

LECTURE I  
MANU AND HIS RIVALS

I MUST at the outset thank the authorities of your University for inviting me to address you on a Foundation, which commemorates the services to scholarship and to the University of my distinguished friend Dr. Radha Kumud Mookerjee. When I gave out the results of my studies of Ancient Indian Polity in lectures under a similar foundation over forty years ago in my own University,<sup>1</sup> he was one of the very small band of Indian scholars who had made contributions to the subject.<sup>2</sup> My pleasure and honor in being associated with the Mookerjee Lectures is increased by two circumstances. The inaugural lectures were given a year ago by my life long contemporary and friend, the Hon'ble Sir S. Varadacharya, who is justly regarded not only as one of our foremost lawyers and judges, but as one whose scholarly interests extend much beyond his special studies and whose discriminating love to Hindu Dharma is an outstanding feature of a blameless life. Though this is my first visit to your city and University, I can claim a shadowy connection with both; for, when your University was started, I was invited by the first Vice-Chancellor, the late Rai Bahadur Dr. G. N. Chakravarti, to accept the Professorship of History, which has been filled with so much distinction by Dr. Mookerjee. I would like to regard my present lectures as in a belated way associated with a chair which I could not then occupy.

I have been asked to speak on the Political and Sociological System or Ideas of the *Manusmṛiti*. In as much as the selection is the work of the authorities who direct the Endowment, under which the present lectures are delivered, neither explanation nor apology for the choice of the subject is required of me. But, I may be permitted to say that, had the choice been left to me, I could not have made a better one. There are many grounds for a review to-day of the social system which is popularly attributed to Manu. His work was naturally

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1. Sir Subrahmanya Aiyar Lectures on "Some Aspects of Ancient Indian Polity", 1914.

2. *e. g.* his Introduction to N. N. Law's "Studies in Ancient Hindu Polity", 1914.

one of the first to attract the attention of European orientalists. The translation of *Manusmṛiti*, which Sir William Jones gave to the world in 1794, opened the eyes of historians of the West to a valuable source for the reconstruction of ancient Indian society. Its all-pervading influence over the Hindu masses, and the allegiance it commanded justified his description of it as a *Code* and its provisions as "Laws". It was not a mere relic of a civilization that had passed away; for it still guided the lives of millions in the sub-continent where it had been dominant for centuries. Its dicta had become part and parcel of the Hindu scheme of life, for as long as historical memory could reach. Few books, other than the gospels of wide-spreading religions, had had so widespread a power to mould the minds and lives of men. It had been carried to lands over the sea to which Indians had emigrated for trade or conquest, and had become the basis of the social synthesis attempted in those far-off lands by the incomers, who established their dominion over the older inhabitants. For hundreds of years it has been the foundation of Burmese law.<sup>1</sup> Memories of it are found in the far too few epigraphical records of the Greater India which Indian emigrants created in the Far East.<sup>2</sup> Even to superficial and alien criticism, inspired by a sense of cultural and religious superiority, it disclosed features of unexpected 'modernity' and reasonableness. The great literature that the further researches of Orientalists exposed to view, were seen to be based on it. It seemed to be the bed-rock of Hindu civilization. As an authentic historic source, in the category of literature and 'law', it seemed to have no rivals. From James Mill and Elphinstone to Max Duncker, historians of eminence drew upon it, almost to the exclusion of other sources, for their pictures of ancient Indian society.

This position would have remained unchallenged but for the great advance in Indian studies which revealed other sources, Buddhist and Brahmanical, and which brought to light a subject even more *directly* bearing on social and political life than the smṛiti literature from which it seemed to be distinguished by the absence of non-secular features and aims. This was *Arthaśāstra*, whose existence as a distinct branch was all the time known but vaguely, till the accidental discovery of its most important representative, the *Arthaśāstra* or *Arthaśāstra* of

1. The Burmese are governed by *Dhammlata*, which are based on *Manusmṛiti*. See Forschammer, "Sources and Development of Burmese Law", 1885.

2. *Manusmṛiti* is still used as an authority in the island of Bali. In A. Bergaigne's "Inscriptions Sancrites de Campa et du Cambodge," p. 423, we have an inscription in which occur verses one of which is identical with Manu, II, 136 and the other is a summary of Manu, III, 77-80.

Kauṭilya, the great Mauryan king-maker and minister. The intensive study of this work, in relation to other surviving works of the class, dates from 1889. Its discovery has been even more memorable in the history of Indian sociology than the accidental finding of the *Institutes* of Gaius at Verona by Niebuhr was to the study of Civil Law. It was natural that in the first flush of enthusiasm *Arthaśāstra* should be applauded for features which seemed to be present in it alone. Little attempt was made by the new enthusiasts to discover, by closer examination of both this subject and of its "rival", whether the aspects were distinctive of it only. The difference between it and *Dharmaśāstra* was likened to that between the work of a statesman and a priest. Much was made of its 'secular' outlook and features, as contrasted with the 'religious' or 'superstitious' attitude of its rival. Even more was claimed for *Arthaśāstra*. In it alone was to be found the "real and theoretical Materialism of India". In it are Indians seen "emancipated from their prejudices", their sole point of view becoming human and a-moral. The traditional exponent of Indian Materialism, Bṛhaspati, was identified with the pre-Kauṭilyan authority of the name in *Arthaśāstra*. Each critic singled out for commendation the feature of *Arthaśāstra* which fell in with his own bias. It was praised for its 'modernism'. It was lauded for its considerate treatment of women, and was acclaimed as their special 'charter'. The provisions of Kauṭilya's work, which condemned harshness to women, protected them by stringent penalties from insult, assault and slander, gave married women rights of judicial separation and divorce, and of separate property and rights in inheritance, were held up as special illustrations of its greater humanity. It was pointed out that women were not secluded in *Arthaśāstra*, that under its provisions the maintenance of destitute women was a first charge upon their relations and families, and ultimately upon the State, and that no woman could be abandoned. Like a magic mirror, Kauṭilya's work presented to every student the lineaments of his own favorite bias. It was pacifist in outlook and prescription. It reflected the historic spirit—so notoriously absent in Indian literature. Its schedule of penalties is less harsh than that of *smṛtis*. It stands up for the supremacy of the State. Its author is the upholder of constitutional safeguards against absolutism. Like Machiavelli, he is a nationalist, a patriot, ready to adopt any means, however dubious, for securing his noble ends. Some of these generalizations are mutually incompatible. Others ignore the fact that what was praised as a specific contribution of *Arthaśāstra* is equally conspicuous in *Dharmaśāstra*, and that in some respects Manu is even more considerate to women than Kauṭilya. They were however right in explaining the

apparently immoral doctrines of the Mauryan minister as mere statements of fact, or of tradition, as well as of possibilities which no sane statesman can afford to overlook, and that distinct injustice was done to Kauṭilya, when he was ridiculed by Bāna and Daṇḍin for his love of detail, 'immoial' doctrines and crooked practices (which seemed to justify the pun on his name Kauṭilya made by the dramatist)<sup>1</sup> because these facts were overlooked, and a confusion of the *subjunctive* and the *imperative* led to wrong deductions, in such matters as in the specification of modes of embezzlement, of doing away with obnoxious ministers, of getting the better of one's enemy or of winning a ruler's confidence or favour. It has been argued that works like Kauṭilya's attained greater popularity than works like the *Manusmṛiti* (an unproved assertion!) because of their freedom from sacerdotal considerations, higher sense of realities, absence of mere idealism in them, and their greater logic and reasonableness. The grounds adduced would indeed be valid to-day. In the *milieu* of India of the past, however, it is very doubtful if they would have made for the popularity of *Arthaśāstra*. The fact remains that this subject has remained in the background, as compared with *smṛiti* literature, and that its most important work has been all but lost. That *Arthaśāstra* became more acceptable because Śūdra or atleast non-Kṣatriya dynasties came to thrones, and members of the last *varṇa* became opulent through economic changes are also generalizations of doubtful validity. In a consideration of the *modern* eclipse of *Dharmaśāstra* by *Arthaśāstra* they have value, as the features are such as appeal to *modern* minds.

Such views, however speculative they may prove to be on critical examination, are relevant in a consideration of the obstacles to a clear perception to-day of the contribution of *smṛitis* like those of Manu to the evolution of an organized social order and of its upkeep through the centuries. In every praise of *Arthaśāstra* there runs an implication of corresponding deficiency in works like those of Manu, and of a silent hostility supposed to have run through history between the two *śāstras*. The underlying assumption is contrary to Indian tradition, which has regarded the two not as rivals but as complementary, and as differentiated merely by their method of approach to problems and not by a difference in fundamentals and basic hypotheses. It will be seen also to be ill-founded if the character and background of the two are correctly apprehended, and if the identity of their fundamental beliefs is realized. It has however helped to create, along with other influences, to which reference will be made later on, an atmosphere of

1. "Kauṭilyaḥ *kuijamatih*" (*Mudrārākṣasa*, ed. Telang, p. 61).

prejudice and misunderstanding of the character, aims, origin and value of *Dharmaśāstra* literature as a whole, and of its best known work, the *Mānava-Dharmaśāstra*. Errors have great vitality, especially when they take the form of dogmatic generalizations.

In upholding the superiority of Kauṭilya's work over a great *smṛti*, the arguments relied on are usually three: that the former is 'secular' while the latter is steeped in 'religion'; that the former is free of the taint of 'orthodoxy'<sup>1</sup> while the latter is its champion; that there is more 'realism' in the former and 'more idealism' in the latter. The last criticism is that which has been voiced also by writers like Sir Henry Maine, who in denouncing *Manusmṛti* and its class have described them not as stating what actually was the Law but as what an interested class wished to become the law or to be known as the law.<sup>2</sup>

The argument of the 'secular' character of Kauṭilya's work, as a representative of its class, is based on a few instances from his work. I dealt with them at some length twelve years ago, when I gave some special lectures<sup>3</sup> before the Calcutta University, when I showed how they crumble on examination. The data adduced in favour of the thesis are briefly these. Kauṭilya does not provide a place for the royal priest (*purohita*) among the seven elements of the State (*prakṛti*). He does not include in his enumeration of the threefold 'power' (*śakti*) on which a king has to rely, the spells of the *purohita* to ward off dangers. In the enumeration of the subjects of study for the future king, Kauṭilya mentions Materialistic Philosophy (*Lokāyata*).<sup>4</sup> Among the triple aims of life (*trivarga*) he gives the first place to *Artha*. In his enumeration of the four *vidyās*, he gives a place to two 'secular' subjects, *Vārā* and *Daṇḍanīti*. He condemns the king who is 'always questioning the stars' (*nakṣatram atī prechantam*).<sup>5</sup> He overlooks methods of 'divine proof' (*divya*) or ordeals, which figure prominently in *smṛtis*, while allowing torture. The king is advised to

1. "The Code of Manu does not represent a set of rules actually administered. It is in great part an ideal picture of that which in the view of the Brahmins ought to be the law" (*Ancient Law*, 1861, ed. Pollock, p. 15).

2. "Indian Camerlainsm", March, 1934. The lectures are being printed.

3. A. K. Sen, "Studies in Hindu Political Thought", 1926, pp. 1-16; A. M. Pizzagalli, "History of Materialism in Ancient India" (in Italian), 1937, p. 86, holds that *Nītiśāstra* contains the real theoretical Materialism of India and that in it alone were the Hindus emancipated from all prejudices, as "their sole point of view was human, which often led to the sacrifice of the moral" (p. 69).

4. *Kauṭilya Arthśāstra*, 1st Edn., Mysore, 1909, p. 349. All references to the work are to this edition.

trade on the credulity of people. The State is allowed to run gambling dens and slaughter houses,<sup>1</sup> which Manu condemns as *adharmika*. He permits women to remarry and allows divorce (*mokṣa*), which Manu refuses.<sup>2</sup> These arguments are found to be weak when seen in their right context. The *purohita* is a member of the council of ministers, which is one of the seven *prakṛtis*,<sup>3</sup> His salary is considerable and reflects his value to the State. In unambiguous language Kauṭilya praises the king whose wisdom is reinforced by the counsel of his chief priest. Like all ancient writers Kauṭilya believes in the potency of spells and incantations from the Atharva Veda, and the *purohita* is expected to be an adept in them. A king should take the world as he finds it, and if it is full of unbelievers, it is good policy for a ruler to learn their tenets and their philosophy. But the danger of his succumbing to the heretical views is warded off by the provision that philosophy is to be learnt by the prince *only* from men of orthodox learning (*śiṣṭa*)—a precaution that provides for both a knowledge of heresy and the arguments against it. Safeguards against atheistical influences are provided for the king, whose duty is to maintain Dharma. The value of each element of *trivarga* is also canvassed by Manu, who does not under-rate the value of wordly studies or the pursuit of the means of well-being. The pre-occupation of Kauṭilya is with *artha* and his placing it first is only the technique of a specialist. He does not under-rate either Dharma or *kāma*, which have their due place in life, or *mokṣa*, which is the highest and ultimate aim, for the fulfilment of personality.<sup>4</sup> Kauṭilya condemns—not belief in astrology, but the addiction to it of the spineless fatalist. He contrasts it, as do *smṛtis*, in which the relative value of *dāna* and *śuruṣakāra* are considered, with *utthāna*, the spirit of self-reliance and energy.<sup>5</sup> Kauṭilya's

1. *Ibid.*, p. 196 and p. 329 (gambling); p. 122 (slaughter-house). For Manu's attitude, see Buchler, "Laws of Manu" (S. B. E., Vol. XXV, 1886), pp. lxx-lxxi.

2. \*Kauṭilya denies divorce for the first four forms of marriage, *amokṣa dharmavivahānān*, p. 155.

3. *Ibid.*, p. 15.

4. *Ibid.*, p. 245. Kauṭilya places the *acarya*, *ṛishi*, and *purohita* in the highest class along with the prime-minister, commander-in-chief, heir-apparent, queen-mother and queen-consort, on a salary of 48,000 *payas* a month. See *Ancient Indian Polity*, pp. 40 and 159.

5. *Anvikṣiptam ca śiṣṭabhyah* (p. 10).

6. धर्मोर्थाविरुद्धेन कामं खेतेन न निःसृष्टः स्यात् । सर्वं वा विषयमन्योऽप्यानुबन्धम् ।  
एवो हि अस्मादेवितो धर्मोऽस्मान्मात्मानाम्प्रति पीडयति । अर्थे एव प्रधानं इति क्रोडितः ।  
अर्थमूलो हि धर्मोऽस्मान्मात्मानाम् । (कौ. १२)

7. *Ibid.*, p. 258.

questionable means for circumventing enemies and treasonable subjects are *restricted* in their application to disloyal or unrighteous persons. The supervision of slaughter-houses is necessary for sanitation, when meat is allowed to be eaten, and of gambling dens in the interests of the police. Mere prohibition of gambling will only drive it underground; it is best to deal with it openly and, as in the case of the sale of intoxicants to-day, make resort to it dear. Divorce is permitted only in the lower forms of marriage, among the lower classes of the population, whose practices are tolerated even by smṛti, and he expressly excludes from divorce marriages celebrated according to Dharma precepts, *i.e.*, the first four types (*a-mokṣyo dharmā-vicāhānām*).<sup>1</sup> It is noteworthy that Kauṭilya makes the same teachers who give instruction in the Vedas (*trayā*) to the prince, teach him *ānvikṣikī*, (Logic and Metaphysics) and *Lokāyata*. The prince is to be saved from the sophist (*hetuśāstra*) who questions the validity of the Vedic injunctions, and who is denounced by Manu (II, 11).<sup>2</sup> Manu has no animus against the logician as such, since he gives him a place in the *pariṣad* or tribunal which is to settle doubtful points of Dharma (XII, 111).<sup>3</sup> The attempted differentiation between smṛti and *Arthaśāstra* is seen in its unreality, when it is found that on almost all points there is really agreement, where disagreement is postulated. In the discussion of the triple aims of life (*trivarga*), Manu holds that all three are good, and should be pursued together (II, 224)<sup>4</sup> though in case of opposition to or incompatibility with Dharma, the remaining two should be discarded. (IV, 176).<sup>5</sup> This is not contradicted by Kauṭilya. While by advising concentration in the pursuit of wealth (*artha*) 'like a heron', Manu stresses its value, Kauṭilya inveighs against the transitoriness of wealth, when compared with more vital aims of life (*hā hi antiye dhane dayā*, XII, 1). The questionable

1. *Ibid.*, p. 155.

2. *Manu*, II, 11:

बोद्धवन्त्येव ते मूढे हेतुशास्त्राश्रयाद् द्विजः ।

स साधुनिर्देशकानां नारिकेलं वेदविद्वजः ॥

Citations from *Manu* will give only the references to chapter and verse and not mention the name of the work, as in the case of citations from other books.

3. त्रैविद्यो हेतुमस्तस्यै वैश्वतो धर्मपाठकः ।

अथशास्त्रिणः पूर्वं परिवत् स्यादसावरा ॥ (१३, १११)

4. धर्मोऽथो लब्धते श्रेयः क्षामार्थो धर्म एव च ।

अर्थं यजेद् वा श्रेयः त्रिवर्गं हृदि तु स्थितिः ॥ (२, २२४)

5. परिच्छिन्नदक्षिणामो यो स्वातां धर्मवर्तिता ।

धर्मं चाप्यसौख्यं लोकाविमुक्तये च ॥ (४, १७६)

expedients, that are not endorsed by *Dharmaśāstra*, are specifically qualified as 'improper' (*adharmika*) by Kauṭilya himself; they are to be used only for unavoidable emergencies and on no other occasions (*evam dāsyēsu adharmikeṣu ca varjēta, na itarēṣu, V, 2*).<sup>1</sup> Improper taxation is to be aimed (according to Kauṭilya) only at the accumulations of profiteers and other anti-social elements.

As regards the assertion of the 'modern mind' of Kauṭilya, as disclosed by his rejection of astrology, etc.,<sup>2</sup> we must recall his own reputation as a master of incantation and spells, through which he was supposed to have overthrown, as by a thunder-bolt (*abicāra-cājīna*) the Nanda, as proudly claimed by his own admirer and follower Kāmandaka.<sup>3</sup> It may also be noted that the title *vedhas* that Kāmandaka applies to Kauṭilya is the highest that an orthodox Brāhmaṇa teacher can claim. *Mantrasakti* has a double import in both *smṛti* and *nītiśāstra*: it stands for the potency of wise counsel as well as the power of magic formulae. Kālidāsa labels the sage Vasistha, the preceptor of the kings of Ayodhya, *atharva-nidhi* (the treasury of Atharva lore)<sup>4</sup>. Such beliefs are common to the age, and Kauṭilya shared the belief. The best Brāhmaṇas were believed to have acquired and to possess this power. In a remarkable passage, which recalls the belief, Manu (XI, 31-33) enjoins a Brāhmaṇa who has suffered wrong, not to carry his complaint to the King for redress, but chastise the offender himself out of the plenitude of his own skill in *Atharva-mantra*, as explained by Medhātithi.<sup>5</sup>

From what has been said above, it will be seen that the description of Kauṭilya as a secularist is incorrect. This evidence is but negative. Positive evidence will consist in proof of his orthodoxy. Some evidence in favour of this also may now be given. Kauṭilya is a confirmed believer in the traditional system of *varṇa* and *āśrama*. He upholds it and declares that the world goes right only when the King does his duty and upholds *varṇāśramadharmā* (I, 4). The king is the appointed

1. *Arthaśāstra*, p. 244.

2. Varāhamihira's *Brhājātaka* (Ed. Allahabad, 1912, pp. 131-2) refers to a work on astrology by Viṣṇugupta (i.e., Kauṭilya) while the commentator Bhattotpala cites verses on astrology ascribed to *Caṇakya* (i.e., Kauṭilya). See *Ant. Ind. Polity*, p. 32.

3. *Nītiśāstra*, I, 5-7 cited *supra*, p. 13.

4. *Raghuvamśa*, I, 59.

5. न ब्राह्मणोऽपि देवैः किञ्चिद्ब्रह्मण्यमि धर्मो विद्मः ।  
स्वकीयेण वा न् विष्यन् सान्मानवकारिणः ॥  
शुचीर्यथाक्षिरसोः कुर्वादित्वविचारयन् ।  
यत्प्रशस्यं वै ब्राह्मणस्य तेन हन्वीदरीन् द्विजः ॥ (११, ३१, ३३)



guardian of the system (III, 1) and attains heaven when he rules according to Dharma (p. 165). Improper miscegenation (*prātilomya*) is the effect of regal failure to maintain Dharma (p. 165).<sup>1</sup> His attitude to *vaiṣaṅkara* is identical with that of Manu (VIII, 172) who promises heaven to the ruler who prevents it.<sup>2</sup> Kauṭilya rates neglect of *śāstra* in a king as the highest fault, which will ruin his kingdom and himself. In describing the ideal king he stresses the possession of a devout mind (*dāivika-buddhi*) and attachment to Dharma (*dhārmikatvam*).<sup>3</sup> Even a woman, or a father, who is ordinarily entitled to be maintained by the family, forfeits the right to maintenance by becoming an outcaste (*pātīla*); and only the mother is exempted from the rule.<sup>4</sup> In filling the treasury, the king is enjoined to do so in Dharmic ways; the rule applies even to an inherited treasure (*dhanmādhygataḥ pūrvaiḥ svayam vā*).<sup>5</sup> Even ascetics should be compelled by kings to adhere to the rules of asceticism laid down by smṛtis.<sup>6</sup> Like Manu he calls on the king to cast into the waters or give to Brāhmaṇas fines unjustly levied in trials<sup>7</sup> (p. 234). He will brand a Śūdra who masquerades as a Brāhmaṇa, which recalls the penalty of Manu for the Śūdras who take the emblem of the 'twice born' (*śadrāhīṣca dvija-kṅginah*).

Kauṭilya's ban on suicide is stern as that of *Dharmaśāstra*.<sup>8</sup> A Brāhmaṇa's land is not to be subjected to emergency increase of land tax from a sixth to a fourth or even a half of the out-turn. Remissions of

1. त एते प्राणिकीमाः । स्वधर्मोत्तिष्ठमाद्रावः सम्भवन्ति । (कौटि, अ. ११, p. 165)

स्वधर्मः स्वर्गोत्तमस्तथा च । तस्यातिक्रमे सङ्करादुच्छिद्येत । (*Ibid.*, p. 8)

2. स्वादानाहर्षसर्गोत्सवकानां च रक्षणार्थं । बलं संवाचते रीतिः स प्रेष्येह च वधेते ॥ (८, १७२)

3. *Arthaśāstra*, p. 285.

4. मातापितृ... अविभक्तः शक्तिमतः द्वादशपणो दण्डः ।

अन्यत्र पतितेभ्योऽन्यत्रमातुः । (कौटि, अ. ११, p. 48.)

5. *Ibid.*, p. 256.

6. *Ibid.*, p. 191

प्रथमासु यथा चारान् राजा दण्डेन धारयेत् ।

7. *Ibid.*, p. 234:

अदण्डदण्डेन राज्ञो दण्डस्त्रियुचोमसि ।

बह्वाच प्रदातव्यो प्राज्ञेभ्यस्ततः परम् ॥

Also *Manusmṛti*, VII, 128 :

राजा दण्डवाक्षिणदण्डवन् । अयसो महदासोति नरके चैव वच्छति ॥

8. Kauṭilya prescribes post-mortuary punishments for suicides (p. 217).

tax are to be granted for the worship of gods and the manes (p. 240).<sup>1</sup> The lands of *śrotrīyas* (Brāhmaṇas of learning and character) are not liable in *any* circumstances to confiscation (p. 240).<sup>2</sup> A Brāhmaṇa who drinks wine or eats forbidden food is to be excommunicated, if he does so of his own accord; if he is made to do so, the person who compels or induces him to do the forbidden act is to be severely punished.<sup>3</sup> The cattle belonging to temples or gods cannot be impressed into service (p. 238). Heavier punishments are provided for the seduction of women of higher caste by men of lower castes, than the other way round.<sup>4</sup> Kauṭilya roundly declares that a king must enforce Dharma, and not deviate from it himself, as eternal prosperity can result only from every one following his own duty (*śradhdharma*).<sup>5</sup>

The orthodoxy of Kauṭilya is not personal. It is common to him along with other writers on *Arthaśāstra*. His admirer and follower Kāmandaka affirms that a king prospers only when Dharma is maintained, and he enjoins the king to live up to Dharma.<sup>6</sup> Some passages have usually been cited from the *Sūtrāntī* (which in its present form seems to be a late work) to show Śukra's freedom from orthodoxy. But, on inspection, they are seen not to be singular to Śukra or writers of his class. Śukra's declaration that caste counts only for marriage and interdining, merely repeats a Dharma doctrine.<sup>7</sup> Every smṛti condemns birth unaccompanied by *acāra* or *vidyā*, and the practice of forbidden occupations by the Brāhmaṇa. (See Manu III, 64-65, 150-166, VIII, 102, XII, 71 etc.). Śukra's declaration that for office caste should not count has to be construed with his own rule excluding the Śūdra from being a judge or general. The self-

1. देवपितृवृक्षादानार्थं नवार्थं वा. .परिहरेद्भुः । (*Ibid.*; p. 240)
2. अरुण्यनाते श्रोत्रिवर्त्तं च परिहरेत् । (*Ibid.*, p. 240)
3. ब्राह्मणमपेक्षमसंधं वा सद्दृशसवत उच्यते दण्डः । (*Ibid.*, p. 231)
4. ब्राह्मणानामप्युत्तमार्थां (नृभिर्चरतः) क्षत्रियस्त्रोत्तमः, सर्वस्वं वैद्व्यस्व, शूद्र. कदाचिना दक्षेत । (श्री. अ. शा., p. 234)
5. स्वधर्मः स्वर्गायामन्त्याय च । तस्यातिक्रमे लोकास्तकरादुच्छिद्येत ॥ तस्मात् स्वधर्मं भूशाना राजा न भ्रविष्यारोहत् । स्वधर्मं सदधानो हि श्रेयं वेद च नन्दति ॥ भ्रवत्यिहार्थमर्थादः क्रुतधर्माश्रम-स्थितिः । धर्म्या हि रक्षितो लोकः प्रसीदति न सीदति ॥ (श्री. अ. शा., p. 8.)
6. तस्माद्धर्मं पुरस्कृत्य योऽर्थाय भूपतिः । धर्मेण धर्मेण तस्य स्वार्थफलं क्रियः ॥ (कामन्दकीय नीतिसार, १, १८)
7. न बाह्या न कुक्षेभ्यः श्रेष्ठत्वं प्रतिपद्यते । विवाहे शीतने मित्तं क्रुतयातिविधेचनम् ॥ (शुक्रनीतिसार, २, ८७)

government that Śukra advocates for guilds is just what smṛtis grant when they allow such bodies to be judged by their own by-laws. Śukra's declaration that castes are innumerable owing to caste admixture is only a generalization from such miscegenation as is specified at great length by Manu (X, 6-56). Manu describes the ways in which each mixed caste arose, and determines the duties for each such caste, those of the most general ethical character alone being appropriate to castes springing from *pratiloma* unions.

In a zealous advocacy of the higher value of *Arthaśāstra*, it is forgotten that like *Dharmaśāstra* it is also part of the accepted canon. Śaunaka classes *Arthaśāstra* as an *uṣa-veda* of Atharva Veda,<sup>1</sup> Āpastamba upholds this view. He adds that it is part of knowledge open to women and to Śūdras, to whom Vedic learning is closed. To such persons the epics and *purāṇas* are the substitutes for the Veda. Kauṭilya harmonizes the two views by bringing *Arthaśāstra* as well as *Dharmaśāstra* under the epics (*itihāsa*),<sup>2</sup> which he declares to be the fifth Veda. Lakṣmīdhara regards *Arthaśāstra* as one of the eighteen *Vidyās*, which are enumerated in the *Purāṇas*, of which fourteen are those with *a-dṛṣṭa-phala* and the other four (*Āyurveda*, *Dhanurveda*, *Gāndharva-veda* and *Arthaśāstra*), are of *dṛṣṭa-phala*, and are authoritative.<sup>3</sup>

To postulate a hostility between the two śāstras is foreign to the spirit of the Hindu canon. A basic belief of Hinduism is that in the triple aim of existence (*trivarga*)—duty (*Dharma*) well-being (*Artha*) and pleasure (*Kāma*). Writers on *Arthaśāstra* and on *Kāmaśāstra* declare that the pursuit of their special aim is lawful only when it does not run against *Dharma*. The precepts of *Artha* and *Kāma* are governed by *Dharma*, and are valid only when they harmonize with it. The division of life into *āśramas* shows the stage at which each may be lawfully and advantageously pursued. It is only in the life of the householder (*gṛhastha*)—in the second *āśrama* that *Artha* and *Kāma* have validity. The other orders are mendicant *āśramas* and ban *Kāma*. The pursuit of well-being and pleasure is lawful and proper, only when regulated by *Dharma*. This is why the spiritual guide of the king, the *puṣhita*, is required to be eminent in both *Dharma*

1. सत्र वेदानामुपनिषदाश्रमवर्गो मवन्ति । ऋषेदस्य आश्रमोपनिषदः, षडुपनिषदस्य षडुपनिषदोपनिषदः, सामवेदस्य गान्धर्ववेदोऽथर्ववेदस्यार्थशास्त्रम् ।

(चरमभ्यूहम्, ५)

2. अथर्ववेदेतिहासवेदौ च वेदाः (कौ. अ. भा., p. 7).

3. ब्रह्मचारिकाण्ड, p. 22.

and *Arthaśāstra*, as well as *Jyotiṣa* (Astrology) <sup>1</sup> The position, which is well-recognized in Indian literature, has to be made clear today owing to the misapprehensions that have been created. The differences are due to both the mode of approach to the fundamental problems of life, which are the same for both, as well as difference of emphasis for immediate as contrasted with ultimate ends. They differed also in the circles for which they were intended. *Dharmaśāstra* was designed for the guidance of all; while *Arthaśāstra* was intended for the guidance of those who lived a worldly life, and did so within the limits laid down by Dharma. The craving for material well-being and the satisfaction of emotions is natural, and its satisfaction is not condemned by Dharma or religion. Such gratification or satisfaction should, however, be governed by the higher ends of life. *Kāma* and *Artha* are only proximate ends, while *Mokṣa* (as will be developed in the next lecture) is the highest as well as the ultimate end of existence. The accepted Indian view of the relative values of the ends is correctly stated by the *Mahābhārata* (XII, 165, 8): 'the wise declare the highest end is Liberation (*Mokṣa*), the middle is Well-being (*Artha*) and the lowest Pleasure (*Kāma*)'. All the three are said to spring from Dharma.<sup>2</sup> In ringing words the author of the great Epic has asked why *Artha* is not pursued when both it and *Kāma* are derived from Dharma.<sup>3</sup> The chief exponents of the two worldly sciences—Kauṭilya and Vātsyāyana, endorse this view, though they insist that for a king, who has to regulate the ordinary life of man, *Artha* is the immediate and important aim. While every one among the intellectual may accept *Mokṣa* as the real and only aim of existence, even they cannot be converted to a life of asceticism and to a contempt for economic and emotional satisfactions. The subordination of the lower aims to the higher must be part of the discipline of life.

1. पुरोहितं यदिदोदितकुण्डलीं षडङ्गवेदे देवे निमित्तं दृग्बनोलां चाभिनिर्गतं अपरां देवमातुषाणामर्षमिच्छावैः प्रतिकर्तारं कुर्वति । तमाचार्यं शिष्यः पितरं पुत्रो भ्रष्टः स्वामिनमिदं चादुर्वरेत् । (सौ. अ. शा. p. 15.)

2. भर्तौ राजस्य शुभः श्रेष्ठो मन्थनो धर्म उच्यते ।  
कामो षोडशानिति च मयदन्ति मनोनिपाः ॥  
(शा. नि. पर्व, १२७, ८)

3. ऊर्ध्वबाहुविराम्येष न कश्चिद् श्रुनोति मे ।  
षमादर्थस्य कामस्य स किमर्थं न तुल्यते ॥  
न चातु क्रामास्य मयाह लेमाद्वर्षस्यैवैती

जीवितस्यैवै द्वेदोः । निष्पो धर्मः, ह्यसदुःखे स्वमित्ये जीवो नित्यो हेतुरस्य स्वमित्यः ॥  
(स्वर्गोपनिषद्, ७, ८७-८६)

The planning of life must not miss its aim. To every science, Dharma is the common denominator regulating action. Expediency must give way to the morally right (*Dharma*). It is to be noted that Indian tradition ascribes a divine origin not only to *Dharmaśāstra*, as represented by *Manusmṛiti* but to *Arthaśāstra* and *Kāmaśāstra* the first works in both having been promulgated by or under the inspiration of the Supreme Being. The ultimate source and sanction of all three are the Vedas (*śruti*). For all three the end of the human incarnation is the same. Both individual welfare, in the highest sense, as well as that of the world (*loka-saṅgraha*) require conformity to Dharma, and to the discharge by every one of his appointed duty (*svadharmā*) as determined by his birth and station. This is why Kautilya lays down: "The king should permit no neglect by living beings of their appropriate duty (*svadharmā*). Society (*loka*) prospers and does not decay only when it upholds the conduct of Āryas (*vyavasthita-ārya-maryādā*), stabilizes the (established) order of caste and stage of life (*kṛta-varnāśrama-stīṭh*) and finds refuge in the Vedās (*tīrtayā hi rakṣitā*)<sup>1</sup>." In everyday life it may be possible to take a lower standard but that is not permissible when it conflicts with Dharma. This is why Kautilya has himself laid down that when there is a discord between the art of ordinary life (*vyāvahārikam śāstram*) and *Dharmaśāstra*, the rule of *Artha* (which is usually followed) should be construed in harmony with the rule of Dharma<sup>2</sup>. An enjoined duty admits of no argument; it *must* be done. Conduct laid down by *Arthaśāstra* is justified by manifest advantages, (*dṛṣṭa-phala*) and feasibility. There can be differences of opinion in regard to it. Everything in a *smṛiti* is not based on *adrṣṭa-phala*. There is a large *Artha* core in most *smṛitis*. In fact, a considerable portion of *Rājāniti* and *Dandāniti* in *Manusmṛiti*, for example, is *Artha* in character. This is frankly recognized by the commentators. The same imperative character does not attach to such parts as to the rest on *śruti-ḥi-anāna* or on *adrṣṭa-phala*. But, as a *Dharmaśāstra* is not, at the same time an *Arthaśāstra*, Vijñāneśvarā correctly interprets the rule in *Yājñavalkyasmṛiti* (II, 21)<sup>3</sup> on the superiority of *Dharma-*

1. अथास्मिन्नायंमर्थः कृतवर्णमभ्युत्थितः ।  
अथा हि रक्षितो लोकः प्रसीदति न सीदति ॥ (सौ. अ., भा. प. 8.)
2. सर्वथा धर्मशोभेन वाच्यं वा व्यावहारिकम् ।  
वसिष्ठेन विदुष्येत धर्मोपायं विदित्श्चेत् ॥ (सौ. अ., भा. प. 150)
3. अर्थशास्त्रात् बलवत्तमंशास्त्रमिति स्थितिः । •  
(वाङ्मन्यवचनम्, २, २७)

*śāstra* to *Arthaśāstra*—as an enunciation of not a mere obvious proposition but of the non-mandatory character of *Artha* rules in a *smṛti*, when they conflict with *Dharma* dicta<sup>1</sup>. The illustration of the seeming conflict between rules of the two kinds that may be found in a *smṛti* that has been given by Vijñāneśvara—namely the permission to kill a Brāhmaṇa assailant and the prohibition of the slaying of a Brāhmaṇa implied in the dictum that there is no expiation for the offence (*brahmahatyā*) may be supplemented by many others. Some of the statements that are found in *smṛtis* and are regarded as mere “glorificatory exaggerations” (*arthavāda*), which are not to be taken at their face value, come under the *Artha* category. There is for instance the dictum that a father *must* give his daughter in marriage, and the other rule which makes marriage for a girl obligatory, being a sacrament. As against this, there is the declaration of *Manusmṛiti* that a nubile girl may remain unmarried all her life (*āmaranāt viṣṭet*) in the parental home rather than be married to a man devoid of merit (*gunahīna*)<sup>2</sup>. The first two are *Dharma* rules and are obligatory; they have *adṛṣṭaphala*; the last has *drṣṭaphala*, a rule of practical wisdom, which is arguable, and therefore an *Artha* precept. A parent will not stand excused if he does not get his daughter married, merely on the ground that he could not get a bridegroom whom he considers altogether satisfactory; but, the dictum enforces the parental duty not to give away a daughter, without careful enquiry into the character and

1. धर्मशास्त्राद्युपरिनेतृत्वमेव शौचनसत्पर्यशास्त्रस्य निरस्तत्वात् धर्मशास्त्रान्तर्गतमेव राजनीति-  
छद्ममदशास्त्रमिह विवाहेभ्यम् । अर्थशास्त्रमर्थाकारकस्युल्लोभितरेषु अर्थशास्त्रात् धर्मशास्त्रं प्रबन्धितं  
'स्त्रियाः' मर्यादा । 'वधापि सनातनकृतेषु अर्थशास्त्रमर्थाकारकयोः स्वरूपयोः विद्येते' नादित् तधापि  
प्रमेस्य धर्मस्य प्राधान्यादर्भस्याप्राधान्याद्धर्मशास्त्रं प्रबन्धितं त्रयः । तस्माद्धर्मशास्त्रमर्थाकारकयोः  
विद्येते अर्थशास्त्रस्य वाच्यं परं, न विषयव्यवस्था नापि विकल्पः ॥ (मिताक्षरा)

2. क्षाममा मरणापिच्छिन्नुहे कृत्यदुपलब्धि ।

• न चैवेना प्रपच्छेषु युगहीनाय कर्हिचत् ॥ (१, ८९)

This is construed by modern writers as making marriage optional for women, and as permitting them to remain spinsters for life. See e.g. A. S. Altekar, *Position of Women in Hindu Civilization*, 1938, pp. 64-65. Varadarāja (*Vyavahāranirṇaya*, p. 389) correctly points out that the verse is an *arthavāda* (device for emphasizing) on the preceding śloka (IX, 88) which lays on a parent the duty to bestow his daughter in marriage on an excellent and good-looking suitor of equal caste, in accordance with the prescribed law, though she may not have attained the proper age:

अच्छामाभिरूपय वराय सद्व्याय च ।

अप्राप्तमपि चां तस्यै कृत्यां दद्यात्तथापि ॥

antecedents of the sutor. The common aim of bringing about the enforcement of *varṇāśrama-dharma* through a competent authority, unites both *śāstras* in upholding the state and *Rājadharmā*. Both deal with the king's duties, general and specific, but *Arthaśāstra* does it with greater fulness, as it takes the view-points of feasibility and expediency and of the advantage of the community than of an individual's duty.

The question of differentiation between the two *śāstras* has to be viewed from another angle. A fundamental postulate of criticism of a work is internal consistency. In a closely reasoned scientific statement there will ordinarily be no room for inconsistent statements from the same source. Scholiasts in India act upon this hypothesis in dealing with cardinal works. The principle becomes obvious when a work or works claim direct or indirect inspiration from divinity. It will be absurd to postulate inconsistent statements of the Omniscient. If two statements, both of which claim the same divine source, appear to be inconsistent, the rule of *Mīmāṃsā* is that the conflict is only apparent and can be resolved by research, and that if it seems to evade investigation, an option (*vikalpa*) is afforded. This rule will apply not only to internal consistency in statements from the same inspired work, but it will apply equally to different works all of which claim a divine or inspired source. As both *Arthaśāstra* and *Dharmaśāstra* claim canonical origin, and are classed under *śruti*, it is not permissible to postulate any real and insoluble conflict between the two. "The hypothesis of divine origin invests both with the qualities of universality, consistency and permanence."<sup>1</sup> I have elsewhere dealt with the results of the application of this principle to both *śāstras* to bring about a harmony in their findings and points of reconciliation, the causes that led to the presence of an increasing *Artha* core in *smṛti*, and the gradual supersession of *Arthaśāstra* by *Dharmaśāstra*. It was the new era which witnessed this change that saw the exaltation of *Manu-smṛiti* and made it the ambition of Hindu kings to live up to it. The scope of *Arthaśāstra* was narrowed down to embrace only maxims of polity, or *Nītiśāstra*. Kāmandaka (who has been identified by Dr. Jayaswal with Śiṅkarasvāmin, the minister of Candragupta II) describes his own work as "churned from the ocean of *Arthaśāstra* (*arthaśāstra-mahodadhī*)," and a comparison of it with the *Kauṭilya* will show how the chapters on law and administration as well as economics, which are the most parts of the older work now most valued have been

1. See *Rājadharmā*, 1938, pp. 13-14.

2. *Ibid.*, p. 14.

dropped in Kāmandaka's recast. Though *Arthaśāstra* has canonical sanction, its chief exponents were not sages like the authors of *Dharmaśāstra* but distinguished men of affairs. This is why it is not cited in *dharma-nibandhas* by purists like Lakṣmīdhara.<sup>1</sup> To them even Kauṭilya would have been an *ādharma* (one of recent times). It may be noted, in passing, that citations from the extent *Manusmṛiti* are found in Kāmandaka's *Niśāstra*.

The discussion of the alleged "secularism" of *Arthaśāstra* may now be closed by a consideration of the place of secular elements or sides in Hindu thought and life. It will be noticed on a careful review of both that the distinction between "secular" and "religious" is alien to Indian tradition, even the familiar distinction between *laukika* (what pertains to the worldly life) and *vauidika* will be found to be more popular than *śāstīya*. The *Veda* is eternal and uncreated. The sages, whose names are associated with particular hymns, are not believed to be the *authors* of the hymns, but as those who "saw" them intuitively; they were literally "seers." The *Veda* is the basis of all knowledge. *Veda* and *Vidyā* are derived from the same root, 'vid,' 'to know.' All relevant knowledge is comprised either in the Vedas, the *Upa-Vedas* and the *Vedāngas*, or in knowledge derived from or based on them. *Nāśta* is derived both from "śas" 'to command' or from "śās" 'to teach'. In the former etymology, *śāstra* will mean knowledge that the *Veda*, has 'commanded,' in the latter it will mean a co-ordinated body of knowledge that can be 'taught,' i.e., a 'science.' We find the expression *veda-śāstra* used in the sense of Vedic metaphysics. In the Indian conception of the matter, the distinction between 'physical' and 'super-' or 'metaphysical' has no place. To import the terms into ancient Indian thought would be to put into it concepts which are incompatible with its fundamental hypotheses. Similarly, we have no word in Sanskrit for "religion." '*Mata*' is "view" and "*Āryanata*" the sum total of Aryan belief. In English-Sanskrit dictionaries, the words '*religion*' and 'religious', are rendered by compound expressions of which the first qualifying part is *dharma*, or *bhakti*, which mean 'duty' and 'faith'.<sup>2</sup> The power of knowledge has been held in such regard that the highest knowledge, *parā vidyā*, is that of the Supreme Wisdom. Knowledge is held to be so potent that it has been deemed unwise to scatter it, so that he may pick it who chooses to do so. The secrets of nature are not to be broadcast but to be imparted with safeguards,

1. Nilakanṭha cites *Kaṇakadhārya Niśāstra* in his *Nītimayūkha*.

2. Cf. Mulgaonkar's *English-Sanskrit Dictionary*, 1936, p. 563.



in close intimacy between teacher and learner. The word *Upaniṣad* describes an attitude of the learner in which the wisdom of the Vedas was conveyed to the pupil by the teacher. The description of the ceremony of initiation of the young *danva* into *Sāvitrī* is by the term *uṣṇayana*, 'leading.' In the *ritual* of initiation a curtain is drawn round teacher and pupil, and the words of power are *whispered* by the *guru* to the *acolyte*. There is thus, in Indian tradition, the distinction between exoteric and esoteric or secret knowledge. The best in wisdom is *guhya*, *rahasya*, 'hidden', secret<sup>1</sup> It is conveyed orally and not by books. The gifts of books to *mathas*, which late *smṛtis* recommend, are for the creation of reference libraries in days when learning had decayed and memory was not what it had been. Mādha-vācārya cites a verse<sup>2</sup> attributed to Nārada which condemns (because it will not convey debating competence) knowledge acquired from books, and not orally. Reliance on books was not inappropriately compared to laziness and sleepiness, among six obstacles to learning.<sup>3</sup> Oral instruction and transmission had two advantages: It ensured grasp of the subject, as the teacher would not proceed till the pupil was perfect in comprehension and retention of what had been taught; and it safeguarded knowledge by preventing its communication to unfit persons, or those lacking a sense of moral responsibility. A famous and ancient verse, which is cited by Yāska, mentions how knowledge (*Pīḍyā*) approached the Creator and made this petition: "Save me from being communicated (*nā brāyā*) to the man of envy, untuth, idleness, for I am your trust, and must retain my power."<sup>4</sup> Āpastamba excludes from initiation (*uṣṇayana*) the person given to wicked pursuits (*duṣṭa-karmā*).<sup>5</sup>

Certain results, which flowed from this distinction between secret and open doctrine and knowledge, must be noted for a proper appreciation of some aspects of our ancient literature, which have been missed by

1. *Bhagavadgītā*, IX, 1-2 :

इदं तु ते शुद्धतमं प्रवक्ष्याम्यनस्यसे । ज्ञानं विज्ञानसहितं यच्चात्वा मोक्षयेऽष्टुमात् ॥ राजविचारानुग्रहं पवित्रमित्युच्यते । प्रलक्ष्णानमं धर्मं सुदुर्लभं कर्तुमशक्यम् ॥ Also *Ibid.*, IV, 3, रहस्यमेतदुच्यते ।

2. सुस्तकप्रसायापीठं नापीतं शुक्तविधौ । ज्ञानो न सनामथे वारणधे इव शिवाः ॥ (परदारसामर्थीय, Bom. Sansk. Series., I, i, p 154)

3. कृतं पुस्तकशुश्रूषा नादकारकिं च । शिवः तन्त्री च निद्रा च विद्याविमोकराणि च ॥ (नारदवचनं सृष्टिचक्रिकायाम्, 9, I, p. 52., ed., Mysore.)

4. विद्या इवै ब्राह्मणमात्मनाम गोपाय मां शेषभिः श्रेयसि । अस्वकावाद्गुणैवेवताव न मां श्रूया नीर्येवती तथा स्मार् ॥ (निरुक्त, ३, ८, १)

5. अशुद्धात्मानुद्वेकर्मणाऽनुपावन्त (भाष्यतन्त्रमुद्रसूत्र, १, १, ५.)

most writers, and which are responsible for several wrong conclusions. In the old Indian system of education the pupil had to live, during the period of education, with his teacher or *guru*. It was *gurukula-vāsa*. Till he had mastered all that his teacher could impart to him, he lived there. The normal period was twelve years, for the education to be over. The ceremonial lustration (*snāna*) which, with the permission of the preceptor, marked the end of the period of learning under the first *guru*, was equal to graduation. The 'accomplished student' was termed *snātaka* and received many marks of recognition and honour. Manu (IV, 31) lays down that householders "must worship by gifts of food, sacred to gods and manes, those who have become *snātakas* after studying the Veda, or after completing their vows have become householders and *śrotṛiyas*." Like a king or a venerated relation or a son-in-law, the *snātaka* is to be received with *madhuparka* (III, 119).<sup>1</sup> Way must be made for a *snātaka* (II, 138-139) as for the king, and if the *snātaka* and the king meet, the latter must make way for the former. It is a regal dereliction of duty if a *snātaka* perishes of hunger. It was an honour to be classed with a *snātaka* and nine such persons (among them a student of the Veda) are named by Manu (XI, 1-2) to whom gifts *must* be made in proportion to their learning. Ordinarily one did not change his *guru*, except after becoming a *grhasiṅha*, or after becoming a *snātaka* and engaging in what would now be termed "post-graduate studies." The teacher was paid nothing for his teaching and the food, which was collected by the pupils by begging from suitable households.

Oral instruction under the roof of a teacher implied two things: all necessary knowledge was imparted by one and the same teacher; secondly, devices had to be made for oral instruction and retaining what was taught in the memory. Each teacher had therefore to be a store-house of all the knowledge of the day. This is the reason, as I have explained elsewhere, for the rise of self-contained schools, which bore the names of the founders, whose disciples bearing still his name carried on the work, and continued the tradition and teaching.<sup>3</sup> This feature will explain the baffling attribution of works on different subjects like astronomy, *Dharmaśāstra*, grammar, chemistry, (*rasāyana*) to a school bearing a common name. Thirty years ago, I pointed out that we have to postulate the existence of schools which gave instruction in a circle of sciences and arts, and did not

1. वेदनिष्ठाऽनुष्ठानात् श्रोत्रिवान् शुक्रेभिः ।  
दुर्लभैश्चकम्बेन विपरीतांश्च वनेषु ॥ (४, ३१)

2. See *Ancient Indian Polity*, 2nd ed., 1935, p. 131.

restrict themselves to single subjects. Affinity will be commoner in social sciences, and schools which dealt directly with those branches of knowledge which treated of the four *puruṣārthas* or atleast with *trivarga*. Each school might develop individual features in detail or doctrine, while maintaining common features with other schools. The competition of teachers must have contributed to the progress of knowledge, and the system of transmission to its spread. Even in subjects traced back to revelation, points of difference might arise, and even more easily differences of emphasis due to differences of valuation. It will become necessary to compose manuals in aphoristic prose (*sūtra*), which will fulfil the dual purpose of keeping lecturers and learners on tracks (like modern syllabuses) and also indicate adjustment of values. They were indispensable aids to teaching and transmission of knowledge, from generation to generation. Thus arose *sūtra* books, first in Brāhmanic literature, and then by imitation in Buddhist. Max Müller, whose special field was Vedic literature, noted that each Vedic *carana* or school had its own compendium or *kalpasūtra*, in which sacrificial, domestic and semi-public duties and rites were dealt with. Only two or three complete specimens of *kalpasūtra* have come down. The old theory that every school had its complete *kalpasūtra*, consisting of *Srauta*, *Gṛhya* and *Dharma sūtras* is not now accepted. There are *sūtras* which stand alone e.g. Gautama and Vasiṣṭha Dharmasūtras. The point is of some importance because by applying the principle universally, missing sections have been predicated to extant *sūtra* works. *Manusmṛiti* has been regarded as a version of a lost *Mānava-dharmasūtra*.<sup>1</sup> We have a *Mānava Gṛhyasūtra*, which has been edited twice. Some parallels between it and *Manusmṛiti* have been pointed out by Bradke, but they are few and inconclusive. The *Gṛhyasūtra* of the Mānavas contains matter not found in *Manusmṛiti*. It deals with *Vināyakaśānti* (like *Yājñavalkyasmṛiti*) and tests for selecting a bride (which correspond to *Āśvalāyana Gṛhyasūtra*, 1, 5, 5-6) but the topics are not found in *Manusmṛiti*. MM. P. V. Kane has given a number of instances, in which the doctrines of the *Gṛhyasūtra* and the *Smṛiti* differ. Most scholars now share today his scepticism of the existence of a *Mānavadharmasūtra*, which was the original of *Manusmṛiti*.<sup>2</sup>

The utility of a *sūtra* book lay in its compactness and easy retention in the memory. A properly constructed *sūtra* book will string

1. G. Bühler has argued elaborately that a *Mānava-dharmasūtra* once existed. See the Introduction to his *Laws of Manu* passim.

2. P. V. Kane, *History of Dharmasūtra*. Vol. I (1930), pp. 79-85.

together the *sūtras* in an order which will make them interdependent and render repetition of words unnecessary. The aphorisms served as guides to memory during recitations. In the case of the Vedic literature public recitation of the *sūtras* must have been a practice. The Buddhists adopted it and the convocations of the *Saṅgha* were occasions in which such public recitations took place, in order that by such recital the accuracy of the canon might be tested and guarded. The chief value, from the standpoint of those who wished to keep the knowledge contained in a *sūtra* book *within* the school, lay in its unintelligibility without the oral interpretation of the teachers, which itself was transmitted traditionally from generation to generation. In later times, such explanations were reduced to writing, from the prodigious memory of students who could repeat entire lectures without error. Extant commentaries on *sūtras*, in all branches of knowledge, are largely based on such oral expositions of the cryptic original aphorisms. Variations between commentators reflect more often the traditional variations that grew up in the process of oral transmission of the aphorisms and comments than the differences in the personal opinion of commentators themselves. The developed literature of every *śāstra* will reveal the existence of a multiplicity of aphoristic works and their oral commentaries. In course of time, it will become necessary to standardize the teaching in the *śāstra*, and the teachers who undertook the task will compose *sūtra* works in which differences of ancient opinion will be noted. Unless, as in the case of the aphorisms of Pāṇini,<sup>1</sup> extra-ordinary skill is shown in condensation and stringing up aphorisms, there is a tendency for *sūtra* books to become diffuse. Loose prose passages are not easy to memorize. Verse, in the familiar *śloka* form, furnishes a mechanical rhythm that enables the words to stick to the memory. It is also possible to make a *śloka* more intelligible than a prose aphorism of a very condensed character. The *śloka* thus becomes a rival of the *sūtra* for recording teaching and replaces it gradually.

The theory of Max Müller that originally *all* śāstraic works were in *sūtra* form and that the works in *śloka* form came later is now discredited. Yāska cites a *śloka* of a *smṛti*; it shows that *smṛtis* in *śloka* form existed even in his day.<sup>1</sup> In the most ancient *sūtra* works we find *ślokas*. The mixture of *sūtra* and *śloka* in the same book is not uncommon. We find the mixture not only in comparatively late works of the *sūtra* class of *smṛti* like those of Viṣṇu and Vasiṣṭha, but we

1. circa 650 B.C. Dr. S.K. Belvalkar will place him about B.C. 750, *Systems of Sanskrit Grammar*, 1915, p. 7.

find it in the earliest also. Indian tradition gives a hoary antiquity to the *śloka*, making its discovery occur in a moment of intense emotion, as a divine accident, that befell the author of the *Rāmāyaṇa*.<sup>1</sup> We may reject the story, but find in it the belief, now seen to rest on credible evidence, of the great antiquity of the use of the *śloka*.

A feature of the *sūtra* books is that from the space assigned to a topic it is not just to estimate the importance assigned to it by the author or founder of the school to which the *sūtra* work belongs. A correct estimate is possible only when the *entire* oral exposition is available. If any interruption occurs in the oral transmission of doctrine, it may lead to wider diversity of opinion among those who reconstruct the views of the school from a book. He who composed a *sūtra* work—and many *ādhanikas* attempted to do so—ran this risk of being misinterpreted by later commentators. That the risk was real and grave is seen from the precaution which a famous *sūtra* writer is said to have taken to guard against the misinterpretation of his own views by composing himself the commentary on the *sūtras*. This was done by Kauṭilya, according to a verse which appears at the end of his *Arthasāstra*. "Having observed the discordant views attributed to the same author by commentators on his *sūtras*, Viṅgupta (*i.e.* Kauṭilya) himself composed both the *sūtras* and the commentary."<sup>2</sup> It is immaterial if this verse is by a disciple and not (as is equally probable) by Kauṭilya himself. It states what must have been a well-known fact. Dr. T. Ganapati Sastri held the first chapter of the extant book—the *prakaraṇādāhikarāṇa-samudāeṣa* to contain the *sūtras*: every chapter heading is a *sūtra*. The title given to the first chapter—"the list of chapters and sub-sections,"—is not found at the end of the chapter; it is not part of the book. Each section is headed by a *sūtra*, which now serves as a chapter or section heading.

An alternative form of composition to the combination of *sūtra* and *bhāṣya*, as in the *Kauṭilya*, by the author himself—which dispenses with the need of *vārtikas* [as in the case of the *darśanas* (philosophy) and *vyākaraṇa* (grammar) aphorisms] is that of a verse-compendium, which gives a comprehensive exposition of the views of a writer or school. Such works are known as *samhitās*. *Manusmṛiti* is often referred to as *Manusamhitā*. Elaboration and intelligibility (springing from comprehensiveness) are the features of a *samhitā*. A *samhitā* will not need much

1. *Bhāṣya*, 2, 15-20.

2. दृष्ट्वा विप्रतिपत्तिं बहुधा सास्त्रेषु भाष्यकाराणाम् ।  
स्वयमेव विष्णुप्रशस्कारं सूत्रं च भाष्यं च ॥ (कौ. अ. शा. p. 429),

explanation, at any rate on the scale of a commentary on a *sūtra* work. But, in spite of the care lavished in the composition of a *sāhitya*, it may present apparent contradictions and obscurities, springing in some instances from brevity of treatment. This has happened in *Manusmṛti*. The smṛti, which passes by the name of Brhaspati, is not simply based on Manu's work; it is, as recognized by scholars, virtually a *vārttika* on the older smṛti. In many cases Brhaspati is obviously explaining, illustrating or elaborating the laconic statements of *Manusmṛti*. He has done for Manu's work what Patanjali claims to have done for Pāṇini's: *viz.* removed misunderstandings or strictures passed on it by explanations, illustrations and resolutions of apparent contradictions. The reconstruction that I have attempted<sup>1</sup> of Brhaspati's lost smṛti is still a torso; but it is already nearly as large as *Manusmṛti*. The study of the two smṛtis side by side will prove a useful corrective to a disposition to see inconsistency and contradiction in ancient works. I may have to refer later on to specific instances of supposed contradictions in the text of Manu, which are held to prove that it passed through the hands of several editors or redactors.<sup>2</sup> But, it may be stated now that critics, who fasten on instances of apparent conflict in statement or doctrine in an ancient Indian work, which has been held to be divinely inspired, very often overlook probabilities. Indian scholars and commentators do not betray either lack of acumen or independence in discovering flaws in the works they deal with. If they do, their readers and critics will not overlook *their* failure. Carelessness will not be attributed to a divine being, and if instances of apparent slips occur in a work that claims divine authorship or inspiration, it will be treated by our writers either as proof of the unauthenticity of the work or of the unreality of the contradiction. A feature of ancient India was the wandering scholar, as in mediaeval Europe, who travelled from place to place displaying his erudition and critical powers before assemblies or kings and challenging everywhere scholars of repute settled there. The discussions would develop acute critical powers and result in many exposures of wrong interpretations, citations or inferences. Real defects will seldom escape the vigilance of

1. *Brhaspatismṛti* (Reconstructed), Gaekwad's Oriental Series, Vol. LXXXV, 1941.

2. Bühler laboured under this belief, and tried to discriminate (Introduction to his *Laws of Manu*, pp. lxvi-lxxii,) between supposed older and later parts of *Manusmṛti*. He held that it had undergone several revisions (*Ibid.*, pp. xcii-cviii).

such public contests, in which an original work that is cited is construed to establish its internal consistency as well as the validity of its doctrine. A work will not escape in ancient India sharp criticism of obvious defects and their exposure merely because it claims divine inspiration. MM. P. V. Kane (following Buhler) cites six instances of conflicting statements in *Manusmṛti*, and I venture to affirm that in every one of them a reconciliation is possible.<sup>1</sup>

One of the subjects which has exercised the minds of modern students of *Dharmaśāstra* is the difference in subjects dealt with in different smṛtis and difference in stress on certain topics, as reflected by the space given to them in the books. Conclusions as to relative chronological position or the evolution of doctrines have been hastily drawn from such differences between smṛti and smṛti. If a topic is omitted in a *sūtra* work, is it conclusive evidence to show that the topic was unknown in the epoch or to the author, or that the author deliberately omitted it as unimportant? It is a matter of daily experience to those who give oral expositions of sciences that they vary the stress or expand or contract treatment of specific topics, according to the nature of their audience—its capacity, bias or mental equipment. If the discourses are reproduced *verbatim* every year, variations will be seen in the relative position given to topics and the stress laid on them. Will it be valid to infer from these a constant change in the stand, or in the opinions of the lecturer? The point is relevant. In the earlier *Dharmaśāstras* the treatment of law and politics is meagre or scrappy. This feature is generally attributed to the following causes. The authors were Brāhmaṇas concerned more with ritual and penance than with politics or law; or they left these topics to be learnt from *Arthaśāstra*; and the 'other-worldly' outlook of the authors and their disciples was reflected in a becoming contempt for civil institutions. Such explanations overlook some features of the schools, the purpose of the works and the *milieu* in which they were composed. In the Indian view, as will be elaborated later on, to distinguish between the matters that appertain to this brief life and to the lives to come is both a delusion and a snare. With the exception of the atheist (*nāstika*) the derailer of Vedic philosophy (*vedavindaka*), the heretic (*pāṣaṇḍa*), and the materialist (*Lokāyata*), who are anathema to smṛtis which treat them as social outlaws, every one else in society shared this belief. If the omitted topics were to be learnt from *Arthaśāstra*, why should they be mentioned at all? Was it not the aim of the teacher to give a complete education to the student, so that on the termination of his education

1. 'History of *Dharmaśāstra*', I, pp. 148-149.

the 'accomplished student' (*śrāvaka*) may be in a position to enter upon his duties as an active member of society, discharging with capability both his religious and civil duties? The educated Brāhmaṇa had many judicial and other duties imposed on him by the State. How was he to discharge them without training in the *only* period in which he was segregated for education? In the present chaotic state of our knowledge of the chronological position of beliefs, it is a sign of courage to make confident assertions that such things as the presence of *Vināyakaśānti* and *Gaṇapatiṭha* (which occur in smṛtis usually regarded as separated by centuries—like those of Āpastamba and Yājñavalkya for instance) make the works in which they appear comparatively late compositions. The bane of false or hasty generalizations from inadequate data, which Sir Henry Maine deplored, is very much in evidence in the treatment of the mutual relations and position of the works in our smṛti literature. We have the testimony of Megasthenes to the frequent consultations held by the king with learned *śrotṛiyas*, who lived in the woods outside the city. Were these appeals made to persons ignorant of law and polity? Out of the 28 chapters in *Gautamasmṛti* only 4 deal with law and polity. Did the school of Gautama turn its back on these subjects and train its members to do so in life? How were the two aims of discharging one's duties (*svadharmā*) and of bringing about the best for society (*lokaśānti*) fulfilled by persons who had been taught to neglect subjects of ordinary daily occurrence in the world in which they had to live and serve? It is because of the lop-sidedness of *śāstra* literature that *samhitās* came to be composed, and later on digests (*nibandha*) and commentaries (*bhāṣya*), in which complete pictures of social duties were furnished to students of Dharmaśāstra, by piecing together the dicta in different *smṛtis* (including *Dharmaśāstra* works). A good *nibandha*, which covers the entire field of *Dharmaśāstra* furnishes a rough picture of what the substance of oral discourses in an ancient *gurukula* on the subject would have been like.

It now remains to consider a different class of arguments used for establishing the *in-utility* of study of a work like *Manusmṛti*. Referring to smṛtis as a class and the *varṇāśrama-dharma* that they upheld, Sir Henry Maine declared: "The impression left on my mind by the study of these books is that a more awful tyranny never existed than this which proceeded from the union of physical, intellectual and political ascendancy." Assuming for argument, that the purpose of the smṛtis is to uphold a priestly oligarchy, how does it detract from the need for making a study of the smṛtis and their influence? Maine has described 'Brahmanical India' (the India of smṛtis) as persisting "at a stage at which a rule of law is not discriminated from a rule of religion"



and transgressions of religious ordinances are visited by civil penalties while "a violation of a civil duty exposes the delinquent to Divine correction."<sup>1</sup> The charge may have force if it is made against a *modern code of law*. But, as a description of an ancient jural system, it will fall into line with description of other ancient systems or with the surviving traces of the combination of law and religion even in modern law. Apostacy and blasphemy were offences in English law till the other day. It was only in the 19th century that in English law excommunication was relieved from civil penalties other than imprisonment for six months. It was not only in India that rulers have felt themselves, under the influence, or direction of *Dharmaśāstra*, under a duty not only to maintain peace within the country but promote religion and morality. It has admittedly been so in England. If ancient Hindu rulers took delight in styling themselves Dharma-Mahārāja (as the Pallavas, Gangas and Kadambas did in Southern India)<sup>2</sup> the occupant of the British throne still counts among his titles that of "Defender of the Faith." Marriage and divorce are still within the purview of semi-ecclesiastical jurisdictions, in modern England. In modern countries in which Roman Catholicism is the recognized religion of the people and of their Government, Canon Law still governs the lives of the people in a large number of matters, which are strictly civil in nature. It is so in Islamic law and in countries in which it prevails. The religious background of smṛtis will not therefore make them singular instances of archaic survivals. The religious bias that we find in ancient systems of jurisprudence has its parallel in the economic or political bias of modern laws. As Vinogradoff shrewdly pointed out many years ago—"If individualistic civilization were to give way before one based on socialistic conceptions of the social tie, *all* the positions of our jurisprudence will have to be reviewed." It has happened so in Soviet Russia. While it is yet too early to estimate the extent of the change that has crept, as the result of five years of war experience, into our conceptions of what man owes to man—and to woman—it cannot be gainsaid that we are now on the threshold—not only of social and political changes which will reflect the war experience of the world, perhaps in different ways in different countries, but of changes in some fundamental conceptions or principles on which legislation may proceed. When A.V. Dicey wrote on the "Fundamental Principles of Modern Legislation," his idea was that the type of modernism was

1. *Ancient Law*, ed. Pollock, p. 28.

2. *Rājadhama*, pp. 144-145. Bhadravarman, the Kaundinya, King of Campā, styled himself *Dharma-Mahārāja* (R. C. Majumdar, *Campā*, III, p. 3).

England with its legal system, and the idea behind the fundamental changes was Benthamism. We have travelled far from Dicey's position. Our search for 'fundamental principles' may drive us—not to the dominant ideas of the 19th century Europe—but further back to ancient systems like those of India. The errors of writers like Maine are due not merely to the sense of superiority, which was a common failing among English writers of his day when they dealt with alien or ancient cultures and systems, but to inadequate perception of the lines of jural development, in the infancy of historical study of jurisprudence in their days. It is also not improbable that the translation of the title *Manusmṛiti* or *Mānava-dharmaśāstra* as 'code of Manu,' suggested that it should, as a *code*, possess features of modern codes like the *Code Napoleon*. When Maine's later studies extended to primitive systems he was not slow to discover that there were resemblances between the Indian *smṛiti* and the Hebrew 'law books', in the detailed rules laid down for all situations in life from birth to death. This is the declared purpose of *Dharmaśāstra*; only it goes beyond birth itself to prenatal ceremonies beginning with the rites of conception. In a more correct view, its work ends only with the indication of the ways of securing 'release' (*mokṣa*), and it is in this sense that a *nibandha* like the *Kalpitaru* has understood its scope.

There remains one more criticism of *Dharmaśāstra* which has derived great publicity from Maine's enunciation of it in his vivid phraseology. The description of the chief work of the class—as an *idealized* picture of what a selfish priestcraft desired to see established as the world-order—has been seized upon for discrediting both the work and its class. A student of law wants laws for study; the laws which were actually administered, *not* the laws of Utopia! The criticism may be dealt with in two parts. First, is an *ideal* unworthy of study even in jurisprudence? Next, how far did ideals and realities tally in the Hindu systems of law and polity?

To take the first point first. Men with a desire to be known as practical minded persons did not like to be described as idealists. Idealism suggests the visionary. They prefer men who have their feet firmly planted on the earth! An idealist had to confront a hostile environment. The days are changed. Half the discredit of ideals came from the circumstance that they were not tested in practice. The scope for social experimentation with ideals seemed once so small. It is now otherwise. We have seen, in the field of politics and social reconstruction, ideals translated into facts. The strength of an ideal lies in the belief it inspires and its power of reflecting correctly human experience as well as human needs. He who knows where he has to

go, and the route he has to take, gets to his destination quicker than he who merely drifts along. We are in the age of plans, and have seen the end of *Laissez Faire*. The 'plan' is to the modern administrator what the compass and the chart are to the mariner. To implement plans we need more than knowledge; there must be a driving force behind it. "One person with a belief is equal," said J. S. Mill, "to ninety-nine persons with only interests." In the field of legal reform, we now look more forward than backward—to ideals than to tradition. Those who were formerly afraid of even small changes now support large plans as the more effective; the bigger, the wider the reach in space and time, the greater certainty of success and permanence! In this view, there must be utility in the study of a *smṛti*, which expounds or enjoins social planning on a scale so wide that it is not for a long period of time but for all time (*sanātana*), and to bring within its ambit not one nation but the entire world. The principles of social construction underlying *vaṅśārama-dharma*, as expounded by *smṛtis*, may have uses in plans for reconstruction even to-day, as I pointed out elsewhere some years ago, though it is the part of the old system that has come in for most criticism in modern times. In that sense, a study of the social and political systems of Manu will have its uses, even if they are regarded as having in them an element of unreality—of unrealized idealism.

But, as a matter of history, it cannot be denied that *smṛtis* had as much influence in guiding the lives of men and women in India, and still in a large measure have, as if they emanated as laws from the state. The sanction—the power of imposing penalties—of the State is not always necessary to make *laws* of rules of conduct accepted by a community, or at least by the bulk of those who lead them. We have instances of 'laws' behind which there is no State as originator or sustainer; and in which breaches of such 'laws' are visited by public opinion with a power of implementation not inferior to that of a State.<sup>1</sup> We have out-distanced, in the light of comparative and historical jurisprudence, the Austinian conception of law. But, even in the Austinian sense, *Dharmaśāstra* can be said to have attained the rank of a law book in ancient and mediæval India. The responsibility of an Indian king was personal, and it extended to all that befell the people over whom he ruled. As a corollary, it implied supervision of the lives of the people and ensuring their conforming to established usages or rules. In this sense, the specific duty of the king (*Rājadharmā*) came to coincide

1. J. Bryce, *Studies in History and Jurisprudence*, Vol. I. (Primitive Iceland) Vol. I, p. 334.

with a knowledge of the duties of *all* in the kingdom. *Sarve dharmāḥ rājadhārmaḥ praiṣṭhāḥ* (all duties are implicit in the duties of the king).<sup>1</sup> It became a matter of pride for rulers to excel in maintaining *Dharma* and to describe themselves as such. In the case of kings who were not of *kṣatriya* lineage, or of 'Aryan' birth, the desire to excel in enforcing *Dharma* was even keener than in those whose titles were faultless. In the place of a multitude of *smṛtis*, we have had under royal patronage, or in the expectation of royal patronage, digests of *Dharma-sāstra*, which resolve the seeming contradictions in *smṛtis*, fill up the blanks in one *smṛti* from what is given in others, and present a coherent picture of the *Dharma*, which the people might follow and kings enforce. When such digests or commentaries which are virtually digests (like the *Mātāṅgarā*), were composed under regal direction, and were upheld in the states in which they were first composed, and afterwards in others, can they be denied the title of laws even in the Austinian sense? Among kings who have promulgated *nibandhas* of *Dharma*, composed by themselves, we have Bhoja, Aparārka and Pratāparudradeva. Among writers of *nibandhas* commissioned by kings we have Lakṣmīdhara—the author of the *Kṛtya-Kalpataru*, the most complete digest of *Dharma*, and the oldest now extant, Vijāñeśvara, Mādhavācārya, Hemādri, Caṇḍeśvara and Vācaspati. The need to follow the old law, which was accepted by the people and followed by them (even under foreign rule), is behind the *nibandhas* of the sixteenth and seventeenth centuries, and it is significant that in the case of *three* of them—those composed in the name of Toḍaimal and under orders of Warren Hastings and T. E. Colebrooke—(by Jagannātha 'Tarkapañcānana)—we have proof of the validity of *smṛtis* even when India was ruled by foreigners who differed from the foreign conquerors of earlier times, in not adopting the religion of India or accepting its culture and ideals. The desire to excel in enforcing *smṛti* rules is shown in South India, which has always had a population less influenced by *Aryan* elements than the rest of India, and in which a modern school loudly demands the replacement of *Aryan* features by *Dravidian*. One of the oldest classics of Tamil literature, the author of which (Tiru-vaḷḷuvar) bears a name suggesting his low *varṇa*, reflects a mastery of *Manusmṛti* and a reasoned loyalty to *Manusmṛti*. The most famous of South Indian dynasties (the Cola) claims descent, like the kings of Ayodhya, from Manu himself, and a title which Tamil kings have delighted to bear is 'the king who does

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1. *Sānti-parva*.

not swerve from the Laws of Manu' (*Manu-neri-tavarāda-manna*). It will recall Kālidāsa's description of Dilīpa as one who did not swerve even by a line from the path blazed out by Manu.<sup>1</sup>

We are seeing in modern Russia not only the power of ideals to create and transform social institutions but to reclaim and raise, in the cultural scale, millions of backward races or peoples. We have forgotten that the same work had been done silently and slowly in India itself in the past, when under the wide wings of *Dharma* room was found for measures for the uplift of communities and for their cultural and spiritual elevation. One instance of the zeal with which backward peoples or tribes took advantage of the scope that the social system outlined in *Manusmṛti* and works of the class of which it has been the outstanding representative, is seen in the desire to drop their own group customs and usages and adopt those prescribed for the *varnas* in such *personal* matters as marriage and inheritance. The rules of *Manusmṛti* and of *Dharmaśāstra* generally were not imposed on those who did not come under the *cātur-varna*, and considerable freedom was given to tribal, family and sub-caste usages, particularly to those who were not within the regular *varna* scheme. The 'Aryanization', or what its modern detractors term the 'Brahmanization' of such peoples has been done, *not* by fiat of the State or by dictation of a hierarchy, but by acquiescence of those who realized that the scheme of the *smṛtis* presented the best means for their social, spiritual and cultural uplift. No higher tribute to the genius or inherent power in *Dharmaśāstra* is possible. History knows of the raising of the human levels of submerged populations by a higher type of religion. The silent transformation effected by the influence of Hindu *Dharma* is not as easily recognized, because it is also due to the feature, which has often been condemned as inherent in it, namely the basing of law and polity firmly on the foundations of morality, religion and philosophy.

1. *Raghuvansha*, I, 17 :—

रेखामानसं वि क्षुण्णादात्मनो वैभवेनः परम् ।  
न च्छर्ताद्दुः प्रजासत्स्य निवस्तुनेमिदृश्यः ॥