

MANU SMRITI IN NEW LIGHT

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Manu, the great Indian sage, is arguably the oldest of lawmakers in the annals of human civilization. In the world of jurisprudence and sociology, the Institutes of Manu are more ancient than those of Justinian in Roman Law and are more far-reaching and pervasive and more ancient than the laws of Salon or Lycurgus. Yet, in recent years, the volatile caste centric political pandemonium has made Manu and his seminal work, the object of much hatred, ridicule and even violence. While almost all students of Indian History, professional and amateur are aware of the six abusive verses it contains, few have gone through it critically, to appreciate its uncompromising rational stand, the underlying jurisprudence, his brilliant insight into Dharma, the collective maintenance of law, and perhaps most important the foundation of justice which to Manu was not based on vengeance or retribution. Unfortunately, the defensive mindset of Indian Historians, even in those with an uncompromising regard for objectivity like the eminent R C Majumdar, caused several unfortunate statements in this regard. The latter could see nothing good in the Manu Smriti, except a few honeyed verses with regard to women [Refer, Ancient India by R C Majumdar] In case of Marxist and Dalit historians, one could not expect any semblance of objectivity, to them the MS is nothing more than a brahmanical construct for subjugating the shudras. Indeed, Manu serves as their favourite whipping boy of Indian history

Such misconceptions have prevailed in the modern Indian psyche, consummating in the absolute rejection of the possible merits this scripture carried in its wake, and how it made a radical departure from the eye for an eye laws known to then contemporary world, but also on the unfailing conscientiousness with which justice was to be upheld in his eyes. The aim of my article is not to explain away the unpalatable elements of the MS, but only to reappraise the breakthroughs in ancient law, sociology and jurisprudence it achieved. To censure the ancient text, by juxtaposing it with modern penal law would be entirely anachronistic. In the words of Will Durant "*the historian's folly is to judge the past from the yardstick of the present*" When ancient civilizations of Greece and Rome have been bestowed a sympathetic gaze by European historians, by putting to shade their obnoxious and morally reprehensible sides, why has not the

Indian scriptures especially the MS been accorded similar scholarly sensitivity, concern and understanding!

THE ORIGINS

Sir William Jones, has noticed that:—

“the dialect of Manu is observed in many passages to resemble that of the Vedas, particularly in its departure from the more modern grammatical forms.”

Manu could well have been extant in the period varying from 1580 to 800 B.C. Yaska of Nirukta [1000-700 B.C] refers to Manu Svayambhuva on the right of both sons and daughters to inheritance. The original Manu laws called the *Manava Dharma Shastra*, comprised a hundred thousand verses, in a thousand chapters, but for the benefit of mankind they were abridged by Narada, Sumati and Bhrigu successively to its present form, which are referred to as the institutes of Manu or more popularly, the Manu Smriti in its extant form.

While Buhler dates it to 5th century B.C, Max Muller thought it to be around 2nd century B.C. Prof. Kane, dates it approximately around 3rd century B.C. However, in 1.25, the creation of only 3 Vedas is mentioned. What is conspicuous is the absence of the fourth Veda, the Atharva Veda composed by Angiras¹ This could well explain the hoary antiquity of even the extant Manu Smriti, tentatively between 1000-800 B.C

THE CONTENTS

The Manu Smriti as it exists now, runs into 12 chapters and 2694 couplets.

Manu takes the foremost place among all other smriti writers as exemplified by Brhaspati:—

“Manu takes the foremost places, because his work is based on the teaching of the Vedas, and any Smriti text which is opposed to Manu is not to be valued”

However, smriti writers had completely liberty to go in for radical departures from the extant norms, whenever situations demanded so, for laws must change with the

¹ V Raghavan writes, the MS mentions all four Vedas, but I did not come across any verse referring to the Atharva Veda.

vicissitudes of time. Of the striking examples is the 7-8th century, Atri and Devala Smritis, which had several liberal standings dealing with women; for instance Atri considered even a woman bearing the child of another man to become purified after her postnatal menstruation resumed.

[Atri Samhita]

192. If a woman becomes pregnant by asavarna male (obviously not the husband) then she will be impure until she gives birth. After birth when menstruation takes place she will be as pure as refined gold. 194: when menstruation occurs then a woman becomes pure.

SOURCES OF LAWS

Manu lays down in his code, that there are four sources of laws — The first being the Vedas, the immanent and eternal laws of the universe. The second being Smriti, which actually deal with the making of the laws. All Smritis must uphold the spirit of Sruti, because whenever Sruti and Smriti contradict, the former is held authoritative and the latter discarded. Manu himself says, by Sruti is known the Vedas, and by Smriti is known the Dharma-sastras. The third is approved conduct, which must be moral i.e. *sistachara* and *sadachara*

The fourth source of law according to Manu is “*what is agreeable to one’s soul or good conscience*” Thus, Manu anticipates conscience and equity as a source of law. [MS 4:12]

DHARMA AS THE FOUNDATION OF ALL LAW

Manu’s greatest contribution is his consideration of law as Dharma. Dharma has often been misinterpreted as religion, but Dharma etymologically means that which upholds or that which sustains. Dharma, the adherence to righteousness is the very foundation of a just and sustainable society. Manu traces an evolutionary trajectory from inanimate through vegetative, animate to human — in increasing order of level of consciousness. Since humans have free will, they may choose not to adhere to *Dharma* and then, the society will start regressing (ie, the reverse of evolution) and erring members will be pushed down this evolutionary scale to go through the whole struggle once again. This is a significant extrapolation to concepts of *karma* and rebirth. Thus, in upholding

Dharma, man evolves towards perfection, in demeaning Dharma; humanity sinks to a sordid destruction. For primitive societies, an eye for an eye philosophy is the apotheosis of the perfect law. But not for Manu. In other words, justice is not a vehicle of vengeance or retribution, and a society must necessarily adhere to *Dharma*, ie the natural order for the very fact of its existence.

A. Dharma is in protecting the weaker sections of society

While righteousness is undisputedly *sine qua non* at the individual / personal level, in one stroke the responsibility for policing and maintaining the rule of law — by implication, **protecting the weak** — has been placed on society collectively; it becomes the duty of the ruling dispensation to ensure this. To give a singular instance, Manu puts the onus of protecting the rights, property and safety of widowed, diseased and barren women on the king himself. [MS 7.28-9] He even edicts the king, to punish like thieves, the relatives who attempt to usurp the property of such women.

B. Dharma does not distinguish between the strong and the weak. Dharma being truth cannot be subservient to any man, howsoever powerful he might be, even if he is the king.

Manu is in effect upholding the spirit of Dharma as the living embodiment of truth, as defined by the Brihadaranyaka Upanishad:—

There is nothing higher than Dharma. Even a very weak man hopes to prevail over a very strong man on the strength of Dharma, just as (he prevails over a wrongdoer) with the help of the King. So what is called Dharma is really Truth. Therefore people say about a man who declares the truth that he is declaring Dharma and about one who declares Dharma they say he speaks the truth. These two (Dharma and truth) are this

C. The defendant is considered Innocent until proven guilty

The judicial procedure prescribed in the MS is based on the principle that it is still acceptable if the guilty go unpunished, but not if even one innocent person is wrongly sentenced. That would make it the first express statement of an absolutely fundamental principle of law and human rights, and I believe it can be taken to include the

presumption of innocence of the accused (unless guilt is conclusively established) and an implicit guarantee of the right against self-incrimination.

That Manu goes to great lengths to ensure this is suggested by the fact that S. Radhakrishnan, in his *Indian Philosophy*, mentions that Manu prescribes the *Aanveekshiki* method of positivist inquiry for judicial matters, even as he condemns those who employ it for philosophical / metaphysical inquiry (intuition is taken as superior here) — a clear and emphatic secularisation of judicial procedure.

D. The MS clearly states that miscarriage of justice would redound as a sin on even the judges, and would bring upon destruction (MS 8.15). For those who protect Dharma, Dharma will protect them. [dharmo raksati raksitah] So, upholding justice with unflinching conscientiousness is clearly taken as an outright fundamental duty of society (and its rulers). This is an enormous step towards civilization.

E. Rights are meaningless in the absence of qualifications [*adhikara*]: The modern theory of rights, irrespective of *adhikara* is something alien to Manu's attitude towards life.

F. Manu strives to attain a Dharmic society. In Dharma is divinity. Dharma is thus a positive concept, for it strives to attain self-realization.

It gives humanity, reasons for striving and incessantly aspiring for the highest goal of Liberation — *moksha*. Thus Manu states:—

“One should not allow one's spirit to be frustrated by earlier failures; one should not disregard oneself; till death one should not disregard oneself; till death one should strive for prosperity and should never consider it difficult to attain” [MS 4.137]

G. Dharma is *satya* but Dharma is also *ahimsa*.

For enforcing Dharma, one need not use violence and cause trouble to human beings but instead use powers of persuasion of sweet and refined words in teaching Dharma. Yet, one should never compromise with truth while being nice. [MS 4.138, 4.139]

In essence, Manu dismisses any pessimism and despondency from his scheme. It is perhaps this aspect that enthused, the philosopher, NIETZSCHE to exclaim about Manu Smriti;

“It has an affirmation of life, a triumphing agreeable sensation in life and that to draw up a law-book such as Manu means to permit oneself to get the

upper hand, to become perfection, to be ambitious of the highest art of living”

An overview of the Manu Smriti and its contents

Chapter 1 — Origin of world, creation of beings, the origin of laws, the origin of four classes of men and their respective Dharmas

Chapter 2 — The 4 proofs of Dharma, the person for whom this Dharma holds goods, and the area where it prevails. A discussion of samskaras for them follows, next follows discussion on the Brahmacharya stage of living

Chapter 3 — The stage of the householder. The eight different types of marriage. The social role of the householder. The five daily yagnas [studying the scripture, propitiation of the manes, adoration of the gods by ablation in the fire, reception of guests and gratification of other living beings.]

Chapter 4 — Householder’s life continued

Chapter 5 — The ideal food. Pollution and purification ceremonies. Women as wives and widows, their special Dharmas

Chapter 6 — Description of the last two stages of man; vanaprastha and sanyasa.

Chapter 7/8 — Concept of raja Dharma. Punishment for sins, including *angaviccheda* [cutting off part of limbs, especially nose and ears]

Chapter 9 — Women from the standpoint of law

Chapter 10 — Progeny of inter-caste marriages, fitting them into the system. Duties in case of emergencies [*apad dharmas*] are also discussed

Chapter 11 — Description of sins, major and minor, and their expiations [*prasayatcittas*]

Chapter 12 — A discussion on theory of karma, the fruits and kinds of birth, Dharmas through one can attain self knowledge [*atman jñana*] and the attainment of the everlasting good. [*nihisreyasa*]

Manu begins his journey into deciphering the cosmic law by appreciating the vastness of creation as being inter-related. A static absolute, shaken and stirred by the three gunas of nature, gives rise to infinite patterns of nature through a linear evolution (of matter) Manu, thus, anticipates the Samkhya philosophy in this respect.

One verse in the initial mentions the golden egg or hiranyagarbha, and purusha (supreme spirit and not male as Buhler erroneously translates) dividing into male and female halves from which arise the first man and woman (no extra rib of the biblical Adam giving rise to Eve)

THE CREATION OF THE FOUR CLASSES

When the Brihadaranyaka Upanishad exclaimed:—

“by realizing satyasya satyam, the truth of truths, let there be freedom from the slavery of gods”;

it was the first time in the annals of human civilization that man had the courage to rebel against the nature controlling gods. This verse reinstates one of the most powerful Upanishad messages relevant to this day. One needs to only replace the gods of nature with the gods of wanton materialism, hatred, terror and war.

Manu probably alludes to an age, where the concept of *varna* (class) was absent or at best in its rudimentary stages. This is discussed below.

The cosmic being, Purusa gives rise to the four castes as described in the famous purusa sukta of the Rig Veda 10th mandalam. *Brahmins* originated from the mouth, the *ksatriyas* from the hands, the *vaishyas* from the thighs and *shudras* from the feet. While modern sociologists, especially those obsessed with class struggle and revolution, have been quick to pounce on this solitary verse as that determining the mechanism of caste hierarchy, on the face of it, it seems pretty equivocal. If the supreme spirit is giving rise to the four castes, we can safely conclude that concepts condoning untouchability cannot have their origins through this verse since all elements of the supreme, are naturally sacred. **Indeed, Manu says varnas are only four, there is no fifth!** Manu explains that castes were created for the prosperity of society. As the Advaita writer Sureshvara had said, the four varnas are like four men carrying a palanquin together on its four ends.

More importantly, the mouth being more holy than the feet is a rather simplistic interpretation. Personally, I venture to suggest that the verse actually postulates the importance of division of labour in a society.

The Brahmins represent the intellect, and that is reflected in their speech through the mouth. The *ksatriyas* represent the quality of *rajas* as in action. The *shudras* represent the feet for they are meant to provide services, and the service sector (even if unorganized) represents the very foundation of society, especially traditional ones which were not mechanized. Hence, each is important in its own place

The allegory is that just like we are attached to all our body parts (who would want to choose between slashing his feet and slitting one's tongue!); similarly every caste is dear to Purusha. Without the creative intellect of the *brahmana*, society would stagnate and without the *shudra's* labour, the very foundations of society would collapse like a pack of cards.

What further gives credence to the above theory is that; the Manu Smriti has an additional verse 1.92

Which states man is stated to be purer above the navel (than below); hence the Self-existent (Svayambhu or that which creates out of itself) has declared the purest (part) of him (to be) his mouth.

This verse hence attempts to dissolve the ambiguity of the *purusha sukta* of the Veda and actually established the hierarchy of castes. It is quite probable that this verse is a later interpolation within the Manu Smriti.

With, regard, to interpolations within the scripture, some might argue, and rightly so, that interpolation is often an excuse used by scholars to disencumber themselves of those sections of the text, which can land their proposed theory into contretemps.

Prof Kane, hence suggests that the apparently divergent statements on taking a sudra wife, resorting to *niyoga*², and eating flesh found in the work are not really contradictory; for they are based on the doctrine of *nivrittis tu mahapala* i.e. **greater benefit from abstention** which Manu himself enunciates as in 5.56 (regarding abstaining from meat eating)

Yet, there are several sections of the text, where the divergent statements especially

² The Law of levirate in which a childless widow is impregnated by her deceased husband's brother in order to raise an heir.

regarding the status of women, especially their property rights, the power positioning of brahmanas and the denigration of the shudra cannot be reconciled through Prof Kane's dictum.

Burton Stein, writes that Manu seems to be totally confused with regard to granting property rights to women. It is impossible to envisage, how an intellect as great as Manu, could struggle with this question, to so great an extent that he would propose views antithetical to each other in two different chapters, in effect rendering his laws useless while judging such disputes. This is also affirmed in cases dealing with position and education of sudras; questions, which don't confront the author with any moral ambiguity, yet, the divergent views suggested in the same text, inappropriately allude to moral ambivalence on Manu's part, which is contrary to the spirit of the text. One can only imagine, those behind these acts of interpolation found it convenient, to undermine the authority of Manu, and substitute it with smritis of another age, written to assert their authority over the weaker sections of society.

MANU'S VISION OF A BALANCED SOCIOLOGICAL ORDER & DISCIPLINE

Dharma, is means to the ultimate end i.e. moksha, for which the divinity in man has to transcend the basal which houses the beast within. Modern society is insouciant towards the individual's spiritual progress. Its divine nonchalance stems from belief in the ideal as the unreal and the expedient as the real. In contrast, the final aim of Manu is in establishing a divine sociological order, which would fulfill humanity's aspirations to be established in their true essence. This order is *sista*, cultured, well versed in all Vedic literature. Manu is conscious of the degradation that societies divorced from spiritual ethics undergo, and thus Manu's aim is to propel society towards divinity; regardless of whether it is seemingly egalitarian in outlook, for too often ostensibly equal societies, perish. For Manu, differences amongst men are real for he says; do not make that equal which is born unequal. Hence, Manu believes that nature will ultimately triumph over nurture. Yet, he is completely attuned to the modern view, that without proper nurture, the highest potential can never manifest itself. The lower has to be uplifted to the higher plane; *Manu would have disparaged any ideas of pulling down the higher to the lower and compel society to conform to a uniform social order*. Thus, Manu's proposes a unique sociological paradigm, where the individual's evolution;

physical, ethical, moral and spiritual are mapped out through four distinct stages of life; each approximately 21-25 years called ashramas. This concept of Asrama was probably expounded first in the Jabala Upanishad, but it is Manu who delineates them through a lifetime, for the respective castes and sexes.

The Mahabharata says all men are born shudras. It is through their conduct they become dvijas or the twice born. The Dharma sastras describe the sacraments (samskaras) which shape the human personality, and enhance its character. As Kalidasa says in his Raghuvamsa III.18

“the body as it is born is like the raw stone from the mines, and the samskaras are like the grinding and polish that it gets at the hands of the gem cutter.”

Manu explicitly says that samskaras are the means for the body to undergo a spiritual transformation; to become capable of realizing the supreme being [MS 2.26-28]

The samskaras for the *dvijas*; i.e. the brahmanas, the ksatriyas and the vaishyas are similar. For the *eka-jati*, the shudra no samskaras are warranted, but the text also says that if the shudras, care for merit, they may do certain rites, the five daily sacrifices, etc but without mantras. More details are found in the text *Sudra Kamalakara*. Similarly, women of the higher castes also went through samsakaras without mantras. Manu describes only 13 samskaras.³

The most important samskara is the thread or the upanayana ceremony, devoid of it, the dvija is devoid of initiation into adoration of the gayatri, and without that Manu says he is not better than an outcaste [vratya MS 2.39]

Women were initiated into the thread ceremony in the vedic era. Brahmacharya discipline and period of study were essential for both sexes [Atharva Veda 11.5.18a, (*brahmacaryena kanya yuvanam vindati*) Satpatha Brahmana.1.2.14.13, Tait Brahmana II.3.3.2-3]

Women cannot be equated to shudras for shudras cannot give rise to Brahmins. But Manu substitutes marriage for *upanayanam* in case of women [MS 2.67], for he believed that women being ignorant of Vedic texts are bereft of the power of mantras. This is obviously a later revision within the extant text. Yet, even anterior to Manu, Yama [VirS.p.402] upholds Vedic education for women, but advocates the female

³ click link for details <http://www.hinduwebsite.com/hinduism/concepts/samskara.asp>

students to not engage in begging their meals, wearing deerskins or grow matted hair unlike their male counterparts .

We have to agree with **Julia Leslie** , that substitution of marriage for *upanayanam* was to rescue the varna system from descending into chaos. However, we are yet to answer the most perplexing question as to why, was Vedic education prohibited to women by Manu, and later by all smriti writers without exception.

MANU'S VISION OF THE IDEAL HOUSEHOLDER

The most intriguing question facing Hindu society from time immemorial is which is the superior path ; that of the householder or that of the sanyasin (*the renunciate*). Saints and thinkers have opined diverse views. The criticism of sanyasin is that it renders destitute society of its best intellects and manpower; while that of householders has been they are so besmirched with maya that it depletes them of the vital powers of concentration on the road to moksha. The chain of relationships bonds them to the unreal, their effete selves are no match for the sanyasin's relentless pursuit for the goal supreme. It is the latter view, which held sway with orthodox Hindus for centuries.

The historical examination points out that the Hindu tradition actually discouraged jumping into the ascetic bandwagon. The Buddha's path, although proclaiming a middle path, consummated in a large scale conversion of millions of young men and even women into *sanyasin*. Buddhism probably gave to the world, the first organized order of monks which Shankara would emulate for Hindu sanyasins almost a millennium later.

The etymology of the word sanyas is to be alone....Samsara is not the world, it is stagnation at the level of the senses. Thus, in Hindu philosophy, the essence is to attain sanyasa while engaged, in work, in activity. Yet, for the lesser mortals, the last phase of life must be utilized in the attainment of the same, for as Krishna says in the Geeta, no spiritual gains made in this life ever goes waste.

Shankara had said a man must take up Sanyasana as soon as *vairagya* [spiritual dispassion] dawns upon him, irrespective of whether he had completed the intervening grihastya. But Manu, and all smriti writers of the time, were unanimous in their view, that sanyasa could not be undertaken without first gratifying the debts to one's ancestors, gods and most importantly family and society at large, by begetting and raising righteous children. Thus, grihastha, the phase of the householder, involves

several rites which have to be performed along with the wife. It is an ideal ground for discipline of the body, mind and soul. Manu does not condemn the cause for desire, which is central to a householder; as he opines [MS 2.4]

Not a single act here (below) appears ever to be done by a man free from desire; for whatever (man) does, it is (the result of) the impulse of desire

Thus Manu contends that while working with desire for fruits is not laudable, yet, it is ultimately desire that drives, exceptions are few to be found where man can work solely for work's sake without thinking of the fruits of his action. As is known, Krishna in the Gita appeals to Arjuna to work selflessly and renounce the fruits of his actions to him. Manu is definitely more realistic in his vision and attempts to harmoniously rationalize it with the spiritual idealism

Manu, praises the order of householders for being the most excellent as evident from the following verses.

MS 3.78

Because men of the three (other) orders are daily supported by the householder with (gifts of) sacred knowledge and food, therefore (the order of) householders is the most excellent order.

MS 6.90

As all rivers, both great and small, find a resting-place in the ocean, even so men of all orders find protection with householders

Manu vision of the householder is one of radiant humanism. Manu obviates the need for extenuating the householder's spiritual limitations w.r.t. the sanyasin, by putting forth the argument of societal sustenance depending exclusively upon the former. But Manu's intransigence with Dharma for any being, produces the profound vision of the householder with his radiant humanism, who is not limited by his familial constraints, but as a model citizen, is responsible for the dharmic considerations of the society at large.

Manu appeals to householders to follow an ethical, not mechanical basis of Dharma.

MS 10.63

Five virtues constitute the Dharmas of all the four varnas — non violence, truth, non thieving, purity and sense control.

In this respect, that Manu says “*atithi devo bhava*” — Guests must be treated as gods.

They must be requested to stay at nightfall. Never should thoughts of driving away a guest arise in a householder's mind. However, lepers should not be entertained (for fear of infecting the family) Recently, Romila Thapar, has challenged this view and claimed, that only Brahmins were accepted as guests. However, there is no internal evidence to support this view. Other smriti writers even admitted charvakas/the hedonists of ancient India as guests. It is perhaps, the testimony of Megasthenes, the Greek ambassador of Seleucus I to Chandragupta Maurya which absolutely debunks Thapar's audacious claim, especially since the former, being outside the pale of varna, was a mleccha.

To quote from Megasthenes's Indica:—

“Indians officers are appointed even for foreigners whose duty is to see that no foreigner is wronged. Should any of them lose his health, they send physicians to attend him, and take care of him otherwise, and if he dies they bury him, and deliver over such property as he leaves to his relatives. The judges also decide cases in which foreigners are concerned, with the greatest care, and come down sharply on those who take unfair advantage of them.”

It is with a sense of compunction; one has to concede that the same civilization is today, the most tourist unfriendly nation of the world!

The glorification of a life of a disciplined householder also nails the criticism that Hinduism is a life negating, other worldly, pessimistic religion.

Every householder is expected to perform the five yagnas daily, which include learning, offering food to manes, receiving and taking care of guests, and taking care of birds and beasts alike. In this important rite, we find Manu encompassing a sublime daily vision of the householder who prays for welfare of the entire universe itself....

[devo mangalam, manu mangalam, surya mangalam, chandra mangalam, pashu mangalam....bhavatu bhavatu bhavatu — let there be auspiciousness everywhere; let the sun be auspicious, let the moon, the gods, the man, the beasts all be auspicious.]

To this picture of goodness and strength, Manu expects the householder to retain all elements of basic hygiene....he should wear good clothes, avoid excessive fasting, have his hairs and nail cut, and face shaved and wear white clean clothes. [MS 4-34/5]

The means of livelihood should involve least harm to anyone. [MS 4.2] Thus, one can find the origins of *ahimsa* extant within the Manu Smriti itself. [Also see MS 7.198] This if further exemplified with regard to meat eating. Manu says in 5.56,

There is no sin in eating meat, in drinking liquor, and in carnal intercourse, for that is the natural way of created beings, but abstention brings great (spiritual) rewards.

In this verse, we find a profound display of the concept of *sinlessness*, a unique conception of the Hindu religion. The Abrahamic faiths are obsessed with the triple canyon of sin, hell and damnation. But not in Hinduism! No wonder Vivekananda had said “*it is a sin to call anyone a sinner*” To err is human, to be damned for those deeds is not but neither should it be reason to don the dresses of decadence! Perhaps, this verse also hints at moral relativism, but unlike the philosophy of existentialism, which rejects universal moral values, Manu views relative morals as being linked, a connecting chain to the absolute Dharmic principle. The morals are neither permanent, nor absolute, but in subscribing to the morals of today, man upholds the Dharma of eternity.

MANU ON ASCETICS (Sanyasins)

Several sections of the 6th chapter deal exclusively with the order of ascetics. Manu believes, the ascetic by his actions has to prove his ability to remain in a state of equanimity under both, conditions of adversity as well as pleasure.

The goal of the ascetic is to realize the highest truth....the one without a second.....the atman, the universal consciousness pervading all existence.

MS 6.65.

By deep meditation let him recognise the subtle nature of the supreme Soul, and its presence in all organisms, both the highest and the lowest.

MANU ON WOMEN :

The position of women in the Indian civilization has despite a rich scholarly examination by writers both indigenous and foreign, has inadvertently focused on the current ambiguous status of Indian women to serve as the benchmark for their study. It is not without reason that a sustained propaganda has been made out by certain historians and sociologists to defame the Hindu religion, and culture as being anti woman, despite the fact that persecution of women has been universal propounded by all major religions and civilizations, without exception. It is here, one can see light of

feminine freedom in some elements of the Hindu tradition, both orthodox and heterodox, especially the latter as they reach their zenith in the Hindu Tantric feminine traditions⁴. Naturally, they have deeply influenced several modern feminist writers.

Manu has often ridiculed in one of his most off quoted verses [5.148];

.....na stri svatantrayam arhati [In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman is not fit for independence]

Can a historian base his judgment on the authority of a couple of patriarchal passages; to consider them in isolation of the others contrary to the above exhortation? It is nothing short of intellectual infancy to condone such views especially when there is another verse which contradicts the above.

[MS 9.12]

Women are well guarded of their own accord, by themselves, not by confining them to home, or keeping a watch on them through spies and servants.

The legacy of Greece and Rome is the apple of the eye for Eurocentric historians. Although, the suppression of women in those civilizations is undisputable, their mainstream historians and sociologists put these unpalatable elements into the shade, by emphasizing on their glories of another day. The piquant views of such writers while quoting this verse, do not deem it fit to mention that in Ancient Greece, women could never leave her home without a guardian. All her life, she was under the tutelage of one; either her parent, husband or son! Moreover, Manu clearly believed in women deserving protection all her life, especially in her old age through her son. A son far from subjecting his mother, was predominantly trying to balance the aspirations of his wife and mother. Yet, his primary duty was towards his mother, than his wife. It is the former that has represented the ideal of Indian womanhood through the ages, for better or for worse!

It is preposterous to find the origin of women rights in India being negated in majority of women studies literature all around the globe, when a customary reading of the

⁴ *In Buddhist Tantra, the female is relegated to the inferior position of the passive principle, and the male takes over as the active principle. This is diametrically opposite to the Hindu tantric principles in which the male [shiva] is the passive principle, and the female [shakti] is the active principle. Thus, in popular Hinduism, it is said, shiva is a shava [corpse] without shakti.*

Smritis, provides even the lay reader with ample testimony, of not only its existence but its progressive evolution through the ages. It is beyond the scope of my current article to compare and contrast the position of women in the world civilizations through the ages, so I will restrain myself to juxtaposing the opinions on women, and their rights as mentioned in the Manu Smriti with those of the Greeks.

GENERAL OPINION ON WOMEN

Greek civilization was essentially a masculine one, and references to feminine conduct are scanty to say the least. Hesiod, 9th century B.C, considers women to have originated from Pandora, creation of the gods, to wreck vengeance on mortals, for whom Prometheus had stolen fire from the kingdom of heaven. It was Pandora, who opened the floodgates of all evils upon the earth. Thus, the fall of man, was due to the rise of the first woman.

In contrast, Manu's scheme for origin of women is the same as that in the Brihadaranyaka Upanishad; the supreme spirit, the Purusha splitting into two halves, the male and the female. Thus, it is strictly egalitarian in outlook

MS - 213.

It is the nature of women to seduce men in this (world); for that reason the wise are never unguarded in (the company of) females.

MS - 214.

For women are able to lead astray in (this) world not only a fool, but even a learned man, and (to make) him a slave of desire and anger

Both these verses reaffirm the basic Indian beliefs of the women as a temptress especially since the post Buddhist/Jain reformatory movements. To the mind of the ascetic, veracity of the statements is unquestionable; the modern mind can probably cloak it in the garb of Freudian psychology. The cynical views expressed are purely from an ascetic's perspective! The vigorous ascetic standard of life necessitated keeping men away from women. This rigorous type of asceticism can be traced to the Buddhist Jatakas which depict the evil influence of women.

As **Shankuntala Rao Shastri** says:—

“it is quite possible that such a strong feeling against women grew up in the priestly circles of Buddha at least, soon after the admission of nuns into

priesthood and the consequent disorders in the assembly of monks. It formed the basis of a set of rigid rules warning men and students of the snares of women”

One might view these verses disapprovingly, for aren't women too susceptible to the charms of the opposite sex? Here also a fundamental belief of Hindu thought comes to light; that women being more spiritual are in a position to control their desires in a more effective manner. Non-conforming women on the other hand are capable of destabilizing the entire social order. Therefore, often one would find the term women being used synonymously with desire in the Indian cultural milieu. Hindu mythology has numerous accounts of even close to enlightened sages like Vishwamitra falling to the temptation of beautiful *apsaras* sent over by Indra to scuttle the sage's advancements. It is not that any blame attaches to the *apsara*, for sages in their own admission realize their vanity. Some even leave their ascetic lifestyle to settle for domesticity with those responsible for their downfall.

Yet, Manu's numinous views on women described in the below quoted verses, is not to be found in any non-Hindu religious scripture in the annals of world civilization.

3.55. Women must be honoured and adorned by their fathers, brothers, husbands, and brothers-in-law, who desire their own welfare.

3.56. Where women are honoured, there the gods are pleased; but where they are not honoured, no sacred rite yields rewards.

3.57. Where the female relations live in grief, the family soon wholly perishes; but that family where they are not unhappy ever prospers.

3.58. The houses on which female relations, not being duly honoured, pronounce a curse, perish completely, as if destroyed by magic.

3.59. Hence men who seek (their own) welfare, should always honour women on holidays and festivals with (gifts of) ornaments, clothes, and best of food.

3.60. In that family, where the husband is pleased with his wife and the wife with her husband, happiness will assuredly be lasting

In contrast, the **Greek** vein of contempt for women is captured in the writings of **Semonides**, who composed a satire on woman in which her various temperaments are ascribed to a kinship with different animals hog, fox, dog, ape, mare:—

The mind of woman is the like the hog, dirty, sitting atop a dungheap. She is

*ignorant of everything, good or bad. Her only accomplishment is **eating**, she is too stupid to be drawn near a fire. However, The wife to be dreaded is an apelike one. She is utterly ugly, her face is hateful, the laughing stock of society, and no one in the right mind would marry her.*

FEMALE EDUCATION

According to **Homer**, in contemporary Greece, education of girls was of the simplest character. They grew up in the apartment of the mother, and learned from her simple piety towards the gods, a modest bearing, skill in needlework and efficiency in the management of a household

In **Athens**; the pinnacle of ancient western civilization, the scene was not any brighter. **The girl was not to be educated**, but brief lessons in reading and writing were imparted to her. Except domestic duties, she had no other outlet of expression

In contrast, a small but significant contribution to Vedic literature was made by women. In the Upanishads two stellar female philosophers in **Gargi and Maitreyi**, are conspicuous through their intellect. It is true, Manu prohibits Vedic learning for women but in the same vein he considers education could be acquired from anyone [2.240]

Purely out of conjecture, I might venture to add that the rise of temple priests, who were deemed no better than shopkeepers by Manu; paved the way for society snatching women's right to Veda in order to prevent them taking up jobs as temple priests, and protect their hallowed identity.

Secular literature was never debarred from any individual, and the education of the epics and secondary texts was consistently followed up by women of all varnas.

The courtesans of India, were versed in 64 distinct art forms especially dance and poetry....even their closest Greek counterparts, the **Hetairas** would come only a distant second.

ATTITUDE TO THE WIFE

[MS 9.28].

Offspring, (due performance of) religious rites, faithful service, the highest conjugal happiness and heavenly bliss for the ancestors and oneself depend on one's wife alone'

[MS 9.45].

Manu declares that the perfect man is one who constitutes a trinity made up of his wife, himself and their offspring.

[MS 9.95]

The wife being a gift from the gods, she ought to be supported to the end of her life

ATTITUDE TO THE GIRL CHILD

In all ancient civilizations, boys were preferred to girls, for the former were the guardians of the tribe. In Indian civilization, the Hindu belief that a son liberated the dead father also added to the son mongering. But, a daughter's place was always secure. A daughter's father in India took the onus of securing an ideal match for his girl, put a grave sense of insecurity in him; so much that even Raja Dasharatha in the Ramayana, is said to have been so distressed when Sita came of age, that his condition was akin to a poor man who had suddenly lost all his money! That couples desired scholarly daughters is evident from passages in the 6th chapter of the Brihadaranyaka Upanishad where formulas for procuring scholarly daughters have been mentioned.

The veneration for a daughter begins with her naming itself, as Manu enjoins parents to choose names for them ending on a benedictory note. [MS 2.33]

[MS 4.185]

“A man should regard one's daughter as the highest object of tenderness; hence if one is offended by her, bear it without resentment”

MS 10.131 unequivocally states that a daughter is equal to a son in every way.

A mother's estate passes to the unmarried daughter, but also, a sole daughter is entitled to a father's entire estate provided she does not marry.

POSITION OF THE MOTHER

The mother is the most important person in one's life.

[MS 2.145]

The teacher (acharya) is ten times more venerable than a sub-teacher (upadhyaya), the father a hundred times more than the teacher, but the mother a thousand times more than the father

But, poor Penelope had to remain subject to Telemachus, for in Homer's Greece; a son could pass on his widowed mother to any man he pleased!

MANU ON MARRIAGE

Marriage in Santana Dharma, rather than means to merely gratify lust and longing, was means for both partners to walk the path of Dharma, in their collective quest towards *moksha*. It is in this respect, the Manu declares husband and wife to be verily one! [MS 9.45] Religious rites are ordained in the Veda to be performed by the husband together with his wife [MS 9.96] The position of the wife as the homemaker is attributed in glowing terms by Manu; there is no difference between the housewife and the Goddess of fortune; both illumine the home and are to be adored as such [MS 9.26]

Age of marriage:

Prior to Manu, post puberty marriages, was the established norm. The code of Manu contrary to popular view, follows a similar notion. MS 9.90 mentions that if a father is unable to find a suitable match for her daughter, she may marry of her choice after waiting for 3 years. Manu in the same vein does mention that in case of any emergency [*Apad Dharma*], a 8 yr old girl may be married to a 24 yr old man, and a 12 yr old to a 30 yr old man, provided they possess all essentially good qualities. The safeguard is mentioned thus:—

[MS 9.89]

“A maiden though marriageable should rather stay in her father's house until death, than that he should ever give her to a man destitute of good qualities”

Caste restriction on taking wives:

For Manu, marriage is a sacrament (*samskara*). It is means to discharge one's ordained Dharma. Manu recommends a man to marry a woman of the same varna but of different gotra. Manu, thus anticipates the modern eugenics viewpoint for marriages between closed groups often cause expression of disease carrying recessive genes. During Manu's time, these gotras must have been small enough to actually serve the purpose they were designed for, unlike the modern Indian position where the custom has crystallized, although it is clearly of no value due to the sheer population size of our extant gotras.

Pratiloma marriages where a woman of lower caste married a man of the higher caste

was permissible throughout the history of smriti literature.

[MS 2.240, 238].

He who possesses faith may receive pure learning even from a man of lower caste, the highest law even from the lowest, and an excellent wife even from a chandala

[MS 2.244]

Accept good women, knowledge, Dharma, purity, noble ideas from wherever they come irrespective of social standing and position.

Yet, MS 3.11-3.15 debar Brahmins from taking shudra wives; yet the following verse as also those mentioned to support *pratiloma* marriages clearly shows evidence of inter-caste marriage. It is here, that the dictum, *nivrittis tu mahapala* i.e. **greater benefit from abstention** should be applied!

[MS 3.44]

On marrying a man of a higher caste a Kshatriya bride must take hold of an arrow, a Vaisya bride of a goad, and a Sudra female of the hem of the (bridegroom's) garment.

Clearly, these contradictory opinions represent different periods of Indian History, but on the whole one can surmise that **Manu upholds selective inter-caste marriages.**

Marriage through consent :

Manu clearly defines marriage by consent as the mainstay of all marriage, although in cases of brahmanas, the father may gift his daughter to a worthy suitor without her explicit consent. In contrast, the Greeks had not realized marriage through consent much anterior to Manu. [MS 3.35]

Types of Marriages:

Manu identifies 8 types of marriages; *brahma, daiva, arsa, prajapatya, asura, gandharva, raksasa and paisaca*. [MS 3.21] **The brahma form of marriage was considered to be the most evolved form of marriage.** In it, the boy has completed his period of study, and is a man of character and learning. The girl's father approaches him. It is understood that the parents of the girl have invited the boy's parents voluntarily and received them respectfully, without coercion or negative thoughts.

Second to it was the *daiva* (divine) rite in which a religious professional, with a complete Vedic learning was approached.

The fifth form of marriage is of the *gandharva* tradition where the man and woman take vows themselves and consummate the marriage with sexual intercourse. Naturally, it is a love marriage. While it is debarred from Brahmins, for others it is permissible. In fact, Shakuntala's father had reassured her that the *gandharva* form of marriage is the most preferred amongst ksatriyas when she hesitated in marrying Dusyanta. *Another instance would be the marriage of Shukracharya's daughter with Yayati.* However, Manu personally is not in favour

Manu emphatically condemns the *Asuric* form of marriage where the bride is procured by bribing her father through dowry as also the *Raksasa* and *Paisacha* forms where the bride is procured by kidnapping or raping her. However in case of Shudras, Manu grudgingly admits even the last two forms of marriage.

On Dowry

It is one of the most depraved social institutions of India; which ironically had no support either from scripture or epic myths. In most world orders, like the Babylonians and the Greeks women were procured through a contract with either the girl's father or her brothers. In India, too this norm must have been prevalent which had so infuriated the smriti writers that Manu [MS 3.51] had admonished those fathers who accepted dowry on their daughter's behalf to tantamount to selling one's daughter itself. The bride carried no gifts to her bridegroom, except her **stridhana, which belonged exclusively to her [MS 3.60]** throughout her lifetime and even her husband or her sons could not stake a claim to the same. Manu, and all smriti writers anterior and posterior to him without exception support this! It is unfortunate that some authors like Burton Stein make the grave mistake of considering a women decked with jewels to be the source of the contemporary dowry problem, especially because all dowry cases in India can be traced to the colonial era, and are invariably involved with demand for secondary material in cash or kind!

Divorce and separation

Manu considers marriage as indissoluble. [MS 9.46] But he allows legal separation in some cases —

[MS 9.76].

If the husband went abroad for some sacred duty, (she) must wait for him eight years, if (he went) to (acquire) learning or fame six (years), if (he went) for pleasure three years. A woman who shows disrespect to her husband can be deserted for 3 months and deprived of her jewelry [MS 9.78] but

[MS 9.79]

A women can leave her husband if he is impotent, alcoholic, commits crime and is rendered an outcaste or is suffering from incurable diseases

Kautilya on the contrary allowed mutual consent to be the foundation for divorce. This gives us an idea as to the evolution of women rights in India.

Manu enjoins a man to marry again by superceding his wife, after 8 yrs of marriage in case his wife is barren, and 11 yrs in absence of a son. But the very next verse says that if a wife has been virtuous or is sick, the man can remarry ONLY with her consent. This loophole would have allowed any wife to feign sickness and prevent her husband from being remarry. Thus, in effect **Manu forbids polygamy**. This is far more liberal than the **Hammurabi** edicts where a husband could reduce the status of his legally wedded wife to that of a slave. Although, in the latter, a wife could initiate divorce proceedings against her husband in case of cruelty meted to her, on failing to prove her case, she was to be drowned alive, thus , except in the rarest of cases, this provision although novel was unlikely to have been resorted to by any of those abused wives. In case of **Greece**, **Lycurgus** observes that men freely gave their wives to whom they pleased, so that they could bear children of their choice. One sole exception to this brutality is King **Anaxandrides**, who refused to divorce his barren wife despite public opposition. He instead married another wife, for the purpose of bearing children

Manu on Widows

Within the MS itself we find three stages in the development of the Indian attitude towards the widow.

1. In the first, the widow is allowed to raise a son to her dead husband living either with her brother in law or a man of the same caste as her husband **[MS 9.59]** This is the custom of *niyoga* which while affirmed in the Vedas, was first criticized by **Apastamba**, and later by other smriti writers.
2. In the second, this custom is censured, deemed fit only for cattle. **[MS 9.64]**

3. In the third, it is not only censured but women who abstain from re-marrying are promised heavenly bliss and good name in this world. This is evident from the following verses [MS 5.162-172] Undoubtedly, the common theme of all these verses is that, a widow should live a chaste life and not marry another man, or even bear a son out of another. The text add that because ascetic men could undergo lifetime celibacy vows, widows should look upon such men as perfect examples of those who could attain heaven despite having no sons. The tone of these verses is strongly exhortative but not authoritative. There is therefore no verse, which sanctions punishment for widows who transgress the moral code, except that such sinners would be reborn in the wombs of jackals.

Contrary to Deepa Mehta's innuendoes in her Oscar nominated film **Water**, there is NOT a single verse in the Manu Smriti which advocates women to shave their head, or wear white or be deserted by their relatives under any circumstances whatsoever!

Any country, which is constantly subject to aggression, will inevitably lose a number of young men in battle. India was no exception! And so widow marriage in later post Vedic times, was discouraged. Marriage was always considered the refuge of the weak. Indian society was always socialistic, never individualistic, although spiritually it was absolutely individualistic which is exactly opposite to Semitic faiths. Thus, a man could leave his family, if it was for spirituals reasons, just like the Buddha did. So, society thought that a woman who has got a chance to marry should be refrained from marrying again so that someone else got the chance in a society where eligible young men were scarce. However, it also realized that young men would invariably seek a widow if she was beautiful, and so in later years, widowed women were asked to shave off their heads and live on sattwic diets which wouldn't excite them. So, it is futile judging indian society with western ideals of individualism. We always tend to judge people from our ideals, although we should judge them from their ideals, which in our case was totally socialistic.

However, **Kautilya** in his Arthashastra, explicitly permits widow remarriage although it should be preferably be to a man her in-laws espouse. In case, she goes against their will, she is to forfeit any property that her husband has left her.

PROPERTY RIGHTS OF WOMEN

Manu clearly says that a daughter is equal to a son, so an unmarried daughter can continue the lineage of her parents, and is also entitled to their entire property.

[MS 9.27]

“Her who has no son may make his daughter in the following manner a Putrika saying to her husband, the child born of her womb shall perform my funeral rites”.

Even unmarried daughters with brothers are entitled to a share of the property.

However, in later times, this created a difficulty in securing a husband for such maidens, as the man who was married to her was not able to provide a son eligible to perform the funeral obligations in the father’s family. To get over this difficulty, the legal right of Putrika was put aside and was transferred to her maternal grandfather [MS 9.131-34]

Stridhana as mentioned before, belonged exclusively to the woman.

Widows received a share from her husband, which she could use for her children’s upbringing, but the property could not be transferred to anyone else by her, as she received it in her son’s name.

The property rights ordained for women are much more liberal in case of Yajñavalkya and Kautilya again proving the evolution of women rights in the Indian civilization.

Kautilya, ordains a widow with sons to save her property for them and not be extravagant. Barren widows inherited the entire property of their husband and daughters inherited the entire property of their father in the absence of sons, and death of their mother. If the mother is dead, father’s property was to be divided equally between sons and daughters.

Adultery

Manu clamps down on adultery in a manner which while compared to modern law is severe or downright reprehensible [MS 7.371], yet as compared to then contemporary law it appears infinitesimally more liberal. The Babylonians burnt alive both the adulterous woman and the paramour on the husband’s complain but the wife could not initiate any such proceedings against her husband. Paramours could bribe and attain apologies from the husband but no such avenues were available to the guilty women.

In Athens, the wife who violated her marriage vows was to be terribly punished, short

of death, and rejected as an outcaste. But a husband's adultery was merely a minor offense. Although she could seek divorce from her adulterous husband, it brought her back to the tutelage of her parents, which most women resented and thus chose a life of suffering with her husband instead as evident in case of **Hipparete**

Manu enjoins death penalty for adulterous men who are chronic offenders by burning them on fiery logs. Women offenders were to be dealt liberally; they were taken across town riding a donkey, or whipped 5 times on their back. However, even he condemns chronic female offenders to be devoured by dogs. Yet using the dictum, in abstaining is betterment, *nivriddi tu mahapala*, such extreme punishments were probably never inflicted, but merely used to maintain societal decorum because we find no mention of them in any secular literature, the epics or the Puranas. But even here, one discovers no gender discrimination in Indian law texts while dealing with adultery episodes.

Kautilya in contrast is much more liberal while dealing with adulterers. One could easily get off by paying fines of various denominations. The worst punishment ordained for an adulterous woman ranged from three strokes of a bamboo stick on her hips or 5 whips from a chandala, the latter she could avoid by paying a fine. Clearly, the effect was more psychological than physical! However, fines are also suggested for woman, who play amorous sports (?) or wander off on their own. Eyewitnesses are a must to prove adultery and in case her husband fails to prove his case against her; he would be fined.

Other safeguards for women:

1. **Corporal punishment for rapists.** *He who violates an unwilling maiden shall instantly suffer corporal punishment — two fingers to be slit off [MS 7.364]*
2. **Safeguards for women employed by the royal court.** *For women employed in the royal service and for menial servants, let him fix a daily maintenance, in proportion to their position and to their work [MS 7.125]*
3. **Protecting the diseased, barren and women bereft of sons.** *Care must be taken of barren women, of those who have no sons, of those whose family is extinct, of wives and widows faithful to their lords, and of women afflicted with diseases. (by the king) Righteous king must punish like thieves those relatives who appropriate the property of such females during their lifetime. [MS 7.28-29]*

4. **Pregnant women are honoured.** They are exempted from paying a toll at the ferry. [MS 8.407]

Why did the position of women in India, despite being miles ahead of contemporary world civilizations decline subsequent to the Buddhist-Jainist reformatory movements:

To quote **Swami Vivekanada** would be apt here:

With the advent of Buddhism, which taught that only the monks could reach the 'nirvana', something similar to the Christian heaven. The result was that all India became one huge monastery; there was but one object, one battle - to remain pure. All the blame was cast onto women, and even the proverbs warned against them. 'What is the gate to hell?' was one of them, to which the answer was: 'Woman'. Another read: 'What is the chain which binds us all to dust? Woman'. Another one: 'Who is the blindest of the blind? He who is deceived by woman.' The same idea is to be found in the cloisters of the West. The development of all monasticism always meant the degeneration of women.

MANU ON RAJA DHARMA

In Hindu philosophy, Raja Dharma, the policy of the state, was fundamentally governed by the principle of Dharma. The state policies were applied to administrative structure, grants, taxation, war ethics, peace policies, private matters like marriage, debt.

The justice was based on laws deriving their power from four fountainheads of authority in the descending order of precedence: Dharma, *vyavahara* [judicial proof], *charitra* [popular usage] and *raja sasana* [king's edict]⁵

Relative laws are not constant. They are only suitable for a particular age [yuga Dharma as expounded in the Mahabharata] Hence, laws must change with the vicissitudes of time to fit the extant politico-socio-eco scheme. The goal is to manifest the higher absolute law, the *ritam*, the truth force in this relative plane. Thus, at times, laws could undergo radical departure too. The smritis of different ages along with their commentaries, thus are also an invaluable historical record, for they are a reflection of the changing patterns of those socio-eco-political determinants of India through the ages.

⁵ An exception is the Artha Shastra in which king's edict supersedes all the other authorities.

In Sanatana Dharma; A ksatra king is the protector of Dharma. In all his dealings, he was to be guided by the light of Dharma. He is not some peremptory authority who could dictate his whims and fancies for it is Dharma which is supreme, and every king, howsoever great must be subservient to it. No king could attach a claim to something, which deserved not to be taken. [MS 7.170]

He rules on the people's behalf, it is his solemn duty to care for the welfare of his subjects, render them content and happy, and shield them against misery and foreign foes. Consolidation of his empire, should not intrude on their personal property. In effect, a king must uphold the natural aspirations of those he governs, by ensuring amicable conditions for people to follow their svadharma, just as he should follow his by not intruding in that of others.

Brahman philosophers were the knowers of Dharma. They would suggest the political theories, which were attuned to the Vedic ideals, and the king was to sympathetically consider them while promulgating his judgment. The king was vested mostly with executive powers, while the law courts exercised the legislative powers, which is fairly evident from the rich legal codes, especially those anterior to Manu like Yajñavalkya, Narada, Atri, Devala, Kattayani although as we shall see even Manu's legal code was fairly advanced for its age and covered most key points.

The king, thus in Hindu philosophy was not to be a philosopher. **The king's primary concern was with artha.** The word *artha* is derived from the root *ri*, which means to emit; or derived from *arth*; meaning desire. *Artha* also means wealth, motive and purpose. Artha thus has acquired multiple connotations over the ages. However, Manu warns that if *artha* goes against Dharma or *kama*, it should be abandoned! [MS 4.176] Kautilya on the contrary believed all three to be interdependent, and the king was to enjoy all three in an equal degree. Kautilya believes *artha* and *artha* alone is important as *Dharma* and *kama* depend upon *artha* for their realization [Artha. 1.7]

The king, was to be guided by a body of brahmana philosophers, and established doctrines on political theory; the marriage of the temporal and spiritual is emphasized here. Thus, the Indian concept of Raja Dharma is poles apart from that suggested by Plato, who believed in the ideal of philosopher kings. However, the folly of such a scheme is its inherent incompatibility with practical ethos. As **Arnold Toynbee**, the eminent historian of the 20th century, confirms;

“Plato was clearly wrong when he said all kings must be philosophers. The

philosopher king is doomed to fail, because he is attempting to unite two contradictory natures in a single person. The philosopher stultifies himself by trespassing on the king's path of ruthless action while conversely the king stultifies himself by trespassing on the philosopher's field of loveless and pitiless contemplation. Like the saviour with the time machine, the philosopher king is driven into proclaiming his own failure into drawing a failure which convicts him of being a saviour with the sword in disguise. If the sword spells defeat, and the time machine self deception; the philosopher's mantle and the king's mask are emblems of hypocrisy; and since hypocrite and saviour are incompatible roles; our search for a genuine saviour must be carried forward"

The search for establishing a perfect kingdom; the Ram-Rajya begins by constructing the ideal king. Without Rama, there could never be a Ram-Rajya! Thus, Manu says the king should have undergone the same Vedic samskaras and disciplines as the Brahmana. [MS 7.2] He should be free from the vices of desire [MS 7.45,47,50] He should be rooted to truth and purity at all times [MS 7.31] Even in the Artha Shastra of Kautilya, we find the same ideas pervading the spirit of the text. Restraint can be enforced by abandoning lust, anger, greed, vanity, haughtiness, and overjoy. [Artha 1.6] In the happiness of his subjects lies his happiness, in their welfare his welfare, whatever pleases himself he shall not consider as good, but whatever pleases his subjects he shall consider as good. [Artha 1.19] A king is required to be ever active, ever wakeful, ever energetic.

The ethical contents of Dharma are; *steadfastness, patience, self control, honesty, purity, restraint of the senses, wisdom, learning, truth, absence of anger.* [MS 6.92] A Dharmic king must ensure he possesses all such virtues. All such virtues were present in Shri Rama, says Narada in the first canto of Bala Kanda in Valmiki's Ramayana...

The king wields *danda* [literally a staff, secondarily punishment, and thirdly as kingly authority] In fact, *danda* becomes synonymous with the science of government. *Danda* to Manu is practical politics. Manu believes it to be a necessary evil, for rare are pure men, so *danda* is a means to protect Dharma, by compelling people to conduct themselves properly [MS 7.14,15] Similarly, the Mahabharata takes the view that originally in the most perfect epoch, there was no king nor *danda*, the science of polity was created when men fell from their high standards by Saraswati, the goddess of learning. The perfect system is anarchy, and the most debased system is also

anarchy...a governing body is a middle path between those extremes.

For Manu, a manly king uses the *danda* properly and discerningly to regulate society; a ksatriya should protect society according to justice. A king properly exercising authority prospers in virtue, wealth and pleasure but a sensual, unfair and base king verily perishes by authority. *For authority, very glorious and hard to be borne by the undisciplined, destroys a king, together with his kin when he has indeed departed from Dharma.*

[MS 7.27,28,31] A king who is pure, truthful and a follower of the treaties, who has good helpers and is prudent is capable of exercising authority. The chief duty of a ksatriya is simply the protection of the people, for a king who receives the recompense specified is bound by law to protect his people. [MS 7.144] A king who, while he protects his people, is defied by (foes), be *they equal in strength, or stronger, or weaker*, must not shrink from battle, remembering the duty of Kshatriyas [MS 7.87] In case, a king shirks from his duty in spite of taxing his people, he will soon sink into hell. [MS 7.307]

Thus, the king must exercise due caution while wielding *danda*. Only in proper application of *danda*, the king is guaranteed success in his quest for moksha.

Some heterodox schools like that of the Lokayata [materialists], were greatly radical in their views for they contented that the monarch held office only at the people's pleasure.

MS 7.19.

If (punishment) is properly inflicted after (due) consideration, it makes all people happy; but inflicted without consideration, it destroys everything

A king must care for the natural aspirations of his subjects irrespective of their religious and cultural beliefs; even if they are completely antithetical to his own

All smriti writers including Manu give prime place to *acara* [established conduct] in determining the appropriate Dharma for diverse groups; even those outside the pale of *catur-varnya*, to the *pasandas* [heretics] and to republicans [*ganas*] They must be taken into account. [MS 1.118] A king administering justice or consolidating his kingdom must see to it that the local customs are given safeguards and maintained. [MS 8.41,46]

Other important duties of the king is removal of the anti social elements or *kantaka sodhana*. The king should be impartial and punish those dear to him as he would do

others [MS 9.307, Raguvamsa of Kalidasa 1.28]

ON TAXATION:

Manu recommends a king to be moderate in taxation, as the leech and calf and bee take their food little by little. [MS 7.129] He should tax in such a way that both, him and the his citizens prosper. This liberal taxation policy was also recommended by **Katyayana** [6th century A.D] who says:—

“the king is the lord of the lands but never of other kinds of wealth, therefore she should secure the sixth part of the fruits of land but not otherwise at all....along with it he may take his due share of fines and tolls.”

Manu enjoins a king to not tax men and women with physical disabilities like the blind, and the cripple, as also senior citizens [those over 70 years of age] He however, strongly urges the king to tax traders

MS.127.

Having well considered (the rates of) purchase and (of) sale, (the length of) the road, (the expense for) food and condiments, the charges of securing the goods, let the king make the traders pay duty.

In contrast, Islamic kings used to tax close to ½- 1/3 of the produce even in times of famines....Two classes cases are those of Alauddin Khilji and Mohammad Bin Tughlaq of the Delhi sultanate..

WAR AND PEACE

War is delightful to those who have no experience of it – Anonymous

War through the ages has been one of the most exalted instincts of man.

How far is war justified?. War, contends **Heraclitus**, is not mere injustice, chaotic violence; it is justice, although a violent justice, the only kind possible. But modern man hopes for elimination of war, for in war is destruction and desolation, the ruins of civilization. War cannot be totally set aside for as **Will Durant** says “*Eternal vigilance is the price of civilization*” The ideal is the acceptance of universal peace and goodwill amongst all nations, but it is a distant dream even in the current age. Yet, we must accept civilization has come a long way, for war is no more the preferred mode of

settling rivalry and establishing supremacy...war is to be shunned...

It is in India, that peace in preference to war was cognized by the great seers like Manu over 2500 yrs ago. In this we find a giant leap for human civilization. Manu recommends winning over his foes by reconciliation, gifts; anything but fighting! [MS 7.198] As in war, victory is doubtful, a king should try to avoid war. [MS 7.199] The desire for power could be reconciled with the ideal of Dharma as *ahimsa* by classifying them into certain categories.

Kautilya classifies them as righteous conquerors, greedy conquerors, and demonic conquerors. The righteous seek only obeisance [Most ancient Indian kings like Harsha and Samudragupta would fall in this category], the greedy seek lands, wealth through loot and plunder, and the demonic in addition the vanquished king's kin and women.

Similarly, the Mahabharata advises that conquests should be made on the basis of Dharma. The Pandavas desired only submission and tribute or gifts from the conquered. [Sabha 26-31]

In Ashoka, we find a new concept of Dharma – *vijaya*; victory without conquest. Borders as far as six hundred yojanas through Buddhist missionary conquests!

Some Marxist historians like **Romila Thapara** criticize the Geeta advocating war over peace. Yet, in the context of the Mahabharata, the Pandavas would have settled even for five villages, and the war is essentially that between the forces of righteousness and unrighteousness. As **Sri Aurobindo** fittingly concludes:—

“We must remember that the Gita was composed at a time when war was even more than it is now a necessary part of human activity and the idea of its elimination from the scheme of life would have been an absolute chimera. The Gita proceeds from the acceptance of the necessity in Nature for such vehement crises and it accepts not only the moral aspect, the struggle between righteousness and unrighteousness, between the self-affirming law of Good and the forces that oppose its progression, but also the physical aspect, the actual armed war or other vehement physical strife between the human beings who represent the antagonistic powers.”

Kautilya clearly suggests a king to use any means to destroy the enemy. But Manu would have none of it. In Kautilya, we find worldly expediency. For Manu, Dharma reigns supreme, and he lays down a code of war called Dharma yuddha. [MS 7.90-94]

according to which *deceitful or poisonous arms should not be used, a foe in a disadvantageous position shall not be struck, one who has surrendered shall be given security, one fleeing, armless, non combatant, or engaged with another shall not be attacked.*

Ironically the Rajputs followed such policies while dealing with the Islamic invaders as late as the 10-13th centuries, and this must have been a significant reason contributing to their ultimate defeat.

In Kamarkanda's **Niti Shastra**, of the 7-8th century, a king is warned from plundering the defeated king's subjects. Injured Dharma verily slays! Thus, in India, wars did not carry destruction of conquered lands as a necessary by-product. The peasants, the traders and the aristocracy were usually left unmolested by the victor who sought only their obeisance. **Megasthenes**, the contemporary of Chandragupta Maurya testifies to the same. To quote:—

“there are usages observed by the Indians which contribute to prevent the occurrence of famine among them; for whereas among other nations it is usual, in the contests of war, to ravage the soil, and thus to reduce it to an uncultivated waste, among the Indians, on the contrary, by whom husbandmen are regarded as a class that is sacred and inviolable, the tillers of the soil, even when battle is raging in their neighbourhood, are undisturbed by any sense of danger, for the combatants on either side in waging the conflict make carnage of each other, but allow those engaged in husbandry to remain quite unmolested. Besides, they neither ravage an enemy's land with fire, nor cut down its trees”

It is a tribute to Manu's prescience that he realizes that a king could despite pleas to uphold the sanctity of his office, descend into dictatorship, oppression and injustice. Manu upholds the right of citizens to kill such an unjust king without ado.

Sri Aurobindo recognizes this;

The legists provided for the possibility of oppression. In spite of the sanctity and prestige attaching to the sovereign it was laid down that obedience ceased to be binding if the king ceased to be faithful executor of the Dharma. Incompetence and violation of the obligation to rule to the satisfaction of the people were in theory and effect sufficient causes for his removal. Manu even lays it down that an unjust and oppressive king should be killed by his own

subjects like a mad dog, and this justification by the highest authority of the right or even the duty of insurrection and regicide in extreme cases is sufficient to show that absolutism or the unconditional divine right of kings was no part of the intention of the Indian political system. As a matter of fact the right was actually exercised as we find both from history and literature. Another more peaceful and more commonly exercised remedy was a threat of secession or exodus which in most cases was sufficient to bring the delinquent ruler to reason. It is interesting to find the threat of secession employed against an unpopular monarch in the south as late as the seventeenth century, as well as a declaration by a popular assembly denouncing any assistance given to the king as an act of treason. A more common remedy was deposition by the council of ministers or by the public assemblies. The kingship thus constituted proved to be in effect moderate, efficient and beneficent, served well the purposes assigned to it and secured an abiding hold on the affections of the people. The monarchical institution was however only one, an approved and very important, but not, as we see from the existence of the ancient republics, an indispensable element of the Indian socio-political system

[The Renaissance in India, Page: 395]

MANU'S LEGAL CODE

Manu's distinctive contribution to the theory of law and practice is the idea of **relativity** of law according to time and country. Thus, Manu maintains a distinction between the absolute law, which is Dharma or truth, and relative law which is an attempt by man to express the absolute in this eternally changing dynamic plane. The success of such an endeavor would depend upon the manifest degree of Dharma at the individual level of every varna. However to maintain a stringent dichotomy between the two as most modern civilizations have done; would cause a subtle derailing of law and order; conferring lawlessness by divorcing morality from law.

An eminent jurist like **Prasanta Bihari Mukerjee** finds it astonishing to find in so ancient a code like the Institutes of Manu the detailed descriptions of the forms of action in a court of law [MS 8.2-7]

In his court of justice, either sitting or standing, holding forth his right arm,

unostentatious in his dress and ornaments, let the king every day, decide one after another, cases of suitors separately classified under eighteen forms of action by rules founded on local usages and codes of law. Some of them are recovery of debts, sale without ownership, deposit and pledge, resumption of gifts, non payment of wages, dispute between owner of cattle and shepherd, violence assault, violence on women, adultery, duties of man and wife, partition and inheritance, gambling and betting. That, in all such acts, scrupulously upholding the meritorious case was the norm can be gauged from the fact that in [MS 7.168] Manu declares null and void any transactions done through extraneous pressures or use of force!

Another enormous step towards civilization is distinguishing between gravity of crimes, and secondly the separation of civil and criminal law and their respective punishments. **Civil crimes incur only fines, but not corporal punishment.** In criminal law, the emphasis is on righteous dealings and not *lax amoris* [an eye for an eye as in Hammurabi's code, the old testament, the Quran] While critics point out the stringent corporal punishment meted out to criminals [i.e *anga-viccheda* cutting off a limb] they ignore the clauses for penance [*prayaschita*], which replace punishment and thus, in effect provide a second chance for humanity. Moreover, Manu himself declares that corporal punishment is to be used as a last resort.

MS 7.129

Let him punish first by gentle admonition, afterwards by harsh reproof, thirdly by a fine, after that by corporal chastisement.

Even in case of the **mahapatakas** [5 major sins — Brahmins killings, adultery with a Guru's wife, being an alcoholic, and associating with all the three kinds of men] Manu in at least one, i.e. Brahmin killings, provide means for penance which is the 12 yr vow as a brahmacharin [celibate] For minor sins, various penances including reciting a Veda, or offering a gift of cows is prescribed.

There is however, no penance for a rapist, despite rape not being explicitly mentioned as a major sin for the corporal punishment is to be carried out instantly!

For old or female sinners, the penance is reduced to half. Those who don't follow penances out of heresy are to be socially ostracized. It is interesting to note that murder was not a major sin in the early Dharma Shastras including that of Manu. Yet, Manu anticipates the modern view of no crime for killing in self-defense [MS 7.439] or for protecting women and brahmanas!

Manu also ordains forgiving a liar, in case the truth could have grave repercussions, resulting in the death of a man, **irrespective of caste/status/position in society!**

MS 7.104.

Whenever the death of a Sudra, of a Vaisya, of a Kshatriya, or of a Brahmana would be (caused) by a declaration of the truth, a falsehood may be spoken; for such (falsehood) is preferable to the truth.

In Manu's times, there seems to be no provision of lawyers and people used to argue their own cases. What is conspicuous is Manu striking such a profoundly rational note while settling the criteria for admission of witnesses. While it may be argued that Manu's criteria are too utopian, expediency in accepting witnesses has often reduced the modern criminal procedure to a farce!

MS 7.64

Those must not be made witnesses who have an interest in the suit, nor familiar (friends), companions, and enemies (of the parties), nor (men) formerly convicted (of perjury), nor (persons) suffering under (severe) illness, nor (those) tainted (by mortal sin).

Manu concurs with the modern view that hostile witnesses are useless and are to be dropped

MS 7.78

What witnesses declare quite naturally, that must be received on trials; (depositions) differing from that, which they make improperly, are worthless for (the purposes of) justice.

Manu appeals to witnesses to be truthful for the sake of their soul. In a somber note, he reasons that those lying on oath are destined to suffer for their actions since their conscience will never be at ease for the wrong they have done.

MS 7.83.

'By truthfulness a witness is purified, through truthfulness his merit grows, truth must, therefore, be spoken by witnesses of all castes (varna).

MS 7.84.

'The Soul itself is the witness of the Soul, and the Soul is the refuge of the Soul; despise not thy own Soul, the supreme witness of men.

MS 7.111.

Let no wise man swear an oath falsely, even in a trifling matter; for he who swears an oath falsely is lost in this (world) and after death.

Manu's social order has for the past century or more been the subject of much acrimonious antagonism, dispassionate debate unfortunately being secondary. *Ad nauseam*; Manu has been showcased as a brahmanical tyrant of horrific proportions, and all those adhering to Manu's code been labeled *Manuvadis*, even in contemporary times by casteist parties. That Manu's code no longer applies anywhere in India since independence was not taken into account; flogging a dead horse is legitimate means for maintaining their casteist vote banks and the Dalit divide. The inherent anti national stance of such leaders can be traced to the beginning of the 20th century. Synenham for example in the upper house of Britain's parliament in August 1918, gleefully quoted from the Madras Dravidian Hindu Association [Today's DMK]

“We shall fight to the last drop of our blood any attempt to transfer the seat of authority in this country from British hands to so called high caste Hindus who have ill treated us in the past and will do so again but for the protection of British laws”

How many tears they shed when the British left India can be gauged from the fact that **Periyar**; the notorious and decadent leader of the Justice party declared the cherished and momentous event of Indian independence to be mourning day. He vented his frustration by burning copies of Hindu epics on the streets, copies of the Ramayana and the Manu smriti being the chief victims.

It is a historical shame that while, every child of India is reminded of the six abusive verses against Shudras by Manu; no attempt has been made to represent the glorious achievements of the same text especially its socio-economic, legal, moral and ethical views and jurisprudence which shaped not only the Indian civilization but probably also the Greeks through diffusion of those ideals westward. In my previous four articles in this series, I have made a humble attempt to portray those very aspects of the Manu Smriti.

In the concluding part of this series; I would venture to examine Manu's code with respect to Brahmins and the Shudras; how much and to what degree were the brahmins exalted by the text; how many privileges were bestowed upon them; were any restrictions or duties expected of them; and to what extent were the Shudras at the

receiving end in Manu's social order. In doing so, I realize that I am transgressing academic norms; but history owes no respect to either people or communities. Guessing or prejudice cannot discover the soul of history.

While Manu deals at length with brahmanical duties and societal expectations of them; he is much silent over the Vaishya and Shudra counterparts. In Manu's vision of society; the four varnas have been categorized on certain fundamental differences in intrinsic nature; which instead of being compelled to reconcile to establish uniformity which is the modern adage; should according to Manu be allowed to evolve at a pace amenable to their capacities. The Dharma for all the varnas thus cannot be the same, for what is ideal for one varna cannot be said to be so for another. Yet, Manu realizes that there are certain aspects of Dharma which cannot be compromised, irrespective of varna; for they constitute the underpinnings of a righteous society. Thus, in MS 10.62; Manu declares:—

“non violence, constant adherence to truth, non thieving, being pure, and keeping the senses in control-this is the essentially common Dharma for all the four varnas”

The Brahmin for Manu is a societal ideal, **the incarnation of the eternal law** [MS 1.98] and not merely a representative of the highest varna; [MS 1.96] thus both the Brahmin sexes must conform to a highly idealistic code, non conforming or contravening them would cause the downfall of the entire societal framework.

It is not necessary that the Varnas in Manu's times are societal ossifications. Indeed, quite a few verses in the Vedas record different members of the same family engaged in different professions. The brother of the great seer Bharadvaja, Samyu, was a craftsman (and hence, by definition, a *vaisya* or a *sudra*!). It may be quite probable that the classification into *Varnas* that Manu assumes is clearly by the intrinsic nature of the individual. As the Gita says “*all varnas have been based on guna and karma*”

Manu does exalt a Brahmana for being the highest embodiment of the divine Purusa, but at the same time, he also commits them to the maximum restrictions. Therefore; the exaltation of a Brahmana is balanced by the more onerous duties and more severe standards expected of him. A Brahmin must maintain the most austere of lifestyles. He except under special circumstances must never partake meat, yet for other varnas Manu considers meat eating to be no sin.

Manu allows only four types of marriages for Brahmins while for the Shudras he sanctions eight kinds. The most significant restriction on Brahmins was their conduct

through day and night.....and lest it is claimed that Brahmins would not follow such lifestyles except on paper; one can refer to the work of a Christian missionary woman in the beginning of the 20th century; **The Rites of the Twice born by Mrs. Sinclair Stevenson.....”**

So important are his morning and evening devotions to a Brahman, that one who willfully neglects them for three days ipso facto slips back to the ranks of a Shudra, and so highly is the right to perform them valued, that one of the titles that distinguishes a Twice-born from other ranks of society is: 'He who has the prerogative of performing Sandhya ”

She could not comprehend in spite of her Christian parochialism coupled with her English pretensions; as to how could Brahmins follow a lifestyle in which not performing Sandhya for three days rendered them an outcaste.

In MS 1.108; a Brahmin is expected to always follow the eternal law of the scripture. In MS 2.80; the dvijas or twice born men who do not conduct the rites expected of them are considered blameworthy. The economic restrictions on Brahmins is even more stringent for Manu considers a Brahmana who sells milk for three days to have lost his caste and reduced to a Shudra. Manu gives an exhaustive list of items which Brahmana cannot sell (or possess) while no such restrictions are applied on Shudras.

It may be asserted that by laying down such stringent rules for, and placing such high demands on, the Brahmins, the Manusmriti has unequivocally laid the onus for uplifting society at the door of the Brahmins! Indeed Manu ordains the Brahmin to uplift all other beings to his exalted position [MS 1.101*] Swami Vivekananda had also pointed this out in one of his lectures.

Manu grants only Vaishyas the right to lend money; that too not exceeding 5% per annum. [MS 8.152*] It is difficult to believe that the last restriction was ever put forcefully into application; for such policies can only be sustained in village level economies (D D Kosambi) However; it should be remembered that Buddhist clans had allowed traders to charge exorbitant rates of interest; due to which a large section of Vaishyas, at one time had flocked to the Buddhist religion.

Those who consider Manu to have imposed some brahmanical hegemony over the Shudras are blind to the fact; that Manu sagaciously and conscientiously **grades** the brahmanas based on their qualifications.

In MS 1.97 he grades the brahmanas in the following order;

Of Brahmanas, those learned (in the Veda); of the learned, those who recognise (the necessity and the manner of performing the prescribed duties); of those who possess this knowledge, those who perform them; of the performers, those who know the Brahman.

The Upanishads say the knower of Brahman [the absolute undifferentiated consciousness] becomes Brahman. Therefore, Manu upholds this great Vedantic principle.

Manu is far more explicit in MS **2.139 and 140**.

Acharya are those teachers who have knowledge of Veda and kalpas. While those who have knowledge of only part of the Vedas are subteachers/upadhyaya.

Manu further considers the Brahmin in being complete in the highest knowledge.

Manu hence puts scorn on Brahmins devoid of the complete knowledge of the Veda. He considers a Brahmin unlearnt of the Veda, to be as useful to society as is an impotent man to a beautiful woman. [MS 2.161*]

However, Manu does expect a Brahmin student to be nourished by society; akin to a modern scholarship system.

MS 1.102 *Since a Brahmin does good to the world; other beings should sustain him .*

A similar idea is express in MS 11.6 but Manu explicitly mentions that one may give only according to his economic capacity.

What should be the nature of a true Brahmana?

MS 2.87 He who befriends all creatures is a true brahmana! Can one be a Brahmin and a Shudra hater at the same time!

MS 2.154 .

Neither through years, nor through white (hairs), nor through wealth, nor through (powerful) kinsmen (comes greatness). The sages have made this law, 'He who has learnt the Veda together with the Angas (Anukana) is considered great by us

MS 2.162 .

A Brahmana should always fear homage as if it were poison; and constantly desire (to suffer) scorn as (he would long for) nectar

Such profound ideas cannot be conceptualized by civilizations who live in the age of gods, or the age of heroes. Such an idea can only be conceptualized by a civilization amidst the age of men.

Manu while suggesting the real nature which ought to be adopted by every brahmana, also censures them under certain circumstances;

MS 3.80*

The one who is a Brahmin only because of caste, but has no knowledge of the Vedas, nor that required assisting a king, he is a fraud, he should not be deemed even a Shudra.

In **MS 3.152** Manu equates temple priests and physicians to shopkeepers and enjoins society not to invite them to ceremonies. In MS 3.180 he considers food given to the former to be lost and to the latter to be rendered impure. It is interesting to observe that clearly the previous verses extolling the brahmanas must not be applied to temple priests. In the 19th century Sri Ramakrishna Paramhansa, a brahmana by birth was very reluctant to take a job as a temple priest at Dakhineswar because priesthood was considered the worst possible denomination for a brahmana.

The decline in the status of physicians is probably a consequence of the rise of Buddhism when due to excessive insistence on ahimsa; surgical sciences were condemned for they involved a subtle degree of violence and the excessive insistence of purity rendered doctors susceptible to charges of impurity.

Manu also makes distinctions between the good and evil brahmanas. And evil brahmanas are those who deceive women and Shudras. They fall into hell, or are granted the company of Rakshasas and deserve the highest contempt from every caste
[MS 4.196-197]

Yet, in stark contrast in MS 8.417; the Brahmin is assured he may confidently seize the goods of his (Shudra) slaves. This is even surprising since Brahmins could not keep any slaves; this is the unequivocal view of other Dharma Shastras. Perhaps, this is a later interpolation in the text, representing a much later historical epoch since in **MS 4.185** the slave is said to be as one's shadow and hence, offences by them should be borne

without any resentment.

THE FICTION OF EDUCATIONAL HEGEMONY

An uneducated generalization has been made by champions of the retrograde policies of educational quotas; that Brahmins have been enjoying educational hegemony for 1000 yrs!!!

In MS 1.89,90,91 Manu declares Brahmins, Ksatriyas and Vaishyas entitled for the study of Vedas. Manu in the another verse, also considers only Brahmins to be worthy teachers of the Vedic mantras. Thus, the obscurantisms of the Brahmins was restricted to the teaching of the Vedas⁶ or the riks (mantras), which to be fair was the composition of the Brahmins themselves...It is beyond my comprehension as to how this could be extrapolated to negation of education itself for women and Shudras; unfortunately Marxist historians like Romila Thapar, with their Anti-Hindu leanings, have had the audacity to conclude that Manu forbids education itself for women and Shudras. While it is true that Manu does, unequivocally condemn Vedic mantras for women and Shudras but he also affirms that education and knowledge could be gained from anyone irrespective of caste, creed or sex [MS 2.238 & 240] Similarly in MS 2.223 Manu exhorts society that *if a woman or a man of low caste perform anything (leading to) happiness, let him/her diligently practice it, as well as (any other permitted act) in which his/her heart finds pleasure*

Manu's primary vitriolic attack on Shudras; to slice off his tongue if he dares to utter a Vedic mantra [MS 12.4] should not be seen in isolation of the fact, that in MS 10.127; Manu says:—

“Sudras who are desirous to gain merit, and know their duty, commit no sin, but gain praise, if they imitate the practice of virtuous men without reciting sacred texts.”

Clearly; *The seeds of Sanskritization had been sowed by Manu himself!*

In no uncertain terms, Manu declares a Shudra to be incapable of committing a sin [MS 10.126] and thus he should be expected to fulfill only portions of the sacred law. By absolving the Shudras of even the idea of sin; isn't Manu taking a most protective

⁶ * Even this view, that Manu endorses a Vedic monopoly can be challenged for in MS 4.232; a giver of the Veda is considered by Manu to find union with the absolute Brahman. Clearly, Manu is extolling here the dissemination of Vedic knowledge.

attitude towards them!

On the contrary, the dvijas had to perform severe penances; for both major and minor sins. The higher was the caste, the greater were its restrictions. A Brahmin had only four types of marriages legalized; but for a Shudra all types of marriages including the uncivilized and despicable rakshasa and pishaca forms were acceptable for Manu. Thus, one might at best, consider Manu to be toeing an ambivalent line with respect to the Shudras. That; the Hindu epics had been composed by Shudras like Valmiki and the half caste Vyasa; are ample testimony to the fact that avenues for learning were open to all castes and sexes. The Dalit and Marxist coterie are being queerly querulous in appealing against denial of Vedic mantras to large sections of Indian society; especially because opportunities for pragmatically better education was always available to them; at least more useful than mystical Vedic documents something to which the former without exception develop an allergy in alacrity.

One final objection might be that the ideals must be reflected in practice. How many indigenous schools were open to Shudras, if any?.....the research of the gandhian historian; **Dharampal** in his book “**the beautiful tree**” has settled this question for once and for all.

Thomas Munro, Governor of Madras, ordered a mammoth survey in June 1822, whereby the district collectors furnished the caste-wise division of students in four categories, viz., Brahmins, Vysyas (Vaishyas), Shoodras (Shudras) and other castes (broadly the modern scheduled castes). While the percentages of the different castes varied in each district, the results were revealing to the extent that they showed an impressive presence of the so-called lower castes in the school system. Thus, in Vizagapatam, Shudras comprised 21% and the other castes (scheduled) were 20%; the remaining 12% were Muslims. In Tinnevely, Brahmins were 21.8% of the total number of students, Shudras were 31.2% and other castes 38.4% (by no means a low figure). In South Arcot, Shudras and other castes together comprised more than 84% of the students! For more details refer;

<http://www.hvk.org/articles/1204/59.html>

and

http://www.esamskriti.com/html/new_essay_page.asp?cat_name=why&cid=1062&sid=174

Manu and the punishments ordained for Shudras.

The so called brahmanical legal privileges were essentially to charge lesser fines for crimes; and not to impose the death penalty on Brahmins but instead to banish them from the kingdom.

Manu does threaten Shudras to be parted off with their tongue, or red hot iron to be thrust into his mouth for crimes which can be classified basically into categories;

1. Learning the Vedas
2. Reciting the Vedas.
3. Publicly abusing / Spitting / urinating upon a brahmana
4. Publicly defaming a brahmana
5. Causing grievous hurt to dvijas

The crimes classified under 1 and 2, and their associated punishments are merely exaggerations put in place to prevent transgression of established norms. As for 3,4,5 they are crimes not exclusive to Shudras, although for ksatriyas and vaishyas Manu reduces the degree of punishment for the same.

If the scholarly opinion is unanimous that a Shudra was unlearnt in the Veda, then there is every reason that the punishments/penalties prescribed for the same could never have been actually inflicted. Similarly, spitting on a brahmana, defaming him, or even urinating upon him (for which Manu ordains the king to cut off the penis of the indicted Shudra); are crimes which could only have occurred in the rarest of rare cases. After all, It is not everyday you find a man urinating upon another in a public place! For this reason perhaps; there is no secular literature in the enormous Indian literary heritage where one could find such punishments being inflicted upon hapless Shudras. Even in religious literature; an interpolated passage in the Uttara-Khanda of the Ramayana; where Rama slays Shumbaka is the sole example of its kind. But Rama's deference and compassion for Shudra women like Shabari and tribals like Guha go against the evidence of the Uttara Khanda.

Even some of the last verses in the eight chapter of MS are clear interpolations as evident from their nature; where it is said "Manu has set this law"; an attempt to utilize the authority of Manu by later writers is at play here...no wonder, we find no such parallel in any of the other 11 chapters of the MS.

MANU AND THE FICTION OF RACISM

Some Dalit writers have raised a stentorian outburst of anguish at Manu having practiced racism against Shudras, not only in India but in the American parliament conveniently forgetting that in the land of liberty; a little more than half a century ago; Jim Crowes laws were applicable against blacks

But even this claim against Manu is found to be false; the following verse gives to their lie;

Manu X. 45

All those tribes in this world, which are excluded from the community of those born from the mouth, the arms, the thighs, and the feet (of Purusa), are called Dasyus, whether they speak the language of the Mlecchas (barbarians) or that of the Aryans.

The Shudras being born of the feet of Purusa are hence, not Dasyus. Moreover, not being able to speak the sacred tongue i.e. Sanskrit was not a criterion for being Aryan according to Manu, at least. Both these facts debunk the claim that Manu racially persecuted Shudras.

Al Beruni [11th century] had correctly noted that all the hatred of Indians especially Brahmins was directed at Muslim *mlecchas*; while even his percipient vision could not detect any degree of animosity pervading the outlook of Brahmins *vis a vis* Shudras. Instead, he noted them residing peacefully in the same villages.

MANU AND HIS VISION FOR SHUDRAS

In Manu's order Shudras are to be completely aryanized in the spirit of the Vedic adage *vishvam krivantoh Aryan* [**We shall aryanize the world**]. To uplift the Shudras, was the solemn duty of the brahmins. Manu by accepting *anuloma* marriages made the provision for upward mobilization of Shudras through their women. Accept good women as wives from all castes, says Manu. Manu declares there to be no sin for a Shudra. [MS 10.126] Thus, a Shudra while excluded from Vedic learning; also by being disencumbered of upholding Vedic ideals was provided the necessary freedom for education and progress. [MS 2.240] For Manu, there is no difference between saving the life of a Brahmin or a Shudra. Thus, Manu announces that if a life of a person, irrespective of his caste can be saved by uttering a falsehood let that be preferable than

the truth in such cases. [MS 7.104] As we had mentioned before, it is Manu who sowed the first seeds of sanskritization.

The belief being propagated by certain Dalit propagandists that all Shudras were the slaves of Brahmins is absolutely false! While Shudras could offer themselves as slaves, just like the other castes; a Brahmin could accept only Shudras as slaves, not the dvijas. Megasthenes; the greek had however recorded that there was no slavery in India. This gives ground to the reasoning that; the slaves of ancient India were nothing more than devoted servants who could buy their freedom anytime. And all smritis are unanimous that slave women cannot be raped! R C Majumdar writes:—

“Megasthenes was probably misled by the humane treatment accorded to the slaves in India which offered such a striking contrast to their lot in Greece”

The slaves of India were thus poles apart from their Greek and even American counterparts for the latter had been reduced to the status of feudal vassals.

Thus; Manu while espousing Shudras serving any of the higher castes for his livelihood and sustenance; appeals to them to serve Brahmins for the sake of knowledge and heaven. [MS 10.121-22] Actually, Brahmins teaching Shudras was never out of place. For this reason, Manu equated such Brahmins to temple priests; and like the latter debarred them from public feasts. Manu also puts the onus of maintaining one Shudra’s servant on the Brahmin owner. Thus, unlike other castes who had no obligations apart from wages; Manu instructs the Brahmin master to provide his Shudra servants with food, grains and old furniture of the household depending upon the size of his family he (servant) has to support.[MS 10.123-4] Manu also considers men of all castes, including Shudras to be praiseworthy if they possess good qualities [MS 2.136-7] If all this were not true, how can we ever explain how persons like Vyasa and Drona came to have such an exalted position in society, inspite of their humble births, except for the fact that exaltation of the capable irrespective of their birth is expressly sanctioned by the Manusmriti?

Manu does not suffer from the rosy-eyed, romantic notion of modern democracy that all individuals are equally capable and perfectly rational. Manu clearly warns of such *faux passes* as he says do not make that equal which is born unequal. [MS 4.225] If anything, his is a candid acceptance of the fact that individuals in society can be classified into the distinct categories on the basis of their basic pursuits in life: self-

actualisation (Brahmins), achievement-driven (Rajans or Kshatriyas), acquisitive and accumulating (Vaisyas), and the plain unthinking (Shudras), with exponentially increasing numbers in that order. Once again, it is worth reiterating, these qualities - and hence the classification based on them - are not the exclusive preserves of hereditary communities, a fact pointed out by the Manu Smriti itself. In the Bhagavad Gita, which most scholars have a penchant for dating post Manu; Krishna In BG 3.33, asserts that we are all ultimately slave to our proclivities... *“Even a man of knowledge behaves according to his nature (prakriti) All living beings conform to nature. What can repression avail!”* Krishna perhaps takes the ideal of Manu to the next level when he advocates in BG 3.35 that one must follow one’s duty howsoever imperfect it might be; for indulging in those acts not attuned to our nature ultimately plot our downfall. For instance, an ideal king is not a philosopher, for philosopher kings are bound to fail
[Arnold Toynbee]

The Brahmins of Manu are not thus not simply hereditary representatives of philosophical power, and rational thinking [which remains the reserve of very few people in a society for plainly, few are capable of it]; they serve as a creative minority to propel society towards higher and higher stages of evolution into a perfect social order. But as Arnold Toynbee rightly remarks the **creative minority** with the vicissitudes of time, comes to rest on the laurels of its predecessors and ceases to be creative, and in doing so is transformed into a ruthless **dominant minority**.

On a dispassionate analysis of facts, what is true, then, is the exact opposite of the accusation that the Manusmriti perpetuates the hegemony of certain sections of society while leaving the masses open to the most hopeless exploitation: **it is the greatness of the Manusmriti** is that it boldly strives for the organisation of society where individuals are of such four broad classes, rather than making the pleasing but false assumption that all men are equally capable (and that is entirely different from saying that all men are not equal!). Nature ultimately triumphs over nurture. Biological determinism can never be supplanted by any degree of social conditioning. At least, this was the view of Manu and virtually all Indian seers.

Indeed, the essence of the Manu Smriti repudiates entirely the notion that it was a calculated move by Brahmins to perpetuate a uni-directional, irreversible social stratification based on birth. The grandness of the text is that it allows for upward social mobilization through an evolutionary process, not a sudden mutative one!

On what grounds then has Manu been made the harbinger of all social evils plaguing Indian society. Is it because the Marxist and Dalit historians, with their doctrinal axes to grind, have found it the most convenient whipping-boy?

Mine is definitely not the final word on Manu. Neither do I have to make any pretensions to exclusive scholarship. But I trust I have made a case for a dispassionate study of this important scripture, bereft of all preconceived ideas while simultaneously stripped of all political agendas; for us to arrive at an impartial scholarly consensus on the nature, roles and influences that the Manu Smriti played in the consciousness of the Indian civilization; and not to ignore the profound contributions it made in shaping up of Indian thought in areas as diverse as philosophy, ethics, jurisprudence and social organization.. In summing up, I would quote these words by **B R Ambedkar** which are so relevant to our present discussion.

“A historian ought to be exact, sincere and impartial; free from passion, unbiased by interest, fear, resentment or affection; and faithful to the truth, which is the mother of history the preserver of great actions, the enemy of oblivion, the witness of the past, the director of the future.”

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