if (he went) for pleasure three years.
- For one year let a husband bear with a wife who hates him; but after (the lapse of) a year let him deprive her of her property and cease to cohabit with her.
- She who shows disrespect to (a husband) who is addicted to (some evil) passion, is a drunkard, or diseased, shall be deserted for three months (and be) deprived of her ornaments and furniture.
- But she who shows aversion towards a mad or outcast (husband), a eunuch, one destitute of manly strength, or one afflicted with such diseases as punish crimes, shall neither be cast off nor be deprived of her property.
- She who drinks spirituous liquor, is of bad conduct, rebellious, diseased, mischievous, or wasteful, may at any time be superseded (by another wife).
- A barren wife may be superseded in the eighth year, she whose children (all) die in the tenth, she who bears only daughters in the eleventh, but she who is quarrelsome without delay.
- But a sick wife who is kind (to her husband) and virtuous in her conduct, may be superseded (only) with her own consent and must never be disgraced.
- A wife who, being superseded, in anger departs from (her husband's) house, must either be instantly confined or cast off in the presence of the family.

- But she who, though having been forbidden, drinks spirituous liquor even at festivals, or goes to public spectacles or assemblies, shall be fined six krishnalas.
- If twice-born men wed women of their own and of other (lower castes), the seniority, honour, and habitation of those (wives) must be (settled) according to the order of the castes (varna).
- Among all (twice-born men) the wife of equal caste alone, not a wife of a different caste by any means, shall personally attend her husband and assist him in his daily sacred rites.
- But he who foolishly causes that (duty) to be performed by another, while his wife of equal caste is alive, is declared by the ancients (to be) as (despicable) as a Kandala (sprung from the) Brahmana (caste).
- To a distinguished, handsome suitor (of) equal (caste) should (a father) give his daughter in accordance with the prescribed rule, though she have not attained (the proper age).
- (But) the maiden, though marriageable, should rather stop in (the father's) house until death, than that he should ever give her to a man destitute of good qualities.
- Three years let a damsel wait, though she be marriageable; but after that time let her choose for herself a bridegroom (of) equal (caste and rank).
- If, being not given in marriage, she herself seeks a husband, she incurs no guilt, nor (does) he whom she weds.
- A maiden who chooses for herself, shall not take with her any ornaments, given by her father or her mother, or her brothers; if she carries them away, it will be theft.
- But he who takes (to wife) a marriageable damsel, shall not pay any nuptial fee to her father; for the (latter) will lose his dominion over her in consequence of his preventing (the legitimate result of the appearance of) her enemies.
- A man, aged thirty years, shall marry a maiden of twelve who pleases him, or a man of twenty-four a girl eight years of age; if (the performance of) his duties would (otherwise) be impeded, (he must marry) sooner.
- The husband receives his wife from the gods, (he does not wed her) according to his own will; doing what is agreeable to the gods, he must always support her (while she is) faithful.
- To be mothers were women created, and to be fathers men; religious rites, therefore, are ordained in the Veda to be performed (by the husband) together with the wife.
- If, after the nuptial fee has been paid for a maiden, the giver of the fee dies, she shall be given in marriage to his brother, in case she consents.
- Even a Sudra ought not to take a nuptial fee, when he gives away his daughter; for he who takes a fee sell his daughter, covering (the transaction by another name).

- Neither ancients nor moderns who were good men have done such (a deed) that, after promising (a daughter) to one man, they have her to another;
- Nor, indeed, have we heard, even in former creations, of such (a thing as) the covert sale of a daughter for a fixed price, called a nuptial fee.
- 'Let mutual fidelity continue until death,' this may be considered as the summary of the highest law for husband and wife.
- Let man and woman, united in marriage, constantly exert themselves, that (they may not be) disunited (and) may not violate their mutual fidelity.
- Thus has been declared to you the law for a husband and his wife, which is intimately connected with conjugal happiness, and the manner of raising offspring in times of calamity; learn (now the law concerning) the division of the inheritance.
- After the death of the father and of the mother, the brothers, being assembled, may divide among themselves in equal shares the paternal (and the maternal) estate; for, they have no power (over it) while the parents live.
- (Or) the eldest alone may take the whole paternal estate, the others shall live under him just as (they lived) under their father.
- Immediately on the birth of his first-born a man is (called) the father of a son and is freed from the debt to the manes; that (son), therefore, is worthy (to receive) the whole estate.
- That son alone on whom he throws his debt and through whom he obtains immortality, is begotten for (the fulfilment of) the law; all the rest they consider the offspring of desire.
- As a father (supports) his sons, so let the eldest support his younger brothers, and let them also in accordance with the law behave towards their eldest brother as sons (behave towards their father).
- The eldest (son) makes the family prosperous or, on the contrary, brings it to ruin; the eldest (is considered) among men most worthy of honour, the eldest is not treated with disrespect by the virtuous.
- If the eldest brother behaves as an eldest brother (ought to do), he (must be treated) like a mother and like a father; but if he behaves in a manner unworthy of an eldest brother, he should yet be honoured like a kinsman.
- Either let them thus live together, or apart, if (each) desires (to gain) spiritual merit; for (by their living) separate (their) merit increases, hence separation is meritorious.
- The additional share (deducted) for the eldest shall be one-twentieth (of the estate) and the best of all chattels, for the middlemost half of that, but for the youngest one-fourth.
- Both the eldest and the youngest shall take (their shares) according to (the rule just) stated (each of) those who are between the eldest and the youngest, shall have the share (prescribed for the) middlemost.

- Among the goods of every kind the eldest shall take the best (article), and (even a single chattel) which is particularly good, as well as the best of ten (animals).
- But among (brothers) equally skilled in their occupations, there is no additional share, (consisting of the best animal) among ten; some trifle only shall be given to the eldest as a token of respect.
- If additional shares are thus deducted, one must allot equal shares (out of the residue to each); but if no deduction is made, the allotment of the shares among them shall be (made) in the following manner.
- Let the eldest son take one share in excess, the (brother) born next after him one (share) and a half, the younger ones one share each; thus the law is settled.
- But to the maiden (sisters) the brothers shall severally give (portions) out of their shares, each out of his share one-fourth part; those who refuse to give (it), will become outcasts.
- Let him never divide (the value of) a single goat or sheep, or a (single beast) with uncloven hoofs; it is prescribed (that) a single goat or sheep (remaining after an equal division, belongs) to the eldest alone.
- If a younger brother begets a son on the wife of the elder, the division must then be made equally; this the law is settled.
- The representative (the son begotten on the wife) is not invested with the right of the principal (the eldest brother to an additional share); the principal (became) a father on the procreation (of a son by his younger brother); hence one should give a share to the (son begotten on the wife of the elder brother) according to the rule (stated above).
- If there be a doubt, how the division shall be made, in case the younger son is born of the elder wife and the elder son of the younger wife,
- (Then the son) born of the first wife shall take as his additional share one (most excellent) bull; the next best bulls (shall belong) to those (who are) inferior on account of their mothers.
- But the eldest (son, being) born of the eldest wife, shall receive fifteen cows and a bull, the other sons may then take shares according to (the seniority of) their mothers; that is a settled rule.
- Between sons born of wives equal (in caste) (and) without (any other) distinction no seniority in right of the mother exists; seniority is declared (to be) according to birth.
- And with respect to the Subrahmanya (texts) also it is recorded that the invocation (of Indra shall be made) by the first-born, of twins likewise, (conceived at one time) in the wombs (of their mothers) the seniority is declared (to depend) on (actual) birth.
- He who has no son may make his daughter in the following manner an appointed daughter (putrika, saying to her husband), 'The (male) child, born of her, shall perform my funeral rites.'

- According to this rule Daksha, himself, lord of created beings, formerly made (all his female offspring) appointed daughters in order to multiply his race.
- He gave ten to Dharma, thirteen to Kasyapa, twenty-seven to King Soma, honouring (them) with an affectionate heart.
- A son is even (as) oneself, (such) a daughter is equal to a son; how can another (heir) take the estate, while such (an appointed daughter who is even) oneself, lives?
- But whatever may be the separate property of the mother, that is the share of the unmarried daughter alone; and the son of an (appointed) daughter shall take the whole estate of (his maternal grandfather) who leaves no son.
- The son of an (appointed) daughter, indeed, shall (also) take the estate of his (own) father, who leaves no (other) son; he shall (then) present two funeral cakes to his own father and to his maternal grandfather.
- Between a son's son and the son of an (appointed) daughter there is no difference, neither with respect to worldly matters nor to sacred duties; for their father and mother both sprang from the body of the same (man).
- But if, after a daughter has been appointed, a son be born (to her father), the division (of the inheritance) must in that (case) be equal; for there is no right of primogeniture for a woman.
- But if an appointed daughter by accident dies without (leaving) a son, the husband of the appointed daughter may, without hesitation, take that estate.
- Through that son whom (a daughter), either not appointed or appointed, may bear to (a husband) of equal (caste), his maternal grandfather (has) a son's son; he shall present the funeral cake and take the estate.
- Through a son he conquers the worlds, through a son's son he obtains immortality, but through his son's grandson he gains the world of the sun.
- Because a son delivers (trayate) his father from the hell called Put, he was therefore called put-tra (a deliverer from Put) by the Self-existent (Svayambhu) himself.
- Between a son's son and the son of a daughter there exists in this world no difference; for even the son of a daughter saves him (who has no sons) in the next world, like the son's son.
- Let the son of an appointed daughter first present a funeral cake to his mother, the second to her father, the funeral to his father's father.
- Of the man who has an adopted (Datrima) son possessing all good qualities, that same (son) shall take the inheritance, though brought from another family.
- An adopted son shall never take the family (name) and the estate of his natural father; the funeral cake follows the family (name) and the estate, the funeral offerings of him who gives (his son in adoption) cease (as far as that son is concerned).

- The son of a wife, not appointed (to have issue by another), and he whom (an appointed female, already) the mother of a son, bears to her brother-in-law, are both unworthy of a share, (one being) the son of an adulterer and (the other) produced through (mere) lust.
- Even the male (child) of a female (duly) appointed, not begotten according to the rule (given above), is unworthy of the paternal estate; for he was procreated by an outcast.
- A son (legally) begotten on such an appointed female shall inherit like a legitimate son of the body; for that seed and the produce belong, according to the law, to the owner of the soil.
- He who takes care of his deceased brother's estate and of his widow, shall, after raising up a son for his brother, give that property even to that (son).
- If a woman (duly) appointed bears a son to her brother-in-law or to another (Sapinda), that (son, if he is) begotten through desire, they declare (to be) incapable of inheriting and to be produced in vain.
- The rules (given above) must be understood (to apply) to a distribution among sons of women of the same (caste); hear (now the law) concerning those begotten by one man on many wives of different (castes).
- If there be four wives of a Brahmana in the direct order of the castes, the rule for the division (of the estate) among the sons born of them is as follows:
 - The (slave) who tills (the field), the bull kept for impregnating cows, the vehicle, the ornaments, and the house shall be given as an additional portion to the Brahmana (son), and one most excellent share.
 - Let the son of the Brahmana (wife) take three shares of the (remainder of the) estate, the son of the Kshatriya two, the son of the Vaisya a share and a half, and the son of the Sudra may take one share.
 - Or let him who knows the law make ten shares of the whole estate, and justly distribute them according to the following rule:
 - The Brahmana (son) shall take four shares, son of the Kshatriya (wife) three, the son of the Vaisya shall have two parts, the son of the Sudra may take one share.
 - Whether (a Brahmana) have sons or have no sons (by wives of the twice-born castes), the (heir) must, according to the law, give to the son of a Sudra (wife) no more than a tenth (part of his estate).
 - The son of a Brahmana, a Kshatriya, and a Vaisya by a Sudra (wife) receives no share of the inheritance; whatever his father may give to him, that shall be his property.
- All the sons of twice-born men, born of wives of the same caste, shall equally divide the estate, after the others have given to the eldest an additional share.
- For a Sudra is ordained a wife of his own caste only (and) no other; those born of her shall have equal shares, even if there be a hundred sons.

- Among the twelve sons of men whom Manu, sprung from the Self-existent (Svayambhu), enumerates, six are kinsmen and heirs, and six not heirs, (but) kinsmen.
- The legitimate son of the body, the son begotten on a wife, the son adopted, the son made, the son secretly born, and the son cast off, (are) the six heirs and kinsmen.
- The son of an unmarried damsel, the son received with the wife, the son bought, the son begotten on a remarried woman, the son self-given, and the son of a Sudra female, (are) the six (who are) not heirs, (but) kinsmen.
- Whatever result a man obtains who (tries to) cross a (sheet of) water in an unsafe boat, even that result obtains he who (tries to) pass the gloom (of the next world) with (the help of) bad (substitutes for a real) son.
- If the two heirs of one man be a legitimate son of his body and a son begotten on his wife, each (of the two sons), to the exclusion of the other, shall take the estate of his (natural) father.
- The legitimate son of the body alone (shall be) the owner of the paternal estate; but, in order to avoid harshness, let him allow a maintenance to the rest.
- But when the legitimate son of the body divides the paternal estate, he shall give one-sixth or one-fifth part of his father's property to the son begotten on the wife.
- The legitimate son and the son of the wife (thus) share the father's estate; but the other two become members of the family, and inherit according to their order (each later named on failure of those named earlier).
- Him whom a man begets on his own wedded wife, let him know to be a legitimate son of the body (Aurasa), the first in rank.
- He who was begotten according to the peculiar law (of the Niyoga) on the appointed wife of a dead man, of a eunuch, or of one diseased, is called a son begotten on a wife (Kshetraga).
- That (boy) equal (by caste) whom his mother or his father affectionately give, (confirming the gift) with (a libation of) water, in times of distress (to a man) as his son, must be considered as an adopted son (Datrima).
- But he is considered a son made (Kritrima) whom (a man) makes his son, (he being) equal (by caste), acquainted with (the distinctions between) right and wrong, (and) endowed with filial virtues.
- If (a child) be born in a man's house and his father be not known, he is a son born secretly in the house (Gudhotpanna), and shall belong to him of whose wife he was born.
- He whom (a man) receives as his son, (after he has been) deserted by his parents or by either of them, is called a son cast off (Apavidha).
- A son whom a damsel secretly bears in the house of her father, one shall name the son of an unmarried damsel (Kanina, and declare) such offspring of an unmarried girl (to belong) to him who weds her (afterwards).

- If one marries, either knowingly or unknowingly, a pregnant (bride), the child in her womb belongs to him who weds her, and is called (a son) received with the bride (Sahodha).
- If a man buys a (boy), whether equal or unequal (in good qualities), from his father and mother for the sake of having a son, that (child) is called a (son) bought (Kritaka).
- If a woman abandoned by her husband, or a widow, of her own accord contracts a second marriage and bears (a son), he is called the son of a remarried woman (Paunarbhava).
- If she be (still) a virgin, or one who returned (to her first husband) after leaving him, she is worthy to again perform with her second (or first deserted) husband the (nuptial) ceremony.
- He who, having lost his parents or being abandoned (by them) without (just) cause, gives himself to a (man), is called a son self-given (Svayamdatta).
- The son whom a Brahmana begets through lust on a Sudra female is, (though) alive (parayan), a corpse (sava), and hence called a Parasava (a living corpse).
- A son who is (begotten) by a Sudra on a female slave, or on the female slave of his slave, may, if permitted (by his father), take a share (of the inheritance); thus the law is settled.
- These eleven, the son begotten on the wife and the rest as enumerated (above), the wise call substitutes for a son, (taken) in order (to prevent) a failure of the (funeral) ceremonies.
- Those sons, who have been mentioned in connection with (the legitimate son of the body), being begotten by strangers, belong (in reality) to him from whose seed they sprang, but not to the other (man who took them).
- If among brothers, sprung from one (father), one have a son, Manu has declared them all to have male offspring through that son.
- If among all the wives of one husband one have a son, Manu declares them all (to be) mothers of male children through that son.
- On failure of each better (son), each next inferior (one) is worthy of the inheritance; but if there be many (of) equal (rank), they shall all share the estate.
- Not brothers, nor fathers, (but) sons take the paternal estate; but the father shall take the inheritance of (a son) who leaves no male issue, and his brothers.
- To three (ancestors) water must be offered, to three the funeral cake is given, the fourth (descendant is) the giver of these (oblations), the fifth has no connection (with them).
- Always to that (relative within three degrees) who is nearest to the (deceased) Sapinda the estate shall belong; afterwards a Sakulya shall be (the heir, then) the spiritual teacher or the pupil.

- But on failure of all (heirs) Brahmanas (shall) share the estate, (who are) versed in the three Vedas, pure and self-controlled; thus the law is not violated.
- The property of a Brahmana must never be taken by the king, that is a settled rule; but (the property of men) of other castes the king may take on failure of all (heirs).
- (If the widow) of (a man) who died without leaving issue, raises up to him a son by a member of the family (Sagotra), she shall deliver to that (son) the whole property which belonged to the (deceased).
- But if two (sons), begotten by two (different men), contend for the property (in the hands) of their mother, each shall take, to the exclusion of the other, what belonged to his father.
- But when the mother has died, all the uterine brothers and the uterine sisters shall equally divide the mother's estate.
- Even to the daughters of those (daughters) something should be given, as is seemly, out of the estate of their maternal grandmother, on the score of affection.
- What (was given) before the (nuptial) fire, what (was given) on the bridal procession, what was given in token of love, and what was received from her brother, mother, or father, that is called the sixfold property of a woman.
- (Such property), as well as a gift subsequent and what was given (to her) by her affectionate husband, shall go to her offspring, (even) if she dies in the lifetime of her husband.
- It is ordained that the property (of a woman married) according to the Brahma, the Daiva, the Arsha, the Gandharva, or the Pragapatya rite (shall belong) to her husband alone, if she dies without issue.
- But it is prescribed that the property which may have been given to a (wife) on an Asura marriage or (one of the) other (blamable marriages, shall go) to her mother and to her father, if she dies without issue.
- Whatever property may have been given by her father to a wife (who has co-wives of different castes), that the daughter (of the) Brahmani (wife) shall take, or that (daughter's) issue.
- Women should never make a hoard from (the property of) their families which is common to many, nor from their own (husbands' particular) property without permission.
- The ornaments which may have been worn by women during their husbands' lifetime, his heirs shall not divide; those who divide them become outcasts.
- Eunuchs and outcasts, (persons) born blind or deaf, the insane, idiots and the dumb, as well as those deficient in any organ (of action or sensation), receive no share.
- But it is just that (a man) who knows (the law) should give even to all of them food and raiment without stint, according to his ability; he who gives it not will become all outcast.

- If the eunuch and the rest should somehow or other desire to (take) wives, the offspring of such among them as have children is worthy of a share.
- Whatever property the eldest (son) acquires (by his own exertion) after the father's death, a share of that (shall belong) to his younger (brothers), provided they have made a due progress in learning.
- But if all of them, being unlearned, acquire property by their labour, the division of that shall be equal, (as it is) not property acquired by the father; that is a settled rule.
- Property (acquired) by learning belongs solely to him to whom (it was given), likewise the gift of a friend, a present received on marriage or with the honey-mixture.
- But if one of the brothers, being able (to maintain himself) by his own occupation, does not desire (a share of the family) property, he may be made separate (by the others) receiving a trifle out of his share to live upon.
- What one (brother) may acquire by his labour without using the patrimony, that acquisition, (made solely) by his own effort, he shall not share unless by his own will (with his brothers).
- But if a father recovers lost ancestral property, he shall not divide it, unless by his own will, with his sons, (for it is) self-acquired (property).
- If brothers, (once) divided and living (again) together (as coparceners), make a second partition, the division shall in that case be equal; in such a case there is no right of primogeniture.
- If the eldest or the youngest (brother) is deprived of his share, or if either of them dies, his share is not lost (to his immediate heirs).
- His uterine brothers, having assembled together, shall equally divide it, and those brothers who were reunited (with him) and the uterine sisters.
- An eldest brother who through avarice may defraud the younger ones, shall no (longer hold the position of) the eldest, shall not receive an (eldest son's additional) share, and shall be punished by the king.
- All brothers who habitually commit forbidden acts, are unworthy of (a share of) the property, and the eldest shall not make (anything his) separate property without giving (an equivalent) to his younger brothers.
- If undivided brethren, (living with their father,) together make an exertion (for gain), the father shall on no account give to them unequal shares (on a division of the estate).
- But a son, born after partition, shall alone take the property of his father, or if any (of the other sons) be reunited with the (father), he shall share with them.
- A mother shall obtain the inheritance of a son (who dies) without leaving issue, and, if the mother be dead, the paternal grandmother shall take the estate.

- And if, after all the debts and assets have been duly distributed according to the rule, any (property) be afterwards discovered, one must divide it equally.
- A dress, a vehicle, ornaments, cooked food, water, and female (slaves), property destined for pious uses or sacrifices, and a pasture-ground, they declare to be indivisible.
- The division (of the property) and the rules for allotting (shares) to the (several) sons, those begotten on a wife and the rest, in (due) order, have been thus declared to you; hear (now) the laws concerning gambling.
- Gambling and betting let the king exclude from his realm; those two vices cause the destruction of the kingdoms of princes.
- Gambling and betting amount to open theft; the king shall always exert himself in suppressing both (of them).
- When inanimate (things) are used (for staking money on them), that is called among men gambling (dyuta), when animate beings are used (for the same purpose), one must know that to be betting (samahvaya).
- Let the king corporally punish all those (persons) who either gamble and bet or afford (an opportunity for it), likewise Sudras who assume the distinctive marks of twice-born (men).
- Gamblers, dancers and singers, cruel men, men belonging to an heretical sect, those following forbidden occupations, and sellers of spirituous liquor, let him instantly banish from his town.
- If such (persons who are) secret thieves, dwell in the realm of a king, they constantly harass his good subjects by their forbidden practices.
- In a former Kalpa this (vice of) gambling has been seen to cause great enmity; a wise man, therefore, should not practise it even for amusement.
- On every man who addicts himself to that (vice) either secretly or openly, the king may inflict punishment according to his discretion.
- But a Kshatriya, a Vaisya, and a Sudra who are unable to pay a fine, shall discharge the debt by labour; a Brahmana shall pay it by installments.
- On women, infants, men of disordered mind, the poor and the sick, the king shall inflict punishment with a whip, a cane, or a rope and the like.
- But those appointed (to administer public) affairs, who, baked by the fire of wealth, mar the business of suitors, the king shall deprive of their property.
- Forgers of royal edicts, those who corrupt his ministers, those who slay women, infants, or Brahmanas, and those who serve his enemies, the king shall put to death.
- Whenever any (legal transaction) has been completed or (a punishment) been inflicted according to the law, he shall sanction it and not annul it.

- Whatever matter his ministers or the judge may settle improperly, that the king himself shall (re-) settle and fine (them) one thousand (panas).
- The slayer of a Brahmana, (A twice-born man) who drinks (the spirituous liquor called) Sura, he who steals (the gold of a Brahmana), and he who violates a Guru's bed, must each and all be considered as men who committed mortal sins (mahapataka).
- On those four even, if they do not perform a penance, let him inflict corporal punishment and fines in accordance with the law.
- For violating a Guru's bed, (the mark of) a female part shall be (impressed on the forehead with a hot iron); for drinking (the spirituous liquor called) Sura, the sign of a tavern; for stealing (the gold of a Brahmana), a dog's foot; for murdering a Brahmana, a headless corpse.
- Excluded from all fellowship at meals, excluded from all sacrifices, excluded from instruction and from matrimonial alliances, abject and excluded from all religious duties, let them wander over (this) earth.
- Such (persons) who have been branded with (indelible) marks must be cast off by their paternal and maternal relations, and receive neither compassion nor a salutation; that is the teaching of Manu.
- But (men of) all castes who perform the prescribed penances, must not be branded on the forehead by the king, but shall be made to pay the highest amercement.
- For (such) offences the middlemost amercement shall be inflicted on a Brahmana, or he may be banished from the realm, keeping his money and his chattels.
- But (men of) other (castes), who have unintentionally committed such crimes, ought to be deprived of their whole property; if (they committed them) intentionally, they shall be banished.
- A virtuous king must not take for himself the property of a man guilty of mortal sin; but if he takes it out of greed, he is tainted by that guilt (of the offender).
- Having thrown such a fine into the water, let him offer it to Varuna, or let him bestow it on a learned and virtuous Brahmana.
- Varuna is the lord of punishment, for he holds the sceptre even over kings; a Brahmana who has learnt the whole Veda is the lord of the whole world.
- In that (country), where the king avoids taking the property of (mortal) sinners, men are born in (due) time (and are) long-lived,
- And the crops of the husbandmen spring up, each as it was sown, and the children die not, and no misshaped (offspring) is born.
- But the king shall inflict on a base-born (Sudra), who intentionally gives pain to Brahmanas, various (kinds of) corporal punishment which cause terror.
- When a king punishes an innocent (man), his guilt is considered as great as when he sets free a guilty man; but (he acquires) merit when he punishes (justly).

- Thus the (manner of) deciding suits (falling) under the eighteen titles, between two litigant parties, has been declared at length.
- A king who thus duly fulfils his duties in accordance with justice, may seek to gain countries which he has not yet gained, and shall duly protect them when he has gained them.
- Having duly settled his country, and having built forts in accordance with the Institutes, he shall use his utmost exertions to remove (those men who are noxious like) thorns.
- By protecting those who live as (become) Aryans and by removing the thorns, kings, solely intent on guarding their subjects, reach heaven.
- The realm of that king who takes his share in kind, though he does not punish thieves, (will be) disturbed and he (will) lose heaven.
- But if his kingdom be secure, protected by the strength of his arm, it will constantly flourish like a (well)-watered tree.
- Let the king who sees (everything) through his spies, discover the two sorts of thieves who deprive others of their property, both those who (show themselves) openly and those who (lie) concealed.
- Among them, the open rogues (are those) who subsist by (cheating in the sale of) various marketable commodities, but the concealed rogues are burglars, robbers in forests, and so forth.
- Those who take bribes, cheats and rogues, gamblers, those who live by teaching (the performance of) auspicious ceremonies, sanctimonious hypocrites, and fortune-tellers,
- Officials of high rank and physicians who act improperly, men living by showing their proficiency in arts, and clever harlots,
- These and the like who show themselves openly, as well as others who walk in disguise (such as) non-Aryans who wear the marks of Aryans, he should know to be thorns (in the side of his people).
- Having detected them by means of trustworthy persons, who, disguising themselves, (pretend) to follow the same occupations and by means of spies, wearing various disguises, he must cause them to be instigated (to commit offences), and bring them into his power.
- Then having caused the crimes, which they committed by their several actions, to be proclaimed in accordance with the facts, the king shall duly punish them according to their strength and their crimes.
- For the wickedness of evil-minded thieves, who secretly prowl over this earth, cannot be restrained except by punishment.
- Assembly-houses, houses where water is distributed or cakes are sold, brothels, taverns and victualler's shops, crossroads, well-known trees, festive assemblies, and playhouses and concert-rooms,
- Old gardens, forests, the shops of artisans, empty dwellings, natural and artificial groves,
- These and the like places the king shall cause to be guarded by companies of soldiers, both stationary and patrolling, and by spies, in order to keep away thieves.

- By the means of clever reformed thieves, who associate with such (rogues), follow them and know their various machinations, he must detect and destroy them.
- Under the pretext of (offering them) various dainties, of introducing them to Brahmanas, and on the pretence of (showing them) feats of strength, the (spies) must make them meet (the officers of justice).
- Those among them who do not come, and those who suspect the old (thieves employed by the king), the king shall attack by force and slay together with their friends, blood relations, and connexions.
- A just king shall not cause a thief to be put to death, (unless taken) with the stolen goods (in his possession); him who (is taken) with the stolen goods and the implements (of burglary), he may, without hesitation, cause to be slain.
- All those also who in villages give food to thieves or grant them room for (concealing their implements), he shall cause to be put to death.
- Those who are appointed to guard provinces and his vassals who have been ordered (to help), he shall speedily punish like thieves, (if they remain) inactive in attacks (by robbers).
- Moreover if (a man), who subsists by (the fulfilment of) the law, departs from the established rule of the law, the (king) shall severely punish him by a fine, (because he) violated his duty.
- Those who do not give assistance according to their ability when a village is being plundered, a dyke is being destroyed, or a highway robbery committed, shall be banished with their goods and chattels.
- On those who rob the king's treasury and those who persevere in opposing (his commands), he shall inflict various kinds of capital punishment, likewise on those who conspire with his enemies.
- But the king shall cut off the hands of those robbers who, breaking into houses, commit thefts at night, and cause them to be impaled on a pointed stake.
- On the first conviction, let him cause two fingers of a cutpurse to be amputated; on the second, one hand and one foot; on the third, he shall suffer death.
- Those who give (to thieves) fire, food, arms, or shelter, and receivers of stolen goods, the ruler shall punish like thieves.
- Him who breaks (the dam of) a tank he shall slay (by drowning him) in water or by (some other) (mode of) capital punishment; or the offender may repair the (damage), but shall be made to pay the highest amercement.
- Those who break into a (royal) storehouse, an armoury, or a temple, and those who steal elephants, horses, or chariots, he shall slay without hesitation.
- But he who shall take away the water of a tank, made in ancient times, or shall cut off the supply of water, must be made to pay the first (or lowest) amercement.

- But he who, except in a case of extreme necessity, drops filth on the king's highroad, shall pay two karshapanas and immediately remove (that) filth.
- But a person in urgent necessity, an aged man, a pregnant woman, or a child, shall be reprimanded and clean the (place); that is a settled rule.
- All physicians who treat (their patients) wrongly (shall pay) a fine; in the case of animals, the first (or lowest); in the case of human beings, the middlemost (amercement).
- He who destroys a bridge, the flag (of a temple or royal palace), a pole, or images, shall repair the whole (damage) and pay five hundred (panas).
- For adulterating unadulterated commodities, and for breaking gems or for improperly boring (them), the fine is the first (or lowest) amercement.
- But that man who behaves dishonestly to honest (customers) or cheats in his prices, shall be fined in the first or in the middlemost amercement.
- Let him place all prisons near a highroad, where the suffering and disfigured offenders can be seen.
- Him who destroys the wall (of a town), or fills up the ditch (round a town), or breaks a (town)-gate, he shall instantly banish.
- For all incantations intended to destroy life, for magic rites with roots (practised by persons) not related (to him against whom they are directed), and for various kinds of sorcery, a fine of two hundred (panas) shall be inflicted.
- He who sells (for seed-corn that which is) not seed-corn, he who takes up seed (already sown), and he who destroys a boundary (-mark), shall be punished by mutilation.
- But the king shall cause a goldsmith who behaves dishonestly, the most noxious of all the thorns, to be cut to pieces with razors.
- For the theft of agricultural implements, of arms and of medicines, let the king award punishment, taking into account the time (of the offence) and the use (of the object).
- The king and his minister, his capital, his realm, his treasury, his army, and his ally are the seven constituent parts (of a kingdom); (hence) a kingdom is said to have seven limbs (anga).
- But let him know (that) among these seven constituent parts of a kingdom (which have been enumerated) in due order, each earlier (named) is more important and (its destruction) the greater calamity.
- Yet in a kingdom containing seven constituent parts, which is upheld like the triple staff (of an ascetic), there is no (single part) more important (than the others), by reason of the importance of the qualities of each for the others.
- For each part is particularly qualified for (the accomplishment of) certain objects, (and thus) each is declared to be the most important for that particular purpose which is effected by its means.

- By spies, by a (pretended) display of energy, and by carrying out (various) undertakings, let the king constantly ascertain his own and his enemy's strength;
- Moreover, all calamities and vices; afterwards, when he has fully considered their relative importance, let him begin his operations.
- (Though he be) ever so much tired (by repeated failures), let him begin his operations again and again; for fortune greatly favours the man who (strenuously) exerts himself in his undertakings.
- The various ways in which a king behaves (resemble) the Krita, Treta, Dvapara, and Kali ages; hence the king is identified with the ages (of the world).
- Sleeping he represents the Kali (or iron age), waking the Dvapara (or brazen) age, ready to act the Treta (or silver age), but moving (actively) the Krita (or golden) age.
- Let the king emulate the energetic action of Indra, of the Sun, of the Wind, of Yama, of Varuna, of the Moon, of the Fire, and of the Earth.
- As Indra sends copious rain during the four months of the rainy season, even so let the king, taking upon himself the office of Indra, shower benefits on his kingdom.
- As the Sun during eight months (imperceptibly) draws up the water with his rays, even so let him gradually draw his taxes from his kingdom; for that is the office in which he resembles the Sun.
- As the Wind moves (everywhere), entering (in the shape of the vital air) all created beings, even so let him penetrate (everywhere) through his spies; that is the office in which he resembles the Wind.
- As Yama at the appointed time subjects to his rule both friends and foes, even so all subjects must be controlled by the king; that is the office in which he resembles Yama.
- As (a sinner) is seen bound with ropes by Varuna, even so let him punish the wicked; that is his office in which he resembles Varuna.
- He is a king, taking upon himself the office of the Moon, whose (appearance) his subjects (greet with as great joy) as men feel on seeing the full moon.
- (If) he is ardent in wrath against criminals and endowed with brilliant energy, and destroys wicked vassals, then his character is said (to resemble) that of Fire.
- As the Earth supports all created beings equally, thus (a king) who supports all his subjects, (takes upon himself) the office of the Earth.
- Employing these and other means, the king shall, ever untired, restrain thieves both in his own dominions and in (those of) others.
- Let him not, though fallen into the deepest distress, provoke Brahmanas to anger; for they, when angered, could instantly destroy him together with his army and his vehicles.

- Who could escape destruction, when he provokes to anger those (men), by whom the fire was made to consume all things, by whom the (water of the) ocean was made undrinkable, and by whom the moon was made to wane and to increase again?
- Who could prosper, while he injures those (men) who provoked to anger, could create other worlds and other guardians of the world, and deprive the gods of their divine station?
- What man, desirous of life, would injure them to whose support the (three) worlds and the gods ever owe their existence, and whose wealth is the Veda?
- A Brahmana, be he ignorant or learned, is a great divinity, just as the fire, whether carried forth (for the performance of a burnt-oblation) or not carried forth, is a great divinity.
- The brilliant fire is not contaminated even in burial-places, and, when presented with oblations (of butter) at sacrifices, it again increases mightily.
- Thus, though Brahmanas employ themselves in all (sorts of) mean occupations, they must be honoured in every way; for (each of) them is a very great deity.
- When the Kshatriyas become in any way overbearing towards the Brahmanas, the Brahmanas themselves shall duly restrain them; for the Kshatriyas sprang from the Brahmanas.
- Fire sprang from water, Kshatriyas from Brahmanas, iron from stone; the all-penetrating force of those (three) has no effect on that whence they were produced.
- Kshatriyas prosper not without Brahmanas, Brahmanas prosper not without Kshatriyas; Brahmanas and Kshatriyas, being closely united, prosper in this (world) and in the next.
- But (a king who feels his end drawing nigh) shall bestow all his wealth, accumulated from fines, on Brahmanas, make over his kingdom to his son, and then seek death in battle.
- Thus conducting himself (and) ever intent on (discharging) his royal duties, a king shall order all his servants (to work) for the good of his people.
- Thus the eternal law concerning the duties of a king has been fully declared; know that the following rules apply in (due) order to the duties of Vaisyas and Sudras.
- After a Vaisya has received the sacraments and has taken a wife, he shall be always attentive to the business whereby he may subsist and to (that of) tending cattle.
- For when the Lord of creatures (Pragapati) created cattle, he made them over to the Vaisya; to the Brahmana, and to the king he entrusted all created beings.
- A Vaisya must never (conceive this) wish, I will not keep cattle; and if a Vaisya is willing (to keep them), they must never be kept by (men of) other (castes).

- (A Vaisya) must know the respective value of gems, of pearls, of coral, of metals, of (cloth) made of thread, of perfumes, and of condiments.
- He must be acquainted with the (manner of) sowing of seeds, and of the good and bad qualities of fields, and he must perfectly know all measures and weights.
- Moreover, the excellence and defects of commodities, the advantages and disadvantages of (different) countries, the (probable) profit and loss on merchandise, and the means of properly rearing cattle.
- He must be acquainted with the (proper), wages of servants, with the various languages of men, with the manner of keeping goods, and (the rules of) purchase and sale.
- Let him exert himself to the utmost in order to increase his property in a righteous manner, and let him zealously give food to all created beings.
- But to serve Brahmanas (who are) learned in the Vedas, householders, and famous (for virtue) is the highest duty of a Sudra, which leads to beatitude.
- (A Sudra who is) pure, the servant of his betters, gentle in his speech, and free from pride, and always seeks a refuge with Brahmanas, attains (in his next life) a higher caste.
- The excellent law for the conduct of the (four) castes (varna), (when they are) not in distress, has been thus promulgated; now hear in order their (several duties) in times of distress.

8

Regulations and Statutes for Household Dwellers

- A twice-born Snataka, who has thus lived according to the law in the order of householders, may, taking a firm resolution and keeping his organs in subjection, dwell in the forest, duly (observing the rules given below).
- When a householder sees his (skin) wrinkled, and (his hair) white, and the sons of his sons, then he may resort to the forest.
- Abandoning all food raised by cultivation, and all his belongings, he may depart into the forest, either committing his wife to his sons, or accompanied by her.
- Taking with him the sacred fire and the implements required for domestic (sacrifices), he may go forth from the village into the forest and reside there, duly controlling his senses.
- Let him offer those five great sacrifices according to the rule, with various kinds of pure food fit for ascetics, or with herbs, roots, and fruit.
- Let him wear a skin or a tattered garment; let him bathe in the evening or in the morning; and let him always wear (his hair in) braids, the hair on his body, his beard, and his nails (being unclipped).
- Let him perform the Bali-offering with such food as he eats, and give alms according to his ability; let him honour those who come to his hermitage with alms consisting of water, roots, and fruit.

- Let him be always industrious in privately reciting the Veda; let him be patient of hardships, friendly (towards all), of collected mind, ever liberal and never a receiver of gifts, and compassionate towards all living creatures.
- Let him offer, according to the law, the Agnihotra with three sacred fires, never omitting the new-moon and full-moon sacrifices at the proper time.
- Let him also offer the Nakshatreshti, the Agrayana, and the Katurmasya (sacrifices), as well as the Turayana and likewise the Dakshayana, in due order.
- With pure grains, fit for ascetics, which grow in spring and in autumn, and which he himself has collected, let him severally prepare the sacrificial cakes (purodasa) and the boiled messes (karu), as the law directs.
- Having offered those most pure sacrificial viands, consisting of the produce of the forest, he may use the remainder for himself, (mixed with) salt prepared by himself.
- Let him eat vegetables that grow on dry land or in water, flowers, roots, and fruits, the productions of pure trees, and oils extracted from forest-fruits.
- Let him avoid honey, flesh, and mushrooms growing on the ground (or elsewhere, the vegetables called) Bhustrina, and Sigruka, and the Sleshmantaka fruit.
- Let him throw away in the month of Asvina the food of ascetics, which he formerly collected, likewise his worn-out clothes and his vegetables, roots, and fruit.
- Let him not eat anything (grown on) ploughed (land), though it may have been thrown away by somebody, nor roots and fruit grown in a village, though (he may be) tormented (by hunger).
- He may eat either what has been cooked with fire, or what has been ripened by time; he either may use a stone for grinding, or his teeth may be his mortar.
- He may either at once (after his daily meal) cleanse (his vessel for collecting food), or lay up a store sufficient for a month, or gather what suffices for six months or for a year.
- Having collected food according to his ability, he may either eat at night (only), or in the daytime (only), or at every fourth meal-time, or at every eighth.
- Or he may live according to the rule of the lunar penance (Kandrayana, daily diminishing the quantity of his food) in the bright (half of the month) and (increasing it) in the dark (half); or he may eat on the last days of each fortnight, once (a day only), boiled barley-gruel.
- Or he may constantly subsist on flowers, roots, and fruit alone, which have been ripened by time and have fallen spontaneously, following the rule of the (Institutes) of Vikhanas.

- Let him either roll about on the ground, or stand during the day on tiptoe, (or) let him alternately stand and sit down; going at the Savanas (at sunrise, at midday, and at sunset) to water in the forest (in order to bathe).
- In summer let him expose himself to the heat of five fires, during the rainy season live under the open sky, and in winter be dressed in wet clothes, (thus) gradually increasing (the rigour of) his austerities.
- When he bathes at the three Savanas (sunrise, midday, and sunset), let him offer libations of water to the manes and the gods, and practising harsher and harsher austerities, let him dry up his bodily frame.
- Having repositied the three sacred fires in himself, according to the prescribed rule, let him live without a fire, without a house, wholly silent, subsisting on roots and fruit,
- Making no effort (to procure) things that give pleasure, chaste, sleeping on the bare ground, not caring for any shelter, dwelling at the roots of trees.
- From Brahmanas (who live as) ascetics, let him receive alms, (barely sufficient) to support life, or from other householders of the twice-born (castes) who reside in the forest.
- Or (the hermit) who dwells in the forest may bring (food) from a village, receiving it either in a hollow dish (of leaves), in (his naked) hand, or in a broken earthen dish, and may eat eight mouthfuls.
- These and other observances must a Brahmana who dwells in the forest diligently practise, and in order to attain complete (union with) the (supreme) Soul, (he must study) the various sacred texts contained in the Upanishads,
- (As well as those rites and texts) which have been practised and studied by the sages (Rishis), and by Brahmana householders, in order to increase their knowledge (of Brahman), and their austerity, and in order to sanctify their bodies;
- Or let him walk, fully determined and going straight on, in a northeasterly direction, subsisting on water and air, until his body sinks to rest.
- A Brahmana, having got rid of his body by one of those modes practised by the great sages, is exalted in the world of Brahman, free from sorrow and fear.
- But having thus passed the third part of (a man's natural term of) life in the forest, he may live as an ascetic during the fourth part of his existence, after abandoning all attachment to worldly objects.
- He who after passing from order to order, after offering sacrifices and subduing his senses, becomes, tired with (giving) alms and offerings of food, an ascetic, gains bliss after death.
- When he has paid the three debts, let him apply his mind to (the attainment of) final liberation; he who seeks it without having paid (his debts) sinks downwards.

- Having studied the Vedas in accordance with the rule, having begat sons according to the sacred law, and having offered sacrifices according to his ability, he may direct his mind to (the attainment of) final liberation.
- A twice-born man who seeks final liberation, without having studied the Vedas, without having begotten sons, and without having offered sacrifices, sinks downwards.
- Having performed the Ishti, sacred to the Lord of creatures (Pragapati), where (he gives) all his property as the sacrificial fee, having repositied the sacred fires in himself, a Brahmana may depart from his house (as an ascetic).
- Worlds, radiant in brilliancy, become (the portion) of him who recites (the texts regarding) Brahman and departs from his house (as an ascetic), after giving a promise of safety to all created beings.
- For that twice-born man, by whom not the smallest danger even is caused to created beings, there will be no danger from any (quarter), after he is freed from his body.
- Departing from his house fully provided with the means of purification (Pavitra), let him wander about absolutely silent, and caring nothing for enjoyments that may be offered (to him).
- Let him always wander alone, without any companion, in order to attain (final liberation), fully understanding that the solitary (man, who) neither forsakes nor is forsaken, gains his end.
- He shall neither possess a fire, nor a dwelling, he may go to a village for his food, (he shall be) indifferent to everything, firm of purpose, meditating (and) concentrating his mind on Brahman.
- A potsherd (instead of an alms-bowl), the roots of trees (for a dwelling), coarse worn-out garments, life in solitude and indifference towards everything, are the marks of one who has attained liberation.
- Let him not desire to die, let him not desire to live; let him wait for (his appointed) time, as a servant (waits) for the payment of his wages.
- Let him put down his foot purified by his sight, let him drink water purified by (straining with) a cloth, let him utter speech purified by truth, let him keep his heart pure.
- Let him patiently bear hard words, let him not insult anybody, and let him not become anybody's enemy for the sake of this (perishable) body.
- Against an angry man let him not in return show anger, let him bless when he is cursed, and let him not utter speech, devoid of truth, scattered at the seven gates.
- Delighting in what refers to the Soul, sitting (in the postures prescribed by the Yoga), independent (of external help), entirely abstaining from sensual enjoyments, with himself for his only companion, he shall live in this world, desiring the bliss (of final liberation).
- Neither by (explaining) prodigies and omens, nor by skill in astrology and palmistry, nor by giving advice and by the exposition (of the Shastras), let him ever seek to obtain alms.

- Let him not (in order to beg) go near a house filled with hermits, Brahmanas, birds, dogs, or other mendicants.
- His hair, nails, and beard being clipped, carrying an alms-bowl, a staff, and a water-pot, let him continually wander about, controlling himself and not hurting any creature.
- His vessels shall not be made of metal, they shall be free from fractures; it is ordained that they shall be cleansed with water, like (the cups, called) Kamasa, at a sacrifice.
- A gourd, a wooden bowl, an earthen (dish), or one made of split cane, Manu, the son of Svayambhu, has declared (to be) vessels (suitable) for an ascetic.
- Let him go to beg once (a day), let him not be eager to obtain a large quantity (of alms); for an ascetic who eagerly seeks alms, attaches himself also to sensual enjoyments.
- When no smoke ascends from (the kitchen), when the pestle lies motionless, when the embers have been extinguished, when the people have finished their meal, when the remnants in the dishes have been removed, let the ascetic always go to beg.
- Let him not be sorry when he obtains nothing, nor rejoice when he obtains (something), let him (accept) so much only as will sustain life, let him not care about the (quality of his) utensils.
- Let him disdain all (food) obtained in consequence of humble salutations, (for) even an ascetic who has attained final liberation, is bound (with the fetters of the Samsara) by accepting (food given) in consequence of humble salutations.
- By eating little, and by standing and sitting in solitude, let him restrain his senses, if they are attracted by sensual objects.
- By the restraint of his senses, by the destruction of love and hatred, and by the abstention from injuring the creatures, he becomes fit for immortality.
- Let him reflect on the transmigrations of men, caused by their sinful deeds, on their falling into hell, and on the torments in the world of Yama,
- On the separation from their dear ones, on their union with hated men, on their being overpowered by age and being tormented with diseases,
- On the departure of the individual soul from this body and its new birth in (another) womb, and on its wanderings through ten thousand millions of existences,
- On the infliction of pain on embodied (spirits), which is caused by demerit, and the gain of eternal bliss, which is caused by the attainment of their highest aim, (gained through) spiritual merit.
- By deep meditation let him recognise the subtle nature of the supreme Soul, and its presence in all organisms, both the highest and the lowest.
- To whatever order he may be attached, let him, though blemished (by a want of the external marks), fulfil his duty, equal-minded towards all creatures; (for) the external mark (of the order) is not the cause of (the acquisition of) merit.

- Though the fruit of the Kataka tree (the clearing-nut) makes water clear, yet the (latter) does not become limpid in consequence of the mention of the (fruit's) name.
- In order to preserve living creatures, let him always by day and by night, even with pain to his body, walk, carefully scanning the ground.
- In order to expiate (the death) of those creatures which he unintentionally injures by day or by night, an ascetic shall bathe and perform six suppressions of the breath.
- Three suppressions of the breath even, performed according to the rule, and accompanied with the (recitation of the) Vyahritis and of the syllable Om, one must know to be the highest (form of) austerity for every Brahmana.
- For as the impurities of metallic ores, melted in the blast (of a furnace), are consumed, even so the taints of the organs are destroyed through the suppression of the breath.
- Let him destroy the taints through suppressions of the breath, (the production of) sin by fixed attention, all sensual attachments by restraining (his senses and organs), and all qualities that are not lordly by meditation.
- Let him recognise by the practice of meditation the progress of the individual soul through beings of various kinds, (a progress) hard to understand for unregenerate men.
- He who possesses the true insight (into the nature of the world), is not fettered by his deeds; but he who is destitute of that insight, is drawn into the circle of births and deaths.
- By not injuring any creatures, by detaching the senses (from objects of enjoyment), by the rites prescribed in the Veda, and by rigorously practising austerities, (men) gain that state (even) in this (world).
- Let him quit this dwelling, composed of the five elements, where the bones are the beams, which is held together by tendons (instead of cords), where the flesh and the blood are the mortar, which is thatched with the skin, which is foul-smelling, filled with urine and ordure, infested by old age and sorrow, the seat of disease, harassed by pain, gloomy with passion, and perishable.
- He who leaves this body, (be it by necessity) as a tree (that is torn from) the river-bank, or (freely) like a bird (that) quits a tree, is freed from the misery (of this world, dreadful like) a shark.
- Making over (the merit of his own) good actions to his friends and (the guilt of) his evil deeds to his enemies, he attains the eternal Brahman by the practice of meditation.
- When by the disposition (of his heart) he becomes indifferent to all objects, he obtains eternal happiness both in this world and after death.

- He who has in this manner gradually given up all attachments and is freed from all the pairs (of opposites), reposes in Brahman alone.
- All that has been declared (above) depends on meditation; for he who is not proficient in the knowledge of that which refers to the Soul reaps not the full reward of the performance of rites.
- Let him constantly recite (those texts of) the Veda which refer to the sacrifice, (those) referring to the deities, and (those) which treat of the Soul and are contained in the concluding portions of the Veda (Vedanta).
- That is the refuge of the ignorant, and even that (the refuge) of those who know (the meaning of the Veda); that is (the protection) of those who seek (bliss in) heaven and of those who seek endless (beatitude).
- A twice-born man who becomes an ascetic, after the successive performance of the above-mentioned acts, shakes off sin here below and reaches the highest Brahman.
- Thus the law (valid) for self-restrained ascetics has been explained to you; now listen to the (particular) duties of those who give up (the rites prescribed by) the Veda.
- The student, the householder, the hermit, and the ascetic, these (constitute) four separate orders, which all spring from (the order of) householders.
- But all (or) even (any of) these orders, assumed successively in accordance with the Institutes (of the sacred law), lead the Brahmana who acts by the preceding (rules) to the highest state.
- And in accordance with the precepts of the Veda and of the Smriti, the housekeeper is declared to be superior to all of them; for he supports the other three.
- As all rivers, both great and small, find a resting-place in the ocean, even so men of all orders find protection with householders
- By twice-born men belonging to (any of) these four orders, the tenfold law must be ever carefully obeyed.
- Contentment, forgiveness, self-control, abstention from unrighteously appropriating anything, (obedience to the rules of) purification, coercion of the organs, wisdom, knowledge (of the supreme Soul), truthfulness, and abstention from anger, (form) the tenfold law.
- Those Brahmanas who thoroughly study the tenfold law, and after studying obey it, enter the highest state.
- A twice-born man who, with collected mind, follows the tenfold law and has paid his (three) debts, may, after learning the Vedanta according to the prescribed rule, become an ascetic.
- Having given up (the performance of) all rites, throwing off the guilt of his (sinful) acts, subduing his organs and having studied the Veda, he may live at his ease under the protection of his son.

- He who has thus given up (the performance of) all rites, who is solely intent on his own (particular) object, (and) free from desires, destroys his guilt by his renunciation and obtains the highest state.
- Thus the fourfold holy law of Brahmanas, which after death (yields) imperishable rewards, has been declared to you; now learn the duty of kings.

9

Baudhayana Dharmasutra's Law

The case of the Baudhayana Dharma-sutra is in many respects analogous to that of the Institutes of the Sacred Law, current in the schools of Apastamba and Hiranyakesin. Like the latter, it is the work of a teacher of the Black Yagur-veda, who composed manuals on all the various subdivisions of the Kalpa, and founded a Sutra-karana, which is said to exist to the present day:

- The Brahmanical tradition, too, acknowledges these facts, and, instead of surrounding Baudhayana's work with a halo of myths, simply states that it was originally studied by and authoritative for the followers of the Taittiriya-veda alone, and later only became one of the sources of the Sacred Law for all Brahmans.
- Moreover, the position of Baudhayana among the teachers of the Yagur-veda is well defined, and his home, or at least the home of his school, is known.

But here the resemblance stops. For while the Sutras of Apastamba-and Hiranyakesin have been preserved in care-fully and methodically arranged collections, where a certain place is assigned to each section of the Kalpa, no complete set of the Sutras of Baudhayana's school has, as yet; been found, and the original position of the detached portions which are obtainable is not quite certain. Again, while the works of Apastamba and Hiranyakesin seem to have been kept free from extensive interpolations, several parts of Baudhayana's Sutras have clearly received considerable additions from later hands.

According to the researches of Dr. A. Burnell¹, whose long residence in Southern India and intimate acquaintance with its Brahmanical libraries have made him the first authority on the literature of the schools of the Taittiriya-veda, the Sutras of Baudhayana consist of six sections, *viz.*

- The Sruta-sutras, probably in nineteen Prasnas;
- The Karmanta-sutra in twenty Adhyayas;
- The Dvaidha-sutra in four Prasnas;
- The Grihya-sutra in four Prasnas;
- The Dharma-sutra in four Prasnas;
- The Sulva-sutra in three Adhyayas.

The Grihya-sutra, which in Western India occasionally bears the title Smarta-sutra 2, contains, however, nine instead of four Prasnas. The MSS. of the Baudhayana-sutras, which contain the text alone, are all incomplete, mostly very corrupt and in bad order, and rarely give more than a small number of Prasnas on detached subjects. The copies in which the text is accompanied by a commentary are in a better condition. Thus the Kalpavivarana of Bhavasvamin 3 extends over the whole of the Sruta-sutra, and over the Karmanta and the Dvaidha-sutras.

It shows the proper sequence of the Prasnas on Sruta sacrifices, and that probably the Karmanta and the Dvaidha immediately followed the Sruta-sutra. But there is no hint in the MSS. or in the commentaries how the Grihya, Dharma, and Sulva-sutras were originally placed. With respect to these sections, it is only possible to judge from the analogy of the other extant sets of Kalpa-sutras and from internal evidence. On these grounds it may be shown that the order, adopted by Dr. Burnell, is probably the correct one. For the beginning of the Grihya-sutra 1 shows by its wording that it was not a separate treatise, but was immediately connected with some preceding Prasna.

The analogy of the collections of the Apastambiyas, the Hairanyakesas, the Kathas, and other schools permits us to infer that it stood after the Sruta-sutra. It is further clear that, in its turn, it was succeeded by the Dharma-sutra. For two passages of the latter work, 1, 2, 3, 15, and II, 8, 15, 9, clearly contain references to the Grihya-sutra. In the former, the author gives the rule regarding the length of the staff to be carried by a student, as well as the general principle that the staff must be cut from a tree fit for sacrificial purposes. With respect to the latter clause he adds that the details have been given above.' As the Dharma-sutra contains nothing more on this subject, it follows that the expression 'above' must refer to Grihya-sutra II, 7, where the usual detailed rules regarding the employment of particular woods for the several varnas are given.

In the second passage Baudhayana says that the rules for the performance of funeral sacrifices have been fully explained in the section on the Ashtakahoma, which occurs Grihya-sutra II, 17-18. It is, therefore, perfectly certain that Baudhayana, just like Apastamba, placed the Prasnas on the Sacred Law after those on the domestic ceremonies, and that the Dharma-sutra was not a separate work. Under these circumstances it becomes highly probable that the Sulva-sutra formed, as is the case in other sets of Kalpa-sutras, the conclusion of the whole. Thus the only treatise, whose position remains doubtful, is the Pravarakhanda, the list of the Brahmanical gotras and of their deified ancestors 2. Possibly it may have stood at the end of the Sruta-sutra.

The destruction of the continuity of Baudhayana's Kalpa-sutra has had the consequence which is commonly observable in other dismembered works, that several of its detached portions have received considerable additions from later and, as it would seem, from several hands. There can be no doubt that a small portion only of the nine Prasnas, found in the Western copies of the Grihya-sutra, really belongs to Baudhayana. For the description of the Grihya rites, which strictly follows the general plan laid down in the first Sutra, is completed in two or three Prasnas 1. Next follows a Prasna on the anukritis, rites resembling those comprised in the subdivisions treated before, and then a Prasna on prayaskittas, or expiations of mistakes committed during, and of the neglect of, the performance of the Grihya-karmani.

The remaining Prasnas are filled with a medley of paribhashas, general rules, and of full descriptions of ceremonies, some of which have been given before, while others are added afresh. Many of the newly-added rites do not belong to the ancient Brahmanical worship, but to the Puranic religions, the service of Shiva, Skanda, Narayana, and other deities, and some show an admixture of Tantric elements. In some of the later Prasnas, especially IV and V, the language closely resembles that of the first three, and shows the same stereotyped phrases and the same Vedic anomalous forms. But in other sections, particularly VI-IX, we find, instead of Sutras, the common Anushtubh Sloka throughout, and expressions peculiar to the metrical Smritis and the Puranas.

At the end of most Adhyayas we read the phrase, ity aha Baudhayanah, or bhagavan Baudhayanah, 'thus speaks Baudhayana, or the divine Baudhayana.' Finally, while the first three Prasnas are divided into Kandikas or Khandas, the following ones consist of Adhyayas or chapters.

These differences, as well as the fact that the most important Grihya rites, arranged according to a special plan, are done with in the first three Prasnas, necessarily lead to the conclusion that the whole remainder does not belong to Baudhayana, but consists of so-called Parisishtas, which were composed by the adherents of his school. Further, the fact that the last six Prasnas do not show everywhere the same style and language, makes it probable that the additions were made at different times and by different persons.

The Dharma-sutra seems to have undergone exactly the same fate as the Grihya-sutra. It will be obvious even to the readers of the translation that its fourth Prasna is a later addition. It consists of two parts.

The first, which ends with the fourth Adhyaya, treats of penances, both public and secret ones. The second, Adhyayas 5-8, describes the means of obtaining siddhi, the fulfilment of one's desires, and recommends for this purpose the offering of the Ganahomas after a previous sanctification of the worshipper by means of a course of austerities. The first part is perfectly superfluous, as the subject of penances has already been discussed in the first sections of the second Prasna, and again in chapters 4-10 of the third Prasna.

Its rules sometimes contradict those given before, and in other cases, eg. IV, 2, 10-12, are mere repetitions of previous statements. The introduction of the

means of gaining siddhi, on the other hand, is without a parallel in other Dharmasutras, and the subject is entirely foreign to the scope of such works. Its treatment, too, shows that chapters 5-8 do not belong to the author of the bulk of the Dharma-sutra. For the description of the preparatory 'restraints' or austerities contains somewhat more detailed rules for a number of penances, *e.g.*, the Krikkhras and the Kandrayana, which have already been described in the preceding Prasnas.

Moreover, the style and the language of the whole fourth Prasna are very different from those of the three preceding ones, and the differences observable are exactly the same as those between the first five and the last four Prasnas of the Grihya-sutra. The epic Sloka nearly throughout replaces the aphoristic prose, and the common slipshod Sanskrit of the Puranas appears instead of the archaic forms. Finally, the fourth Prasna is divided into Adhyayas, not into the Kandikas or Khandas and Adhyayas which are found in the first two Prasnas.

This latter peculiarity is also observable in the third Prasna, and raises a suspicion against the genuineness of that part also. For, though the third Prasna in style and language resembles the first two, it is hard to believe that the author should, for no apparent reason, suddenly have changed the manner of dividing his work towards its end. This suspicion is further strengthened by two other circumstances. First, Prasnas I-II really exhaust the discussion of the whole Dharma, and the third offers supplementary information only on some points which have been touched upon previously. Secondly, several Adhyayas of Prasna III seem to have been borrowed from other works, or to be abstracts from them.

Thus the tenth chapter has certainly been taken from the Gautamiya Dharmashastra, the sixth bears a very close and suspicious resemblance to Vishnu XLVIII 1, and the third looks very much like a short summary of the doctrine of Vikhanas, whose lost Sutra contained the original rule of the order of the Vaikhanasas or hermits, living in the forest. These circumstances justify, it seems to me, the assumption that Baudhayana's original Dharma-sutra consisted, like Apastamba's, of two Prasnas only, and that it received, through followers of his school, two separate additions, first in very ancient times Prasna III, where the style of the master is strictly followed, and later Prasna IV, where the language and phraseology of the metrical Smritis are adopted. It ought to be noted that Govindasvamin, too, does not take the whole of the four Prasnas for Baudhayana's composition.

With respect to several passages 2 where Baudhayana's name is introduced in order to give weight to the rules, he says that the Sutras may belong to 'a pupil.' I do not think that the criterion which he uses can be relied on in every case, because oriental authors without doubt occasionally speak of themselves as of third persons. But the fact that the commentator, though an orthodox Hindu, had misgivings as to the genuineness of portions of the work, is not without significance. It seems also that even the first two Prasnas are not quite free from interpolations. Thus the Kandikas on the Tarpana 1 are certainly much enlarged by additions, the verse at I, 5, 11, 36, a repetition of I, 5, 9, 5, and some prose

quotations which are introduced by the words *athapy udaharanti*, 'now they quote also,' standing usually before verses only, are at least suspicious. That the genuineness of many single passages should be doubtful, is no more than might be expected, not only on account of the separation of the Dharma-sutra from the other parts of the Kalpa, but also because the work, as we shall see further on, remained for a long time without the protection of a commentary. The practical conclusion to be drawn from this state of things is that the greatest caution must be observed in using the Baudhayana Dharma-sutra for historical purposes, and that it will be advisable to draw no inferences regarding Baudhayana's relation to other teachers and schools from the last two Prasnas, and not to trust too much to historical inferences drawn from single passages of the first two.

The position which Baudhayana occupies among the teachers of the Taittiriya-veda has already been discussed in the Introduction to Apastamba. It has been shown that according to the Brahmanical tradition preserved by Mahadeva, the commentator of the Hiranyakesi-sutras, he composed the first Sutra for the followers of his Sakha. Internal and external evidence has also been adduced, proving that he certainly was more ancient than Apastamba and Hiranyakesin. It is now possible to bring forward some further facts bearing on these points. First, in the section on the Tarpana, the libations of water offered to various deities, Rishis, and the manes, II, 5, 9, 14, Kanva Baudhayana receives his share immediately after the Rishis of the Veda and before Apastamba, the Sutrakara, and Satyashadha Hiranyakesin.

The same order is observed in the distribution of the offerings at the Sarpabali, described in the Grihya-sutra 1, where the following teachers of the Yagur-veda are specially named, *viz.* Vaisampayana, Phuliegu, Tittiri, Ukha, Aukhya, Atreya the author of the Pada-text, Kaundinya the author of the commentary, Kanva Baudhayana the author of the Pravakana, Apastamba the author of the Sutra, and Satyashadha Hiranyakesin.

Neither of these two passages belongs to Baudhayana. They are both clearly interpolations. But they show that Mahadeva's statement, which makes Baudhayana the first expounder of the Kalpa among the Taittiriya-vedins, agrees with the tradition of the Baudhayaniyas themselves. For not only the place allotted to Baudhayana's name, but still more the title Pravakanakara which he receives, show that the followers of his school placed him before and above all other teachers of the ritual.

The term pravakana, which literally means 'proclaiming or recitation,' has frequently the technical sense of 'oral instruction,' and is applied both to the traditional lore contained in the Brahmanas, and to the more systematic teaching of the Aegas 2.

If, therefore, a teacher is called the author of the Pravakana of a Sakha, that can only mean that he is something more than a common Sutrakara, and is considered to be the originator of the whole 'system of instruction among its followers.'

The epithet Kanva, which Baudhayana receives in both the passages quoted above, indicates that he belonged to the Vedic Gotra of the Kanvas. It deserves to be noted that Govindasvamin, too, on I, 3, 5, 13, explains the name Baudhayana by Kanvayana 3.

The style of Baudhayana's works furnishes, as Dr. Burnell has pointed out 1, another argument for their high antiquity. Compared with the Sutras of Apastamba and Hiranyakesin they are much simpler in their arrangement, and the complete absence of that anxiety to save 'half a vowel' which characterises the fully developed Sutra-style is very remarkable. The last point has been noticed by Govindasvamin also.

In commenting on I, 2, 3, 17-18, where Baudhayana first permits students to beg food of men of all castes, and afterwards explains that he means Aryans who follow their lawful occupations, he says 2, '(If anybody should ask), "Why give two Sutras, while one Sutra, ('A student shall ask) Aryans who follow their lawful occupations,' would have sufficed?" (his objection will be) correct.

For this teacher is not particularly anxious to make his book short.' In other cases we find a certain awkwardness in the distribution of the subject matter, which probably finds its explanation through the fact that Baudhayana first attempted to-bring the teaching of the Taittiriya on the Dharma into a systematic form.

Thus the rules on the law of inheritance are given without any apparent necessity and against the custom of the other Sutrakaras in two different chapters, I, 5, 11, 9-16 and II, 2, 3, 1-44. The section on purification, too, is divided into two separate portions, I, 4, 6-10 and I, 6, 13-15, and the second which treats of the purification of the vessels at sacrifices, properly ought to have been placed into the Sruta-sutra, not into the Dharma-sutra.

Again, the discussion of several topics is repeatedly interrupted by the introduction of rules belonging to different subjects, and Govindasvamin's ingenuity is often taxed to the utmost in order to find the reason why certain Sutras which apparently are unconnected with the main subject have been inserted.

A third argument for the great antiquity of Baudhayana's Sutras, derived from the archaic character of some of his doctrines, has been discussed in the Introduction to Apastamba 1. The number of instances where Baudhayana's rules are based on a more ancient order of ideas than Apastamba's might be increased very considerably.

But, as now the comparison of the two works is open to all students, I omit the cases contained in the two Dharmasutras, and content myself with adducing one more from the less accessible Grihya-sutras.

It is a well-known fact that the ancient Vedic ritual in certain cases admitted Sudras, and particularly the Rathakara or carpenter, who, according to all accounts, has Sudra blood in his veins, to a participation in the Sruta rites. The Taittiriya-brahmana even gives certain Mantras to be recited by the Rathakara at the Agnyadhana sacrifice 2. Now Baudhayana, who, Dh. S. I, 9, 17, 6, derives

the origin of the Rathakaras from a Vaisya male and Sudra female, apparently reckons him amongst the twice-born, and explicitly allows him to receive the sacrament of the initiation.

He says, Grihya-sutra II, 5, 8-9, 'Let him initiate a Brahmana in spring; a Kshatriya in summer, a Vaisya in autumn, a Rathakara in the rainy season; or all of them in spring 3.' But Apastamba, who shows great hostility against the mixed castes, and emphatically denies the right of Sudras to be initiated, gives the same rule regarding the seasons for the initiation both in his Grihya and Dharmasutras 4. He, however, omits the Rathakara in both cases.

There can be no doubt that Apastamba's exclusion of the carpenter, which agrees with the sentiments prevailing in modern Brahmanical society, is an off-shoot of a later doctrine, and as both he and Baudhayana belong to the same vidyavamsa, or spiritual family, this difference may be used as an argument for his posteriority to Baudhayana. In connexion with this rule of Baudhayana's it ought to be mentioned that even in the present day certain subdivisions of the modern Sutars or carpenters actually wear the Brahmanical thread, and, in spite of the adverse teaching of the Sastras, find Brahmans willing to perform the ceremony of investiture for them.

While it thus appears not incredible that Baudhayana really was the first Sutrakara of the Taittiriya, the numerous quotations which his works contain, permit us to form an idea of the extent of the Vedic and profane literature known to him.

Among the Vedic works which he adduces as authorities, or otherwise refers to, the three sections of the Taittiriya-veda, the Samhita, the Brahmana, and the Aranyaka, naturally take the first place. For the Aranyaka he seems to have used the Andhra version, as Dh. S. II, 10, 18, 7, 11 references to the seventy-first Anuvaka of the tenth Prapathaka occur. Two long passages, Dh. S. I, 2, 4, 3-8; II, 6, 11, 1-8, which apparently have been taken from the Satapatha-brahmana, testify to his acquaintance with the White Yagur-veda. Baudhayana does not say expressly that he quotes from the Brahmana of the Vagasaneyins, but Govinda has no hesitation in pointing to the Satapatha as their source.

It is remarkable that the fact noticeable in Apastamba's quotation from the Satapatha reappears here, and that the wording of the two quotations does not fully agree with the printed text of the Brahmana. The differences in the first passage are, no doubt, partly owing to corruptions and interpolations in Baudhayana's text; but that cannot be said of the second 1. References to the Samaveda and the Samans occur repeatedly, and the passage from the Nidana of Bhallavins regarding the geographical extent of true Brahmanical learning, which Vasishtha adduces, is given I, 1, 2, 11-12. From the Rigveda a few expiatory hymns and verses, such as the Aghamarshana and the Taratsamandis, are quoted.

The Atharvaveda is not referred to by name, but the existence of Atharvana schools may be inferred from the mention made of the vows called Siras, II, 8, 14, 2. Among the authorities on the Sacred Law, mentioned in the Dharm-

sutra, Katya I, 2, 3, 46, Maudgalya II, 2, 4, 8, and Aupagandhani II, 2, 3, 33, do not occur in other works of the same class. Harita, who is mentioned II, 1, 2, 21, and who probably was a teacher of the Maitrayaniya school, is named by Vasishtha and Apastamba also. The Gautama who is quoted I, 1, 2, 7 and II, 2, 4, 17, is, as has been shown in the Introduction to Gautama, most probably the author of the still existing Institutes of Gautama.

To the arguments for the latter view, adduced there, I may add that two other passages of the Dharma-sutra, II, 6, 15 and 26, point to a close connexion between Baudhayana's and Gautama's works. The former of the two Sutras contains, with the exception of one small clause in the beginning, exactly the same description of the duties of a hermit in the forest as that given by Gautama III, 26-35. The second Sutra states, just as Gautama's rule III, 36, that the venerable teacher (akaryah) prescribes one order only, that of the householders. The reason given for this opinion differs, however, according to Baudhayana, from that adduced in Gautama's text. The almost literal identity of the first long passage makes it not improbable that Baudhayana borrowed in this instance also from Gautama without noting the source from which he drew.

On the other hand, the argument drawn from the fact that the tenth Adhyaya of Prasna III has been taken from Gautama's Sutra loses its force since, as I have shown above, it is improbable that the third Prasna formed part of Baudhayana's original work. A metrical work on the Sacred Law seems to be quoted II, 2, 4, 14-15. For, as the second verse, adduced there, says that the penance for one who violated his Guru's bed has been declared above, it seems impossible to assume that the two Slokas belonged to the versified maxims of the Dharma current among the learned Brahmans.

If this quotation is not an interpolation, it proves that, side by side with the Dharmasutras, metrical treatises on the Sacred Law existed in very early times. One quotation, finally, which gives a verse from the dialogue of the daughters of Usanas and Vrishaparvan seems to have been taken from an epic poem. The verse is actually found in the Mahabharata I, 78, 10, and again 34, where the altercation between Sarmishtha and Devayani forms part of the Yayatyupakhyana. Considering what has been said above regarding the state of the text of the Dharma-sutra, and our imperfect knowledge of the history of the Mahabharata, it would be hazardous to assert that the verse proves Baudhayana's acquaintance with Vyasa's great epic. It will be safer to wait for further proofs that it was known to the Sutrakaras, before one bases far-going speculations on this hitherto solitary quotation.

The arguments which maybe brought forward to show that Baudhayana's home lay in Southern India are not as strong as those which permit us to determine the native country of Apastamba. The portions of the Sutras, known to me, contain no direct mention of the south except in the *desanirnaya* or disquisition on the countries, Dharma-sutra I, 1, 2, where certain peculiar customs of the southern Brahmans are enumerated, and some districts of Southern India, eg. Kaliega, are referred to as barbarous countries which must not be visited by Aryans.

These utterances show an acquaintance with the south, but by no means prove that Baudhayana lived there. A more significant fact is that Baudhayana declares, I, 1, 2, 4, 'going to sea' to be a custom prevailing among the northern Brahmans, and afterwards, II, I, 22, places that act at the head of the Patanias, the more serious offences causing loss of caste. It is probable that by the latter rule he wished to show his standpoint as a southerner. But the most conclusive argument in favour of the southern origin of the Baudhayaniyas is that they, like the Apastambiyas and all other adherents of the Taittiriya schools, are entirely confined to the Dekhan, and are not found among the indigenous subdivisions of the Brahmans in Central and Northern India.

This fact is, if not explicitly stated, at least implied by the passage of the Maharava quoted in the Introduction to Apastamba 1. It is proved by the present state of things, and by the evidence of the land grants of the southern dynasties, several of which have been made in favour of Baudhayaniyas. Thus we find a grant of Bukkaraya, the well-known ruler of Vijayanagara 2, dated Sakasamvat 1276 or 1354-5 A.D., in which a Brahmana, studying the Baudhayaniya-sutra, is mentioned as the donee of a village in Maisur. Again, in an inscription of Nandivarman Pallavamalla, which its editor, the Rev. Mr. Foulkes, places in the ninth century A.D. 3, a considerable number of Brahmanas of the Pravakana-sutra are named as recipients of the royal bounty, together with some followers of the Apastambha 4 school. As we have seen that Baudhayana is called in the Grihya-sutra the Pravakanakara, it is not doubtful that the Pravakana-sutra of this inscription is the Sutra of his school.

The villages which the grantees received from Nandivarman were situated on the Palar river in the Kittur districts of the Madras Presidency. Besides, the interesting tradition which asserts that Madhava-Sayana, the great commentator of the Vedas, was a Baudhayaniya 5 is another point which may be brought forward as evidence for the location of the school in Southern India.

Further, it must not be forgotten that most and the best MSS. of Baudhayana's Sutras are found in Southern India. There are also some faint indications that the Andhra country is the particular district to which Baudhayana belonged. For his repeated references to voyages by sea and his rule regarding the duty payable on goods imported by sea show that he must have lived in a coast district where sea-borne trade flourished, and the fact that he uses the Andhra recension of the Taittiriya Aranyaka makes it probable that he was an inhabitant of the eastern coast.

My estimate of the distance between Baudhayana and Apastamba and of that between the latter and the historical period of India has been given in the Introduction to Apastamba, pp. xxii and xliii, and I have nothing further to add on that subject.

The oldest witness for the existence of the Sruta-sutra of Baudhayana is its commentator Bhavasvamin, whom Dr. Burnell places in the eighth century A. D. The Dharma-sutra is first quoted by Vignanesvara, circa 1080-1100 A.D. Several of the passages adduced by him are, however, not traceable in the MSS.

As regards the materials on which the translation is based, I had at my disposal six MSS. of the text and two copies of Govindasvamin's commentary, the Bodhayaniya-dharmavivarana 1, one of which (C. I.) gives the text also. These MSS. belong to two chief groups, a northern and a southern one. The northern group contains two subdivisions. The first comprises (1) D., a MS. bought by me for the Government of Bombay at Ahmadabad (no. 6 of the Dekhan College collection of 1868-69), and about one hundred or one hundred and fifty years old; (2) P., an old MS. of my own collection, bought in 1865 at Puna; (3, 4) B. and Bh., two modern transcripts, made for me in Baroda and Bombay. Among these, D. alone is of real value, as P., B., and Bh. faithfully reproduce all its clerical errors and add a good many new ones. The second subdivision of the northern group is represented by K., a modern transcript, made for the Government of Bombay at Kolhapur in the southern Maratha country (Elphinstone College collection of 1867-68, Class VI, no. 2). The MSS. of the northern group, which give the vulgata current since the times of Nilakantha. (1650 A. D.) and Mitramisra (circiter 2 700 A. D.) in Western and Central India, can be easily recognised by the omission of the third Adhyaya of Prasna IV, and by their placing IV, 5, 1 b-25 after IV, 7, 7. One of the chief differences between K. and the other MSS. of the northern group is the omission of II, 5, 8, 4-II, 6, 11, 15 in the latter. The southern group of MSS. is formed by M., a slovenly Devanagari transcript of a Grantha MS., no. 610/1929 of the Madras Government collection 1, and by the text of C. L, a Devanagari copy of the MS. of Govindasvamin's commentary, presented by Dr. Burnell to the India Office library 2, The second copy of the commentary, C. T., a Telugu paper MS. from Tanjore, I owe to the kindness of Dr. Burnell.

As might be expected, on account of the southern origin of the Baudhayaniya school, M. gives on the whole the best form of the text. It also carefully marks the Kandikas 3 in the first two Prasnas, ignoring the Adhyayas altogether, and contains at the end of each Prasna the first words of each Kandika, beginning with the last and ending with the first, after the fashion which prevails in the MSS. of the Taittiriya Samhita, Brahmana, and Aranyaka. Very close to M. comes Govinda's copy, where, however, as in most northern MSS., the Adhyayas alone are marked.

It is, however, perfectly certain that in some very difficult passages, which are disfigured by ancient corruptions, he corrected the text conjecturally. present better and older readings than M. and C. I. 5 Under these circumstances it has not been possible to follow the commentary or M. throughout. Though they had to be made the basis, they had in many passages to be set aside in favour of readings of the northern group. In some cases I have also been obliged to make conjectural emendations, which have all been mentioned in the notes. Three Sutras, I, 8, 16, 13-15, have been left untranslated, because the MSS. offer no safe basis for a conjectural restoration, and the commentary is defective.

Govinda, who, as Dr. Burnell informs me, is said to be a modern writer, seems to have composed his vivarana without the aid of older vrittis. Though

he apparently was well acquainted with the writings belonging to the Taittiriya-veda, with the ritual and with the common law-books, he has not succeeded in explaining all the really difficult passages. Sometimes he is clearly mistaken, and frequently he passes by in silence words or whole Sutras, the sense or the general bearing of which is by no means certain.

Though it would be ungrateful on my part to underrate the importance of his work for my translation, I cannot place him in the same rank with Haradatta, the commentator of Apastamba and Gautama, and can only regret that no older commentary based on the living tradition of the Baudhayaniyas has been available.

If such a work were found, better readings and better explanations of many difficult passages would probably come to light. With the materials at my disposal the translation has been a work of some difficulty, and in trying to settle the text I have often experienced the feeling of insecurity which comes over the decipherer of a difficult inscription when the facsimiles are bad. The short Adhyaya on adoption, given in the appendix to the Dharma-sutra, has been taken from the Smarta or Grihya-sutra. It does not belong to Baudhayana, but is frequently quoted by the writers on civil law, who wrote in the sixteenth and seventeenth centuries of our era.

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