
THE PERIOD OF GAUTAMA WAS ONE OF THE STRUGGLE BETWEEN ARYANS AND NON-ARYANS. HINDUISM ORIGINATED THROUGH THE Mixture OF ARYAN AND NON-ARYAN ELEMENTS. THERE ARE REASONS TO BELIEVE THAT INDIAN CIVILISATION Owed MUCH TO INDUS VALLEY CIVILISATION. ACCORDING TO SOME INDIA WAs AT FIRST THE ABODe OF NON-ARYANS. THERE WAS NO CASTE SYSTEM IN NON-ARYAN SOCIETY. STATE WAS MONARCHICAL. THE ARYANS PRESUMABLY CAME OVER INDIA ABOUT 1500 B.C. THEIR MAIN RELIGION WAS BASED ON THE VEDAS.

GAUTAMA COMPOSED DHARMAŚŪTRAŞ ON THE BASIS OF THE VEDA.
In aryan society state was established following the principle of divine origin of state. In later age this belief induced people to form secular state. Administration was primarily taken up by the king. He had to take advice from 'sabha', 'samiti' and 'purohita'. Society consisted of four castes - brahmanas, ksatriyas, vaisyas and sudras. The idea of democracy was noticed. In the pre-Gautama days there was no well defined legal system, there might be elements of law not yet codified. It was necessary for the sutra-writer like Gautama to stop this sort of disintegration by writing some law text based on the Vedic tenets.

Gautama's Dharmasūtra was the mile-stone of the edifice of legal system which was gradually built up. He established a strict Vedic society under the dominance of the brahmins. His aim was to establish the interest of individual over that of mass. The religion other than the Veda like Bauddha, Jaina, Pāśupata and Pāncarātra evolved in this period and they demoralised the Vedic society. Gautama declared that all non-Vedic and anti-Vedic activities must be strictly forbidden. Although the government was monarchical, the king was controlled by the brahmins in legal affairs. State was very small. There was no gradation of court, excepting one appeal court. There was no system of proper representation. In legal matter Gautama gave much importance to spiritual laws over judicial laws. He compared the position of the brahmins with the status of God. The brahmins sometimes became king. They enjoyed maximum privilege in society. Even in grave crimes they were exempted from
capital punishments. They took charge of administration of state in their hand. In a word, Gautama was successful to establish a brahmanical state and brahmanical court. Law was divided into civil and criminal.

In the judicial affairs, however, the king was supreme. He was the principal judge and he had authority to award punishment.

Gautama strictly maintains individuality and distinctiveness among four varṇas by imposing varied types of law and order for each of them. Śūdras were the most neglected caste in society and sometimes capital punishment was also imposed upon them. But Gautama upgraded the Śūdras when he said that they were efficient sculptors, educated, cultured and refined. Several types of mixed castes came into existence in society. As a result non-āryan culture and civilisation influenced the political, social and economical life of the Vedic society.

Gautama always gave much importance to progressive society. That is why he accepted conventional laws and customs as sources of dharma. He declared that the Veda and Dharmāsāstras were the sources of all dharma (laws).

In a word Gautama was successful to establish a strict Vedic society and real brahma-sabhā.
From 5th cen. B.C. to 1st cen. B.C. a few Dharmasūtras were composed. They were Baudhāyana, Āpastamba, Vāsiṣṭha and Viṣṇudharmasūtras. State and society remained almost static. The size of the state became enlarged and population increased, as a result various types of complexities developed in society. Otherwise no revolutionary change was noticed in this period. Society was governed strictly by Vedic injunctions. Government was monarchical. Local government was set up and many divisional officers were appointed. Pūga (an association or corporation) was established. Many judicial laws of eighteen vivadāpadas like ṛṇādāna, steya, sāhasa etc. were brought in. In judicial law different types of proofs were noticed. Tax had been imposed. Mixed castes became prevalent and for them new law was ordained. At this period sūtra-kārās adopted new laws in ethics of war. It proved that they were diplomats. Civil law was unchanged. Punishment was regulated by place, time, person and age.

At the time of Baudhāyana, state was not simple and small. Baudhāyana opines that changes in occupation of the brahmins and the kṣatriyas were significant. The brahmins accepted the occupation of all other castes even of śūdra as occasions demanded. Baudhāyana was much sympathetic towards śūdras. A drastic change was noticed regarding marriage law. In fact, it was Baudhāyana who first allowed the marriage, both 'anuloma' and 'pratiloma' between higher caste and lower caste. Fiscal system of Baudhāyanadharmasūtra was also significant. Baudhāyana showed his efficiency in elaborating
the economic and commercial policy of the country. In partition of property Baudhayana showed partiality towards ksatriya-son. This law indicates the degradation of brahmanical supremacy. The king first administered punishment like praşcitta (expiation).

At the time of Āpastamba several changes in legal system were brought in. Āpastamba had denied the secondary sons, the system of niyoga, paisāca and prājāpatya types of marriage. Āpastamba is the first law promulgator who allowed second time marriage, inspite of the fact that his first wife was alive. For the first time sūdras were allowed to study the Vedas. Āpastamba was the first to sanction physical injury i.e. corporal punishment as punishment for a brahmin-offender. In judicial law proofs of 'witness', 'daiva' (ordeal) and anumāna (inference) were noticed. New law for land-owners was formulated. A significant law was noticed in inheritance and the daughters for the first time got the right of inheritance in ancestral property. Āpastamba was never partial to the eldest son. He stated that even the eldest son sometimes would be deprived of inheritance of ancestral property. Āpastamba contributed much for maintaining the progress and upliftment of society. He is more modern and liberal as compared to his predecessors.

The significant change in Vasiṣṭhadharmasūtra was that in the judiciary system, the king himself and the ksatriyas were superior to the brahmin. Two new proofs viz. lekhyā (documents) and bhukti (possession) were allowed. The theory of adverse
possession was accepted. Land tax and commercial tax were imposed. Vasistha first fixed the rate of interest. He is also the first to write a special chapter on the system of adoption of son. In administration, provision was made for appointing a few officers to solve the problem of local disputes. New civil laws were passed in the matter of construction of road, house and land development.

A great evolution and change in judiciary system were noticed at the time of Visnu. Administration was no longer kept under the control of a small group, on the contrary, it was democratized to a great extent. Many new departmental posts came into being. Espionage system was first introduced. The brahmins were not exempted from capital punishment. Anyone for his crime got different types of punishment at a time. Most of the vivadapadas (judicial laws) came into existence. Visnu gave much importance to them in legal administration. Lower court was established. Regarding partition Visnu mentions that grand-sons will inherit their grandfather's property through their respective fathers i.e., per strips and not per capita. Visnu first mentioned the specific occupation of mixed castes.

Manu's society advanced much more as compared to sutra era and revolutionary changes took place in social and political administration, developed further and attained a full form. Manu remodelled the whole judicial, social and political aspects of
society. He looked forward for the benefit of society and state. He did not accept the absolute supremacy of the brahmins and all the verdicts of the brahmins as truth in all spheres like his predecessors. He had extreme modern outlook, especially in some cases of women. He gave considerable freedom to virgin to choose their own husbands. In time of Manu the brahmins lost their eminence and südras ultimately stole the show. Manu accepted also Smṛti, śīla (conduct of honest brahmins) customs and inclination of honest people with the Vedas as the sources of Dharma which included all legal systems. He realised that the king alone would not be able to implore strict judicial system in the entire country and for his help he created many posts of ministers and departmental officers. Nobody could violate law and laws became more systematic and pragmatic. The role of emissary in the legal administration was focussed for the first time. In legal affairs Manu adopted new policies. During this period eighteen titles of judicial laws took full form. He followed judicial laws strictly to form an ideal state. If anybody violated the laws, he was to face severe legal punishment and necessary consequences. Manu was to a great extent impartial in awarding punishments without discrimination. He regarded the brahmins as belonging to the highest caste no doubt, but does not appear to have accepted all their views as infallible. In short Manu was successful to form an ideal Hindu Society under strict judicial laws and severe punishment. By framing a few new laws in different sphere he showed his progressive outlook as a law-maker. Manu, in a word, just like modern age looked
to the interest of mass and he was successful to establish a firm ideal Hindu state. It should be noted that the idea of democracy of modern age germinated for the first time in the period of Manu. That is why he was regarded as founder-father of modern democracy.

In preparing this thesis I have utilised the works of various authors in different connections, but I am specially indebted to P. V. Kane's History of Dharmasastra. As regards the dates of the Dharmasutra works, I have followed Kane's conclusions almost invariably. I have utilised many books and all these have been mentioned in my bibliography. But only a few of them have been actually referred to in the body or at the foot-notes of my work.

I am aware of my limitations but I have worked honestly with hard labour. It is for the scholarly world to judge the merits or demerits of my work.

At the end I must express my deepest regards to my guide who in spite of his heavy pre-occupations has been kind enough to go through the whole work and correct it step by step.