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Chapter Ten

Smṛtis and Jātis:

**The Ritualisation of Time and the Continuity of
the Past**

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Introduction

This chapter examines the understanding of time in the normative literature on *dharma*, the *dharmaśāstra*. Particularly, it addresses the manner in which the past, as a model of truth and righteousness, is credited with epistemological power as the source of all knowledge. Such a usage creates special problems for modern interpreters. Focusing on conditions at the times of specific texts, the historian is frustrated by the fact that these texts constantly refer to rules in still earlier texts and generally fail to problematise the relation between the norms of the past and actual contemporary practices. However, rather than hypostatizing this tendency as a defect of 'Indian thought', let us try to explore it as a specific Indian element of the way that human acts are carried out everywhere as being rooted in ontologies and holding ontologically derived values.

The significance of the notion of time in *dharmaśāstra* has been examined at a general level by various authors.¹ In my own research I

¹ Discussions have focused particularly on how we should understand the idea of a progressive decline through the four *yugas* in relation to *dharma*. See Pandurang Vaman Kane, *History of Dharmaśāstra (Ancient and Medieval Religious and Civil Law)*, 5 vols., 2nd ed., Poona, 1968-77, vol. 3, p. 885 ff.; Robert Lingat, 'Time and the Dharma (On Manu I, 85-6)', *Contributions to Indian Sociology* 6, (1962) and *The Classical Law of India*, translated with additions by J. Duncan M. Derrett, Delhi, 1993, pp. 180-95; J. Duncan M. Derrett, *Religion, Law and the State in India*, London, 1968, pp. 88-9; Ariel Glucklich, *Religious Jurisprudence in the Dharmaśāstra*, New York, 1988, pp. 17-22. See also B.N.S. Yadava, 'The Accounts of the Kali Age and the Social Transition from Antiquity to the Middle Ages', *The Indian Historical Review*

have come up against the problem of time in connection with one particular subject area of *dharmaśāstra* – the relation between rules of untouchability and caste genealogies.² In more specific terms this is the relation between specific *jātis* such as *caṇḍāla*, *śvapaça*, *pulkasa* and similar untouchable groups on the one side and the idea of *varṇasamkara*, or 'mixed caste', on the other. Briefly put, the problem of *varṇasamkara* is precisely how its inherent notion of time should be interpreted. Does *varṇasamkara* denote an ongoing process of sexual relations across *varṇa* barriers or is it an explanation of the past origin of present demographic groups?

Before going into this specific area, however, we must understand the significance of the past in the very production of this literature. It will appear, then, that the narrative about the past origin of the *smṛtis* tends to obscure the actual process of *smṛti* production just as the narrative about the origins of *jātis* seems to obscure the actual process of caste formation. I will suggest that this pattern, the celebration of a mythical past which obscures the present, is a function of what in terms of Catherine Bell's concept of ritual, may be seen as a ritualisation of time.³ Śāstric texts regard the present as an individual moment of an eternal being which is known from a past, original knowledge and reactualised by ritual. This process, however, involves a tension between, on one side, the idea of the original past as a norm of eternal reality and, on the other, the experience of discontinuity in relation to that norm, a discontinuity which is accounted for by notions of decline and loss. The two are reconciled in the doctrine of the *yugas* in which both decline and continuity are integrated. The four *yugas*, lasting 12,000 divine years (one divine year making 360 human years), indicate discontinuity and decline, whereas at the level of Brahman on thousand of these cycles form merely one day in an eternal and continuous process of recreations. Every new day Brahman recreates

5, 1-2, (1978-79), and R.S. Sharma 'The Kali Age: A Period of Social Crisis', in S.N. Mukherjee (ed.), *India: History and Thought: Essays in Honour of A.L. Basham*, Calcutta, 1982.

² Mikael Aktor, 'Ritualisation and Segregation: The Untouchability Complex in the Scholarly Literature on Dharma with Special Reference to Parāśarasamṛti and Parāśaramādhaviya', Ph.D. dissertation, University of Copenhagen, 1997.

³ Catherine Bell, *Ritual Theory, Ritual Practice*, New York, 1992.

the world with its species of animals and men (the varṇas and jātis) together with their inherent, original characteristics.⁴

Smṛtis, Myths and Epistemology

As shown by Pollock, *śāstra* production is viewed in *śāstra* itself as a process of 'remembering' ancient, pre-existing truths. The axiom on which this literary production rested in its classical and medieval phases seems to be 'that the improvement of any given practice lies, not in the future and the discovery of what has never been known before, but in the past and the more complete recovery of what was known in full in the past'.⁵ This is expressed, for instance, in the accounts in the texts themselves of their own origin. According to Pollock, they came to view themselves 'as either the end-point of a slow process of abridgement from earlier, more complete, and divinely inspired prototypes; or as exact reproductions of the divine prototypes obtained through uncontaminated, unexpurgated descent from the original, whether through faithful intermediaries or by sudden revelation'.⁶ Thus, practice is authorised by a knowledge made authoritative by its age, and this is done, Pollock suggests, in a manner which reflects the relation between the eternal Veda (as a blueprint for creation) and the material world (as its manifestation).⁷

This idea is confirmed by the *dharmasmṛtis* which often cast the narratives of how the texts are attributed to particular Vedic ṛṣis as a search for an original, complete knowledge. Thus, *Parāśarasmṛti* (1.1.1-19) tells how the sages approached Vyāsa for instruction about *dharma* (1-2).⁸ Although Vyāsa knows the laws of all the great ṛṣis (12c-15b) he regarded his knowledge as incomplete, saying (4), 'I do

⁴ *Manusmṛti* 1.28-29, 69-80.

⁵ Sheldon Pollock, 'The Theory of Practice and the Practice of Theory in Indian Intellectual History', *Journal of the American Oriental Society* 105, 3, (1985), p. 512.

⁶ *Ibid.*

⁷ *Ibid.*, p. 518.

⁸ *Parāśarasmṛti* with the commentary of Mādhavācārya entitled the *Parāśaramādhavīya*, Vāman Śāstri Islāmpurkar (ed.), 6 vols. Bombay, 1893-1919.

not know the complete truth. How can I speak about dharma? My father is the one to be asked'. And so he takes the ṛṣis to his father, Parāśara, who starts his talk by referring to the origin of all knowledge, the uncreated Veda, which has to be remembered anew along with the rules of dharma after every world destruction when those who are able to decide about Veda, smṛti and the conduct of the good men (these are the three primary sources of dharma) are born again, as are Brahmā, Viṣṇu and Śiva (20-1).

Pollock draws three conclusions from this mythologisation of textual production. 'First, the "creation" of knowledge is presented as an exclusive divine activity, and occupies a structural cosmological position suggestive of the creation of the material universe as a whole'. In other words, epistemological authority with respect to what is true and what is right is projected onto a corpus of texts that are set off from contemporary discourse as representing an original, super-human and extraordinary knowledge of eternal being and its form, the universe. Secondly, knowledge is viewed as permanently fixed in its dimensions as 'a given set of texts that are continually made available to human beings in whole or in part during the ever repeated cycles of cosmic creation'. Thus, the incompleteness of contemporary knowledge at any time is only a result of the incomplete transmission of these texts through the yugas. Thirdly, it follows that there can be no conception of progress, 'but only the attempt better and more clearly to grasp and explain the antecedent, always already formulated truth'.⁹

One effect of this paradigm of *śāstra*, according to Pollock, is that the historicity of contemporary cultural practices is eliminated in this kind of literature (*śāstra*): '[The] living, social, historical, contingent tradition is naturalised, becoming as much a part of the order of things as the laws of nature themselves.'¹⁰ There are two ideas involved in this argument which Pollock develops further in succeeding articles.¹¹ The first is the denial of historicity; the second is the notion of a

⁹ *Ibid.*, p. 515.

¹⁰ *Ibid.*, p. 516.

¹¹ Sheldon Pollock, 'Mīmāṃsā and the Problem of History in Traditional India', *Journal of the American Oriental Society* vol. 109, no. 4 (1989), pp. 69-10 and 'From Discourse of Ritual to Discourse of Power in Sanskrit Culture', *Journal of Ritual Studies*, vol. 4, no. 2, (1990), pp. 315-45.

'renaturalisation' of the world. Ahistoricity is not simply an absence of history but its deliberate denial 'in favor of a model of "truth" that accorded history no epistemological value or social significance'.¹² This ideological mechanism has a historical background. It is 'itself historical (in a similar way as, indeed, the idea of "timeless India" has a beginning in time)', and it developed partly 'out of Mīmāṃsā's confrontation with history and the limiting conditions placed on historical thinking by Mīmāṃsā's valuation of real knowledge'.¹³ This confrontation originated from the Buddhist critique of Vedic ritualism which had the effect, in the words of Bourdieu, of destroying the social world's 'character as a natural phenomenon'.¹⁴ Accordingly, 'orthodoxy responded with what may best be viewed as a desire to renaturalise the world'.¹⁵ But while it is certainly important to contextualise these developments, the terminology of 'nature' is misleading. For, does not precisely this terminology represent one of the most idiomatic distinctions within Western scholarly traditions? Although ideas of 'nature' and 'the natural' have been frequently projected onto South Asian concepts by Western scholars it is, as a matter of fact, problematic to identify actual correspondences. 'Dharma', as demonstrated by Halbfass, is a relevant example.¹⁶ Thus, it is not accurate to stretch the ontological status of dharma to the point of seeing in this

¹² Pollock, 'Mīmāṃsā and the Problem of History', p. 610. In the same article (pp. 608-9), Pollock refers to the lost school of *aitihāsika* interpretation of the Vedas, which sought to provide the 'mythological and historical background', or rather, 'the deeds of gods and praiseworthy men, to which the Vedic hymns were thought to make allusion'. But Mīmāṃsā, which was fundamental to śāstra literature in general and dharmasāstra in particular, closed such trajectories by developing its opposite claims about the transcendent, superhuman character of the Vedas. The Vedas became emptied of their historical referential intention in a process which, according to Pollock, forced the orthodox intellectuals who sought to validate their truth-claims by their affinity to the Veda to conform 'to this special model of what counts as knowledge and so to suppress or deny the evidence of their own historical existence', Pollock, 'From Discourse of Ritual', p. 332.

¹³ Pollock, 'From Discourse of Ritual', p. 329.

¹⁴ *Ibid.*, p. 334.

¹⁵ *Ibid.*

¹⁶ Wilhelm Halbfass, *India and Europe: An Essay in Understanding*, Albany, 1988, pp. 312-20.

concept a notion of natural laws.¹⁷ Such an interpretation corresponds to the way the moral has been supported ontologically in the West, that is, through a discourse which derives morality from nature, ought from is. In the Hindu tradition, however, ontology is not constituted by what is outside the consciousness of a neutral observing subject, but by exploring interrelations between the body, ritual and the cosmos.¹⁸ In this tradition, ritual is not merely a human activity directed at transcendent gods, it is the prototype of creation or is itself created along with the universe which only supplies its human agents and natural materials.¹⁹ By performing rituals humans take upon themselves their share of a necessary interaction between gods, humans and natural resources.²⁰ In addition, dharmasāstra is traditionally classified as belonging to the ritual literature (*kalpa*), and what it accomplishes is actually a ritualisation of the total sphere of human life such as work,

¹⁷ This is rather a product of the historical interrelation between Orientalism and neo-Hinduism which tended to merge the Vedic notion of *ṛta* with the classical concept of dharma. *Ibid.*, pp. 315-17.

¹⁸ I cannot develop this argument here in any detail, but throughout Indian tradition, from Vedas and Upaniṣads to Bhakti and Tantric disciplines, we see an overlap between these three areas, the human body with its functions and perceptions, ritual, and the cosmos with both its visible and invisible elements. The interrelations between these three are explored practically or intellectually, or in both ways, by the *virtuosi* of these traditions (ascetics as well as ritualists), and ontologies are articulated accordingly. It is not enough to go on contrasting such explorations with modern Western rationalism, objectivism and science. Neither is it sufficient to see them as ontological enunciations constituting political formations, but otherwise leaving them unanalysed. We must examine them phenomenologically.

¹⁹ Jan Gonda, *Die Religionen Indiens*, vol. 1, 2nd ed., Stuttgart, 1978, pp. 188-9; see also *Bhagavadgītā* 3.10-16.

²⁰ The offering of food in the fire, the *agnihotra*, is prototypical of this interaction. Agnihotra is understood as a cycle of food, whereby the offered foodstuff ascends from the fire through the smoke to the sun where it brings about the rain and thus secures that land and animals produce food for new offerings, Kane, *History of Dharmasāstra*, vol. 2, p. 680. Derrett regards this cycle as the basic two elements in what he labels as 'The Fundamental Theory of Hindu Law' (the remaining six elements being those institutions such as the brahmins, dharma, punishment etc., which guarantee the continuation of this sacrificial cycle), Derrett, *Religion, Law and the State*, pp.117-20. See also *Manusmṛti* 3.76 and *Bhagavadgītā* 3.14-16.

daily hygiene and social interaction to the effect that the commitment to the prescribed performance of these activities is associated with soteriological effects just like a sacrifice. To follow one's dharma in terms of these ordinary activities means to be in accordance with the originally created ritual order of life. Neglecting dharma is a fall from it. So, śāstra, rather than naturalising the living traditions of social life, elevates them to the level of prescribed rituals and thereby assigns to them a status like Vedic *vidhis*, the original ritual injunctions on whose fulfilment the world depends. As such the rules of dharma do have an ontological status as a part of the original order, but this is not so much an order of things as an order of acts, results and their mutual causalities, including transcendent, invisible (*adr̥ṣṭa*) causalities. However, it is true, as Pollock argues, that what is specific to the present is interpreted from the prototypes of that original order rather than being explained with reference to contemporary conditions.

The important demarcation in dharmaśāstra between what constitutes epistemological authority and what is merely an expression of learning is manifested in the literature as the difference between sūtra and smṛti on the one side and commentaries on the other. The force of the commentator's argument depended on his mastery of the former literature. The proof of sound reasoning was a quote of an authoritative statement. But whereas the commentator's store of Vedic literature and dharmaśāstras was relatively well delimited, the large amount of smṛti verses that he also had access to was much more fluid. Only a very limited number of smṛtis had reached a fixed size, while most existed as a vast, more or less fluid store of verses attributed now to this sage, now to another.²¹

If we are willing to stretch Pollock's argument that smṛtis were regarded as remembered ancient truths, we should be able to set up a simple formula for smṛti production which reads like: 'to compose = to remember'²² It then follows that there is no guarantee that some verses

²¹ See *Nāradaśmṛti*, Richard W. Lariviere (ed., trans.), 2 vols, Philadelphia, 1989, vol. 2, pp. x-xiii.

²² See Pollock, 'From Discourse of Ritual', pp. 326-7, where he explicates what exactly should be understood by the terms śruti and smṛti according to Mīmāṃsā interpretation. In fact, both terms referred to Vedas, the former to the Veda which has been transmitted in its audible, recited form, the latter to Vedas

were not simply composed, or at least reformulated, when they were needed by medieval scholars. They would be regarded as the sayings of ancient sages even by these scholars. This is not a matter of 'frauds', as Lariviere rightly argues,²³ because notions of fixed texts, of authorship and copyrights, were alien to this genre. Instead, it is a matter of contesting traditions and flexible adaption of what had been handed down.

This is particularly so with regard to the fragmented smṛti verses attributed to a vast number of sages such as *Atri*, *Aiṅgiras*, *Uśanas*, *Devala*, *Śātātapa*, *Samvarta*, etc. which are frequently quoted in medieval commentaries and digests.²⁴ In many of these verses we find views that clearly belong to a late time. Not only do they sometimes refer to what looks like late historical conditions, as when it is stated in *Devalasmṛti* that its purpose is to instruct about the purification of persons residing in Sind who have been converted by the *mlecchas* (Muslims according to Lariviere²⁵), but they often contain much more detailed accounts of purity rules and penances compared to the extant smṛtis of *Manu* and *Yājñavalkya*. *Atrismṛti* (178-83b) is typical when it prescribes three different purifications for a brahmin who has eaten the fruits of a tree which is touched by an untouchable caṇḍāla according to three degrees of closeness between the brahmin and the tree. So too is *Āpastamba*²⁶ which fixes the purification for a menstruating woman who happens to look at another menstruating woman while she is taking her meal – a situation which is not accounted for in the older smṛtis.

that for one reason or another are not accessible, but whose sense has been preserved through the memory of ancient sages. Thus, according to a Mīmāṃsā formulation, 'Smṛti is so called because by means of it the dharma of the Veda is remembered'. It is, however, important to bear in mind that the Vedic origin of the smṛtis was only inferred from the validity of the smṛtis themselves, and thus, that smṛti production, unlike extant Vedic texts, was not limited to ancient periods, but remained an ongoing process of composing, collecting and reformulating smṛti verses.

²³ *Nāradaśmṛti*, vol. 2, p. xi.

²⁴ J. Duncan M. Derrett, *Dharmaśāstra and Juridical Literature*, Wiesbaden, 1973, pp. 38-9.

²⁵ In *Nāradaśmṛti*, vol. 2, p. xiii, n. 14.

²⁶ Quoted in *Parāśaramādhavīya*, vol. 2, I, p. 163.

Thus, while these *smṛtis* are attributed to Vedic sages their content suggests that, in fact, they might be composed or reformulated very close to the time of the learned commentators. It seems, however, that former generations of philologists have not been sufficiently willing to take such condition of the literary process into account. The debate over the dating of *Parāśarasmṛti* is a telling example. The indologists (Kane and, following him, Lingat and Derrett) suggested an early date, that is, between the first and fifth century AD.²⁷ Kane's argument rests on the fact that the earliest quotations of verses from *Parāśarasmṛti* occur in *Garuḍapurāṇa* (chapter 107) and Viśvarūpa's *Bālakriḍā* commentary on *Yājñavalkyasmṛti*. Unfortunately, the date of the former work is far from settled. Rocher refrains from dating the work himself but refers to the opposite views of Chaudhuri, Banerjee and Hazra, on the one side, who suggested the tenth century as most probable, and Shastri and Tiwari, on the other, who maintained a date between the first and the sixth century.²⁸ From the quotes by and of Viśvarūpa it follows that he lived at some time between 750 and 1000 AD. And, if he is identical with a pupil of Śankarācārya named Sureśvara, as it is supposed, he must have flourished in the first part of the ninth century.²⁹ On these grounds, Kane concludes that 'it is quite clear that in the first half of the ninth century the *Parāśarasmṛti* that we have now was considered to be authoritative and the work of an ancient sage. It seems to have known a work of Manu, as seen above. Therefore, it must be assigned to some period between the first and the 5th century of the Christian era'.³⁰

Historians, on the other side, have not felt comfortable with such an early date, because they see the content of this text as indicative of a literary environment typical of the early medieval period. Jha treats the text as evidence of a stage of untouchability which only had developed in what he labels 'the fourth phase' (600-1200 AD).³¹ Likewise,

²⁷ Kane, *History of Dharmasāstra*, vol. 1, p. 464; Lingat, *The Classical Law of India*, p. 103; Derrett, *Dharmasāstra*, p. 39.

²⁸ Ludo Rocher, *The Purāṇas*, Wiesbaden, 1986, p. 177.

²⁹ Kane, *History of Dharmasāstra*, vol. 1, pp. 562-64.

³⁰ *Ibid.*, p. 464.

³¹ Vivekanāṇḍ N. Jha, 'Stages in the History of Untouchability', *Indian Historical Review*, vol. 2, no. 1 (1975), pp. 30, n. 2, 31.

Yadava, dating the text between 600 and 900 AD, sees in it 'a clear tendency of breaking with the antiquity' expressed in, among other features, its doctrine about the relation between *dharmaśāstra* and the *yugas* and its emphasis on being a work for the last and worst of these world ages, the present *kaliyuga*.³²

From the point of view of *Parāśarasmṛti*'s rules of untouchability and penance which share a level of detail and proliferation not far from the verses from *Atrismṛti* summarised above, there is, indeed, much in the text which makes it difficult to accept a date contemporary with *Yājñavalkyasmṛti* and *Nāradasmṛti*, that is, before the fourth century AD,³³ though this was what Kane suggested. Kane's reasoning fails to take the literary process as discussed above into account. If 'to compose = to remember' it does not follow from Kane's observation about the text having been regarded as an ancient work that it could not have been composed at a time quite close to that of the first quotations. It would be regarded as the work of an ancient sage even by those who composed or reformulated it. If so, it would not be wrong to assign it a date closer to Viśvarūpa, somewhere between the seventh and the ninth century as suggested by Jha and Yadava.³⁴

Thus, the literary device of projecting the production of *smṛti* literature back into a mythical past works beyond its own time and context. To its users (brahmin *śiṣyas* and royal administrators) this projection established *smṛtis* as a necessary epistemological authority, but it did so in a manner which at the same time obscured the literary process and created new pasts. By conceiving of ideological production as a practice of remembering, *smṛti* authors, collectors or reformulators prolonged the moment of the past continually into the present.

³² See *Parāśarasmṛti* 1.1.24; Yadava, 'Accounts of the Kali Age', p. 62.

³³ See Lariviere in *Nāradasmṛti*, vol. 2, p. xxii.

³⁴ Moreover, it seems that Kane later changed his view. For, in the chronological table in his last, fifth volume *Parāśarasmṛti* is placed among the late *smṛtis* ascribed to the period between 600 and 900 AD: Kane, *History of Dharmasāstra*, vol. 5, part 2, p. xiii.

Time and Varṇasaṃkara

A similar obscurity covers the two processes which are intertwined in the notion of varṇasaṃkara, namely the process of forming sexual relations across the varṇas and the subsequent process of caste formation. Both were parts of contemporary practices and developments. Of course people formed sexual relations across all kinds of social barriers, and of course an assimilation took place whereby formerly independent or autonomous groups of people became part of a common cultural sphere as jātis. The doctrine of varṇasaṃkara combined these two processes, postulating that jātis originate from such relations across the varṇas. The riddle is, however, that as soon as the practical aspects of these two phenomena were dealt with by the texts there was no connection between them. Thus it is not clear how the formation of jātis in practice were supposed to be related to sexual relations across the varṇas; whether such relations occurred in contemporary times or in a mythical past; and how the actual children of contemporary sexual relations were associated with actual jātis was never explained.

In ancient dharmasāstra (sūtras and early smṛtis) the progeny of varṇasaṃkara relations were primarily discussed as 'sons', often in direct connection with rules of marriage.³⁵ In those texts which Brinkhaus has isolated as representing the oldest phase of the system,³⁶ sons born by mothers of lower varṇa than their husbands, that is, from the hypergamous or *anuloma* relations, were classified as belonging to either the varṇa of the father or that of the mother. In texts that can be seen as a second phase only sons of mothers one varṇa lower than the husband's were classified in this way, whereas other sons, that is, those born of mothers two or three varṇas lower or of mothers of a higher varṇa than their husbands (the latter comprise children from the hypogamous or *pratiloma* relations) were all classified as belonging to separate named jātis, some of which seem to be names of ethnic or occupational groups such as *niṣāda*, *sūta*, *māgadha*, *caṇḍāla*, etc. In texts representing a third phase all varṇasaṃkaras were named in this

manner, and none were regarded as belonging to the varṇas of their so-called parents.³⁷

The reference to actual sons and kinship in the discourse of varṇasaṃkara was confirmed by rules of inheritance in the same texts. These rules stipulated different, exact shares of the inheritance for varṇasaṃkara sons, but in this context these sons were not named by jāti names.³⁸ Such rules clearly excluded an interpretation of varṇasaṃkara as an event in a mythical past, because there could be no gap here between parents and sons. The same was the case with the many instructions that inflicted severe penalties on men and women who had had a hypogamous sexual relation with each other.³⁹ The idea was epitomised in the command that it was the duty of the king to prevent varṇasaṃkara.⁴⁰ Even brahmins and vaiśyas are allowed to take up arms against those who cause it according to a quoted verse.⁴¹ All these rules clearly related to varṇasaṃkara as an ongoing, contemporary process and not to a myth of origin.

However, at the time of the tenth book of *Manusmṛti* the focus had been explicitly changed. Along with the discourse of kinship the text prescribed exact occupations of the individual varṇasaṃkara sons/jātis.⁴² It was not possible at this stage to separate the two phenomena of the concept. Names of jātis were still attributed to what appeared to be 'sons', but now these sons performed the occupations of

³⁷ Ibid., p. 24.

³⁸ *Gautamadharmasūtra* 28.35-45; *Manusmṛti* 9.149-55; *Yājñavalkyasmṛti* 2.125; *Nāradaśmṛti* 13.14; *Viṣṇuśmṛti* 18.1-33. See also Kane, *History of Dharmasāstra*, vol. 3, pp. 597-99.

³⁹ *Āpastambadharmasūtra* 2.10.27.9; *Baudhāyanadharmasūtra* 2.2.3.52; *Gautamadharmasūtra* 12.2-3; 23.14-15; *Vasiṣṭhadharmasūtra* 21.1-5.

⁴⁰ *Gautamadharmasūtra* 8.3.

⁴¹ *Baudhāyanadharmasūtra* 2.2.4.18.

⁴² *Manusmṛti* 10.32-40, 46-56. In addition, the number of named varṇasaṃkara jātis is considerably higher than in the sūtras as well as in the other extant smṛtis. This has led R.S. Sharma to suggest that this tenth book is much more recent (late- or post-Gupta) than the other parts of the text. Unfortunately, Sharma's suggestion has not yet attracted the interest of philologists of dharmasāstra, although the debate about dharmasāstra chronology is far from settled (see Lariviere in *Nāradaśmṛti*, vol. 2: xix-xxiii), Sharma, *Sūtras in Ancient India: A Social History of the Lower Order Down to circa A.D. 600*, 3rd ed., Delhi, 1990, pp. 327-31.

³⁵ See *Baudhāyanadharmasūtra* 1.8.2 ff.; *Gautamadharmasūtra* 4.

³⁶ Horst Brinkhaus, *Die altindischen Mischkastensysteme*, Wiesbaden, 1978

specific jātis. And still, the same text also contained the rules of inheritance (see footnote 38 above) that obviously did not refer to occupational groups but to progeny. Thus, although the tenth book of *Manusmṛti* clearly seems to speak of groups which had been pursuing their occupations for generations there was no clear distinction between varṇasaṃkara as the origin of these groups and varṇasaṃkara as a contemporary process. Logically, we should understand these instructions as relating to actual children born of unequal parents. These children should have, at some time, adopted the duties of the jātis they had been defined as, which, in the extreme case of an untouchable caṇḍāla, meant that they had to leave their homes to join their fellow jāti members in the hamlets at the outskirts of the villages or towns.⁴³ The jāti would thus have been recruited successively from such children.

Naturally, this consequence of the varṇasaṃkara concept has not been accepted by modern scholars. In general, the doctrine of varṇasaṃkara has been regarded as a fiction meant to integrate new demographic groups into the interaction with the twice-born by relating them genealogically to the varṇas. What is fictitious is precisely the projection of a kinship paradigm unto the demographic diversity.⁴⁴ This

⁴³ See *Manusmṛti*, 10.51 ff.

⁴⁴ Thus, for instance Vivekanand Jha, 'Varṇasaṃkara in the Dharma Sūtras: Theory and Practice', *Journal of the Economic and Social History of the Orient*, vol. 13, no. 3 (1970), pp. 277, 283-4 (with reference to Renou); Sharma, *Śūdras in Ancient India*, pp. 240 and 336-7; Kangle in *Arthśāstra* vol. 3, pp. 146-7; S.J. Tambiah, 'From Varna to Caste through Mixed Unions', in Jack Goody (ed.), *The Character of Kinship*, London, 1973, pp. 218, 223; Brinkhaus, *Die altindischen*, p. 15; Aloka Parasher, *Mlecchas in Early India: A Study in Attitudes towards Outsiders upto AD 600*, New Delhi, 1991, p. 185. All these works see varṇasaṃkara as a Brahmanical fiction. Sharma relates it, though, to actual class conflicts: Sharma, 'The Kali Age' pp. 189-90. Only Hocart regards his own ethnographic data as a confirmation that intermarriage between castes actually leads to the formation of new castes, but whether this phenomenon is comparable to that of varṇasaṃkara as taught in ancient texts is at least questionable: A.M. Hocart, *Caste: A Comparative Study*, London, 1950, pp. 54-5. Kane is right in pointing out that the doctrine of varṇasaṃkara should be understood as an attempt to harmonise a new awareness of social diversity with the norm of the four, and only four, varṇas of the *Puruṣasūkta*. Kane, *History of Dharmaśāstra*, vol. 2, pp. 50-1.

rejection implies that varṇasaṃkara is understood by these scholars only as a learned myth of origin of existing jātis, that is, only in terms of the past.

The actual practical use of the varṇasaṃkara genealogies, insofar as we are able to make out from available sources, confirms this interpretation. Above all, these genealogies seemed to have functioned as normative definitions of demographic groups with respect to a determination of their rights and duties. Thus, it is known from three inscriptions (twelfth-thirteenth century) how a medieval conflict among two groups of South Indian artisans known as *kammālas* was settled with reference to different śāstras that dealt with the occupations and varṇasaṃkara status of what was seen as their Sanskritic equivalent, the *rathakāras*.⁴⁵ Of these two groups, one had been living as artisan specialists engaged in connection with temple construction and thus making what must have been a fairly good living at times, while the other group had mainly been engaged in menial tasks. The conflict, therefore, was about the claim of the latter group to the occupation of the former, a claim which was obviously motivated by the better conditions of the artisans. On the basis of contrasting statements in dharmaśāstra texts about the varṇasaṃkara status of rathakāras the brahmin arbiters who were directed to settle the conflict identified the latter group, the menials, as *pratiloma rathakāras*, that is, inferior, and the former, the artisans, as the *anuloma rathakāras*, the superior group. Thus, '[if] any Rathakāras were doing menial tasks these were *pratiloma Rathakāras*, who had no right to participate in architecture; while those who could claim to be *anulomas* would be entitled to the architectural activities prescribed in the texts. Under the caste system as then in operation no Rathakāra could move from one category to the other: and so the solution would be permanent'.⁴⁶ In other words: the varṇasaṃkara definition of the group is the criterion of determining its occupational (as well as ritual) rights, its *adhikāras*. For a modern reader this use of the system logically presupposes that

⁴⁵ J. Duncan M. Derrett, *Essays in Classical and Modern Hindu Law*, vol. 1, Leiden, 1976, pp. 86-110; Derrett in Lingat, *The Classical Law*, pp. 273-4; K.R. Hanumanthan, *Untouchability: A Historical Study up to 1500 A.D. (with special reference to Tamil Nadu)*, Madurai, 1979, p. 182.

⁴⁶ Derrett, *Essays in Classical and Modern Hindu Law*, p. 108.

varṇasaṃkara is understood as the past origin of the group. If it referred to individuals descending directly from unequal parents their varṇasaṃkara status would not have to be ascertained from śāstras. Therefore the procedure here was to correlate the traditional work of the two groups with the varṇasaṃkara definitions in the śāstras in order to establish these traditional tasks as more than simply work, but as adhikāraś. These tasks would then be fixed rights and responsibilities with respect to actions (*karman*), both in the sense of ritual and occupation, including the right to the pragmatic and soteriological outcome of these actions.⁴⁷ Such rights were not regarded as something to be acquired occasionally but as permanently inherent in the single varṇas and jātis themselves. It is in that sense that the solution of the learned referees would be permanent. By identifying *kinds* of men, that is jātis, the actions of these men would be defined simultaneously. This was possible on the basis of texts such as *Manusmṛti*: 'These castes which are born from a mixing of varṇas have been indicated according to their parents, but whether they are concealed or open, they can be recognised from their particular actions.'⁴⁸ As pointed out by Halbfass, 'actions' meant work rather than behaviour in general when the talk was about groups lower than brahmiṅs and kṣatriyas.⁴⁹ What may have been concealed (or forgotten through generations) was the varṇasaṃkara status which then had to be determined on the basis of their work as with the artisan and menial kammālas. When it had been further ascertained, either by śāstric evidence or by deeper genealogical investigations,⁵⁰ it was used as a way of controlling the occupational activity of the group. This was suggested as early as in Bhārucci's seventh-century commentary on the same verse: 'The caste as it is defined in the śāstra can be inferred by its activity, and by indicating

⁴⁷ Richard W. Lariviere, 'Adhikāra – Right and Responsibility', in M.A. Jazayery and W. Winter (eds), *Languages and Cultures: Studies in Honor of Edgar C. Polomé*, Berlin, 1988, pp. 359-64.

⁴⁸ *Manusmṛti* 10.40. This and the following extracts from Sanskrit texts are translated here by the author.

⁴⁹ Wilhelm Halbfass, *Tradition and Reflection: Explorations in Indian Thought*, Albany, 1991, pp. 359-60.

⁵⁰ *Ibid.*, pp. 365-6, 372.

the caste of people these can be enjoined to perform their particular actions.'

We may at first be inclined to understand these dharmaśāstra texts as statements about long established demographic groups and not about 'sons'. But as a matter of fact, these texts, as well as the philosophical texts presented by Halbfass⁵¹, make no distinction between original and contemporary varṇasaṃkara. On the contrary they contain several rules that clearly refer to the contemporary aspect of the phenomenon, for instance, as already mentioned, in the context of inheritance and punishments. This is a fact which is generally left unexplained by modern scholars who find it improbable that occupational jātis which had been established as such for generations would be recruited from contemporary children of varṇasaṃkara relations. However, Derrett, going through the case of the kammālas, at least mentions the problem: 'Practical questions, such as how the parentage was known and how and even whether castes were formed in this manner can be left out of account, since they could hardly have been ventilated before our referees in this case.'⁵² But although we are not in a position to answer such questions we must admit that the texts give us absolutely no reason to conclude that it was not precisely the way it worked. Ideally and practically children of unequal parents did belong to the jāti that their parentage indicated according to the varṇasaṃkara system.

This they did because as 'kinds' of men – that is, as jātis – varṇasaṃkara castes are just as much parts of an ontology as varṇas. Jāti refers to birth, and with that, to permanent 'species' or 'universals' of which individuals are only momentary specimen.⁵³ The newly born child of unequal parents is ontologically connected to the original varṇasaṃkara from which his jāti descended. The past is continually reproduced in the present, and in that sense varṇasaṃkara is an ever ongoing process.

As species jātis further comply with certain sets of expected behaviour. They possess original qualities and they act accordingly. However, given this essential interrelation between being and action, jāti and *svakarman*, it is problematic to explain why the actions of

⁵¹ *Ibid.*, pp. 347-405.

⁵² Derrett, *Essays in Classical and Modern Hindu Law*, p. 92.

⁵³ Halbfass, *Tradition and Reflection*, pp. 363-77.

varnas and jātis have to be laid down as duties at all instead of being naturally performed, and how it is possible to talk about brahmins who act like vaiśyas or śūdras who are as brave as kṣatriyas. Here we should be aware of the idea both in Mīmāṃsā and dharmaśāstra that only human beings possess adhikāras, not animals or gods.⁵⁴ That means that unlike the expectable behaviour of animals human actions do not simply unfold as manifestations of one's being but as possible realisations of the adhikāras that one has acquired by that being. Adhikāra signifies right as well as duty,⁵⁵ and by that it suggests that actions do not follow automatically by a person's varṇa or jāti but depend to a large extent on his own resolution and discipline as well as on public sanctions such as punishment and penance. This also appears from the debates in medieval dharmaśāstra works with regard to the universal decline following from the course of the yugas and the obligations of men in relation to this decline. In what follows I shall present one such discussion, that of Mādhavācārya (or Mādhava for short), the mid-fourteenth century commentator on *Parāśarasmṛti*.

Original Human Qualities and Present Duties

It is a common misunderstanding that dharmaśāstra was an unrealistic code of rules with very little bearing on the pragmatic sides of life. A more correct description would be that dharmaśāstra competed with other religious enunciations about both authority and validity and, as such, constantly had to adjust its own norms in relation to other ideological claims. Even 'purity', the all-recurrent concern of this literature, was not merely a matter of personal perfection but an asset in this competition. And, in accordance with this basic pragmatism, lost purity could almost always be restored. The assumption was that transgressions of the dharmic rules could always be expected in spite of the detailed code of conduct propounded in the smṛtis. This was not man's fault, but was first of all due to the working of time, that is, the

⁵⁴ J. Duncan M. Derrett, 'The Development of the Concept of Property in India c. A.D. 800-1800', *Zeitschrift für vergleichende Rechtswissenschaft* 64 (1962), p. 29.

⁵⁵ Lariviere, 'Adhikāra – Right and Responsibility'.

course of the yugas. During the yugas, man's inborn capability to observe the original dharma laid down by the ancient sages had decreased and the duties of men had to be adjusted accordingly.⁵⁶ Even then, people failed to observe the rules and therefore prohibitions had to be supplemented with instructions for penances in case they were broken. Phrases like the following are characteristic: 'Such food should not be eaten. In case of eating it, however, a penance has to be performed'.⁵⁷

The very next verse of the *mūla* text admits that even expectations for brahmins must take into account the natural degeneration of the yugas: 'As the yuga is, so are the brahmins. They are not to be blamed.'⁵⁸ This is a central statement in *Parāśarasmṛti* which is famous precisely for its attempt to account for the yugas (1.1.22-34) and to attribute particular dharmaśāstras to particular yugas, itself, of course, being presented as the teaching for the present dark *kali* age as already mentioned (1.1.24). Mādhava made a lengthy commentary on the verse about the changing yugas and the changing character of the brahmins in which he summarised a discussion about the contrast between the ideal, original qualities of the varṇas and the real state of affairs of his own time:

The intention of this verse is as follows: The progress of vice [*adharmā*] is twofold, that which is related to yuga and that which is related to failures such as neglect and idleness. In this respect, since there is no escape from that progress of vice which is related to yuga, Parāśara makes no effort to avert that. But with regard to the progress which is related to failures like neglect and idleness, there dharmaśāstra applies. This is so: Like there is an original injunction to study which signifies as much as the recitation of the Vedas together with their auxiliary disciplines including the knowledge of their meanings, and yet we find no such brahmin in the kali age, so the duties pertaining to the celibate student's stage of life and study are mentioned a thousand times when that subject is treated, and still no pupil is found who follows all these duties. If such is the state of affairs with respect to study only, how much worse when it comes to acting according to the meaning of the entire Veda and its auxiliary disciplines. When that is the case, when no one is

⁵⁶ Lingat, 'Time and Dharma', pp. 10-11; Lingat, *Classical Law of India*, pp. 186-8; see also Kane, *History of the Dharmaśāstra*, vol. 3, p. 885 ff.

⁵⁷ *Parāśaramādhavīya* vol. 2, I, p. 449.

⁵⁸ *Parāśarasmṛti* 2.11.50 c-51b.

endowed with the original quality of a brahmin as laid down in śāstra, when both the classes of kṣatriyas and vaiśyas have been destroyed as for their original qualities, and when it is impossible for all these twice-born to be served because the sūdras who are their original servants have completely lost all respect, does that mean, then, that dharmasāstra has proceeded [in vain] by stipulating the original duties of the four varṇas for people in whom they are destroyed, or is dharmasāstra rather meant for people who go ahead, following the duties of the four varṇas as far as they can recognising that the original dharma is impossible? Thus it is discussed in mīmāṃsā.⁵⁹

In other words, it is admitted that the original dharmas of the varṇas represented an unattainable ideal. But that does not mean that there was no connection between these original norms and what men might accomplish today in good faith and according to their abilities. They had only to distinguish between deviations from that ideal which were unavoidable due to the yugas and others that were just caused by their own idleness. Dharmasāstra applied only within the sphere of what was humanly possible, and accordingly offered cures, in the form of penances and purifications, for lapses within that sphere. Thus, in spite of the acknowledged inconsistency between original norms and present practices, the latter were nevertheless seen as representing the ideal norms under the given circumstances. Mādhava therefore concluded, referring to the pragmatic context of meeting the demands laid down for members of those brahmin councils (*pariṣad*) which decided in matters of penance, by reminding the candidates of their duty to perform the necessary penances themselves whenever they neglected their (humanly accomplishable) dharmas:

Since Parāśara's opinion is that to follow dharmasāstra according to what is possible is the better [of the two presented alternatives] when the original qualities of the varṇas have been destroyed, he admits, by saying, 'they are not to be blamed', that no one can avoid the progress of vice, although this does not imply any guilt. But since it is, nevertheless, also possible to see a progress of dharma [and not only of vice] in the form of brahmins endowed with a highly respected fund of study, why should it not also be possible to have councils of brahmins free from failures such as neglect and idleness? Rather it

⁵⁹ Parāśaramādhaviya 2.11.50c-51b, pp. 451-2.

is the case that because it is so easy for one who has performed penance to be free from such failures, teaching about penance is so important.⁶⁰

Thus, the initiative lay with people themselves. They were neither the helpless victims of cosmic decline nor Vedic sages endowed with superhuman amounts of learning and morality, they were real brahmins who wanted to be eligible for the pariṣads set up by central or local leaders by caring for their knowledge and purity as far as was reasonable.

But although penances, according to Mādhava, were not meant as a compensation for man's poor faculties in the kali age, but only as a way to avert human lapses, such distinctions were of course highly flexible in practical life. The difficulty lay in trying to determine the limit of human faculties; and consequently make judgements about what situations and transgressions rendered a person liable to penance. Some specific cases were formulated among the so-called *kalivarjyas* which are rules that are said to have ceased to be valid due to the progress of the yugas and so were declared forbidden.⁶¹ These were of limited importance, however, and changes of opinion were rather expressed in new rules added to the existing ones.⁶² Still, they show that past practices are never deprived of their status as original norms although they are felt to be offending by a later time. Instead the discontinuity is admitted by reference to an unavoidable human degeneration.

Conclusion: Normativity and the Ritual Mastery of the Past

Catherine Bell has characterised ritualisation as 'a way of doing things to trigger the perception that these practices are distinct and the associations that they engender are special'.⁶³ The ultimate purpose of such strategies is 'neither the immediate goals avowed by the community or the officiant nor the more abstract functions of social

⁶⁰ Parāśaramādhaviya 2.11.50c-51b, p. 452.

⁶¹ See Lingat, *Classical Law*, pp. 189-95; Kane, vol. 3: 930-66.

⁶² Lingat, *Classical Law*, p. 195.

⁶³ Bell, *Ritual Theory*, p. 220.

solidarity and conflict resolution: it is nothing other than the production of ritualised agents, persons who have an instinctive knowledge of these schemes embedded in their bodies, in their sense of reality, and in their understanding of how to act in ways that both maintain and qualify the complex microrelations of power'.⁶⁴ Periodisation is a central element of this kind of mastery. By dividing time into concentric scales from macro to micro units, from kalpas and yugas to days and moments, and by establishing connections between them which become events of special importance, the present moment is placed in a history which is directly relevant to present aims. The special strategy of religious practices is to combine narrativity and ontology to the effect that the 'story' comes to possess reality and the 'real' comes to possess the possibilities of the story. The events of life are assimilated by making them events in this story. The present is interpreted as a continuation of a past state of being which is attributed authority precisely by being original, and therefore ontologically genuine. Thus, normativity is continually produced through a strategy of cross-projection between a known present and a more or less invented past. This projection is authorised as a science of 'creative preservation' of what is 'recollected' from past sages, a science which is cultivated by experts like brahmin śiṣṭas.

I have focused on two such kinds of creative preservation. One is the manner in which the *smṛtikāras* projected norms for action back into the Vedic past by postulating a Vedic origin for these texts. What is remarkable is that this was an ongoing literary process. It was not only a limited corpus of preserved ancient texts which was set off from contemporary times, but ongoing literary production was understood as a process of recollection and thereby denied a limited, contemporary *Sitz im Leben*. The practical function of this process was to establish a fléxible source of epistemological authority. The arguments of the day in the living debate which has been the heart of traditional Indian intellectualism, were not in themselves authoritative; they had to be substantiated by texts which, on the one side, were relevant to present arguments and, on the other, had a status as being related to the normative past. Smṛtis functioned as such texts.

The other, and parallel, example was about one of the riddles of the varṇasaṃkara system, namely the relation between varṇasaṃkara as origin and varṇasaṃkara as a contemporary practice: 'castes' and 'sons'. Here the tendency of scholarship has been to ignore the latter aspect and to regard the connection between them as fictitious. But this is not warranted by the sources which do not distinguish between the two but regard them as continuous. By avoiding such distinctions the texts preserve the idea that jātis are real universals rooted in the original ontological make-up of humankind. As such varṇasaṃkara genealogies functioned not as myths or speculative theories about certain people but rather as a set of legal definitions that could be applied in the process of controlling occupational interaction with respect to existing groups – and perhaps – even with respect to individuals who descended from inter-varṇa relations. In both cases, those of smṛtis and jātis, present realities are decoded on the basis of the codes of the past. The relation between past and present is understood within the frame of an ontological continuum, while the job of sorting out the 'facts' of texts composed and used in particular moments of history must be left to scholars of a completely different kind.