

CHAPTER

5

CHAPTER

5.1

CRITICAL REMARKS:

A C A R A D H Y A Y A

Śaṅkha expresses his sense of Gratitude to Manu

because before composing his Dharmaśāstra, he had properly studied Dharma propounded by Manu. The aphorism that Dharma is based on the Vedas, is told by Gautama¹ and Mbh.² also.

Manu refers to the important sources of Dharma Viz. Śruti

Smṛti, Sadācāra, and ātmatuṣṭi³. Ś.L. also mentions vedas

as the root of Smṛtis. Quot. No. 4, Ś.L. while pointing out the

importance of Dharma to a Man full of attachment and envious-

ness, expresses that Dharma is to a man as medicine to a

patient. The narration is in literary form. P.V. Kane showing

the importance of Dharma says " The writers on Dharmaśāstra

meant by dharma not a creed or religion but a mode of life or

a code of conduct, which regulated a man's work and activities

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1. वेदो धर्ममूलम् । तद्विद्वांश्च स्मृतिशीले । Gautama's Dharmaśāstra I-1.2.

2. वेदोक्तः परमो धर्मः धर्मशास्त्रेषु चापरः । Mbh. vanaparava 207.83.
शिष्टाचारश्च शिष्टानां त्रिविधं धर्मलक्षणम् ॥

3. Manu Smṛti II.6.

as a member of society and as an individual and was intended to bring about the gradual development of a man and to enable him to reach what was deemed to be the goal of human existence.⁴¹ Jauhari Manorama ~~explicitly~~ says " To run any human activity smoothly , discipline and certain rules to guide that discipline, are necessary. The concept of Dharma meets this fundamental requirement , by prescribing certain duties and principles of morality, for improving the general behaviour of man ."²

Ś.L.believes that the place, caste, and progeny are the important factors to perform Dharma. The geographical areas for performing Dharma are defined in different ways. Quot.No.10.The limits of Āryāvarta is shown common in Ś.L. and Vasistha Smṛti. While Manu smṛti refers to whole of Northern India.³ The people living in ~~in~~ this territory ^{it} would be observing Dharma properly and the relation between man and the society would be at a higher state.

Sometimes Rsis express contradictory opinions regarding Dharma .But to remove this conflict the authority of the Vedas is accepted. The Committee of ¹selected persons known as Parṣat was empowered to resolve the conflicting opinions.

1 4. Kane.P.V.History of Dharma.Vol.II.1, Poona ,BORI,1941.P.2.

2. Jauhari, Manorama, Politics and Ethics in Ancient India. P.75.

3. Manu Smṛti. II.22.

A fine illustration is found in Quot No.16. The sin does not stick to the *brahmana* as water to lotus leaf.

The word *Sam̐skāra* is derived from the *Sam+Vkr+Ghañ* and is used in different ways. The classical sanskrit literature uses the word in wide sense. *Raghuvaṃśa* uses it in the sense of education, Cultivation and training at one place.¹, in the sense of refinements and perfection at another place² and in the sense of consecration, sanctification and hallowing; idea, notion and conception; effect of work, merit of action etc. at the third place.³ The same word is used for decoration and ornament in *Abhijñānaśākuntalam*.⁴ *Manu smṛti* calls it a purificatory rite a sacred rite.⁵ Raj Bali Pandey explains it thus." It means religious purificatory rites and ceremonies for sanctifying the body, mind and intellect of an individual so that he may become a full-fledged member of the community."⁶

Ś.L. describes forty *saṃskāras* which are found in *Dharmasūtras*. Therefore it can be inferred that Ś.L. is an earlier version of present one.

1. *Raghuvaṃśa* ,III.35,

2. *Ibid* III.18,

3. *Ibid*, I.20.

4. *Abhijñānaśākuntalam* VII.23.

5. *Manu Smṛti* ,II.26.

6. Pandey, Raj Bali; *Hindu Saṃskāras*, Banaras, Vikram Publications, 1949, P.27.

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According to Hārita¹ Saṃskāras are divided into two Groups. Brāhma and Daiva. Ś.L. refers to both but narrates only Brāhma Saṃskāras. Gautama² enumerates forty Saṃskāras as follows:-

1. Garbhādhāna.
2. Pūṃsavana.
3. Sīmantonayana.
4. Jātakarma.
5. Nāmakarma.
6. Annaprāśana.
7. Caula.
8. Upanayana.
- 9-12. four vratas of Veda.
13. Samāvartana.
14. Vivāha (15-19) five daily mahayajnas.
- 20-26. Pakayajñas.
- 27-33. Haviryajñas.
- 34-40. Somayajñas.

Ś.L. does not refer to Pūṃsavana but adds Niṣkramaṇa and Karmavedha. Though Ś.L. speaks of eight virtues, the names are not given. In the same way the names of Pāka, Havi^{vī} and Soma Yajñas are also not mentioned.

1. द्विविधः संस्कारो भवति । ब्राह्मी देवश्च । गर्भाधा-
नादि स्मार्तो ब्राह्मः । पाकयज्ञहविर्यज्ञसौम्याश्चेति देवः ।

Quoted in Hist. of Dharmasūtras II, p. 193.
2. Gautama Dharmasūtra, VIII.14.24.

Hārita.

M.S.¹ allows Nāmakāṇḍa on the tenth day while Ś.L. mentions on the eleventh day (Quot.No.33). Ś.L. describes Karnavedha Samskāra with the joint authorship of Gobhila and says that Śatātapa agrees with it. Quot.No.40. Samskāra-Kaustubha² gives more details about it. It seems that Ś.L. has accepted the view of other Rsis. The subject of Dharma is open for Ś.L. Whatever is found striking to the authors of Ś.L. is included in the text, with due reference.

Annaprāsana is advised at the age of six months or twelve months. (Quot.No.42). This theory is common with modern ideology. Nowa days it is believed that a child should enjoy a full dish of dinner on its first birthday. The reason may be the hygienic point of view i.e. the perfect food for proper nourishment.

Generally the Upanayana is laid down for first three castes. But Ś.L. permits even Śūdra for the same. (Quot.No.54). Ś.L. describes in detail the Upanayana samskāras. The time, ^{danda,} ~~danda,~~ upavīta, garments and the daily life of a student is described elaborately for every caste. The word Upanayana is defined in Quot.No.71. The rules of study are mentioned e.g. the study of Vedāṅga and Smṛti should be done after completing the study of Vedas. (Quot.No.78). A long list of Anadhyāya is also given. This list indicates the importance of different persons in the

1. Manu Smṛti .II.30.

2. प्रथमे सप्तमे वापि अष्टमे दशमेऽथ वा ।
द्वादशे वा प्रकुर्वीत कर्णवेधं शुभावहम् ॥

Samskāra-Kaustubha, P. 379.

society viz. the King, the preceptor etc. Similarly the nature was also considered equally significant for the same / e.g. Rāhudaśāna, Night, darkness etc. The days like Aṣṭamī, Caturdaśī, and pañcadaśī are also prohibited for study.

The study was done to meet the two purposes of life— one to live peacefully and to be helpful to others, and secondly to attain Brahman or self-realization. The second motive of study included the injunctions and negations of the rules. This type of living was essential one to train the students to live a moral life. The psychological reason can also be guessed. Certain incidents naturally disturb the mind and as a result, concentration in the study would not be achieved. The object of the study was to attain knowledge and not to get certificate. These circumstances would have played an important role in framing this type of rules.

This saṁskāra was purely an educational but later on it became a bodily one. The result is, it became a badge of superior castes. During the mediaeval period Kṣatriyas and Vaiśyas were reduced to agriculturists. The majority of them dispensed with this saṁskāra.

The duties of a snātaka are important from the social point in general and from individual point in particular. Naturally therefore the rules cover the self interest as well as the interest of the society. The four motives of life Viz. Dharma, Artha, Kāma and Mokṣa were to be attained during the life time. So the relation between man and man and the man and the society should be ideal. The rules of Dharmaśāstra provides the same. Earnest wood¹ rightly opines in his forward

1. Motawani Kaval, Manu Dharmaśāstra, (Foreward) P. 8.

to Motawani's "Manu Dharmaśāstra". The Dharmaśāstra¹ was used as the standard book of thought, understanding and systematisation -not passion and muddle- concerning the relationships of human-beings for the maintenance (Dharma) and growth of man as man, and not as either beast or fool, both of which he sometimes is".

M.S.¹ gives a high esteem to gr̥hasthāśrama. A person desiring imperishable heaven and happiness in this world should uphold this Āśrama. Keeping this in view the man who did not marry was held in low scale. Yā.S.² does not permit an unmarried man for religious act. Raj Bali pandey pointing out the importance of marriage says, "Marriage was a family affairs rather than a personal one, indeed the generation of offspring was the supreme motive of every Union to the end that a man's house or family might not die out." ³ Ś.L. deals in detail with the topic of marriage.

The two quotations no. 121 and 122 are attributed to marriage. In Quot No. 121 Ś.L. following Anuloma system of marriage says that a brahmin can have four wives (i.e. one from Brahmin, second from Kṣatriya, third from Vaiśya and fourth from Śūdra). In the same way he permits three wives to Kṣatriya two to vaiśya and one to śūdra. While in the very next verse Ś.L. puts restriction and permits only three wives to brahmin two to Kṣatriya and one to vaiśya. It means a person from higher caste should not marry a śūdra.

1. Manu Smṛti .III.77-78.

2. Yājñavalkya Smṛti. I.51.

3. Pandey, Raj Bali, Op.Cit. P.264.

woman. Sudra woman can only marry a śūdra. The Quot No.121 is in prose and Quot.No.122 is in verse. It is just probable that with the passage of time liberal outlook might have been given up by Ś.L. The original views of Ś.L. expressed in prose form, are more generous. ^{Ś.L.} They allow upanayana to śūdra also.

The contradiction found in the verse form of text might have entered in the later period, when society adopted these views. The same later view is made more clear in Quot.No.123 and 128 to 131.

Ś.L. describes different types of Hastagrahaya-marriage ceremony - on the basis of caste difference. It is clearly mentioned that śūdra woman should be accepted through cloth. Quot No.139. Therefore it can be inferred that Ś.L. Upholds the liberal view that has been expressed in Quot No.121 Vāj.S. refers the similar view.¹

The three types of marriages viz. Brāhma, Ārśa^{śā} and Prājāpatya are narrated. The remaining types of marriages- Daiva and four types of Āsura are not discussed. Gotra system which was established by the time of Buddha is referred to Quot.No. 137.

Grhastha dharma is considered as the best one. Manu expresses the same view.² A long list of grhastha dharma is given by Ś.L.

The custom of anumarana is described in Quot No.157 and 163. The husband is the ^{ei} duty for a woman of Quot .162. Bāna discards it in Kadambari. Ś.L. Says that a woman becoming sātī is considered equal to Arundhatī. P.V.Kane explains how the custom

1. Vājasaneyī Samhitā XXX.5.

2. ^{Manu} Smṛti.III.78.

of Sati came into existence. He says " There is no vedic passage which can be cited as incontrovertibly referring to widow-burning as then current, nor is there any mantra which would be said to have been repeated in very ancient times at Such burning nor do the ancient grhyasūtras contain any direction prescribing the procedure of widow burning. It therefore appears probable that the practice arose in Brāhmanical India a few centuries before christa."¹.

Ś.L.merges the personality of a woman in her husband. She is not supposed to perform any vrata, upavāsa or religious rites alone. She can get heaven only by worshipping her husband. Quot No.164 Manu², Mbh³ and Matsya purāṇa⁴ also believes the same. Though husband was considered as her god, the varṇa of an individual was decided on the basis of the varṇa of his mother. This clearly points that women enjoyed a high status in those days.

Āhnikā contains six duties to be performed daily.⁵ Dharmasāstra describes the duties of a man from birth to death and from morning to evening .Dharmaśāstra has a typical method to treat

1. Kane P.V.Op.Cit.Vol.II.1. P.625.

2. Manu Smṛti.V.155.

3. Mbh .Anuśāsana -146.55.

4.Matgyapurāṇa,210-17.18.

5. संध्या-स्नानं जपौ होमौ देवतातिथिपूजनम्।

Parāśara Smṛti.I.39

आतिथ्यवैश्वदेवं च सङ्कर्मणि दिने दिने ॥

the subject . It describes the duties to be performed and those not to be performed.

Ś.L.gives different methods of śauca after mūtrapurīṣ o-tsarga for four āsramas and for four castes. In ācammana vidhi the gods are referred to viz. Brahamā , Viṣṇu, Rudra, Moon, Sun, Anila and Anala , Quot No.206. The details of rituals to be performed are also given .

Ś.L.enumerates six types of bath.

1. Nitya: 2: Naimittika 3: Kāmya 4: Kriyāṅgas 5: Malāpakar^{aka-}
-śana 6: Kriyā .Quot No.227 .Nityāsnāna is to be taken in Morning, while the nitya snāna at noon should be done according to Vidhi. If a person touches a rājāsvalā woman , he has to undergo naimittika bath. Puṣya snāna is kāmya and a bath for rituals is kriyāṅga one. Malāpakarāśana is to cleanse the body and a bath taken at tirtha or in the river is kriyā snāna. Different types of snāna give different fruits. Quot No.228-231 The Vedic mantras referred in Kriyā snāna show the importance of it. The method of taking bath in a flowing water is also mentioned. Quot No.243 .The long list of rules reveals the study of a human behaviour.

Ś.L. ~~Ś.L.~~ attaches a very high importance to g japa, a means for the purification of sins, Gāyatrī is depicted as a Goddess. The complete narration of the form of goddess is found in Quot.No.256. The vast information about saṁdhyā and Japa shows the prominence of Brāhmaṇa dharma. Manus says that yajñas were common prece^{ed}nt of dharma in DwāparaYUGA.¹

1. Manus Smṛti .I.86.

Ś.L. is a recognised dharmasāstra for this yuga. So it is quite clear that the information about rituals would be found abundant in this text. Mālās for Japa were made from Śaṅkha Mani, Pravāṇa, Sphāṭika, Mauktika, padmākṣa, suvarṇa and Rudrākṣa. The method of counting the japa is also stated.

The worship of Viṣṇu seems to be very popular at that time.

Tarpana means to offer water with joined hands to Gods, sages and manes. According to Manu¹ one should perform the tarpana daily. Ś.L. prescribes a brief tarpana Quot.No.279. In tarpana prayoga a long list is given of different deities as is found in Hemādri. It includes Prajāpati, Brahmā, Vedas, Devas, ṛsis, metres, Omkāra, Vasatkāra, Vyāhrtis, Sacrifices, heaven, earth, the air, days and nights, the Sāṅkhyās, siddhas, oceans, the rivers, the mountains, the fields, herbs, trees, gāndharvas, Apsarās etc.

Ś.L. describes five mahāyajñas, known from vedic times.² They are Deṇṇayajña, Pitṛayajña, Bhūtayajña, Manusyayajña and Brahmajajña. The whole world is one creation. The sentiment of live and let live or give and take spirit should be cultivated amongst people. According to Manu³ and Matsyapurāṇa⁴ every house holder causes injury to sentient beings every day in five places. Viz. Culli, peṣaṇi, upaskarṇa, kaṇḍani, and udakumbha. The five yajñas are prescribed to abolish these

1. Ibid. II. 176. Manu Smṛti II. 176.

2. ~~सप्तयज्ञः~~ - भगवन्, असृष्टकान्तं स्निग्धं जन्मेऽनुमन्तव्यं इति श्रूयते । तदिदं सप्तस्तीक्ष्णम् । अनुष्यद्यसः पञ्चैव महायज्ञाः । तान्येव महासत्राणि भूतयज्ञाः पितृयज्ञो देवयज्ञो ब्रह्मयज्ञ इति ।

Śatapatha Brāhmaṇa XI. 5. 6. 1.

3. Manu Smṛti. III. 68-71.

4. Matsyapurāṇa 52. 15-16.

five types of sins committed by an individual in his day to day life. Ś.L. describes Devayajña at length, while Brahmayajña and Pitryajña are just referred to only.

Vaiśvadeva, the offering of cooked food to all gods, is also described in Ś.L. Food is offered to Grhya fire on an ordinary one. It comprises mainly with three yajñas. viz. daivayajña, bhūtayajña, and pitrayajña, Ś.L. gives much importance to Brāhmaṇas. The grace of the god is attained through them. Thus they are more than Gods. Quot.No.316.

Ś.L. says that the host should accompany the guest upto public garden, public hall, place where water is distributed a tank, a temple, a tree or a river. Then host should utter a farewell till we see each other again. The same etiquette is narrated in Abhijñānaśākuntalam.¹

This throws light on the then prevalent social customs. The gardens and public halls were meant for the facilities of people. Public hall might have been in the form of Vādī or Dharmasākhā which we find now a days. The honour given to brāhmaṇas shows the advanced (śiṣṭa) state of the society.

From ancient time, great importance is given to purity of food. The chāndogya upaniṣad says that the mind is pure only when food is pure, and that creates dharmava smṛti.²

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1. शाङ्खरवः - भगवन्, ओदकान्तं स्निग्धो जन्तोऽनुगन्तव्य इति श्रूयते। तदिदं सरस्तीरम्। अत्र संदिश्य प्रतिगन्तु-
मर्हसि।

Abhijñānaśākuntalam. Ed. by Gajendra
gadakar. P. 94.

2. आहारशुद्धौ सत्त्वशुद्धिः सत्त्वशुद्धौ ध्रुवा स्मृतिः।
स्मृतिलम्भे सर्वग्रन्थीनां विप्रमोक्षः।

Ś.L. prescribes pañcādra bhojana. Quot. No. 323. whatever is cooked should be first offered to Gods before its consumption. The different figures like triangle, circle etc. should be made on the earth at the time of dinner. The Gods accept the food only when the dish is kept on such figure, otherwise the evil spirits draw away the rasa from the food. Quot No. 331. The author gives a long list of eatables and uneatables.

Ś.L. suggests the hearing of purāṇas after dinner. It also suggests the places, where one should not sleep. The reference to Vāiṣṇu proves his supremacy amongst the gods acceptable in those days.

(Contd. on next page)

'Suddhi-Kaumudī defines 'Suddhi' as the state of being capable of performing the rites that are prescribed in the Veda.¹

Smṛticandrikā defines it in a different manner. "Suddhi ' means removal of taint and fitness for Dharma.²

In the begining the list of materails and the parts of the body are mentioned, which are always pure. The objects which purify the polluted ones are water, clay, the powder of soap berries, bilvafruit, rice, mustard cake, Kṣāra, Gomūtra and cow-dung Quot.No.379. In Śuddhi prakaraṇa purification of earthen pots, of mettal vassels of cooked food etc. is mentioned. P.V.Kane feels that" Commonsense, conveninece and the loss that may be caused by very stringent provisions are the considerations which prompt the rules on this subject.³ The practical view is seen in Manu also.⁴

For the individual, mental and spiritual advancement, the ancient Indians put great emphasis on the purity of mind, of body of the place where they stayed or where the rituals were performed. The utensil and other objects used in their daily life and for the worship should be pure.

1. वेदबोधितकर्माहता शुद्धिः।

Suddhi-Kaumudī P.1.

2.Smṛticandrikā -P.2.

3.^{Kane, P.V.}History of Dharma Vol.IV.P.328.

4.Manu Smṛti,V.118.

The Brahama-purāṇa defining Śrāddha states that whatever is given to brāhamanas with faith, for the benefit of pitṛs, at a proper place, at proper time to deserving persons in accordance with prescribed procedure is called Śrāddha.¹

Śrāddha vidhi is described in a typical way by Brahmapurāṇa.² The discussions contains how, where, when, by whom and by what materials the śrāddha should be performed.

Veda does not categorically mention śrāddha but talks of Śraddhā. The mantra on Śraddhā is found in Rgveda.³ Pāṇini too explains that śrāddha has come from Śraddhā.⁴

Ś.L. discusses the eligibility of persons for offering pindas to pitṛs. The first right is of son, then wife and at last a brother. Quot. No. 410. He also states to whom the right to perform - - - - -

1. देशे काले च पात्रे च श्रद्धया विधिना च यत् ।
पितॄन्नुद्दिश्य विप्रेभ्यो दत्तं श्राद्धमुदाहृतम् ॥

Hist. of Dharma. IV p. 334.

Brahmapurāṇa. quoted 4.3

2. यथा यत्र यदा येषु यैर्देव्यैस्तद्ददाम्यहम् ।

Ibid. 220-2^{cd}.

- श्रद्धयाग्निः समिध्यते श्रद्धया हूयते हविः ।
3. श्रद्धां भगव्य मूर्धनि वचसो ब्रह्माग्निः ॥

Rgveda X. 151.1

4. श्रद्धा त्रयोजनं (कारणं) अस्य इति श्राद्धम् ।

Pāṇini Aṣṭādhyāyī. V. 1. 109
P. 886.

Śrāddha should go in case of none of them^{is} available. The time for śrāddha is also given at length. The two yogas viz. Padmaka and vyatipāta are the proper time for Śrāddhas. The tithi time and days are also mentioned.

The fifteen Gods who are to be remembered at the time of śrāddha are the representatives of pitrs. They include Rādra, caitra, Maitra, Śalakata, sāvitṛa, Jayanta, Gaṇḍharva, Kuṭapa, Rohini, virinca, Vijaya, Nairṛta, Mahendra, Varuṇa, and Bodha. Quot.No.425.

The places considered improper for Śrāddha are also shown. Then the places like gayā, prabhāsa, Puṣkara, Prayāga and Naimiṣāraṇya are considered best for this purpose. In the same way the rivers viz. Gangā, Yamunā and hand giving (Bāhudā) Narmadā are acceptable to him. Here the river Narmadā- Bāhudā which originates from Amarkantaka reminds the episode of Likhita.

Likhita one of the writers of this Smṛti regained his hands at the Bāhudā river after performing penance. It can be assumed that the Āsramas of Śaṅkha and Likhita might have been on the bank of the river Narmadā. S.L. enumerates Aharaṇ Śrāddha, Mātṛśrāddha, Āmaśrāddha and pārvana vidhi, Ekoddīṣṭa and Istiśrāddha.

S.L. has specified as to which type of Brāhmanas were to be invited for Śrāddha dinner. The distinct qualities of such Brāhmanas are described. S.L. refers to Atharva Veda. This shows that Atharva veda might have reached to that stage where society certified those brahmins for panktipavana.

The phrase 'Samaloṣṭāsmakāncana' brings to mind a similar phrase occurring in Bhagavad Gita.4.

1. Bhagavad-Gītā.6.8d, 14.24 b,

The Characteristics of apāṅkteya show the then prevalent social standards. ^mManu gives a long list of them.¹ Brāhmanas

were supposed to possess these virtues. Even for his maintenance he cannot behave as he likes. If he acts according to the

śāstras, he can become an honourable man. Learned Brāhmanas

because of their intellectual superiority enjoyed a high social status. The word 'Vidvān' is used for such brāhmana.

the parallel idea is found somewhere else that the king is worshipped in his Kingdom, while a man full of knowledge is

worshipped everywhere.² ~~Bhagavadgita~~ Bhavabhūti too says the

same in uttararāma carita³. A brāhmana could get respect in the society only on the basis of the qualities that he possessed.

For Śrāddha vidhi, numerous rules and regulations with their minutest details are prescribed. e.f. if the chastity is not observed, the Vidhi becomes fruitless. Manusmṛti advises not to perform Śrāddha on a large scale. Because it becomes difficult to look after the honouring of the brāhmanas, purity of place, exactness of time, general purity and to have brāhmanas with good qualities.⁴ Ś.L. is not rigid about the number of

brāhmanas. If proper brāhmana is not available, the appointment of brāhmana available, should be appointed in place of required Pitr. Agni should be considered as God.

1. ~~Manu Smṛti~~ Manu Smṛti III.150-156.

2. स्वदेशे पूज्यते राजा विद्वान् सर्वत्र पूज्यते।

3. Uttararāma-carita, IV.11. स. लघुटीका, चाणक्य नीति - ५३९. P. 566.

4. सत्क्रियां देशकालौ च शौचं ब्राह्मणसंपदः।

पूज्योत्तमन्यस्तरो हन्ति तस्मान्नैवेत विस्तरम्॥

At the time of Śrāddha vidhi a Dharbha ring (Pavītri) should be put on the anāmikā fingure. The rules for Kuśa accepted for Pavītri are given in details. Quot No.472-474.

Śrāddha vidhi is considered as technical subject in rituals. And as such Ś.L. mentions the method of honouring the Brāhmanas, whrshipping the pitṛs and flowers Not to be used in this vidhi. Quot No.485-488. The rules to be observed at the time of dinner are also laid down. Quot. No.497. In case, some mistake occurs during the dinner, the japa of Gayatrī is prescribed to remove the evil effect .

Pindadāna is the important part of Śrāddhavidhi. The explanation for how many pitṛs should be given pindas is given. The Sapindikārṇa is also clearly stated. At the time of one's death, the other dead relatives are also offered pindas.

For removing any sort of doubt than an incredulous man might have about the necessity of Śrāddha vidhi. Ś.L. has stated the fruits that one would desire from it. Quot. No.546.

CHAPTER

5.2

~~XXXXXXXXXXXXXXXXXXXX~~

There is no reference regarding the theory of Divinity of King in Ś.L. It propounds that position of a King is established to consolidate Varṇāśramadharmā in the State. Pointing out the importance of a King, P.V.Kane notes that "The fulfilment of their duties and responsibilities by rulers was of paramount importance to the stability and orderly development of society and to the happiness of individuals in the State and therefore one often finds that rājadharmā is said to be the root of or quintessence of all dharmas" 1.

1.Kane, P.V. History of Dharma. III. P.3

It is said in Mbh. that Rājadharmā is prominent of all dharmas.¹
The influence of a King on his people was note-worthy.—

यथा राजा तथा प्रजाः। is a welknown maxim
to the point. ~~Dr.~~ Acārya N.K. writes: " The King was created for
Public Welfare and it was the highest sacrament a King could
do. The King was thus not only to look after law and order,
he was designed for a positive role by promoting material
as well as spiritual interests of the individual and society."²

Mbh. considers the King as the maker of an age.³ As such he
must possess certain qualities . Dr. Bambahadur Mishra in his
thesis " Polity in Agnipurāṇa' has discussed the various
views of ancient Indian authorities about the qualities that
a King must possess. He writes: " Based on the Arthaśāstra
and Kāmandaka, our purāṇa presents two exhaustive lists of
the positive royal qualities, which are not as many as in
the Śaṅkha-Likhita and the Abhilaṣitārtha cintāmaṇi, but

.....
1. सर्वे धर्मा राजधर्मप्रधानाः। Mbh. Śāntiparva
63.29.

2. Acharya N.K. The Cultural polity of the Hindus. P.93.

3. कालौ वा कारणं राज्ञो राजा वा कालकरणम्।
इति तौ संशयो मा भूद् राजा कालस्य कारणम्॥

शजा कृत युगस्रष्टा त्रेताया दापस्य च। Mbh. Udyogaparva 132.16.
युगस्य च चतुर्थस्य राजा भवति कारणम्॥
Ibid. 132.17.

slightly more than in the Yājñavalkya and the Kātyāyana smṛtis.

They number fortyfive in the Śaṅkha-Likhita, forty four in the Abhilāṣitārtha-cintāmaṇi, nineteen in the Yājñavalkya and twenty in the Kātyāyana smṛti. Someśvara deva states that the fortyfour qualities are required in a King, are necessary for gaining Kingdom and maintaining its stability."¹ Ś.L. enumerates the qualities of a King in Quot.No.557. It suggests that the king should be the best man, the best administrator and full of wisdom and nobility. The word mūrdhābhisikta (Quot.No.558) suggests that coronation bestows sovereignty on the King. Thus Prthu was the first consecrated monarch.²

Ś.L. emphasizes on the paripālana of the people. The King attains heaven only by the properly looking after his subjects and not by vrata, by fasting or by different types of yajñas.

The food-problem is also given due importance. The King should purchase or sell corn according to the increase or decrease in the production. Kautilya also suggests a similar system.³ The King should also take into consideration the position of food and folder of the enemy. The reason is obvious.

1. Mishra, Bambahadur. Polity in Agni Purāṇa. P.37.

2. Agni Purāṇa, 19.22.

3. Kautilya. Arthaśāstra-Paṇyādhaḥṣa prakaraṇa. II. 16.

The daily routine of the King is not described in detail by Ś.L. The King is advised to take visit of the Soldiers.

The system of monthly salary was prevailing in times of Ś.L. Two suvarṇas were prescribed for Soldiers. P.V.Kane explains the word Suvarṇa " that the word is like Niṣka. The references of Niṣka in Atharva veda V.14.3 and Ait. Br.39.8 suggest that 'Niṣka ' was probably a gold piece used as a coin or an ornament or a thin plate of gold-like modern putli. Several of which are even now worn by woman in the form of necklace." ¹

The Amātya is the second important element from seven aṅgas of the state. Ś.L. describes the qualities of amātyas. Quot.No.572.

Ś.L. refers to cāra in Quot.No.573. Kāmandakiya Nītisāra² says that a dāta is open spy, while a cāra is a spy who works in secret. Ś.L. simply recommends to engage trust worthy spies.

The persons who are appointed for the state service should be loyal and ungreedy. They must be from noble family and the man of character and integrity. Ś.L. enumerates the list of those who are not ^{to} be punished. Quot No.577. Smṛti-candrikā referring to Ś.L. on p.126 clarifies the above

1. Kane, P.V.op.Cit.VOL.III. P.125, (Foot note)

2. Kāmandakiya-nītisāra .XII.32.

sūtra. Smṛticandrikā suggests that mother, father, snātaka etc. should not be physically punished. Ś.L. allows the punishment according to the age, learning and caste. The punishment of mutilation is also found in Ś.L. Quot No. 580. Tripathi Hariharanatha makes the divisions of punishment prescribed in dharma śāstras. Bodily punishment starts from Jail and ends with death. Capital punishment starts from 'Kākani' and ends at Sarvasvāpaharana.¹

Ś.L. divides the fines into three parts Viz. Prathama, madhyama and Uttama. First is 24 to 91 paṇas, Second is 200 to 500 paṇas and third 600 to 1000 paṇas. Quot. No. 582. Manu² and Yājñavalkya³ also believe in such type of divisions in punishment.

Ś.L. accepts the four proofs viz. Document, possession, witness and ordered ^{al} to decide a contested matter. These four proofs were prevalent in ancient times. In Quot. No. 584, Ś.L. describes the due importance of proof. If there is contradiction in Sāmanta the document is trustworthy, if it contradicts, the old people of a village should be heard, and if there is still disagreement, the possession since ten years becomes the important proof to take decision. Viṣṇu smṛti considers the three types of documents⁴. Ś.L. is silent about this. The importance of the proof of possession is discussed in Quot No. 584.

1. Tripathi, Hariharanath: Prācīna Bhārata meṁ Nyāyapālīkā, Delhi, 1965. P. 242.

2. Manu Smṛti 8.138.

3. Yāj. smṛti 1.326.

4.

अथ लेख्यं त्रिविधम् ॥१॥ राजसाक्षिकं ससाक्षि-
मसाक्षिकं च ॥

Possession is of two types (i) by title (ii) without title. The right of ownership can be accepted only in case of title when there is possession. It must be of long standing, unbroken and undisputed one. Nārada smṛti states that a person though having possession from hundred years but without title, is a thief and liable for punishment.¹

Pāṇinini explains the word sākṣi in as one who has directly seen.² witness is widely discussed by Ś.L. A long list of the characteristics of incompetent witness is given in Quot No.585. The qualities of a witness are described in Quot No.586 and 587. The disqualifications for being a witness are also elaborated. Under any circumstance one and only one witness should not be accepted. This precaution is taken for delivering proper justice. No body can be a witness in the dispute between the father and the son, and if one does so he should be penalized. When there is a conflict in witnesses the method of arriving at the decision is also narrated. The scope of revision is found in judiciary system.

1. Nārada Smṛti, 4-86-87.

2. Pāṇini: Aṣṭādhyāyī V.2.91.

The proper ~~reference~~ ⁱⁿ of ordeals ~~is~~ found in Manusmṛti¹. It refers to the story of Vatsa. As P.V.Kane says " This is probably the earliest and clearest reference in ancient sanskrit literature to the fire ordeals."²

Ś.L.refers to the different types of ordeals ^{also} viz.balance, eating, poison, entering fire, holding a piece of hot iron, offering one's merit acquired by sacrifices and charity. The King should make him undergo other śapathas.

Brhaspati smṛti mentions clearly when the ordeals should be used.³ Dr.Hariharnatha Tripathi says ' Whatever the truth may be it should be accepted that at the common acceptance from both the parties ordeals were the voluntary proofs, in absence of the proof provided by persons"⁴

Ś.L.gives elaborate rules about sacrificial priests, dying or leaving work and the fines to be imposed on them.

Fine for cattle ^{staying} among crops is prescribed. Yāj.also mentions similarly.⁵ For certain animals fines were not to be imposed because of tender feelings for them. and circumstances. The fine for transgressing the boundary of the field uttam sāhasa- was 1008 panas.

1. Manu smṛti,VIII.116.

2. Kane, P.V.Hist.of Dharma.III. P.362.

3. लिखिते साक्षिवादै च सन्दिग्धिर्जायते यदि।
अनुमाने च सम्प्रान्ते तत्र दिव्यं विशोधनम् ॥
Brhaspati smṛti.4.17.

4.Tripathi Hariharnath: Prācina Bhārata me Rājya Aura Nyāyālikā P.299.

5.Yāj, Smṛti.II.159.

The simple meaning of the word Vākṣāruṣya is abusing one another. Nārada defines the various ways of insulting a man - by speaking in very low terms about his place, caste, family and himself or in loud voice to torture the others.¹ Kātyāyana also defines the same in a little different way.² Manu does not define but he straightway starts with the topic. In Ś.L. three quotations are available. Ś.L. Specifies the penalty for different situations. If avīśiṣṭa is insulted by viśiṣṭa the penalty is 24 kārṣāpanas and in the case viśiṣṭa to avīśiṣṭa the penalty is half of the prior. For neglecting a brahmin a person has to undergo a peculiar type of punishment. Quot. No. 616. The rules for brahmin, if he insults the other castes are also mentioned. He should pay 100, 50 and 25 kārṣāpanas for insulting Kṣatriya, vaiśya and śūdra respectively. Manu also suggests the similar punishment.³ One quot. found on Daṇḍapāruṣya, describes that the penalty to be given for an attempt to beat was 5, 6 while in actual beating double the amount. Arthaśāstra defines Daṇḍapāruṣya as to touch or to raise the hand to beat any body or to beat actually.

1. Nārada, 18, 1.

2. हुङ्कारं कासनं चैव लोके चञ्च विगर्हितम् ।
अनुकुर्यादनुब्रूयाद् वाक्पारुष्यं तदुच्यते ॥

Kātyāyana 768. Quot. By Hist. of Dharma .
III. P. 511.

3. Manu Smṛti, 8.268 - 269 ^{ab} #.

One Quotation found on Daṇḍapāruṣya describes that the penalty to be given for an attempt to beat was 56 $\frac{1}{4}$ while for actual beating double the amount. Arthaśāstra(III.9) defines Daṇḍapāruṣya as to touch or to raise the hand to beat any body or to beat actually.¹

Panas and Kārṣāpanas are referred to by Ś.L. as a measurement of punishment. Sardha Srinivasan points out pana as a measurement of land. She quotes Nihar Ranjan Roy who has included pana in the table showing the measurement of land.¹ While Kārṣāpana was known as a coin. Srinivasan explains it as a silver coin weighing 3.2 ratās (57.6 grains).²

Steya is wellknown from the times of R̥gveda³. Many references are found to it in Ancient Literature. The Vājasaneyī Saṁhitā gives three synonyms for a thief⁴ viz. Stena, taskara and malimlava. The first devotes gupta thief, the second prakata thief and the third atiprakata thief. Kātyāyana gives the defination of the Word Steya⁵

1. Sardha Srinivasan Mesuration in Ancient India P.61.

2. Ibid. P.105

3. R̥gveda VI.28.3, X.4.6, I.191.5

4. Yajurveda XI-79.

5. प्रच्छन्नं वा प्रकाशं वा निशायामथवा दिवा।
चत्परद्रव्यहरणं स्तेयं तथैकीर्तितम् ॥

Kātyāyanasūrti.

Quoted by Hist. of Dharm. III. P. 519.

S.L. does not define it but the different punishments are mentioned. The penalty is prescribed for not using the proper weights. In many cases the mutilation of one limb of the body is ~~the~~ prescribed as punishment. Quot. No. 621. The number of paṇas and Kārṣāpaṇas were fixed according to the gravity of crime. Although the punishment seems to be of a preventive type, yet the circumstances were taken into consideration. Quot No. 630.

S.L. enumerates three places of Sāhasa. 1. Theft 2: Pāruṣya 3: Violence. Manu distinguishes steḥya from Sāhasa.¹

The Sāhasa is put into three categories viz. Prathama, Madhyama and Uttama. Dr. Surendranath Mital says that Prathama sāhasa was fined by 250 to 270 paṇas, Madhyama by 500 to 540 paṇas and Uttama by 1000 to 1080 paṇas.²

S.L. clearly mentions in Quot No. 638 similar punishment.

It says that a brahmin should not be punished. Mital opines that it is evident that in Ancient India there were two types of ideologies working for the punishment viz. preventive and Reformative. The sole of ideas behind this was to draw away a man from his antisocial activities and put him on the right path.³

1. Manu Smṛti, VIII.32.

2. Mitala Surendranatha. Samāja Aura Rājya Bhāratīya vicāra, P. 334.

3. Ibid, P. 336.

The Mitākṣarā on yājñavalkya Smṛti II.283¹, explains the word Saṅgrahana as the unlawful coming together of a man and a woman for sexual enjoyment¹. For this, various types of punishments are prescribed on the basis of caste, intention and the like.

Looking to the different aspects discussed in Rājadharmā prakaraṇa, the pattern of the state might have been that of the absolute monarchy. But a monarch was motivated in every action by the rules of dharma propounded by wise and foresighted, Rs is. Thus it will be quite nearer to the truth if such a state be taken as benevolent monarchy aiming at the ultimate good of the ruled and realisation of a welfare state. It may be concluded with the words of Acarya N.K." The state therefore was not a personal property of the king. It was a trust and the king was its trustee. But this trusteeship was not only negative. It demanded initiative and enthusiasm for it aimed at positive ends. Protection of people- prajāpari-pālana-was a primary duty of the King. This protection meant not only maintenance of law and order, It encircled within it the whole sphere of social and personal life .

1. स्त्रीपुंसयोर्मिथुनीभावः संग्रहणम् ।

Yāj. Smṛti P, 310.

The King was supposed to create an atmosphere in which people could advance their material and spiritual interests.¹

The principal topics discussed under the head of Dāyabhāga is partition and inheritance. The two popular schools Mitākṣarā and Dāyabhāga give their specific ideas regarding partition. The first school is predominant all over India except Bengal. While the other is preeminent in Bengal. The other authoritative books on this topic are Dāyabhāga of Raghunandana, Dāyakarmasaṁgraha of Śrī Kṛṣṇa, Tarkālāṅkāra, Virmitrodaya, Vivādaratnākara, Vivādacandra and vivādacintāmaṇi.

Ś.L. Starts with the importance of a son. It describes the twelve types of sons and their right to the property. The six types of sons are known as Dāyādas. They are aurasa, Kṣetraja, putrikāputra, paunarabhava, Kānina and gūḍha putra. The wealth is divided into ten parts. Two parts are for father and mother, two of aurasa, three of Kṣetraja and putrikāputra and the remaining three will go to the remaining ~~three will go to the remaining~~ three types of putras.

1. Acharya. N.K. The cultural Polity of the Hindus. P. 87.

The other six are adāyādās viz. apaviddha, sahodha, datta, kṛita, sūdrāputra and selfmarried(उपनतश्च स्वयम्).

They do not have legitimate right but they get their livelihood according to their usefulness to the family.

Ś.L. gives more details about partition. In different circumstances different decisions are to be taken certain established and acceptable norms to be followed for partition are also discussed. The time of partition is elaborately discussed. No partition of property was to be done amongst sons during the life time of their father.

Referring Prajāpati Ś.L. disallows the partition of building, water vessels, ornaments, clothes in actual use of respectable members of the family. Quot No. 670.

Ś.L. Says that all sons and daughters married or otherwise- are entitled to share their mother's wealth. Quot. No. 685. Ś.L. includes in mother's wealth, the amount paid to the bride by the bridegroom at the time of marriage. This note worthy custom or tradition was prevalent in their times. Quot No. 684.

CHAPTER

5 • 3

P r ā y a ś c i t t ā d h y ā y a :

Āśauca is of two kinds: 1. Jananāśauca and 2. Maranāśauca.

Though there are different views for the days of āśauca caused either on birth or on death.¹ The general principle is to observe it for ten days. The period of impurity depends on various circumstances viz. caste, relationship, the time elapsed to reach the news etc.

If there is srāva the mother incurs impurity for three days only. Quot No.720. If a child dies within ten days of birth the father and the mother have to observe janāśauca and become pure at the end of āśauca on birth. Quot No. 698-700.

Ś.L. prescribes āśauca of different number of days-- on the death of a child who is teethless, for a child who has undergone cudākarma and who has performed upanayana saṁskāra. Quot No.707. Ś.L. elaborates āśauca on the death of different relations and different varṇas. The period of purification depends on the blood relation. The āśauca for a pupil on the death of his ācārya points out that their relation was considered as equal to blood relation father-son. Quot No.711-712.

1. Manu Smṛti-V.83. Yāj. Smṛti .III.22, Matsyapurāṇa, 18.2-3.

The king is excluded from the āśauca as he is the abode of Dharma. Quot No. 740 .The other practical views is found in quot No. 746. If during the days of āśauca due to death, the birth of a son takes place, the man becomes immediately pure. The rules are framed considering various practical aspects. The importance of a King in the society is highly appreciated and no disturbance is caused to his routine work. Kane P.V. opines that " In the old days the means of communication were very limited, and hence the news of a birth or death must have taken considerable time to reach relatives staying even at a short distance and hence the restrictions imposed by the rules of āśauca were not felt to be very irksome".¹

In Āpaddharam prakaraṇa the man is advised to maintain his livelihood according to the rules laid down for different varṇas. Certain exceptions are granted for Brāhmaṇa. Quot No. 754. The treatment of the subject is not perfect. The rules for other varṇas are wanting.

*1 : Kane, P.V. Hist. of Dharma. IV. Page: 307.

Vānaprastha is that part of man's life, in which one leads life in a forest observing a strict way of living. It is stated that, when one sees one's skin wrinkled and hair growing white and sees the sons of one's sons, it is ^S time for vānaprastha. Manu smṛti is of the same opinion.¹ The rules of staying in the āśrama are described in Quot No. 761-767. The word dvija used in Quot No. 765. indicates that any person of the three higher varanas can observe vānaprastha dharma while a śūdra cannot.

There are two forms of the word 'Prāyaścitta' viz. 'Prāyaścitti' and 'Prāyaścitta'. The later form is generally dealt with in Smṛti works. According to āngiras the word 'Prāyaścitta' means the tapas performed of not repeating the same offence.² with decision. The simple meaning of the word 'Prāyaścitta' is such actions as tapa, gift and sacrifices whereby a man becomes purified and destroys his accumulated sins.

Brāhaspati Smṛti states two kinds of sins Viz. intentionally committed and unintentionally committed.

1. Manu Smṛti, 6.2.

2.

प्रायो नाम तपः प्रोक्तं चित्तं निश्चय इत्यतः ।
तपो निश्चयसंयोगात् प्रायश्चित्तमिति स्मृतम् ॥

by Hist. of Dharma. IV. P. 59. Āngiras. Quoted

In the beginning Ś.L. prescribes different Karma-vipākas. The doctrine of Karma and punarjanma is applied here. The cause and effect are inseparably linked up in the moral sphere as supposed in physical sphere. Every action has a fruit either good or bad. Good action gives a reward while a bad action leads to retribution. If the bad action does not yield the consequences in this life, the soul begins another life to undergo sufferings due to its past bad deeds. The action done by a man does not perish unless its fruits are enjoyed even in another birth. Ś.L. enumerates a long list of consequences of bad deeds. Quot No. 784-789. Similar lists are found in Manusmṛti¹ and Yāj. Smṛti² also.

Ś.L. does not enumerate the Mahāpātakas separately but in Quot. No. 790. the expiations for five mahāpātakas are described.

1. Manusmṛti, XI. 49-52.

2. Yāj. Smṛti, III. 206-217.

The number of minor sins (upapātakas) vary from smṛti to Smṛti. Ś.L. mentions 18, while Manu Smṛti¹ mentions 49 and Yāj. Smṛti 51.²

Ś.L. describes the cause of sin in Quot. No. 794 and 795. Yāj. Smṛti prescribes that by omitting to do what is ordained, by resorting what is prohibited and by not controlling the senses, man incurs sin³. Manu Smṛti⁴ also says nearly same thing.

The rules of expiations and vrata described in Quot No. 796 to 806. During the performance of Vrata one should protect the life. In Quot No. 805 an illustration is given. Ś.L. mentions that Dharma flows through the body (i.e. it is performed physically) as water flows from the mountain. So life should be guarded by all means. Kālidāsa narrates the importance of life with reference to Dharma in Kumārasambhavan. He says life is the foremost means of Dharma.⁵

1. Manu Smṛti XI: 59.66

2. Yāj Smṛti III. 234-242.

3. Yāj Smṛti III. 219

4. Manu Smṛti XI. 44.

5. Kālidāsa, Kumārasambhavam, V. 33. [शरीरमाद्यं खलु धर्मसाधनम्]

Vapanam is one of the essentials of performing the Vrata.

But if one does not wish to remove hair, the other necessary part of the vrata should be doubled. Quot No.809.

Ś.L. ~~ex~~empts the young ones(bāla) from expiation.

The sins are divided into two parts : 1. ^{done} Intentionally
~~done~~ : 2: done un^{done}intentionally. Ś...L. begins with the

killing of a brāhamana without intention. Quot No.813. Then

follows the different types of sins. In the list of sins, the sins of personal life as well as of the social life of a man, are included. The restriction shows the mode of life during the days of Ś.L. Quot. No.814 to 928.

The different vratas are enumerated in Ś.L. when the ingredients of pañcagavya mixed with Kuśa water are drunk for three consecutive days, it is called yāti sântapana vrata. If this vrata is followed by fasting of a day, it becomes kṛccha sântapana. The different kṛccha vratas are narrated viz. Pārṇa kṛccha, Pāda kṛccha , śīta kṛccha etc. The definite rules for taking food and fasting are prescribed for each type of vrata. The other vratas like prājāpatya, cāndrayana and yāvaka are also described.

At the end, the importance of the water of the river Gaṅgā is shown for removing the sins. The bath on the third day

of vaiśākhaia powerful to remove all the bad effects of sin.

Lastly the Japa is considered as a powerful instrument to liberate oneself from sins completely. Japa is described in Quot No.963.
