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LIFE VISION BEHIND THE LAW BOOKS

That "Dharma" can be defined in the context of the ancient-Indian Law Books as the underlying motive principle in the social evolution of humanity towards the manifestation and demonstration of the soul, or in other words of the basic oneness of mankind¹ appears to be a thesis which has far reaching religious implications. Much has been written about the philosophical uncertainty regarding the meaning of the term "Dharma", a term very central to the Hindu religious literature. Among other things, it implies universal or cosmic laws (*ṛita*), moral laws, code of conduct of the individual or group, the precepts of social behaviour, the practice of the virtues enjoined by ethics, the third element of the four human ends (*Purusarthas*), justice, virtue, morality, religious merit and righteousness, the Good, the True, the Norm, the Ideal, the Way. The term "Dharma", therefore, seems to be an epitome of the whole gamut of philosophy and religion. The present article proposes to deal with it only in the context of *varnas* (castes) and *āshramas* (stages of life), which are the most effective ascetical means to achieve the supreme perfection or end of man. The article has two sections: the first deals with the *Dharmasutras* and *Dharmasastras* in general. The second section is an attempt to state the philosophical and religious vision behind these Law Books.

I

The evolution of the Law Books

Although the following statement of J. R. Gharpure may ap-

1. J. R. Gharpure, *Teachings of Dharmasastra* (Delhi: Motilal Banarsi Dass, 1956), p. 99

pear to be an over-simplification of the Hindu tradition on *dharmā*, it nevertheless provides a suitable starting point of our discussion. He writes:

On the expository side, the central theme of these lectures is that the whole of Hindu Dharma centres round three sets of four things: 1) the four *varnas* 2) the four *āśramas*, 3) the four *Purusharthas*. The first set relates to the basis of Hindu Social organizations, the second outlines the courses of development of the individual, and the third represents the values which Hindu Culture, as a whole, stands for, the goals which the individual, the society and the State should strive for.²

The contention that the whole Hindu Dharma centres round *varnas* (the four castes, namely, Brahmana, Kshatriya, Vaisya, Sudra), *āśramas* (student, householder, hermit and mendicant) and *purusharthas* (wealth, fulfilment of desire, the practice of virtue and the final liberation) needs to be further substantiated. The question is whether these aspects of life constituted the essence of Hindu Dharma or, more correctly, only expressed a *fundamental life vision* which had been in existence and was articulated later on in the Law Books. Whatever be the answer, it was the Law Books which made the vision that is called *sanātanadharmā*—eternal religion—part and parcel of the Indian way of life. Hence, through an analysis of these Law Books, an attempt can be reasonably made to reconstruct the philosophical ideals which were working in the minds of the law-givers. But before we enter upon such a project, it seems a necessary to give collective view of the entire literature on laws.

Source of Law

As regards the foundations of *dharmā*, *Yājñavalkya smṛti* seems to be a reliable source. Verses 3, 4, 5 and 7 of the first part of *Yājñavalkya smṛti* indicate the places where Rules of Life may be found. Verses 6 and 8 of the same part, and verse 65 of the third part, speak of the Law in practice. These, in order of priority, are the following: (1) the *vedas* with their six *angas*

2. *Ibid.*, p. iv.

(limbs); (2) the *Puranas*; (3) the *Nyāya*; (4) the *Mimamsa*; (5) the *Dharmasastra*, and *Arthasastra*; (6) the practice or usage of the good; (7) what appears commendable to oneself, and, (8) a desire born of a proper resolve; (9) equity, fiction, judicial decision and legislation. These sources are collectively called *Dharmasastras*. These comprise several sub-divisions according to their order of importance and priority. Besides these, numerous folklores, mythical allegories, and legendaries have also been the source of *Dharmasastras*.³ They form the part dealing with the *smṛti* section of the Hindu literature. The *smṛtis* have two main division, namely, sutras—short rules or precepts couched in concise technical sentences—and a metrical treatise.

Dharmasutras formed a part of the Kalpa-sutras. They are aphoristic works on vedic rituals and are divided into Strauta, *Gr̥hya* (domestic), and *Dharma* sutras. The number of these sutras is very large. P.V. Kane has classified the extant *Dharmasutras* into major and minor treatises. According to him the major ones are: (1) *Gautama*, (2) *Baudhayana*, (3) *Apastamba*, (4) *Vasishta*, (5) *Vishnu* and *Vaikhanasa Smārta*.⁴ He also gives a list of thirty minor sutras.⁵

Along the Sutra-literature, the metrical treatises also developed. Manu called his Institutes of the Sacred Law by the general term *smṛti*.⁶ *Dharmasastras*, written in metrical style, form a major part of *Smṛti*. P.V. Kane mentions twenty-five earlier and five later *Smṛtis*. Of the earlier *smṛtis*, *manusmṛti*, which is also known as *Bṛigu Sambhita* and *Yājñavalkya smṛti*, are the most important ones. Thus *Dharmasastras* mark the second stage in the development of the Rules of conduct in the Indian religious literature.⁸

With the publication of commentaries or law digests (*Nibandhas*) the third stage commenced. The period of *Nibandhas* covers about one century, starting from the seventh century.

3. *Manu Smṛti*, 2, 6, 12.

4. P.V. Kane, *History of Dharmasastras*, Vol. I (Poona: Bandarkar Oriental Research Institute, 1968), pp. 22-142; 251-260.

5. *Ibid.*, pp. 261-299.

6. *Manusmṛti*, 2, 10.

7. P. V. Kane, *op. cit.*, Vol. I, p. 299ff.

8. T.M. Manickam, *Dharma according to Manu and Moses* (Bangalore: Dharmaram Publications, 1977), p.31.

During this period, customs (*sadāchāra*) came to be regarded as having as much authority as the *Sruti* itself.

It is during the second stage of laws that the main features of socio-religious pattern of the Indian society got fixed. Hence we shall try to trace the underlying convictions and beliefs of this period.

Content of the Law Books.

Dharmasutras and *Dharmasāstras* (*smrtis*) addressed themselves almost entirely to rules of conduct, rites and rituals (*ācārās*), expiatory rites (*prayaścitta*), secular laws (*vyavahāra*) and rights and duties of a king (*raja dharma*).⁹

All the Law Books devote a considerable amount of space and attention to the rules of conduct, rites and rituals. They include *samskāra*, (sacraments),¹⁰ rites for the dead (*srāddha*),¹¹ rules about impurity (*aśauca*),¹² and prescriptions concerning the purification of various articles and substances.¹³

The idea of expiation, classification of offences or sins, and the modes of expiation are treated in the section dealing with expiation (*prayaścitta*). Corresponding to the innumerable sins men commit there are an equal number of expiatory rites. These rules also form a major part of the Law Books.

Dharmasutras and *Sastras* also contain much matter relating to secular law. This section offers norms of judicial procedure in disputes, and lays down rules of inheritance and succession. The section on rights and duties of a king, covers the following topics: the Kings' revenue, his duties, the personal qualities he should

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9. As far as the portion of laws governing *raja dharma* is concerned, *Manusmṛti* owes some allegiance to Kautily's *Arthaśāstra*. Western scholars like Max Müller and George Bühler are of the opinion that *Manusmṛti* is based on or, in fact, is a recant of an ancient *Manavadharmasūtra*.
 10. *Gautama Sūtra* mentions forty sacraments. But other *smṛtis* mention only *upanayana* (initiation), *vivāha* (marriage) and one or two other sacraments.
 11. Under this title are discussed various kinds of *Srāddha*—the places prescribed and prohibited for their performance—and other rules related to it.
 12. It includes rules concerning the period of impurity, duties and disabilities during the period of *aśauca*, and the relations affected by it.
 13. These rites deal with the purification of the material objects.

acquire, the vices he should avoid, his residence, rural administration, departments of the state, political expedients to be used by the King, and rules relating to conquered territories.

The last two sections of *Dharma-sutras* and *Sāstras* deal with the same area as the one covered by *Arthashastra* of Kautilya, the great Mauryan King-maker. "The difference between *Arthashastra* and *Dharmasāstra* was likened to that between the work of a statesman and a priest. Much was made of the 'secular' outlook of the former. But the fact is that what is praised as a specific contribution of *Arthashastra* is equally conspicuous in *Dharma-sutras* and *sastras*."¹⁴

The Law Books and their milieu

A survey of the content of these works will be of great help to get an overall picture of the social, cultural and religious outlook, and the economic conditions of the people of those remote times. One of the main features of the society was that it was constituted of four castes, namely *Brahmana*, *Kshatriya*, *Vaisya*, *Sudra*. According to *Apastamba Sutra* (I, 1, 5), each preceding caste in the above list is superior to each succeeding one. These books also give a classification of the various castes or subcastes originating from all kinds of permutations and combinations of castes. For example, according to *Gautama* (IV, 17), *Baudhāyana* (1, 16, 8) and *Vaikhānasa* a *candala* is a son or daughter of a Sudra and a Brahmana woman. This classification of people into various castes or mixed castes was rightly followed in the society. Each caste had its rights, duties and rules of conduct which had to be observed under pain of severe punishment.

The four well-known stages of life were also recognized. According to the *Gautama Sutra* (3, 2) the number and order of stages of life are: (1) that of the student (*brahmacari*), (2) that of the householder (*grhastha*), (3) that of the ascetic (*bhikshu*), and (4) that of the hermit (*vaikhānasa*)¹⁵. By laying down the rules con-

14. Cf. K.V. Ramgaswami Aijangar, *Aspects of the Social and Political System of Manusmṛti* (Delhi: Motilal Banarsidass, 1949), p. 3.

15. Cf. *Ibid.*, pp. 167-197; S.C. Banerjee, *Dharmasutras; A Study in their origin and development* (Calcutta: Punthi Pustak, 1962), p. 126.

cerning the duties of these stages¹⁶, the rule books made them a permanent feature of ancient Indian Society.

Nobody can deny the fact that education played an important role in the social set-up of ancient India. According to *Gautama Sutra* (2, 57), the teacher is the chief among all preceptors. The student must hold him in high esteem and obey his instructions. However, for the early Law Books, it was not a kind of blind obedience.¹⁷ The teacher-student relation was so intimate that in the event of the death of a person leaving no heirs, his property had to go to the surviving party.¹⁸ All aspects concerning the imparting knowledge by a teacher to a student were determined by clear prescriptions in the Law Books.

Articles of food and drink which were permitted or prohibited are also enumerated in the rule books. For example, the general rule was that those kinds of fish which were misshaped or whose heads resemble those of serpents could not be eaten. During the *sutra* period even the eating of the meat of animals was common. It was a religious duty for invitees to eat the flesh of an animal sacrificed in religious festivals. There were, however, restrictions as regards the kind of animal flesh that could be eaten. The flesh of all kinds of one-hoofed beasts was categorically banned.¹⁹ *Apastamba* (1, 17, 31) and *Vasistha sutra* (14, 46) permit cow-killing, or rather, beef-eating. *Manusmṛti*, chapter 5, however, gives the kind of animals that were permitted to be eaten. Yet Manu advocates moderation: "Meat can never be obtained without injury to living creatures, and injury to sentient beings is detrimental to (the attainment of) heavenly bliss; let him, therefore, shun (the use of) meat" (5, 48). This, however, is not an absolute prohibition. He writes: "There is no sin in eating meat, in (drinking) spirituous liquor, and in carnal intercourse, for that is the natural way of created beings, but abstention brings great rewards" (5, 56).

The position of women as revealed in the Law Books is a very peculiar one. "She has been denied independence in all the

16. The third and the fourth stages according to *Baudayana* (2, 11, 4) are *vanaprastha* and *parivrajaka*. *Apastamba* (2, 21, 1) enumerates them as follows: *Grhasthya*, *acaryakula*, *mauna*, and *vanaprasthya*.

17. *Apastamba sutra*, 1, 4, 25, 27.

18. *Ibid.*, 2, 14, 3.

19. *Gautama*, 2, 8, 28.

stages of life. She is under the guardianship of her father in infancy, of her husband in youth, and of the son in her old age". She has no liberty in religious matters. She has got no *yajna* and *vrata* to perform, and no fast to undergo. For her the only duty is to serve the husband. In short, as *Baudhayana Sūtra* (2, 42) puts it, "Woman or wife is one of the personal belongings of the householder." It was this state of affairs which was consolidated by the law-givers.²⁰

The *sūtras* and *śāstras* prescribe that the administration of justice shall be regulated by the *vedas*, the *angas* and the *Puranas*. The following provision of *Gautama* (28, 49) *Baudhayana Sūtra* (1, 1, 7) for the constitution of a council to advise and help the king in doubtful legal issues is an indication of the high respect the compilers of the Law Books gave to the existing sacred books and practices of the society. The sources mentioned in this context stipulate that the council should have at least ten members chosen as follows: four persons all of them well-versed in a *veda*; a *Brahmacharin*, a *Gṛhastha*, a *Sannyasin*; three persons each well-versed in a *Dharmasastra*.²¹ In the absence of such a council, *Gautama sūtra* prescribes a single Brahmana to discharge its functions.

People took to agriculture, cattle rearing, arts and crafts such as pottery, weaving, stone-work, metal-work, and other occupations such as fishing, hunting, dancing, singing as means of livelihood. Usury was clearly a widely prevalent practice among the people. People engaged in a particular type of occupation used to form a sort of guild within their own respective circles. According to the testimony of *Gautama sūtra* (11, 23-24), these guilds were guided by the rules and regulations framed by that guild.

Although the moral principles and practices are not explicitly dealt with in the Law Books, we get some idea of these from a critical study of the ideal behind the *āśramas*. *Śāstras* are quite alive to the fact that the life of the student served as the foundation of the life of the man in the making. Hence they laid great stress on the principles of morality to be inculcated in him. One of the most important features in the training of a student was the strict control to be exercised in his relations with the women.²² Ab-

20. Cf. S.C. Banerjee, *op. cit.*, p. 161.

21. Cf. *Ibid.*, p. 167.

22. Cf. S.C. Banerjee, *op. cit.*, p. 198.

stention from gambling and falsehood, and obedience to the teacher were other virtues required of him. A householder had to perform a number of duties towards the members of his family, to other men and especially to guests. Although almost all the phases of life were controlled by the rules, certain provisions in the law gave great licence to men in their relations with women. Penalties for crimes such as using false weights and measures, theft, rape, adultery, prostitution were prescribed in the statutes. Yet these crimes were very common in society and the remark, "a woman is not defiled by a paramour", bears testimony to a certain legalized moral laxity.

The aim of the foregoing account was to give a broader outline of the life of the people whose conduct the Law Books proposed to regulate. A law or a practice will not have any binding force unless there is some foundation or sanction for its observance. This discipline could be derived either from a religious belief or a philosophical conviction one has already developed. We have seen that to a great extent, the life of the ancient Indian society was patterned on the directives of the Law Books. The question that remains unresolved is; what made the people obey the rules that took shape in the life of the community.

II

The Question about the Ideological Foundation

Of the various *Dharmasutras* and *Sastras*, the code of Manu holds the pride of place. Even if we have to subscribe to the theory that Manu is not the sole, original author of the laws, we have to admit the fact that the ideology adumbrated in the work attributed to him, has no doubt, governed the social and legal aspects of life in India since time immemorial. The binding force of the prescriptions is supposed to come from the Lord, who is the creator of everything: "But to whatever course of action the Lord at first appointed each (kind of beings), that alone it has spontaneously adopted in each succeeding creation." (*Manu* 1, 28). The idea behind this statement is clear. Lord, the creator, has determined the nature of each reality, and each spontaneously follows its nature. Man although he is free, has also to follow the "course of action the Lord has first appointed." "Corporeal beings (resume in new births) their (appointed) course of action" (1, 30). There can be

no provision against what the Creator has decreed. "Whatever he assigned to each at the (first) creation, noxiousness or harmlessness, gentleness or ferocity, virtue or sin, truth or falsehood, that clung (afterwards) spontaneously to it" (1, 29). It is against this vision of a cosmic drama of the universe in which the Divine descends through various planes reaching the level of matter, and the spirit emerging and ascending from matter through physical, biological, psychological and spiritual levels, to the culminating original realm of the Spirit, that the whole Law Book is concerned. That "grand strategy of evolution"²³ itself seems to be the motive force behind the observance of the Law.

A few more elements which constitute this cosmic drama can be indicated from the first chapter of *Manu Smṛti* itself. According to the creation account of *Manu Smṛti*, in the beginning "this universe existed in the shape of Darkness" (1, 5); then the divine undiscernible Self-existent by his own Will expelled darkness and created everything discernible (1, 6, 7). After alluding to the myth of cosmic egg, the creation account proceeds along the evolutionary line of *Sāṅkhya*. Among other things, the enumeration of the created beings included the following: "Time and divisions of time, the lunar mansions and the planets, the rivers, the oceans, the mountains, plains, and even grounds, austerity, speech, pleasure, desire and anger, this whole creation likewise was produced, as he desired to call these beings into existence" (1, 24, 25). Manu also theorizes about the origin of the castes; "But for the sake of the prosperity of the worlds, he caused Brahmana, the Kshatriya, the Vaisya, and the Sudra to proceed from his mouth, his arms, his thighs and his feet". (1, 31) But in order to protect this universe (i.e. its order), Lord has assigned separate duties and occupations to those who sprang from his mouth, arms, thighs and feet. (1, 87).

As each created being has its own allotted time (1, 63), the world also has its own ages (*Yuga*) (1, 68), namely, *kṛita*, *treta*, *dwapara* and *kali yugas*. "In the *kṛita* age Dharma is four-footed and entire, and (so is) Truth; in the other (three ages), by reason of (unjust) gains, Dharma is deprived successively of one foot, and through (the prevalence of) theft, falsehood and fraud the merit (gained by men) is diminished by one fourth (in each)" (1, 82).

23. Kewal Motwani, *Manu Dharma Sāstra: A sociological and Historical Study* (Madras: Ganesh & Co., 1958), p. 29.

The sets of duties prescribed for men also differ from age to age (1, 85). Similarly, they also differ from caste to caste. "To *Brahmanas* Lord assigned teaching and studying the *Veda*...; to the *Kshatriya* he commanded to protect the people...; to the *Vaisya* to tend cattle, to bestow gifts, to study the *Veda*...; and to the *Sudra*, the Lord prescribed to serve meekly even those other three castes" (1, 88-91).

Another revealing declaration is concerning the status Manu accords to Brahmanas: "As the Brahmana sprang from (Brahman's) mouth, as he was the first-born, and as he possesses the *Veda*, he is by right the Lord of this whole creation" (1, 93). The very birth of a Brahmana is an eternal incarnation of the sacred law; for he is born to (fulfil) the Sacred Law, and become one with the Brahman" (1, 98). It is the Lord himself who constituted these laws. And having constituted, it was revealed to Manu and he in turn recited it to Bhrigu (1, 58, 59). It is this Bhrigu who is teaching these laws to mankind for its prosperity.

The chapter on creation in Manu Smṛti:

The purpose of this chapter on creation is not just to establish the fact of caste distinction and the superiority of the Brahmanas for theological reasons, but also to provide a strong religious foundation for the scrupulous observance of the ordinance of priest—legislators. Obviously, a scheme of creation arbitrarily devised by an ingenious Brahmana to perpetuate the supremacy of the Brahmana caste cannot so easily command the respect of a whole generation of people unless what was presented in the preface of the Law Book of Manu was already part of the belief of the people as a whole. The vision working behind the *Dharmaśāstras* and *Sutras* had already assumed shape. With the aid of the *sruti* literature that preceded the redaction of the rules of conduct, this life-vision can be sketched along the following lines.

Manu begins with the account of attributeless Brahman. He is the unconditional, unmanifest and the transcendent Reality. This transcendent, by a process of self-limitation, becomes divided into duality: the cosmic person, *Isvara* and the noumenon of matter. He moves into noumena of the indifferentiated matter (*mulaprakṛti*). It has also three aspects, namely *sattva* (the force of equilibrium), *rajas* (the force of energy), and *tamas* (the force

of inertia). In a further step in that evolution of the transcendent it becomes *Purusba* and *prakrti*. It is the plane of multiplication and differentiation in the world of many. The descent takes a reverse process when it reaches the bottom level of inert matter. This ascent finds its termination in the transcendent One only.

In the descending process the *Purusba* which has arrived at the human level is not regarded as a self, existing only for one life time of a physical body. Even after the disintegration of that body which it took in its descending or ascending course, it will reincarnate to complete its ascending course and thus reach *Moksba*. This process of incarnation or round of births and deaths, however, is determined by the law of one's own being and the way in which man makes use of his conscious powers. This law of *Karma* is determined by his desires in the earthly existence, by the thoughts he thinks, by the bodily actions he performs. Thus the common belief was that a man is creating his own *Karma* all the time. A man is born with a character and environment which he has created. This inexorable law of *Karma* is taken to be the basis of all kinds of social distinctions.

The four natural divisions of society into four distinct groups was justified on the basis of four human temperaments, namely, men of intellectual pursuits, men of energetic temperament, men impelled by possessive or acquisitive instincts, and men of undefined type of personality,²⁴ which they have inherited from their previous *Karma*. The four ends of human existence (*puru-sharthas*) can also be related to this idea of temperamental grouping of men. Desire, action and thought are three aspects of human consciousness, and these manifest themselves in the pursuits of pleasure, power and knowledge (*kama, artha* and *dharma*) of the individuals. But when we consider these individuals as forming their own groups we get the social groups of *brabmanas, kshathriyas* and *vaisyas*.²⁵ Thus the idea of *Karma* justifies even the distinction of castes (*varnas*).

The four social institutions, namely the four *ashramas* are also based on the doctrines of cosmic evolution and *karma*. But

²⁴. Undefined personality stands for a child. *Sudra* is a child to all other groups; it has no status of its own; it is supposed to serve all the other three classes.

²⁵. Cf. Kewal Motwani *Op. cit.*, p. 52-55.

from a sociological point of view, "every individual should go through these four institutions, so that there is a progressive and orderly, fulfilment of the demands of his inner and outer lives in which lie the secret of social progress".²⁶ The fourth *ashrama*, and the fourth *purushartha* lie beyond the scope of group activity. But the group life leads to the path of spiritual unfolding of the individual. The earlier stages have no meaning independent of the fourth *ashrama*, and the fourth *purushartha*. So also the last cannot be achieved independently of the earlier three stages. There need not arise any conflict between the group life and the spiritual aim of the individual for they cannot but be interdependent.

Conclusion

The problem the article has attempted to tackle is that of the tremendous influence which *Dharmasutras* and *Sāstras* exerted in shaping the culture and moral convictions of Indian society. Why did these books turn out to be so influential in determining the details of the socio-cultural and religious life of the vast majority of people of a great nation like India? Was it because the laws were imposed on the people by a political power? Or was it because they were something taught by a prophet, a holy man or a religious founder? The influence in question could be the result of an internal authority, reasonableness, and perfection of the laws themselves. None of these reasons seem to be convincing. The only conclusion to which the above analysis naturally leads us is that the laws and rules of conduct have their present status because they were based on the then existing, philosophico-religious beliefs of the people. Had not the compilers of the Law based their rules of conduct on the existing religio-philosophical beliefs of the people of their time, their injunctions, prescriptions, prohibitions and directives would not have had any influence on the people as a whole. The chapter on creation in *Manu Smṛti* supports the assumption made here.

²⁶. *Ibid.*, p. 58.