

Saṃskṛta-sādhutā

Goodness of Sanskrit

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The Implicit Audience of Legal Texts in Ancient India

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For far too long ancient Indian texts have been studied by modern scholars without much regard to their authorship or the social, economic, and political circumstances within which they were composed. More recent scholarship has begun to redress this shortcoming. One of the central issues connected with the composition of any work, however, is its target audience, an issue intimately connected with its authorship that has, however, not drawn the scholarly attention it deserves. It is the focus of this paper within the context of the ancient Indian legal tradition of Dharmaśāstra.

I am, of course well aware that texts, especially texts with a cultural or religious significance, acquire multiple audiences as they are read, transmitted, and commented on by various individuals and groups down the centuries. Especially in India, textual interpretation in the form of commentaries has been an important literary and cultural tradition. The fact that readers find different and often unexpected meanings in texts, that they recreate texts as they read and understand them, is obvious. The modern literary theory of “reader-response” is a recognition of the significant role the reader plays within a text. Nevertheless, I do not subscribe to the extreme literary relativism that sees no significance in understanding a text as a production within a specific historical context or in authorial intent. Philology seeks to understand a text within its original social, cultural, and linguistic world, within which the explicit or implied audience targeted by the author is an important factor.

It is generally accepted that the target audience of the ancient Indian legal texts, the Dharmaśāstras, is the Brahmin. Sometimes this is made explicit in the texts themselves, but often the Brahmin is the implied subject of the ubiquitous Sanskrit third person pronouns. What Madeleine Biardeau (1976: 32) says with regard to the text of Manu is indeed applicable to the broad spectrum of Dharmaśāstras: “Une lecture attentive des premiers chapitres de la *Manu-smṛiti*, par exemple, où sont énumérées ces obligations, révèle que le <<deux-fois-né>> auquel s’adressent les prescriptions est en fait le brâhmane.”

For too long, however, scholars of India have been overly fixated on caste or *varṇa* as the sole marker of identity in traditional Indian society. Recent work in several disciplines has sought to correct this myopic view. Cynthia Talbot’s (2001) analysis of identity and social mobility in the Andhra region has shown

that social/political status and economic class were often more significant markers of identity in inscriptional records than caste. The question then is whether we can identify target audiences of the Dharmaśāstras beyond the generic Brahmin.

In determining the implied audience an author has in mind, as in other areas where we attempt to derive historical information from normative texts, the casual remarks and the *obiter dicta* are much more reliable than deliberate pronouncements. In examining carefully such casual statements in the Dharmaśāstras it becomes evident that the authors came from a somewhat affluent class of society and that they were directing their remarks at others in similar economic circumstances. The audience of the Dharmaśāstras, as also their authors, came from what we would call today the upper or the middle class.

The first piece of evidence comes from the Dharmaśāstric discussions of guests. Hospitality is a central virtue within the Brahmanical tradition from Vedic times (Jamison 1996), and the proper reception of a guest occupies a central position in Dharmaśāstric discourse. A somewhat elaborate ritual is prescribed (see, for example, *MDh* 3.94–120) when a guest arrives at the home of an individual.¹ In this context, Āpastamba (2.6.7–10), the author of the oldest surviving treatise on dharma, instructs the householder:

He should go out to meet the guest, receive him according to his age, and have a seat brought for him—if possible, some say, a seat that has many legs. He should wash the guest’s feet. Some say that this

1 The meaning of “guest” (*atithi*) in these texts is restricted. It refers not simply to any person coming to one’s home but to a Brahmin from a different village who comes to visit for a short period of time, indicating once again that the prescriptions are addressed to Brahmins. Manu (3.102–103, 110) defines a guest as follows: “Tradition defines a guest as a Brahmin who spends just one night. He is called ‘guest’ because his stay is brief. A Brahmin living in the same village or on a social visit cannot be considered a guest even when he comes to a house which has a wife or even sacred fires. A Kṣatriya is not called a ‘guest’ in the house of a Brahmin; nor is a Vaiśya, a Śūdra, a friend, a relative, or an elder.”—*ekarātram tu nivasann atithir brāhmaṇaḥ smṛtaḥ/ anityam hi sthito yasmāt tasmād atithir ucyate// naikagrāmiṇam atithim vipram sāmगतिकां tathā/ upasthitam gṛhe vidyād bhāryā yatrāgnayo ’pi vā// na brāhmaṇasya tv atithir gṛhe rājanya ucyate/ vaiśyaśūdrau sakhā caiva jñātayo gurur eva ca//* See also *GDh* 5.40–43.

should be done by a pair of Śūdras, one of them being employed in pouring the water.²

Here the question is whether the water for the feet of the guest is brought and poured by the host or by a pair of Śūdras. Āpastamba gives the opinion of some that the host should employ Śūdras to do this task. It is clear from the context that Śūdra here refers to a servant. The causative *āhārayet* with reference to the bringing of a seat also probably means that he should get a servant of his to bring it.

We have similar references to servants when Āpastamba (2.3.1–2) speaks about the preparation of food in a household: “Ārya men who are pure should cook the food intended for the offering to All-gods. The cook should refrain from speaking, coughing, or sneezing while facing the food.” An alternative way of cooking is to use Śūdra men (*ĀpDh* 2.3.4–5): “Alternatively, Śūdra men under the supervision of an Ārya may do the cooking. They are to follow the identical procedure of sipping.” It is clear from the context that this cooking is not merely for the ritual of the *vaiśvadeva* offering, for which in any case food is taken from what is cooked for the household. Āpastamba’s (2.3.10) instruction to the cook is: “When the food has been prepared, the cook should stand and announce it to his master saying ‘It is done’”³ Also in the context of the reception of a guest, Āpastamba (2.6.16) says that when a guest arrives the householder “should summon his cook and give him rice or barley to be prepared for the guest.”⁴

It is then clear that in writing his instructions on these routine matters of household life Āpastamba assumes that his target audience—the male householder—is affluent enough to have one or more servants as part of his household.

It is, however, not just Āpastamba who assumes that the householder he is addressing has servants including cooks. Gautama (9.57) also implies that servants prepared food in a normal household when he says that a person should not eat food brought to him at night by a servant. Gautama (5.44), likewise, while discussing the issue of guests who are not Brahmins, states that a Kṣatriya should be fed after the Brahmins, and guests who are not Kṣatriyas “should be

2 *tam abhimukho ’bhyāgamyā yathāvayaḥ sametya tasyāsanam āhārayet/ śaktiviśaye nābahuṣādām āsanam bhavatiṭy eke/ tasya pādaḥ prakṣālayet/ sūdrāmithunāv ity eke/ anyataro ’bhiṣecane syāt/*

3 *siddhe ’nne tiṣṭhan bhūtam iti svāmine prabrūyāt/*

4 *annasaṃskartāram āhūya vrīhīn yavān vā tadarthān nirvapet/*

fed together with his servants to show compassion.” (*anyān bhṛtyaiḥ sahānṛ-śamsārtham*). Manu (3.112) is more explicit: “Even when a Vaiśya or a Śūdra arrives at his house fulfilling the conditions of a guest, he should show kindness and feed him along with his servants.”⁵ Elsewhere too, while speaking of the husband and wife, Manu (3.116) assumes that there are servants in the household who have to be fed: “Once the Brahmins, the dependents, and the servants have finished their meal, only then should the husband and wife eat what is left over.”⁶

Now, given our lack of a full understanding of the household economies of ancient India, it may be imprudent to conclude that the householders these authors are addressing were rich or affluent solely from the fact that they had household servants. There are, however, other indicators pointing in this direction.

Let us look first at the furniture that the authors assume are common or normal in the houses of their target audience. They mention beds/couches (*talpa, śayana, śayyā*) and seats/chairs (*āsana*). Thus, among the essentials that are to be given to a guest are a seat and a bed. Even outside the context of a guest, our authors assume that people they are addressing have beds and seats in their homes. Commenting on the occasion when someone’s former teacher visits his house, Āpastamba (2.5.5) tells him to occupy a chair or a bed inferior to the ones he has given to his teacher. Gautama (2.21) has the same prescription with reference to a student, indicating that beds and chairs were common in the houses of teachers (see also *GDh* 2.25; 5.38). Gautama (9.26) also says that a householder should not recite the Veda seated on the same bed in which he had sexual intercourse. In the daily Bali offering also, two of the offerings are made at the head and the foot of the bed (*MDh* 3.89). The very term *talpa*, used commonly for sex, as in the common expression *gurutalpa* (having sex with the wife of one’s *guru*), shows that the vocabulary of the śāstras was influenced by the furniture that was assumed to be in a house. People, at least people that these authors addressed, slept in beds.⁷

5 *vaiśyaśūdrāv api prāptau kuṭumbe ’tithidharmināu/ bhojayet saha bhṛtyais tāv ānṛśamsyaṁ prayojayan//*

6 *bhuktavatsv atha vipreṣu sveṣu bhṛtyeṣu caiva hi/ bhūñjīyātām tataḥ paścād avaśiṣṭam tu dampatī//* Also in the *Viṣṇu Dharmaśāstra* (67.37) we have the rule that Vaiśya and Śūdra guests are to be fed alongside the servants.

7 The *Viṣṇu Smṛti* (70.6–12) specifies the kinds of wood and gives rules for the construction of a proper bed.

The assumption that people generally slept in beds is also indicated by the rules for certain kinds of ascetic vows that require sleeping on the floor/ground. Āpastamba (2.3.13), for example, says that while learning ritual formulas a householder should sleep on the floor (*adhahśayyā*). Gautama (14.37) prescribes it during a period of mourning. Manu (2.108) gives the same prescription for a Vedic student. The question then is: how many households in ancient India could afford furniture, such as beds, couches, and chairs, in addition to having servants? One could hazard the guess that only a small fraction could have afforded such luxuries.

It is unclear from these texts what sort of internal structure the houses of their target audience had. Did they have several rooms divided by walls? It appears likely that they did. Once again in the context of receiving a guest, the authors tell the householder to provide the guest with an *āvasatha*, in addition to a chair and a bed (*GDh* 5.38; *MDh* 3.107). Āpastamba (2.6.15) provides details: the guest should be provided with “a room, a bed, a mattress, a pillow with a cover, and lotion.” Now, the term *āvasatha* has many meanings and can indicate an area where someone may sleep. However, listing *āvasatha* separately alongside the bed would be superfluous if it simply meant a corner of the house; the bed, surely, would be in such a place. It seems likely, therefore, that *āvasatha* meant a room, here a guest room in the house, again indicating the relative affluence of the householder.

The affluence of the target audience is also indicated by comments our authors make with regard to clothing and bodily ornaments. Now, a *snātaka* (bath-graduate) is a person who has successfully completed his Vedic studies and returned home. Generally, scholars have taken the term to refer to a person who has returned home from his teacher’s house but has not yet married. However, the texts themselves assume that a *snātaka* is married; there are rules for his sexual behaviour with his wife. A *snātaka* then is an ideal householder, one who has completed his studies before getting married. Most texts say that such a person should be handsomely dressed and that he should keep himself clean and smelling good. Many also prescribe gold earrings, necklaces, and garlands. Manu (4.35) says that “he should keep his nails clipped, his hair and beard trimmed, and himself restrained, and wear white clothes.” Gold earring are prescribed by Manu (4.36), Baudhāyana (2.6.7), Vasiṣṭha (12.37), Yājñavalkya (1.133), and Viṣṇu (71.16). Incidental remarks make it clear that wearing garlands on a regular basis was viewed as normal. Manu (4.55) says that a *snātaka* should not take off his garland by himself. Āpastamba (1.32.5) tells him not to appear in public wearing a garland, noting that he should adorn himself only for his wife.

In the context of welcoming a guest, moreover, some texts instruct the householder to kill a large or fattened ox or goat for the guest.⁸ The entire hospitality rite, as well as other prescriptions for various rites and sacrifices, including the *śrāddha*, clearly imply that the householders had sufficient means to carry them out; and so do rules pertaining to the giving of gifts (*dāna*).

In texts from the Gupta period and later, such as those of Yājñavalkya, Nārada, and Viṣṇu, we see documents and documentary evidence coming into prominence. Yājñavalkya (2.84) requires a written contract for all monetary transactions, including debts, attested by witnesses. In their discussions of legal evidence, both Nārada and Viṣṇu deal with documents before witnesses signaling their increasing importance within society in general and in legal proceedings in particular. Nārada (Mātrkā 1.2) says: “There are two methods for clarifying a matter in dispute between two people: a document and witnesses.” Nārada (1.115) says that there are two kinds of documents: those executed by one’s own hand and those written by someone else (see also *ViDh* 7.5). Both the increase in the use of documents and the fact that at least some of those entering into contracts could read and write indicate that these texts are assuming a special crosssection of society: the literate. Viṣṇu (6.25–26) has the interesting observation that a document should be shredded when the transaction is completed (e.g., the debt has been repaid); but when only a part of the debt has been paid “the creditor should give a document to that effect written in his own hand,” clearly implying that the creditor could write. When a document is unclear, the judge is asked to compare other samples of handwriting by the same person (*ViDh* 7.12).

All this indicates that during and after the Gupta period the implied audience of the Dharmaśāstras was not only well off economically but were also either themselves literate or were comfortable in a literate world. We must assume—and this is probably a correct assumption—that most of the population of ancient India even during post-Gupta times was illiterate. If so, then not only the authors but also the implied audience of the later Dharmaśāstras belonged to the rather thin elite slice of the population who could read and write.

Even if the evidence for literacy of the Dharmaśāstric audience is not overwhelming, it is clear that it comprised people who belonged to the upper economic classes. The assumptions made by our authors when they are dealing with a variety of topics make this quite clear. Taking this point into consideration may help us read these documents from a different angle that may shed new light into the social world in which they were composed. It will also make us more cau-

8 See *VaDh* 4.8 and *YDh* 1.109, invoking the text of the *Śatapatha Brāhmaṇa* 3.4.1.2.

tious about using Dharmasāstric evidence to draw conclusions regarding ancient Indian society in general.

Abbreviations and Bibliography

- ĀpDh* *Āpastamba Dharmasūtra* in Olivelle 2000.
BDh *Baudhāyana Dharmasūtra* in Olivelle 2000.
 Biardeau, M. and Charles Malamoud. 1976. *Le Sacrifice dans l'Inde Ancienne*. Paris: Presses Universitaires de France.
GDh *Gautama Dharmasūtra* in Olivelle 2000.
 Jamison, S. W. 1996. *Sacrificed Wife/Sacrificer's Wife: Women, Ritual, and Hospitality in Ancient India*. New York: Oxford University Press.
MDh *Mānava Dharmasāstra* in Olivelle 2005.
Nārada Smṛti Edited and translated by R. Lariviere. 2nd ed. Delhi: Motilal Banarsidass, 2003.
 Olivelle, P. 2000. *Dharmasūtras: The Law Codes of Āpastamba, Gautama, Baudhāyana, and Vasiṣṭha*. Delhi: Motilal Banarsidass.
 Olivelle, P. 2005. *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmasāstra*. New York: Oxford University Press.
 Olivelle, P. 2009. *The Law Code of Viṣṇu: A Critical Edition and Translation of the Vaiṣṇava-Dharmasāstra*. Harvard Oriental Series, No. 73. Cambridge, Mass.; Harvard University Press.
 Talbot, C. 2001. *Precolonial India in Practice: Society, Region, and Identity in Medieval Andhra*. New York: Oxford University Press.
VaDh *Vasiṣṭha Dharmasūtra* in Olivelle 2000.
ViDh *Viṣṇu Dharmasūtra* in Olivelle 2009.
YDh *Yājñavalkya Smṛti*. Edited with the commentary of Vijñāneśvara by U. C. Pandey. Kashi Sanskrit Series, 178. Varanasi: Chowkhamba Sanskrit Series, 1967. Translated by J. R. Gharpure. 3 vols. Bombay: 1936–38.