CHAPTER IV

MANU'S CONCEPTION OF AN IDEAL HINDU SOCIETY AND ITS INFLUENCE UPON HINDU LEGAL SYSTEM.

The fountain of the origin of Dharmaśastras of India is four Vedas. From immemorial time, the greatest truth was revealed to the sage who were the searcher of truth, i.e., the outcome of truth was compiled in the Vedas.

The Dharmaśastras were composed for the interest and welfare of the society. The history of revolutionary changes of Dharmaśastras were interlinked with the history of multiple changes in progressive society. As changes were brought in the political history, simultaneously transformation in religion attained different shape. People started to oppose eternal laws (sanātana dharma), on the other hand they favoured rajakarta-dharma (laws made by the king).

Ancient India saw the rise of various religious movements which may be classified, according to their relation to the Vedic (comprising Śrauta and Śmārtā) as anti-Vedic
(viz. Jainism, Ajivakism and Buddhism), semi-Vedic (consisting primarily of Vaisnavism, Shaivism and Brahmaism), and non-Vedic (viz. Saktism). Besides the staunch followers of these religions, there was another class of people who were rather of a mixed type. On the one hand, they had high regard for the sectarian gods and looked upon their worship as the means of attaining salvation, on the other, they valued much the practices of the rules of the varnasramadharma, (custom of four castes) and regarded the Vedas as the highest authority.

The brahmanical religion, rooted in the Vedas, allowed the highest place to the brahmins in society. They formed the intellectual class among the aryans and commanded at least for themselves - the highest respect. Such a state of brahmanism continued, more or less smoothly, for a long time until there arose many new religious systems - some of which were clear protests against the position of the brahmins and the authority of the Veda. The rise and propagation of these rival faiths proved very fatal to the sacrificial religion of the Vedas which was already on the decline. We find that long before the time of Manu the ārauta rites were gradually becoming obsolete and the orthodox Vedic religionists were turning smārtas.

Probably long before the line of Buddha, there were
revolts against the brahmanical doctrines. The Suttanipāta mentions sixty-three different philosophical schools—probably all of them non-brahmanical. Of the teachers of these anti-Vedic religious systems the names of Mahāvīra, Gosāla Māmkaliputta and Gautamī Buddha are too well-known to be overlooked, and these three non-brahmanical teachers were the most formidable enemies of brahmanism.

Gosāla Māmkaliputta's system was Ājivakas, and his teachings resembled much those of Mahāvīra.

The third is Buddhism. The Buddhists, especially those who entered the saṅgha, practised ahimsā, did not regard the Vedas and the brahmins, ignored the Vedic gods, did not recognise caste distinctions and cared little for the varṇa-śrama-dharma (customs of four castes).

After the downfall of Mauryas, there was a brahmanic revival under the Śuṅgas, but the impetus which Buddhism received from Asoka was not to be stopped.

Then comes vaisnāvism and saivism. Modern Vaisnavas consist generally of the Pāñcarātra and bhāgavatas. The admittance of the casteless foreigners into the vaisnava fold,
and the encouragement to sannyāsa for the practice of Yoga, as contrasted with the conservative and orthodox views of the Purāṇas, tend to show that the character of Vaiṣṇavism, which was accepted by those foreigners must have been against the varnāśrama-dharma (customs of four castes) and therefore a menace to it. The early character of śaivism also does not seem to have been very favourable to the varnāśrama-dharma and the authority of the Vedas, Pāṣupata dharma related with saivism was contradictory to, though in a very few cases agreeing with the rules of varnāśrama-dharma and which was denounced by the unwise. It is perhaps on account of their characteristic non-brahmanical ideas and practices that the worshippers of Śiva have been looked down upon the smṛti-writers.

The different sects and systems of religion that we have just reviewed created an atmosphere which did not in an orthodox way conform to Vedic or brahmanical ideas. This atmosphere was further disturbed by the advent of the casteless foreigners such as the Greeks, Sakas, Pahlavas, Kushāns, Abhiras and others, who founded extensive kingdom and settled in this country. Though these foreigners accepted Buddhism or Vaiṣṇavism and were soon indianised, their anti-Brahmanic manners and customs could not but influence the people, especially their co-religionists.
Further trouble was created to the brahmans by the political supremacy of the non-ksatriyas or rather südras as the Purānas hold under the Nandas, the Mauryas, and probably also the Andhras. The brahmans always emphasised the low social status of the südras and reduced them to servitude. As these chapters speak of many südra kings who ruled in the Kali age and encouraged the spread of Buddhism and Jainism.

These chapters give us a picture of a society in which the people often neglected the caste and āśrama (four orders) rules, and were influenced by the non-brahmanical and anti-brahmanical ideas and beliefs. The twice-born gave up the study of the Vedas and the performances of sacrifices which were reserved for the foolish. They forsook their own dharma, became wandering mendicants in hundreds and thousands, and worshipped Gods with popular songs, but could not attain the supreme Brahma. They performed various acts on the authority of the non-Vedic works, lost all attraction for their own duties. On account of the spread of Buddhism and Jainism, the supremacy of the brahmans was often questioned. Men of all degrees pretended to be equal with the brahmans, and defiled their authority. The Vaisyas gave up trade and agriculture, earned their livelihood by servitude or the exercise of mechanical arts. In this way the pure Kṣatriyas and Vaisyas were almost extinct, and the prevailing caste was the Südra.
The Purāṇas further say that in the Kali age the majority of kings were Śūdras. There were many instances found in the Kurma-purāṇa where the brahmins bowed down to the Śūdras. Even the brahmins worshipped the Śūdra-kings. The Śūdras studied Veda and performed asvamedha yajña. Besides the above causes of disturbance, there were also others which seemed to destroy social peace and order. Kings turned robbers and the officers lost all sympathy for their masters. The life and property of the people were made insecure by a remarkable increase of petty thieves, burglars and robbers.

A study of the jātakas creates in us the impression that the world of India was one in which the ancient priestly caste had lost its authority, that nobles and merchants were more regarded than brahmins. The brahmins were often found to follow professions which were against the prescriptions of law books. There are many instances in which the members of different castes—princes, the brahmins, śreṣṭhins are found to form friendship, to interdine, to intermarry and to send their sons to the same teachers, there being no reflection passed on them for doing so. Such contamination of castes was in progress in the early centuries of Christian era.

These accounts show that the authority of the Vedas
was often not recognised, the varṇāśramadharma was neglected. The social position of the orthodox brahmins was much lowered. The Śudras became overpowerful to the upper three castes. Women became prone to demoralisation. Consequently the brahmins felt it necessary to make an attempt to re-establish the varṇāśramadharma, the authority of the Vedas and all other sources of indisciplinary affairs. This attempt seems to have been made by two sections of people in two different ways, viz., by the orthodox brahmins who first began to preach the performance of ṣṛṇya-rites through śṛṇti works, and by the more numerous śmartas-vaiṣṇavas and śmartas-śaivas. That this intention was at the base of the introduction of śṛṇti-matter into the Mahābhārata and the Purāṇas is evidenced by the Purāṇa themselves. It should be noted that this attempt of the śmartas devotees of different Gods to preach their respective faiths with a view to establishing the varṇāśramadharma and the authority of the Vedas was responsible for giving rise to purāṇic vaiṣṇavism, śaivism, brahmism śāktism etc. as distinct from their popular prototypes.

The above discussion undoubtedly reveals that before the existence of Manu, the Hindu society was on the verge of ruin by the influence of non-Vedic, anti-Vedic activities and appearance of different types of religious cults e.g. Buddhism, Jainism, Vaiṣṇavism, Pāṣupata and Pañcarātra religion.
For the safeguard of the Vedic religion varṇasramadharma and for the establishment of eternal truth of Hindu society, people felt for a stern, wise, experienced, strict, efficient and farsighted law maker who will be eligible to save the country from the disaster. According to ancient Hindu tradition, Manu was the first king of mortals. Maxmuller held that it was posterior to the fourth century. George Bühler, holds that the work, as we know it, existed in the end century A.D. About the date of Manusmṛti, there are citations from it by Asvaghosa and the Dhammapada, an anonymous citation of a verse from it in the Mahābhāṣya, an early Cambodian inscription which cites Manu, '11,135) without naming him, and gives the gist of Manu (III,77-80), and Vatsyayana's reference to Manu. One of the aspects not touched on is the similarity in many passages between Manu and Kautilya, and in the Tamil aphorisms of the early Tamil ethical writer Tiruvalluvar, for whom a date in the 2nd century A.D. is of the Chinese, Parthians, Yavanas, and Sakas (X, 43-45) in the enumeration of Kṣatriya tribes or people, who had become Vṛsalas, by neglect of their enjoined duties (kriyālopa). In Medhatithis the name Pallavas appears as Panhavas, and in Bṛhatā's Naṭyaśāstra as Pahrava.¹ Such

¹ K. P. Jayswal, Manu and Yājñavalkya, p.37.
passages, containing enumerations, are easily interpolated or altered, in the interests of invaders who wished to be brought into Manu's Scheme. If they are genuine and not interpolated, the extant version cannot be older than the 2nd century B.C. and would approximate to the date suggested by Bühler as an upper limit.

It is noteworthy that, judging entirely from its content viz. ignorance of places south of Hindusthan, when Ceylon was occupied in 500 B.C., the omission to refer to the worship of Puranic deities like Śiva (who are mentioned in early Buddhist literature), imperfect knowledge of the six darśanas, omission to mention the names in the great epics, Max-Duncker was inclined to date Manusmṛti soon after 600 B.C. Undoubtedly, a work that denounces the Licchavis cannot have been composed in the Gupta period, when the emperors boasted of their Licchavi connection. Its awkwardness in enumerating rules of judicial procedure, which is taken along with its omitting two out of the usual eighteen titles of law, is held to be a sign of early date. If we accept Bühler's dictum that Manusmṛti shows a period in which the systematic treatment of law had begun but had not advanced, the argument can be used for putting Manusmṛti before the Kautilya. Speculations about the native country of the author are inconclusive. They are also irrelevant. The feature of
historical validity in Manuśruti is that for nearly two thousand years it has enjoyed a position of paramountly among the books which aimed at guiding the daily lives of Indians, and its social and political systems have had remarkable constructive results.

The reason for its great influence, apart from its claim to be divinely inspired, are obvious. It deals with civil matters (982 ślokas out of 2685) than any other work. It is non-sectarian. It was not composed by order of any ruler, and so had no limited influence. It relies on the oldest sanctions, viz. those of the Veda.

In now it nowhere inculcates the worship of Purānic deities. Its tone is ethical. It deliberately aimed at wide influence by being prescribed for study by those, who, in the social order, were the teachers and leaders of society. Above all, it enjoyed the prestige and power natural in a work that claimed as its author the parent of mankind.

Before the appearance of Manu, Hindu-religion faced disaster from another side. In want of ksatriya-kings, the Sudras reigned over the country and they became over powerful ans denied the authority of the Veda. Most remarkable event was that the brahmins not only lost their eternal power and right, they were regarded as dasa, in few cases. The lower class of the society routed the most upper class. Under this circumstances the practices of religion, conception and Vedic activities cannot proceed in a natural way. As a result, the advancement and progress of society was suppressed. But for the improvement, welfare and progress of the society cannot be continued for long time. With the appearance of Manu a revolutionary change was brought in society. Manu felt the reality that society is not static, it is dynamic.

Historical background played an important role in Manusamhita which had much influence upon its legal system.

The Maurya dynasty ruled India about hundred and fifty years. After that India was repeatedly attacked by foreign invaders.
Greeks, Saka etc., and other foreign invaders destroyed the internal peace and discipline of India by attacking India time and again. They began to settle down in India permanently. Moreover, Northern India was attacked by Punga and Bhārasīva, Eastern India, by Cetas and Western India was attacked by Satavāhanas. With the invasions of foreigners the social order of India faced disaster, and this disaster brought many changes in religion also. Asoka showed much liberal attitude to the foreigners and accepted them in his country gladly, and for that reason he devoted himself to preach Buddhism and took much care for the propagation of Buddhism. He not only entrenched itself in the Indian soil but was well on its way to becoming a world religion, while Jainism entered on its career of becoming an all-India cult. The brahmanical religion also not retreated, on the other hand, in the face of this challenge, the brahmanical religions girt itself by a tremendous intellectual effort for a new lease of life. As a result, the entire body of its social and religious rules and regulations and judicial laws developed were systematised and compiled in Manusamhitā. Manusamhitā was an authority and greatest example of wisdom of Manu. Manu's idea, thought and conception saved the society and religion from great disaster and established an ideal state and supermost Hindu society. Now it will be explained how Manu was successful to form and establish an ideal Hindu state and Vedic society.
The society was evolved on the basis of the literature of Dharmasūtras. Manu, also like his predecessors accepted the Veda as the source of all dharmas. Manu had stern orthodox attitude towards brahmanical religion. Inspite of that Manu did not forget the progressive society. He was always much careful towards the important side of the society i.e., advancement and progress of society. That is why Manu was not satisfied with the three sources of dharma, e.g. the Veda, smṛti and Śiṣṭācāra which were prolonged custom of the society. This type of difference of opinion of Manu introduced a great distinction and difference with other previous Dharmasūtrakāras.

The following śloka, noted below realized that Manu had advanced few steps as compared to previous sūtrakāras e.g.

\[
\text{vedo'khilo dharmamūlam} / \\
\text{smṛtiśile catadvīdām} // \\
\text{ācārāścāva śādhuṇā} / \\
\text{mātmanastuṣṭireva ca} //\]

1. ātmaṭuṣṭi - there is a rule to perform homa in time of sunrise and there is also a rule to perform homa before sunrise - these are optional religious laws. In this case, the ātmaprasāda is the source of dharma, i.e. one can perform homa any one time between two times referred to according to one's desire. (That is meant by ātmaprasāda).

2. Manusamhīta, 1.6
i.e., the whole Veda, smṛti of persons who are learned in the Veda, their good habits (śīla) like brāhmaṇyata etc., practices of the sages and ātmaprasāda - these are the sources of dharma.

So, Manu enumerates four sources of law, viz., śrutī or the Vedas, smṛti, customs of holy men and one's own inclination. He enhanced the limit of sources of dharma by establishing two more sources viz. customs of holy men and one's own inclination. Manu makes it clear that these have precedence over the last two.

In explaining the significance of the term smṛti, Manu said clearly that by smṛti he meant the Dharmaśāstra which was composed by those learned in the Veda and was quite different from the extra-Vedic smṛtis (veda-vēkṣya smṛtaye), so there can be little doubt about the fact that Manu did not look upon the Purāṇas as 'Smṛti' works and a sources of dharma.

In commenting on the expression 'ācārascaiva sādhūnām' occurring in the verse of Manu smṛti Sarvajñānārāyaṇa takes

1. Manusamhitā, 2.6
the word 'sādhu' to mean persons engaged in the performance of acts in accordance with the Veda and regards the acāra (practise) of such persons to be inferior to sīla on account of the possibility of suspicion about the correctness of the tradition on which the acāra is based.

We have already shown how the changes in the social, religious and political history of India prior to the days of Manu created a situation in which there was a remarkable increase in the number of the latter class of members of the Vedic fold. So, inspite of his decided inclination for the Veda, Manu could not reject the unauthorised but ancient and widely popular customs and usages (acāra) of this class of people as unlawful and thereby create disruption in the Hindu society to the advantage of the anti-Vedic religionists. However, in making this distinction between the followers of the Veda, Manu had also to distinguish between their peculiar but widely accepted practices (acāra) of long standing and to set up two different standards for judging their acceptability. The reason for making the distinction appears to have been as follows. The peculiar but widely accepted customs and usages (acāra) of those who studied and learnt the Veda and also habitually followed its prescriptions, maṇḍā could be presumed to have been derived from some Veda
or smṛti, even though these were not traceable in any existing Vedic or smṛti work. But the faultless persons lacking knowledge of the Veda but belonging wholeheartedly to the Vedic fold could have no smṛti of their own. They were dependent on the traditions and the practices of the sīśṭas for the authority of those of their own. So, their peculiar but widely popular practices, for which no basis could be found even in those of the sīśṭas, were distant from sīśṭāsmṛti or sīśṭācāra by one step more and were consequently weaker than the peculiar customs and usages of the latter. It was due to this distinction between the two classes of acāra that Manu praised only 'śruti-uktā' and 'smārtā' acāra as parama-dharma in the following verse:

\[
\text{acāraḥ paramo dharmah śruti-uktah smārtat eva ca /} \\
tasmād asmin sādā yukto nityam syād atmavāndvijāh //}^1
\]

It is to be noted that although acāra has been recognised in Manusmṛti and as one of the sources of dharma, it has not been given the same importance as the śruti and the smṛti

1. Manusamhitā, 1.18
in the three verses referred to above. So it is more reasonable to hold that in Manusmṛti śrutī-ukta and smṛta acāra only have been praised as 'parama-dharma'.

From what has been said above it is evident that Manu was not in favour of giving equal importance to all kinds of āvāra (customs) prevailing among the followers of the Veda but made a distinction between them in accordance with the nature of acquaintance of these followers with the Veda and this attitude of Manu towards the different kinds of acāra is perfectly in agreement with his attitude towards the Atharvaveda.

The enumeration of the five sources of dharma, as found in Manu-smṛti, must not be taken to be in disagreement with Manu's mention of the fourfold 'dharmalakṣaṇa' in the verse of the Manu-smṛti.

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1. Manusāṁhitā, 1.108

vedaḥ śrutīḥ sadācārah svagyā ca priyamātmanah
etaccaturvidham prānuḥ sāksāt-dharmasya lakṣaṇam
Manu's recognition of the different sources of dharma shows how, inspite of his remarkable inclination for the Veda, he took the problems of the different classes of members of the Vedic society into consideration and made provisions for them with an eye to the tendencies of the age in which he lived and wrote. Although Manu's sincere regard for the Veda did not allow to be as much liberal in his outlook as his age required of him, it must be admitted that his contribution to the life and growth of the Hindu society against the onslaughters of the anti-Vedic religionists was considerable and paved the way to the further growth and expansion of the Hindu society and smṛti literature.

Manu's eloquent advocacy for the Vedas and his rejection of the above mentioned smṛtis as sinful and perfectly useless for the life beyond, could not bring about the extinction of those smṛti works which claimed to be based on the Vedas but recorded views considered by Manu to be non-Vedic. Manu's age was followed by one of great religious struggle, which was marked by zealous activity not only among the various 'extra-Vedic' sects but also among the followers of the composita dharma advocated by the present Purāṇas and the Mahābhārata. However, Kautilya lays down that dharma (sacred
(contract), carita (custom) and rajasasana (royal decree) are the four legs of law, each of which is of superior validity to the one previously named. This is an important innovation by which the king becomes the highest authority for promulgating law. Still more revolutionary is Kautilya's dictum that whenever sacred law (śastra) is in conflict with rational law (dharmanyāya), then reason shall be held authoritative. This is denied by most of the Dharma-śastras which place the sacred law above all, even above the royal decree.

Now the question arises why Manu accepted acāra as the highest dharma and customs of holy men other than śīla or practices of the brahmins learned in the Vedas. The reason is nothing but for the interest of progressive, advanced and changeable society, Manu accepted two more sources of dharma. His interest was not for individual but for mass. As Manu gave importance on progressive society, vice versa he stressed upon brahmanical religion also. That is why he accepted laukika-ācāra (worldly customs) as the highest dharma. All these worldly customs were regarded as śrutī-ukta i.e. statements of the Veda and smārta-custom. Śrutī-ukta-ācāra means the customs of the persons who are learned in the Veda and all these customs are collected from the Veda and the smṛti.
On the other hand, the smārta-ācāra means customs of śiṣṭas who had no Vedic knowledge, their authority was śiṣṭācāra and smṛti of the persons, learned in the Vedas.

As the state enlarged much, population of the country increased more and more. Simultaneously the complications of the society grew and developed in huge form. The reason of origin of smārta-ācāra was nothing but the increase of complications in society day by day. Some śiṣṭa (cultured) persons composed a few customs on the basis of smṛti and śiṣṭācāra of persons, learned in the Vedas and they also at the same time kept watch upon the complications of the society. These polite (śiṣṭas) persons could not forget the temporal world. They advanced a few steps more and prescribed popular customs although their foundation or basis was weak. Manu was much alert to temporal world as he said -

\[
\text{acāraḥ paramo dharmaḥ śrutyuktah smārta eva ca} / \\
\text{tasmād asmin sadaṃ yukto nityam syād ātmavān dvijah //}
\]

1. Manusamhitā, 1.18
He in eighth chapter clearly states that customs of holy men, if they do not go against the law of country, family and nation, have authority. But there is no denying the fact that although Manu accepted acāra (customs) as one of the important authority, he did not give equal importance with sruti and smṛti. That is why he was classified the acāras and has created difference with each other on the basis of their importance. Epoch-maker Manu did not deny the unimportant acāra also. In this context it may be said that he did not accept all the customs as sadacara. Only the customs belonging to four castes and samkīrṇa (mixed) castes who belong to the country viz. brahmavartta will be regarded as sadacara. Manu has showed his broader outlook by accepting the customs of mixed castes. Before Manu, no Dharmasūtra-kārās accepted the customs of mixed castes. But at the same time Manu has showed his orthodox outlook by ascertaining the limit of sadacara. From beginning to end Manusamhitā has maintained beautiful consistency of two opposite views.

After the Dharmasūtra-literature, Manusamhitā is an introductory of progressive society as it has accepted different types of sources of dharma as authority. Manu was stern orthodox follower of the religion of the Veda and brahmanism. Inspite of that Manu was very careful and alert

1. Manusamhitā, 2.17-18
towards development of problems and situations which were arising in daily life. Manu did not forget the eternal truth, i.e. that the intervening distance of religion was unavoidable with the intervening difference of time. He was much liberal in this respect.

Manu brought a remarkable change in religion of the brahmin which was continuing from the immemorable time in Hindu society. In sutra era the brahmins were extremely powerful. Manu did not always stoop down to the brahmins. It is true that whatever law or religion, they will establish and whatever they will commence or introduce, people had to accept and bow down to them. But Manu broke this eternal religion and he could not accept all the statements of the brahmin. He, to be precise, could not tolerate the injustice of the brahmin. He only recognised the law and religion of the brahmin who belong to the country Brahmarṣi. Political and social history of the country influenced Manu so much, that is why he had passed this statement. During this period the brahmins were degraded morally so much, that real and honest brahmin was rare in society. They involved themselves

1. Manusamhitā, 2.19-20
in various types of non-Vedic and anti-Vedic activities. For that reason Manu gave recognition to the brahmins who belong to the country Brahmarṣi as only real and honest brahmin.

Manu was capable to form and establish a real Vedic society by ascertaining the border of yajñīya-country and Mleccha country. He was always alert to maintain individuality between two types of castes, viz. twice-born-caste and lower caste. That is why he has defined two types of country e.g.

\[ \text{Kr̥ṣṇa}sāra\text{ṣṭu} \text{cara}t\text{i} \text{mṛgo} \text{yatra} \text{svabhāvata}t\text{ḥ} / \]
\[ \text{sa} \ \jñeyo \ \text{yajñīyo} \ \text{desō} \ \text{mlecchadesāstatahparaḥ} \]

i.e. Manu said that, the country where the deer named kr̥ṣṇaśāra roams about, is recognised as yajñīya-country and other countries will be regarded as mleccha-country. Before the composition of Manusamhitā the social and political history of India was in disorder and disastrous condition. At that time, the twice-born-caste left their own occupations and accepted the occupations of other castes. It was noticed that

1. Manusamhitā, 2.23
the Śudra caste became more powerful and they became king and ruled over countries for many years and they also stooped down the brahmans - the supermost caste of the society. Manu's utmost desire, attempt and ambition were to establish a twice-born-society and to compel the twice-born-caste to follow their respective duties. The system of caturvarṇa (customs of four castes) was almost same. A few changes were noticed - e.g. Baudhāyana accepted the marriage between brahmin and Śudra, but Manu highly condemned it. He also condemned the sell of son (apatyā) highly. But in this time also a few brahmans were found who had accepted various types of occupation going against them. In Manusāṁhitā various types of brahmans viz. cowherd, businessmen, artisāṅg dancers and usurers were found. Even the brahmans had accepted the religion of the Śudra. The statement is cited below:

\[
\text{anāryamāryakarmanāmāryāṅcāryakarminām} \\
sampradhāryābravīddhātā na samāṁ na samāviti //}
\]

i.e. if a Śudra performs twice-born duties, and a twice-born performs the duty of Śudra, both are not equal, vice versa equal also.

1. Manusāṁhitā, 10.73
Manu's independent mode of thinking was noticed regarding the compulsion of acceptance of brahmin's six kinds of livelihood. He clearly states that:

\[
\text{satkarmaiko bhavatyesam tribhiranyah pravartate /}
\text{dvabhyaareka\'scaturthastu brahmasatrena jivati //}^1
\]

i.e. the brahmin can earn his livelihood by six means, he can earn money by three means, by two and if he has small family only by one he can live.

In time of Manu, the brahmins earned money by gleaming ears of corns (śilāncha-vṛtti), Manu was very strict about these type of brahmins and he said that these brahmins will be exempted of doing any virtuous works, only they can do agnihotra and the sacrifice viz. darsapaurṇamāsa e.g.

\[
vartayamśca śilānchabhyaamagnihotraparayanaḥ /
istih pārvayanāntīyah kevalānirvapet sadā //^2
\]

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1. Manusamhitā, 4.9
2. Ibid., 4.10
of Sūtra-literature the brahmin could accept the occupation of Kṣatriya and Vaiśya in time of distress.

But Manu declared that the brahmin could accept the occupation of Vaiśya legally. In this context he said:

\[ \text{jīvamstu yathoktena brāhmaṇaḥ svena karmanā / } \\
\text{jīvet kṣatriyadhātmeṇa sa hyasya pratyanantarāḥ //} \]

i.e. if a brahmin is unable to maintain his livelihood by his own occupation, he will earn money by the occupation of the Kṣatriyas.

Equally Manu said regarding the acceptance of occupation of the Vaiśya for the brahmin that:

\[ \text{vaiśyavrūtyapi jīvamstu brāhmaṇaḥ kṣatriyo'pi vā / } \\
\text{himśāprāyam parādhinām krṣim yatnena varjayet //} \]

In this period many immoral activities were noticed among the four varṇas. Manu earnestly attempted to remove all these corruptions which demoralised the caturvāpa(four castes) and

1. Manusāṁhitā, 10.81
2. Ibid., 10.83
Vedic society. He was successful to establish a full-fledged Vedic and Hindu society and simultaneously he accepted the spirit of time (yugadharma). He was very alert to save the eternal religion of brahminism, but he never neglected the new laws made by brahmins. He was always conscious that the society was not static, and laws cannot be framed for society by adhering to the old and accepted customs only. He always highly respected the brahmins and established the position of the brahmins as a topmost or most prized class of the society. But he never accepted the ideal that he would be bound to accept all the verdicts that would come out from the mouth of the brahmins and also all the statements of the brahmins would be compulsive. This fine expression of Manu proves his logical and reasonable outlook as a law-maker.

Before the composition of Manusamhita, India was repeatedly invaded by foreigners viz. Saka, Yavana, Palhava and Greeks etc. They did not accept the religion of Veda and they were much influenced by Buddhism and settled down in India. A few persons of Vedic community were much influenced by them and could not pursue their eternal religion. The twice-born-society entered into non-Vedic society and fully forgot their own religion and accepted the religion other than their own. They devoted themselves to various types of non-vedic and anti-vedic activities. This is the reason of History of origin of mixed castes.
The number of mixed castes rose high in Manusamhita as compared to previous sutra-literature. Manu has mentioned law and occupation of each and every mixed caste in detail. There are some mixed castes that are found in Manusamhita, whose origin of places are separate and same mixed castes were named in different designations according to origin of places. As for instance, Pukkaṇa, Kukkuṭa, Svapāka and Vena were named as Āvantya, Vatadhāna, Puspadha and Saikha respectively according to their origin of places.

In time of Manu as the brahmin and the Kṣatriyas did not perform all the ceremonies (saṃskāras) of twice-born caste in time, they were converted into the Sudras, e.g. Pauṇḍraka, Andhra, Drāviḍa, Kāmboja, Yavana, Śaka, Pārada, Pah naïva, Chīna, Darada and Khasa.  

The brahmins were sometimes named as dāsyu in Manusamhita. After seeing all these corruptions in society Manu took much care to form a Vedic society.

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1. Manusamhita, 10.44  
2. Ibid., 10.45.
Manu established some special laws about mixed castes. According to him, Sūta, Magadha, Vaideha, Āyogava, Ksattā and Cāndala who belong to pratiloma-caste had no right to perform the funeral rite of fathers. The sons who were born of mixture of pratiloma and anuloma father and mother will be regarded as blamable and very bad and also they will be deprived of right of performing any virtuous deeds. Among them Ksattā and Vaideha - these two pratiloma-castes are touchable, and Ambaṣṭha and Ugra - these two anuloma-castes are touchable. Manu has named the sons who belong to anuloma and whose origin is from twice-born-caste as Apasada and the sons who belong to pratiloma are named as Apadhyamsaja. The means of livelihood of these castes are the duties which go against twice-born-castes. According to Manu Pārasāva and Cāndala were not fit to be vested with sacred thread (upanayana), because the first one's origin of birth is blamable and second one is born of pratiloma caste. But the sons who are born of twice-born-mother, although they belong to anuloma-class are entitled to do all the samskāras(ceremonies) of twice-born-castes.¹

¹ Manusmṛti, 10.69
Before the composition of Manusamhita during the period of Nanda, the kingdom was ruled over by the Sudra king. The Sudra became over-powerful and they captured the high position in society and stooped down the brahmins - the topmost caste of society. At that critical juncture Manu came in the stage and loosened the Sudra's power and civilised the Sudra. But Manu never forgot the gradual advancement of position of Sudra in Hindu society and simultaneously he gave much importance upon social-status of the Sudra. He just like Apastamba allowed them to perform the ceremonies of twice-born-caste. They got right to pakayajña-sacrifice.

Political history is interlinked with social history of life, not only that it is a part and parcel of social life. Manu was always careful to form an ideal and full-fledged Hindu state and side by side an ideal Hindu society. The Manusamhita proves that Manu was not only a social reformer but he was a real administrator and stern politician. All the samhitās that were composed after Manu, were nothing but interpolation, interpretation, elaboration or summarisation of Manusamhita. As a politician, Manu's achievements are not only remarkable, but also most independent, important and significant in legal history of India.

1. Manusamhita, 10.73
The political ideas of Manu and Yajñavalkya are dominated by the influence of their two-fold inheritance, namely, that of the early brahmanical śūrīs and the technical Arthasastra. Manu’s and Yajñavalkya’s attitude towards war, the old śūrī and Arthasastra ideas are repeated side by side, while Manu’s goal of foreign policy seems to involve a conscious modification of the dynamic programme of Kautilya in the light of the static standards of the śūrī social order.

Political history of India faced disaster just before the composition of Manusamhitā. The rule of Kṣatriya-king declined, and rise of Śudra power was predominant and the country was ruled over by Śudra-king for long time. Even the topmost class of society i.e. the brahmins had to accept the servitude of Śudra. Just at this time, the twice-born caste leaving their respective occupations and duties accepted different religion. There is no denying the fact that, in a word, the Vedic society was disastrous because tremendous stir was brought in political history of India.

At this critical juncture Manu controlled the country, bringing it under one leader and established again the peace and discipline, law and order in the country. The enforcement of law as of the social order is part of the protection for
which the kingship was instituted. There was at first no king. As a result, the people found themselves in trouble and fled in all directions. For their protection, the lord created a king. The kingship thus was divine in origin, though utilitarian in purpose. The king was created out of the eternal particles of the Gods, e.g. Indra, Varuṇa, Yama, the Wind, Fire, the Sun and the Moon.

Manu recognised the monarchical government which was established in the Vedic period. He honoured the king very much and he established the place and position of king in the seat of God. That is why he says -

\[
\text{vaśōpi nāvamantavyo manuṣya itibhūmipah /}
\]

\[
\text{mahati devatā hyesa narahupeṇa tiṣṭhati} \] \text{}/

i.e. although the king is a boy, nobody should ignore him as a little boy, on the other hand he is God in disguise of human being. So Manu, by accepting the theory of divine origin of kingship indirectly has followed the right of perfect arbitrary.

1. Manusmṛti, 7.4 indrāni laya mārkānḍāmaṇeśca varuṇasya ca /
   
candravṛtteśayo śaiva mātrā nihṛtya śvāsvatih/

2. Ibid., 7.8
Jayaswal in the connection of Manu's idealism, says that, this was opposed to all tradition, Vedic rituals of kingship and coronation, and the very spirit of Hindu law which refuses to place even Gods above the law and which distinctly places the king under it.

Like the Mahābhārata, Manu applauds chastisement, as an incarnation of the law, formed of brahmin's glory, protector of all. It governs, guards and protects all creatures. It is the surety for obedience to the law on the part of the four orders etc. It prevents the castes from intermixture and corruptions, it maintains wholesome barriers. Behind this insistence on chastisement lies the conviction that man is naturally a depraved being. Punishment alone can keep the world in order. Fundamentally, the policy of government ought to be a paternal one. The king should behave like a father towards all men. The king's power grows and he prospers in this world and in the next when he prevents the confusion of castes; the king is asked in particular to compel the Vaiśyas and Śūdras to perform their prescribed duties, for otherwise they would throw the whole world into confusion. The lord created the king as the seer i.e. the propagator of the law.

1. Manusamhita, VIII.172
2. Ibid., VIII.418
Manu has described an ideal king as that an ideal king should be aware of law of danda, i.e., the king must have full conception about the law of punishment. The king must have good knowledge about logic and brahmavidyā and the way of earning money by means of agriculture, commerce and live-stock farming. Besides these, the king's most indispensable duties were nursing and servitude towards the brahmins, perfect protection of his subjects, and never to be refrained from war.

If it is said that the age of composition of Kautilya is prior to Manusamhita, then the influence of Arthaśāstra played an important role on the theory of political administration of Manu. In sūtra age Viṣṇu brought a revolutionary change in political history and he advanced many steps regarding the system of political administration as compared to his predecessors. Manu elaborated the flow of revolutionary changes in his book in a more convincing way.

In Manusamhita danda had full strength and it was very powerful to control the whole administration of the country. Manu gave much importance on danda than even the king in the sphere of administration of the country. According to Manu danda has evolved only for the welfare of the king. The king controlled
the whole state by danda. Nobody could avoid himself from the hand of danda. That is why Manu says:

\[
\text{sa rājā puruṣo dandaḥ sa neta sāsitā ca saḥ } / \\
catunāmasramānaṁc ca dharmaṁsyā pratibhuṁ smṛtaṁ //}
\]

i.e. danda is the king, danda is the man, danda is the leader and administrator of the state. The sages have declared danda as representative of the four orders of life.

Manu's theory of the coercive authority (danda) of the ruler repeats and develops that of the old Arthasastra thinkers along several lines. Danda, probably after an old Arthasastra text rules all people, danda alone protects them, danda is awake when others were asleep, the wise declare danda to be identical with the law (dharma). The whole world, we are again told is kept order by danda, good men are rare and it is through fear of danda that the whole world yields the enjoyment which it owes.

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1. Manusmṛti, 7.17
The principle of danda is dealt with by Manu much more briefly in two short extracts. The whole world, he says in one place, stands very much in awe of one who is ever ready to apply danda. Neither the father, nor the mother, nor the friend, nor wife, nor son, nor the domestic priest, we are told in another place, is exempted from the king's danda; should they fail to follow their duties.

The conception of the origin of danda fits in with and completes the Manu's doctrine of divine creation and endowment of the temporal ruler. In the second place, Manu repeats the old Arthasāstra doctrine of identification of danda with law, so as to mean probably that the one is essential means of fulfilment of the other. Thirdly, Manu justifies his views of the high function of danda by reference to an old Arthasāstra principle based upon human psychology, namely, that the fear of danda is the grand motive for the fulfilment of individual obligations. Fourthly, according to Manu, the king's mode of application of danda is the key to the weal and woe of the individual and the community.

1. Manusāṃhitā, VII.103
2. Ibid., VIII.335
For while its just application leads to individual security and happiness, its careless or slight application produces complete insecurity of person and property, neglect of religious rites and overthrow of the social order. This view, while repeating Kautilya's conception of the profound significance of danda for good or for evil for the individual and the community, falls into line with Manu's conception of the king as the creator of the time-spirit. Fifthly, Manu enumerates the good qualities qualifying the ruler for the exercise of danda as well as the bad qualities disqualifying him for the same. This implies the application of the well-known Arthasastra-smṛti principle of the technical qualifications of the ruler to this branch of his executive administration. Manu takes this occasion to impress upon the king the lesson of just application of danda by pointing to the risk of cosmic reaction in the event of his behaving otherwise. Sixthly and lastly, Manu lays down the principle of the king's unlimited jurisdiction over offenders irrespectively of their rank or status. This involves the application of old Arthasastra-smṛti principle enjoining strict impartiality upon the king in the administration of criminal justice.

1. Manusamhitā, 9.243-245
the property of persons guilty of mortal sins, and he explains that the king to take the property into water as an offering to God Varuna or else bestow it upon a learned and virtuous brahmin.

In another place Manu lays down the remarkable dictum that where an ordinary man would be fined one coin, the king should be fined one thousand. In his Dharmaśāstra Manu, on the one hand, repeats the old Arthaśāstra law of treason imposing the penalty of death or other heavy penalties for offences against the king's person and property as well as his authority.

Jayaswal says - "the manava code itself, evidently on its revision, fully contradicted the theory by another theory placed just below the divine theory (7.14-31) where by it, declared that law and justice (law's administration, danda) was created by the creator as his own son. It was that which was the real king and not the king himself, that it was

1. Manusamhitā, VIII.336
2. U.N. Ghosal, ME A History of Indian Political Ideas, Ch.VIII, pp.157-159
empowered to destroy the king if he behaved illegally and arbitrarily, if he was not true to the coronation oath that the king must follow the opinion of the ministers and act in accordance with the śāstras.\(^1\)

Manu personifies danda or punishment as a being of dark complexion, with red eyes inspiring terror and threatening penalties. He thinks danda is born out of glory of Brahma and is the real ruler.\(^2\) It is implied here that punishment was both retributive and deterrent. Manu expressly lays down that the king shall establish prisons all along the public road where the suffering and disfigured offenders might be seen.

In the period of Manu the king got the authority of framing laws of punishment which was a significant and most remarkable event in Manusamhitā. The king got, for the first time, to administer the legal punishment. The brahmins who were learned in the Veda, were so long authority of framing laws of punishment and also administering it, but gradually...

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1. K. P. Jayaswal, Manu and Yajñavalkya, pp. 80-81
2. Manusamhitā, VII.14
this power was captured by the king and it was being nationalised. In later ages, the cause of origin of new law viz., rajaśāsana (administration of king) was the cause of nationalisation of punishment at the age of Manu. Ṛṣāsana code has the theory that the administration of justice (danda) is the real king, the real ruler, the real government. In other words, the king is brought under the law: the rule of law, the sovereignty of law, is practised with the greatest vigour.

In time of application of danda following matters were to be taken into consideration for a thorough analysis—

1) The anuvandha or motive.
2) The place and time, i.e. the circumstances under which the offence was committed.
3) The capacity of the criminal.
4) The crime itself.

Manu tried utmost to establish a state scientifically and to keep the state under the strict control of law. Nobody dared ignore law. People were fully aware if they violate law they had to be victim of strict and severe punishment.

1. Manusāṁhitā, VII.17
He introduced his superb expression of intelligence and logical thought by shifting the power of administration of legal punishment to the hands of the king from the hand of the brahmin. If the power of administration of punishment was vested under the hands of the brahmats, then mass were not compelled to obey it. Where there is no question of law, there is no compulsion of obeying the laws. Where, moral rectification is the only punishment for crime, there are ample opportunities of disobeying the laws. The rigidity and severity of punishment force a person to obey the laws. Where the responsibility of punishment is nationalised, there the power of the brahmats is also limited. At this period, serious punishment for minor crimes and less punishment for serious crime was unauthorised. Even the king himself became victim of serious punishment if he would have done any injustice. Manu's conception about the nationalisation of punishment can be compared with Yajnavalkya after the pattern of Kautilya's Arthaśāstra. This is concerned with king's quasi-legislative authority. Expanding his view of the king's divine creation to be explained fully hereafter. Manu says that one should not transgress the righteous edict (dharma) which the king

1. Manusamhita, VII.1, VII.13.
decrees in respect of his favourites, nor that which inflicts pain upon his enemies. In a second extract the author prescribes capital punishment for those who persevere in opposing the king's commands. Thus in the first place the fundamental smṛtis conception of rājadharma implies that the king is subject to the canonical law of his order which is itself part and parcel of the law of the entire social system. Again both Manu and Yājñavalkya repeat the early smṛti clause of the state law requiring the king to restore stolen property to its owner, as well as those restricting his property rights in various ways. What is more, Manu and Yājñavalkya introduced new penal clause into the old smṛti law recalling those of Kautilya, which make the king liable to exceptionally heavy fines for his offences. Where an ordinary man, says Manu, would be fined one copper or silver coin, the king should be fined one thousand. The above extracts are important for two reasons. In the first place they imply implicitly or explicitly or both that the legal validity of the king's edict

1. Manusamhitā, 9.275
2. Ibid., VIII. 38-40, IX. 189, 243-245.
3. Yājñavalkyasmrī, 2. 34-36.
is contingent upon its compliance with the fundamental law of the social order. Secondly, they mean that the scope of the king's edict is limited by the rules of the state law in the branch of his eternal administration.

Manu strictly opined that punishment should never be applied unnecessarily. If the application of punishment is unjust, then king's fort, movable and immovable properties, the entire country will be oppressed, and this devastation and oppression even are agonising to the sages and Gods.

During the period of Manu, the state got enlarged and turned into a huge kingdom. Manu has referred to in his statement clearly --

\[
\text{api yat sukaram karma tadapyekena duskaram} / \\
\text{viśesato'sahayena kintu rājyaṃ mahodayam} //
\]

i.e. when a little work though it is easy to be done, is difficult to be completed by a helpless person - then many works of a large kingdom are very difficult to perform for

1. Manusamhita, XXR 7.55
one person. So a fort is indispensable for a huge kingdom, because if a king stays in a well-protected fort, he can fight easily with one hundred army of enemy and hundred can right with thousand.

The well-known Arthasastra category of the seven constituents (prakṛti) of the state is repeated with slight verbal changes of Manu. Thus, in place of durga and janapada of the Arthasastra list, Manu has pura and rāṣṭra. But Manu mentions durga also. According to Manu, state is composed of five component parts i.e. the ministry, the country, the capital, the revenue and the army.

During the period of Manu, the king was most powerful authority for the administration of country. Manu's view of the sources of state law repeats that of the early smṛtis. The king we are told in a śloka shall establish as law what may have been practised by good men as well as the virtuous twice-born classes, provided that this is not opposed to the usages of religion, families and sub-castes.

1. Manusamhitā, 9.294
2. Ibid., 8.46
The above extracts stamp the sacred canon and custom as the joint source of state law, the latter being taken as before in a wide sense so as to embrace the usages of local, social and economical groups. As regards the modes of judicial decision the king is asked by Manu daily to examine the suits of litigants by applying the lessons of virtue (dharma) and wealth (artha) as well as their opposites, and to discover the internal disposition of men by external signs. The king, it is further told, should discover the right path by inference. This implicitly recognizes the early smṛti principle that justice administered at the king's court involves the application of human reason to the source of state law.

Manu was not satisfied with the idea that the king alone can administer the whole state. In the sphere of political administration Manu's achievements are remarkable. He gave much importance to law and order; peace and discipline of the country. For that reason he, for the assistance of king, created posts of many divisional officers, pariṣad-constituted of the learned brahmins, local governments and many other judges.

1. Manusamhitā, 8.24-26
2. Ibid., 8.44-45
A pariṣad or assembly for law-making was accordingly prescribed by the dharmasastras. The pariṣad would also serve to forestall monarchic despotism and to surround legislative process with investigation, discussion and promulgation in appropriate form.

Thus Manu prescribes a pariṣad of either ten or three persons. The latter was composed of persons who each knew one of the three Vedas - Ṛgveda, Yajurveda and Samaveda. The former included, in addition, three persons conversant respectively with logic, Mīmāṁsā and Nirukta, one who recites the institutes of sacred law, and three men belonging to the first three orders.

According to Manu, the king should normally preside over the law-courts, and be assisted by the brahmins and experienced councillors. In the king's absence the court should consist of a learned brahmin appointed by the king, assisted by three councillors who are normally the brahmins versed in the Vedas. According to Kautilya each important

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1. Manusamhitā, VIII.1
city and locality shall have a court of justice, consisting of three members acquainted with the sacred law (dharmastha) and three ministers of the king.

Yajñavalkya's description of the royal court of justice agrees with that of Manu. Yajñavalkya, however, strikes a new note when he arranges the other courts of justice in an order of descending importance as follows (a) Officers, appointed by the king, (b) Pūgas (assemblies of inhabitants of the same village or town), (c) Śrenis (associations of merchants and craftsmen) and (d) Kulās (families). With the three last-named courts we may well compare the village, castes and family Pañchayats of modern times.

Yajñavalkya mentions three kinds of proof, namely documents, witnesses and possession and he adds that ordeal is another kind of evidence in the absence of any of these. In the context of the law of debt, Yajñavalkya explains the law relating to documents and witnesses. The latter closely resembles that of Manu. Coming to the last point, Yajñavalkya mentions no less than five kinds of
ordeal in place of three referred to by Manu. These include ordeals by balance, by fire, by water, by poison and by sacred libation.

Manu has described the sabhā - the assembly of king and Mantri and three sabhyas. According to Manu royal judge and the Jury should always be the brahmin. But Yajñavalkya did not accept this view. According to Manu even the illiterate brahmin may be sabhya, but never the Südra. If the Südra will be the sabhya, there will be famine and various types of disease will appear in the kingdom. According to Manu, petition will be granted on the preference of superiority of the varṇas (castes). Here partiality on the superiority of classes was brought in. But Yajñavalkya did not frame this kind of law.

Manu has referred to kantaka sabhā thus: e.g.

\[
\text{samyaṅgniḥvistadesastu kṛta-duṛgaśca śāstrataḥ} / \\
kantakoddhvarane nityamātisthed yatnamuttamam // \\
rakṣanādārgravṛttānāṃ kantakānāṃca śodhanat / \\
narendrastraḍdivam yānti praṇapālanatatparāḥ //}
\]

1. Manusamhita, 8.11
2. Yajñavalkyaśmrī, 8.1.11
3. Manusamhita, 9.252-253
The king residing in durga will always be careful in destroying the thorns of the country, i.e., harmful enemies as thieves and robbers etc. The king who can destroy all thieves and robbers and can protect his subjects carefully can attain heaven.

Kautilya deals with the vyavaharapādas in his dharmaśāthya (iii) section and in Kantaka-sodhana section (iv) speaks of matters that are similarly dealt with by officers called pradeṣṭr (who correspond to coroners and police magistrates of modern times), while matters falling under the dharmaśāthya section were disposed off by the judges. Kantaka means in Kautilya as in Manu 'harmful persons'.

In Maurya period, there were two types of courts e.g. Kantaka-sodhana and magisterial court. Manu converted those two types of courts into one. Serious crimes were brought in court of Jurors and the minor crimes e.g. concerning of roads etc. were brought into the magisterial court.

In every town under the Mauryas there was the dharmaśāthya court on the same model. These courts were the common law courts. They decided all the eighteen heads of vyavahara law. Manu adopted these classification. In time of passing of judgement in litigation if the sabhyas did any
mistake, Manu had prescribed punishment for them. In time of Manu, the king's court was the highest court of appeal. Manu did not favour the system of republic. Jayaswal says that "Sumati knows them only to prohibit brahmin students going to their country and the brahmins from being entertained by them, for the simple reason that Sumati's republican neighbours were heterodox and as such he regards them as atheist". But in later ages the system of republic got much importance and laws promulgated by them, were much favoured.

Manu felt the necessities of many post of administrators for a large state, as one leader is not sufficient to look after all the sides of the state. The evolution of departmental officers were already established in time of Visnu, but in time of Manu it is spread out.

Manu first appointed eight ministers who will work under the king. This is for the first time when the number of ministers is specifically mentioned e.g.

\[
\text{sāstravīdāḥ ṣūrān labdhalakṣān kulodgatān} / \\
\text{saçivān sapta caṣṭau va prakurvita parikṣitān} //
\]

1. K. P. Jayaswal, Manu and Yajñavalkya, p.107
2. Manusamhita, 7.54
Besides the mantri (minister) there was another officer named amatya. One person was appointed to look after the property of minerals and store-house of paddy. Administrators were appointed for the protection of villages. In Viṣṇusmṛti satādhyakṣa was appointed for village, but the post of sahasrādhyakṣa was created in time of Manu.

One minister was appointed to look after duties of the leaders of the villages. An administrator named nagarādhyakṣa was first noticed in Manusāṃhitā. Their duties were to investigate personally, the duties of the administrators of the village now and then and also be acquainted with their motives by appointing spies.

The system of appointing messenger was already established in Viṣṇusmṛti. But in Manusāṃhitā the duties and importance of the messenger enhanced much more. The king was acquainted with all informations of the kingdom and also the pros and cons of the state and careful observation and detail description of news of the state through messenger.

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1. Manusāṃhitā, 7.60
2. Ibid., 7.115-117
3. Ibid., 7.120
A messenger can collect all the information of allied and adversary-country. The state should always keep the information of adversary-country. So for the formation of an ideal state, the importance of messenger is undeniable. That is why Manu says -

\[
dūta eva hi sandhatte bhinatīyeva ca saṃhatān /
dūtastāt kurute karma bhidyante yena manavaḥ //\]

i.e. the messenger can only establish treaty between two allied countries, because the messenger performs this duty after being present personally in another country, and by whom friendship and enmity both are established. Espionage system was much developed. Besides messenger, a spy was also appointed in kingdom\(^2\).

Manu was always careful for the peace and law and order of the country. The duty of the spy was to deliver to the king all the information of the country. Under this strict rule Manu established the law and order of the country.

1. Manusamhita, 7.66
2. Ibid., 7.153
The king was fully responsible for the protection of treasury and the kingdom. That is why Manu says:

\[
\text{amatye daŋga śvētto daŋga vaṁśayikī kriyā /}
\text{nr̥patau kośaraśtre ca ṃute sandhiviparyau} \quad 1
\]

i.e. protection of treasury and the city was under the control of the king, four types of army were kept under the chief of the army and treaty and war were under the messenger.

Different persons were appointed for different types of work in king's palace. 2

The king's position in Manusāṁhitā has been upgraded as the topmost one because he took the responsibility of chief dharmādhyakṣa. In his absence one chief minister can be chief dharmādhyakṣa 3. The strict supervision and control of all the officials was one of the prime duties to the king.

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1. Manusāṁhitā, 7.65
2. Ibid., 7.81
3. Ibid., 7.141
Evil-minded officials who were guilty of bribery must suffer the confiscation of their whole property and must be banished.

Manu, following Kautilya's ranks the calamity of the king above that of the officials, and that of the officials above the state, territory and so forth. This evidently repeats the Kautilya's principle that the king is the most important unit of the state administrator. Manu justifies the principle of secrecy of counsels by the old Arthaśāstra plea of its forming the foundation of successful government. In the second place Manu, differing from the technique of Kautilya, recommends the king's consultation on general topics with a comparatively large council of ministers and his subsequent consultation with the most distinguished minister on selected topics, while he reserves for the king the option of forming a judgement by himself.

The king with the spies as his eyes, shall detect two classes of thieves who are otherwise called rogues and thorns in the side of the people. The first class called 'the open thieves' consists of those who live by the fraudulent sale of various commodities and who take bribes, as well as of cheats, rogues, gamblers, fortune-tellers, high officers and physicians guilty of improper conduct and so forth.
The second class called 'the secret thieves' comprises burglars, foresters and so forth. Manu's method of implementation of this policy which are almost as drastic as those of Kautilya, comprises besides the posting of armed guards and spies at public places as a preventive measure, the punishment of offenders through agents, provocators, the arrest of thieves through their treacherous associates and their wholesale extermination as well as punishment for various other offences.

The goal of interstate relation in Manu's thought is somewhat different from that of Kautilya. Manu says that the king should so arranged matters through all the four expedients that neither his ally, nor the neutral, nor the enemy can be superior to himself.

"Manu has established a few judicial laws in favour of king. He says that the king himself was supposed to be party in cases of treason, forgery of state seals, coinage. Ten classes of offences as offences against statue, torture

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1. Manusamhīta, 7.77
of women's misconduct, adultery, theft, abortion, assault by deed, assault by words were all cases where the king was the complaint.

Manu says that the state took cognizance of civil grievance, where the wronged parties were minors, gods, ascetics, and other helpless persons. It was illegal, if the government prompted people to come to court as suitors.

Manu does not establish any rules of pleading. But such rules had been fixed. Probably Manu had no change to offer and he allowed the current practices. Manu did not allow countercases.

Manu has given much importance the selection of place of discussing secret talks and again and again he has taken caution about this. The king always will discuss his ministers in a secret place so that nobody can keep watch upon them. Manu has prescribed some rules about the place of secret talks. The duty of the king is - he will think of money just like crane, and show his power and strength like

1. Manusamhitā, 4.5
2. K.P. Jayaswal, Manu and Yājñavalkya, pp.120-121
a lion and just like a tiger, he will hunt and if he is weak he will escape just like a rabbit. This statement of Manu indicates his beautiful diplomatic outlook. If the king follows that advice of Manu, the upliftment and improvement of the state was certain and guaranteed. The king should always bring the enemy under his control by four policies, i.e. sama, dana, bheda and danda. At first the king will apply the first three policies, inspite of that if the enemy is not subdued, the king will apply dandanīti to pacify the enemy. Another duty of the king was to keep watch upon twelve kinds of king, e.g. medium type of powerful king, the king who is desirous of victory, the king who is aloof, easy-enemy, friendly king (mitra- rājā), arimitra, mitramitra, arimitramitra, parśnigrāha, ākranda, parśnigrāhasāra and ākrandasāra. Manu has adopted the policy of sandhi (treaty), vigraha (war), yāna (marching), āsana (halting), dvaidha (dividing the army) and āśraya (seeking protection). He has divided them into two divisions.

1. Manusamhitā, 7.106 vakacintayodarthan simhavacca parākramet /
   vṛkavaccavaloṁpta sāsavacca vinispatet //
2. Ibid., 7.155-156
3. Ibid., 7.163-168
The ethic of war laid by Manu is also considered for discussion. The king should be diplomat in time of war. The king should join the war after thinking the position of army of his own and of enemies. In Manusmhitā, besides the army, the use of horse, chariot, boat and army who fights riding upon elephants were first noticed. The king should not abstain from war. It was discredit for the king. Manu has said that –

samottamadhamaiḥ rājā tvahūtaḥ pālayan prajāḥ /
na nivarteta saṃgraṃat kṣātram dharmamanusmaran //1

i.e. the king will never abstain from war because war is the main dharma (religion) of Kṣatriya; by following this dictum, if the king meets equal, weak and strong opposite king, he should never run away from war-field. In war-policy Manu states another dictum, i.e., the men of war are to be selected from prominent places from Kurukṣetra, the Mātysas, Pāncālas and those born in Śurasena. Other war-law is same as Viśnu.

Foreign policy, diplomacy and warfare are treated together by Manu. Here he enunciates no ethical principles but deals with the whole matter on the plane of expediency.

1. Manusmhitā, 7.87
He fully recognises the importance of ambassadors in the delicate negotiations that were always in the progress among the numberless states. As a general rule, a king should look upon his immediate neighbour together with his partisans as a foe, upon the latter's immediate neighbour as his friend and on the king beyond these two as neutral. By force or diplomacy by conciliation or gifts, he should try to impose his suzerainty on all. As the occasion demanded, he should yield or go ahead, make peace or alliance. Royal policy consists of six measures - alliance (sandhi), war (vigraha), marching (yana), halting (asana) dividing the army (dyaidhibhava) and seeking protection (samasraya). These are divided and subdivided by Manu. He embarks on a long and rather amateurish discussion of military manoeuvres, seasons and modes of campaigning, formation of military ranks etc. etc. He permits the devastation of hostile territory. When a king has shut up his foe in a town, let him sit encamped, harass his kingdom and continually spoil his grass, food, fuel and water. Likewise, let him destroy the tanks, ramparts and ditches. It was almost the duty of a king to sow dissensions in the ranks of his enemies.

Manu opined that in the conquered country, the old dynasty must be restored. Some members of the ruling family
will be coronated. Manu further said that the customs and administration of the conquered country which so long prevailed, must be established firmly and given due recognition. If the king of adversary-country does not like fight and wants to make treaty with the conquered king, the defeated king should make treaty with him and return to his own country. Manu further prescribes that the new king of old dynasty will be selected by the members of paura and janapada, and the selected person will be coronated. This theory is defined as doctrine of legitimacy in European politics. The selected person will obey the laws of constitution. Yajnavalkya did not accept this view. But Visnu has supported it. Another official of first rate importance was the ambassador, a sort of foreign secretary and plenipotentiary-general. He transacted that business by which kings "are disunited or not".

After the composition of sutra-literature, Manu's another contribution is to ascertain the fixed salary of servants and officials. Manu fixed up the rate of daily wage of most inferior servants and maid-servants which was one pada-kaḍi, one pair of cloth for every alternate six months

1. Manusamhitā, 7.202
and two maunds of paddy for one month. But the most superior quality of servants will get six times more of the inferior servants, e.g. ---

\[
\text{pa}\text{n}o \text{ deyo'varkṣṭasya ṣadākṛṣṭasya vṛttaṁ /}
\text{ṣanmāṣikastathācchāndo dānyadropastu māsiṁca} //^1
\]

Manu has expressed his own independent view regarding commercial affairs. Manu has nicely instructed how the tax will be imposed upon commercial things. He kept watch upon some basic things on ascertainment of tax - e.g. (1) the price of purchase and sale of commercial things, (2) from how far the things were brought in, (3) how much was spent to purchase the daily food, (4) money spent for the protection of the commodity from the hands of thieves and the portion of profit gained from businessman - after considering all these principles the king should ascertain the tax on the commercial commodities. Difference of opinion was noticed regarding the imposition of tax between

1. Manusāṁhitā, 7.126
2. Ibid., 7.127 kravyāvírayamadnavānam bhaktaṁca saparīvyayam /
   yogakṣemaṁca samprekṣya vanīje dāpayet karān //
Dharmasūtras and Manusāṁhitā. The king will earn sixth, eighth and twelfth part of the corns like paddy etc. In Sūtra-literature it is said that the king would get only sixth part of production. Besides that, the king will earn sixth part of the thing like tree, meat, ghee, honey, medicine, perfumes, fruits and flowers.

In long voyages the freight depends upon punctuality as to time and distinction. This is the rule in river navigation. There is, however, no fixed law as to freight as sea - this law was prescribed by Manu.

Manu lays down the same principles of taxation as found in the Mahābhārata. He is categorically clear in the matter of the validity of property as he says that the forest belongs to him who clears off the timber and a forest animal to him who owns the arrow. It reminds one of the Locke who sees the beginning of property in the mixing of human labour with natural substance. But in Manu the idea is not followed up by establishing taxation on consent. The maxim is no taxation

1. Manusāṁhitā, 7.130
2. Ibid., 8.406
without protection. A king who levies taxes but does not afford protection takes upon himself all the foulness of his people and sinks into hell. Not only of ancient hoards but also of the metals underground, the king was entitled to one-half for two reasons. In the first place, he gave protection to all. In the second place, he was the lord of the soil. Here Manu seems to indicate that essentially the state was the owner of the land. As the king was the lord of soil, he had to pay tax for the attainment of ownership of sealed deposit.

From the above discussion we may come to conclusion that Manu has established political constitution and its administration on the basis of science, logic and reason. He discussed the theory of politics and the duty of king in one chapter. He wanted a firm and strict administration. The dharma of country, of family and of nation, whatever dharma is established, if it is not controlled by one leader, there cannot be any peace and discipline in the country. Manu also showed his far sightedness by appointing many ministers, amātyas and divisional officers to help the king, because he perceived that it is very difficult and impossible to control the country by one leader i.e., a king only. Manu was not only careful for his own country but he ascertained the duties of the king for the adversary and allied countries. In foreign policy Manu exhibited his diplomatic outlook.
After the sutra literature Manu established the position of
king as the position of God. By appointing messenger and spy
for the collection of detail information and secrets of the
country for the help of the king, he for the first time
brought and established peace, law and order in the large
state after sutra-literature. In the sutra-literature,
dharmasūtrakāras did not give so much importance to politics
and Rājadharma, excepting Viṣṇusmrī who advanced to some
extent. Dharmasūtrakāras gave much importance on the establish­
ment of brahmanical religion and its protection. But Manu,
simultaneously kept his eyes on the establishment of brahma­
nical religion and also on the control of administration.
In the sphere of administration and of war-affairs, etc. the
power of the brahmin was limited - this truth Manu observed
through his logical mind. The topics of Rājadharma and
political administration laid by Manu never indicate that
king was the puppet of the brahmin. The power and position
of the king was spontaneous in Manusāṃhitā.

Manu and Yājñavalkya hated the policy of fatalism
in politics. Theory of Karma has been accepted in Buddhism.
In ancient religion the influence of astrology was noticed
in politics. Kauṭilya admitted that the influence of astronomy
in politics is hypocritical. But he has accepted the theory of karmāntara in politica karmāntara means that the incidents of present time are the witness of past incidents. But according to Jayaswal this theory is disastrous for the theory of politics and for the state. According to Kautilya, the state which follows fatalism is easily conquerable.

In judicial administration Manu's contribution is significant and remarkable. Manu controlled the large state by means of law from which nobody will be relieved of. Manu for the first time has prescribed eighteen types of judicial law. The eighteen vivādapadas took full form and were discussed elaborately and compiled in one chapter systematically in Manusamhita for the first time. As soon as the state took a large shape, various types of complications also grasped the society. As a result, the laws were framed to solve the problems of complications. After sūtra literature, there is no denying the fact that Manusamhita had advanced more steps as society also progressed forward.

Manu controlled the whole administration on the basis of dharma of country, of family and of nation. The king also

1. Manusamhita, 8.41
jātijānapadān dharmān śreṇidharmaṁśca dharmavit /
 samīkṣya kuladharmāṁśca svadharmāṁ pratipādayet //
had to keep eyes on them and then he had to judge. In time of judgement the help of sabhyas was also static. Manu first notified the number of sabhyas. The Dharmaśāstras of later ages were much influenced by this. That is why Manu said ---

so'sya kāryaṁi sampā'syet sabhyaireva trivirvṛtaḥ /  
sabhāmeva praviśyāgrāmāsīnaḥ sthita eva vā //

i.e. learned brahmin will enter into the sabhā with three sabhyas and by sitting or standing he will perform all the duties of king. Manu has declared that sabhā as brahma sabhā where three sabhyas who were learned in Rgveda, ŚāmaVEDA and Yajurveda, and king's representative exist. As Manu says ---

yasmin deśe niśidanti vipra vedaDastrayah /  
rājāscādhikṛto vidvān brāhmaṇaśtaṁ sabhāmvidah //

Manu never allows Śūdra as to be a judge of dharma. Before Manu, Śūdra became very powerful by the influence of Buddhism and Jainism; in that time they took the seat of the judge of dharma.

1. Manusamhitā, 8.10
2. Ibid., 8.11
Manu extremely condemned this law. That is why he says:

\[\text{jātmātropajīvī vā kāmām syād brāhmaṇavrūvah /}
\[\text{dharmapravakta nṛpaterna tu śūdraḥ kathaṅcana //} 1\]

Manu has stated if the dharma is judged by the Śūdra, that state faces calamities, e.g.

\[\text{yasya śūdrastu kurute rājno dharmavivecanam /}
\[\text{tasya siddati tadrastram panke gouriva pasyataḥ //} 2\]

vayavahāra consists of four pādas viz, bhasa, kriya, pramāna and nirṇaya. In Manusamhitā a new proof was noticed i.e. anumāna. The smṛtis of later ages were influenced by the proof of anumāna.

How the king will be acquainted with the truth by the proof of anumāna, has been shown by a beautiful instance. As the hunter comes to know the place of an escaped deer who is wounded by an arrow by the mark of blood, in the same way,

1. Manusamhitā, 8.20
2. Ibid., 8.21
the king also comes to know the real facts by the proof of anumāna. "These extracts implicitly recognise the early smṛti principle that justice administered at the king's court involves the application of human reason to the source of state law". The king should always remember a few matters in time of litigation, e.g. truth, money, witness, country and time etc.

Manu has first discussed the eighteen types of vivādapaḍas and he has prescribed certain laws about these vivādapaḍas.

1. Manusamhitā, 8.44

yathā nayatya sṛk pātuirṛgasya mṛgayuh padam /
nayet tathānumāna dharmasya nṛpatiḥ padam //

2. Ibid., 8.4-7

teṣāmādyamṛgadānāṁ nikespo' śvāmovikrayaḥ /
sambhūya ca samutthānāṁ dattasyānapakarma ca //
vetanasyaiva cādānāṁ saṁvidaścavyatikramaḥ /
kraya-vikrayānuṇuṣayo vivadāḥ svāmipālayoḥ //
simāvivādadharmeśca pāruṣye dandavaśca /
steyān ca sahasanōcaiva striśaṃgrahanaśeva ca //
stripuṣadvardo vibhāgaśca dyutamāvaya eva eva ca /
padānyayaṣṭaadāsaitāni vyavahāra sthitāviha //
If the laws were not obeyed by people, Manu has instructed some regulations for them.

Manu has instructed a few laws about the vivādapada, viz. ṛṇādana. The money-lender cannot take more than 5% interest. As Manu has fixed up the rate of interest, it proves that he was a strict administrator.

There are few topics of ṛṇādana which do not fall under jurisdiction — e.g. drunk, lunatic, sick, if all these persons borrow money and the person who is under servants etc, minor, eighty years old person — if these persons also borrow money according to their will, those persons also do not fall under jurisdiction. But in case of mortgage, sell, gift and acceptance the prādvivāka will give judgement. The king's duty to look after the matter that money-lender's loan must be cleared by the borrower. Manu has stated nice means by which the money-lender will collect his loan from the borrower. It is as follows —

\[
\text{dharmaṇa vyavahāreṇa ochalenaḥcaritena ca} / \\
\text{prayuktam sādhayadartham paṅcamena valena ca} //
\]

1. Manusamhitā, 8.163
2. Ibid., 8.49
i.e. by dharma, by yāvahāra, by tricks, by torture the money-lender will collect the money. Even he can apply physical force for the collection of money. The man who steals the property or wealth of others by cheating him, is punished along with his helpers in different way by the king. If necessary he can inflict capital punishment.

Jayaswal opines that the Mānava introduced a new set of laws on interest. He accepts the vyāvahāra rate of 5%, but makes the increase binding on castes other than brahmin. He grades even interest by caste. Accordingly, the Śūdra had to pay the most. Penal interest, called 'kārita vṛddhi', that is a rate contracted for but not allowed by law, was illegal. Regarding bonds and novation only compound interest is allowed by the Mānava.

In time of Manu, the few vyāvahārapadas viz. dattānapakriya, vetanādana, samvidvyatikrama, kraya-vikrayānusaya, dyūta and āhvaya were brought in for the first time.

1. Manusamhitā, 8.140-142
2. Ibid., 8.153
The vivādacāda viz. dattanapakriya means that if anyone gives or promises to give something to anyone, if the person, after obtaining the promised things, does not perform the virtuous work, he has to return those things and never prays or asks for the things again promised by the giver. If the adhamarpa due to greed or emotion does not return the money to giver, the king will punish him one gold coin for his theft.

The vetanādana means the servant who is well and stout, but does not perform or finish the promised work, the king will punish him and will not pay him single part of his wages.

Samvidvyatikrama means if villagers or countrymen in a collective way take promise for any matter in certain place, in any case someone out of greed fails to keep the promise the king will banish him from him from the country.

Krayavikrayanusaya means if any one after buying or selling repeats, he can take back or return the thing within ten days, but after ten days he cannot take back or return it. After ten days if he by force returns or takes it back, the king will severely punish him. Gambling, hunting
and ahvaya were much hatred by Manu. Manu was rather to some extent puritan. He followed the principle of Asoka. He gave stress on the principle of morality in politics. That is why he did not prefer gambling, hunting and ahvaya for the king. But Yajñavalkya expects the king to be practical. So, it proves that Manu was not only lawyer, law-giver but also an advocate of anti-buddhist and brahmin revolution. The remaining vivādāpadas were discussed in Dharmasūtras.

The vyavahāra means law in the modern sense, business intercourse legally interpreted legal procedure. There is no formal distinction between civil and criminal law till the term vyavahāra is divided by later writers into cases of property and cases of hurt. The first enumeration of legal titles is found in Manu - e.g. rāddāna etc. In this category of eighteen vivādāpadas, criminal law is represented by the titles eleven to fifteen, while the first nine and sixteenth and seventeenth titles belong to civil law. The eighteen titles are remarkable as the first attempt to separate different cases; to demand that Manu should have given us a perfect or even a perfectly clear list is unreasonable.

1. Manusamhitā, 9.221
The titles and the arrangement of Manu are followed by later writers, though with sub-divisions. Although the titles begin with civil cases, there is no doubt that primitive procedure had to do with criminal cases before civil cases were known. Thus the earliest trials were for theft and perjury, and it is probable that theft was the first crime to be recognised legally. There are thousand forms of theft, according to the brahmin. Manu recognizes only two ordeals. The oath is taken according to the caste of witness. Another method of executing justice, used generally in the case of debt, was called the custom and consisted in what is now known as dharna.

The punishment for murder is at first a compensation paid to the relatives or the king and later period to the priests. Manu treats the compensation as a penance (paid to a priest) instead of a 'royal right', as in the earlier sutra period.

Treason of all kinds is punishable by death, whether it consists in attacking the king or falsifying an edict or bribing the ministers of the king or helping his foes.

1. Manusamhitā, VIII.49
2. Ibid., IX.232
Except for treason, all crimes are judged relatively, that is, there is no absolute penalty, but one conditional by the social order of the criminal or the victim of the crime. The old general rule of the sutras to the effect that the woman bitten by dogs and the man killed is preserved under the form, explicit in the later works but already implied by Manu, that this be the punishment if a wife who is proud of the greatness of her family commits adultery.

The general 'lex talionis' is similarly confined to thieves or robbers though another restriction limits it to intercourse between low and high castes.

Manu has the idea of partnership (in comparison to others) but his whole discussion of the title concerns only the amount of fees payable to priests who together perform a ceremony and he merely raises the question whether all the religious partners or the one who performs a special act shall take the traditional fee for the one part. He decides that the four chief priests out of sixteen shall get a moiety etc. In other words, except for stating that one should be paid in accordance with the work one does, Manu has nothing to say regarding partnership.

1. Manusamhitā, 8.134
2. Ibid., 8.211
Mutilation figures occasionally in the criminal code of Manu. Manu has his own ideas of social morality and wants them to be enforced by the state, e.g. he stigmatises as adulterous such acts as offering presents to a woman, touching her dress, sitting with her on the same bed.

Caste had a good deal to do with the law on morality. Manu objects to adultery partly because it means a mixture of the castes whence follows sin, castes invades the social law at another point. Whence other suffers capital punishment, a brahmin was subject only to a tonsure of the head. Rather inconsistent with all these details, there id a general rule in Manu that every one, except a brahmin, guilty of adultery, should be put to death. This seems to have been the old law which had gradually been entrusted with further caste privileges.

Caste enters in an equally conspicuous manner into the law on defamation. For defaming a brahmin, a Kṣatriya was to be fined a hundred pāṇas, a Vaiśya from 150-200, while a Śūdra was to suffer corporal punishment. A brahmin should be fined 50, 25 and 12 pāṇas for defaming Kṣatriya, Vaiśya and Śūdra respectively. Even harsher and sometimes unspeakable are the punishments prescribed for graver insults which a Śūdra may
chance to offer to superior beings. It is more than doubtful if these brutal maxims were even actually carried out. Perhaps, they only embody the ultra-orthodox theory of the superiority of the twice-born and the supremacy of the brahmins.

For strisamgrahaṇa-vivadapada, Manu has accepted severe punishment. He accepted the policy of Maurya for willing maiden.

Manu has included the five mahāpātakas under criminal law, and the brahmins under the punishment of cūḍākaraṇa. According to Vincent Smith, it was a form of punishment borrowed from the Persian empire. But before the birth of the Persians empire it existed in India. The Jātakas bear testimony to it.

Jayaswal says the Mānava, by a provision, directs that if the culprit failed to pay the fine, he would have to do labour, or in other in default the man had to undergo imprisonment. According to Kautilya the contracts which cannot be enforced in court are divided into five classes. Manu sums up these principles in his statements. A contract for sale or transfer of wife and children therefore, was a contract opposed to public policy.

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1. Manusāṃhitā, 3.79
2. Ibid., 8.163-164
"In some cases without doubt punishment as a matter of law began as a matter of priestly religious law. According to Manu, if plaintiff or defendant is found guilty of falsification in regard to a contested sum, twice the sum itself shall be paid as a fine (to the king). The king's chaplain has an important place in the court of justice; he is chief of the councillors who as a body may include members of other Aryan castes. There is one aspect of legal literature which is very insignificant of the origin of the completed codes. The laws, viz. frequently contradict one another either by implication or directly, not only the laws in general but those of the same code and even the laws placed in juxtaposition. An example of such contradiction is what may be found in Manu's code respecting the sale of a daughter.\(^1\)

Yajñavalkya first mentions three kinds of proof, viz. documents, witnesses and possession and he adds that ordeal is another kind of evidence in the absence of any of these. In the context of law of debt Yajñavalkya explains the law relating to documents and witnesses. The latter

\(^1\) Cambridge History of India, p.157-159
\(^2\) Manusamhita, VIII.204
closely resembles that of Manu. Coming to the last point, Yājñavalkya mentions no less than five kinds of ordeals in place of three referred to by Manu. These include ordeals by balance, by fire, by water, by poison and by sacred libation.

Kautilya mainly follows Manu, but has some new suggestions to offer. If witnesses differ, says he, judgement may be given in accordance with the statements of a majority of pure and respectable witnesses, or the mean of their statements may be followed, or the amount under dispute may be taken by the king. Kautilya does not refer to ordeals but gives gruesome details of eighteen kinds of torture to elicit confession of guilt.

After discussion of eighteen vivādapadas, a question may arise whether the existence of full form of vivādapadas came into existence first in time of Manu or they existed in the period of Dharmasūtra also. All these types of civil and criminal crimes occurred behind the eyes of people, and the law-makers were not informed about all the nuisance of the society. They were always busy with Vedic religion and Vedic society. But when the state got enlarged and different types of complications developed day by day in society, at that moment, the law-maker cannot be busy with only religion,
on the other hand they looked forward to temporal world i.e. 'laukika-jagat'. The law-maker for the necessity and satisfaction of the subjects, observed and discussed about all the disputes and then they established all the vivadapadas by different names. Not only that, they also arranged severe types of punishment if they violate the laws promulgated by them. By this way, they brought law and order and peace of the country.

Before Manu, when the state was small and the population was limited, the vyavahara-dharma, i.e. judicial law was not important. At that time all the vivadapadas were discussed at one time and pariṣad only helped the king in serious problem and the learned brahmins unanimously ordered for prayascitta-punishment for the moral rectification of the accused person. But Manu had absolutely different outlook. He never neglected the judicial laws. He established law on the basis of giving much importance on the progressive society. He did not totally ignore the ancient religion or dharma but with the advancement of time he accepted the new and modern ideas. Under this background full form of eighteen vivadapadas were evolved and legal punishment was introduced in society which was much more severe in comparison to prior ages. The two types of punishments viz. prayascitta and legal punishment
were imposed upon one person at a time. There was no compul-
sion or rigidity for prayāscitta-punishment, but in time of
Manu no person even the king did dare violate the law of
country. For the realisation of strictness of punishment,
Manu said, father, acārya, friend, mother, wife, son, even
the purohita—none will be exempted from the hand of
punishment which will be administered by king. Even anyone
who has not obeyed his own dharma, is also punishable to the
king. An ordinary person may be relieved by paying only one
silver or copper coin, but the king had to give one thousand
silver or copper coin. So the severity of punishment in
case of king, was much higher than man.

1. Manusamhita, 8.335
   pitācāryaḥ suhrnmataḥ bhāryā putraḥ purohitāḥ /
   nādandyo nāma rajno'sti yaḥ svadharmenatiṣṭhātī //

2. Ibid., 8.336
   kārsāpaṇam bhaveddandyo yatānyah prakṛto janāḥ /
   tātra rājā bhaveddandyaḥ sahasraṃti dhāraṇā //
One of the greatest contributions of Manu is the application of neutral judgement regarding the arrangement of law for the welfare of the society. In this sphere he never showed any partiality to twice-born caste. As for instance Manu says if the Sudra thief steals he will get the punishment of eight times of the punishment prescribed for him, for Vaisya, sixteen times and for Kṣatriyas thirty-two times and for general and qualified brahmin one hundred and twenty-eight times of punishment will be imposed. This instance indicates that Manu was an ideal social reformer, because he did not promulgate the law of minor punishment for the brahmin as he was a supermost caste of the society. Even Manu has instructed capital punishment for the brahmin. As for instance, he says -

gurum vā vālavrddhau vā brahmaṇam vā vahuṣrutam
atatāyinamāyantam hanyādevāvicārayan

i.e. if the attacker intending to murder a brahmin or ācārya, or minor boy, or old or well-versed whatever he may be, if he advances towards anybody, the attacked person for his protection, without hesitation will kill him.

1. Manusamhitā, 8.350
In time of Manu gambling, bribery, mal-treatment, burglary and all types of corrupted practices were in vogue. Spies were appointed to look after their movements and they were severely punished for their crimes. Manu has formulated one nice trick to catch the thief.

As for instance the king will catch the thief by attracting him with delicious cooked food, or by attraction of visiting a brahmin or by attraction of showing chivalrous activities. This instance indicates nice diplomatic outlook of Manu. Manu was much careful for the necessity of proper justice for the formation of an ideal state and ideal society. He felt the truth that controlling of the mischiefs and protection of virtuous persons were much prior and most urgent for the formation of an ideal state. That is why he named the sabhā as brahmasabhā. A few strict rules were maintained in the judicial court. As for instance if a defendant makes petition in court, but in time of statement (bhaṣā) he does not speak that time, judge will punish him.

Even he can impose capital punishment upon him and within three fortnight if he does not state anything, then the judge will legally accuse him. In some litigations, Manu does not give stress on the qualities of the witness e.g. inside the room, in solitary place of forest, in calamities due to theft or robbery etc. and in case of murder by assasin regarding all the above litigation, any person can be the witness. In Manusamhita, legal punishment was imposed for false witness.

Manu has imposed a few laws on taxation about the commodities those are brought in by boat and by the ship (tarasulka). The king accepted one part of profit of twenty parts from commercial commodities. The king detected the commodities which will be exported and imported. Exemption from tax was a serious crime in time of Manu. By the term tarasulka Manu means to say that rent of the

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1. Manusamhita, 8.58
2. Ibid., 8, 120-130
boat or ship would have been decided on the basis of seriousness of current of the river if anyone wanted for transportation.

Manu has changed the law about the property of adult boys which was so long established in the sūtra period. The king will look after the property of orphan boys till he comes back home from the home of teacher or till he reaches the age of adult. From this statement Manu means to say that the boy becomes an adult after the end of brahmacarya. Moreover, they become more intelligent, logical and farsighted after the end of study period, and that is the best time for adult to protect and to look after the property.

Thus it appears that Manu's achievement on judicial administration of the country is undeniable. He has discussed the eighteen titles of Vivādapada in detail. No body had done it before. With judicial law, Manu has given stress on severity of punishment. In serious crime people has got serious punishment and in minor crime accused has got minor punishment. If anybody violates the law, the king had to suffer sin. From the strict hand of punishment the learned brahmin, even the kings also were not exempted. But Manu sometimes was partial. It may be said that he has changed
the punishment sometimes on the basis of superiority and
inferiority of castes. The brahmin was exempted from corporal
punishment even for his sexual crime. But in a word Manu has
firmly established law and order of the country by judicial
laws and by the severity of punishment. There is no denying
the fact that Manu was successful in both field - in political
and judicial administration of country.

Manu's law regarding ownership in land is to be a
matter of deep consideration. "Family is the joint family,
so the village is possessed as a whole of its holdings in
land. Thus the only full discussion in Manu regarding boundaries
(the tenth title) has to do with boundaries between two villages.
Yet it is clear from other passages that private ownership in
land under the king was recognised. He who cultivates wild
land, owns it. The land around a village on all sides for
one hundred 'bows' is common, and if crops are grown there
and cattle injure the crops no damage can be exacted2 but the
fields appear to be a private property as they are fenced in"3.

2. Ibid., VIII, 237.
Manu's idea of property involves a combination of two parallel principles, one basing it on the foundation of state support, and the other involving its limitation on the score of capacity of its owner. Among the evils following from the king's failure to apply danda, Manu says that ownership would then remain with none. From Manu we come to know that property is founded upon virtue so that the property of sinners may properly be seized by or on behalf of the virtuous.

It remains to notice two important extracts relating to Manu's idea of ownership of the soil. In the first extract the author justifies the king's title to one-half of ancient hoards and metals found underground by the argument that the king is the over-lord of the soil. In the second extract Manu quotes a dictum to the effect that the fields belong to him who cleared away the timber and a deer belongs to him who first wounded it with an arrow. Thus Manu mentions two conflicting principles, one of which is based upon the right of the first cleaner to the ownership

1. Manusamhita, 8.39
2. Ibid., 9.44
of his field, while the other is founded upon the conception of the king's ownership of the soil, not to speak of the brahmin's vague claim to universal ownership. It is evident that while the former reflects the ancient view, the latter is a later development intended to justify a specific extension of the king's fiscal rights, and of the brahmin's right of property. Yajnavalkya amplifies the law of prescription and ownership as laid down by Manu and observes that title is superior to possession in all cases except where possession has descended from a line of ancestors. Again he says that title would have no force if there had not been possession even for a short time. In other words, while possession without title creates no claim except in cases of long continuity, title without possession has no force.

In Manusambhita, the brahmin was never regarded as the lord of land. The brahmin was said to be the protector of land but not owner of the land. The words "bhūmeradhipatirhi saḥ" signify so. The king gets the one-sixth of tax

from exported and imported commodities. These are nothing but the salary of the king as he takes the responsibility of protection of commodities.

The Vedic purohita never paid any tax, rent of ferry-boat etc. Generally the king would become the owner of sealed deposit, if its owner could not be found it. But according to Manu, the king was the protector of land, the sealed deposits owned by him was regarded as his salary. According to this new rule the king had to pay tax of the owner as obtained or not. The king had to pay the half-portion of sealed deposit to the brahmin.

Marriage law is one of important law which falls under the category of civil law. Manu has also like others enumerated eight kinds of marriage. "According to Manu, the bride must be a virgin, and ordinarily one who had not obtained puberty. Insistence on marriage within the varna for religious purposes is endogamous, exogamy comes in the sapinda and sagotra prohibition. Hypergamy is discouraged, and pratiloma relations do not of course constitute remarriage".

Manu does not recognise infant marriage. The rule of Manu is that bridegroom of thirty shall marry a girl of twelve, one of twenty-four a girl of eight. He also recommends that a girl shall not marry at all unless a suitable bridegroom is available, but again he countenances infant-marriages. In Manu there is a flat contradiction of the preceding provisions on this point. No remarriage and no assignment of widows are permitted in a passage directly following the injunction that a widow shall be so assigned, for the purpose of giving her dead husband a son to pay him the funeral feast, etc. These laws regarding women are on the whole the most self-contradictory in the later codes. The bride must be a virgin and the remarriage of widows is generally not countenanced, but the codes do not sanction the custom of Suttee till late. The mother is praised as equal to the father in honour, and in default of sons she may inherit, but if she bears only daughters or has no children she may be divorced.

1. Manusamhitā, 9.94
2. Ibid., 9.88-89
3. Ibid., 9.64-68
We see in the law-books the king of a limited realm still more or less of a patriarch among the people. The family is usually monogamous though it may be polygamous and there are traces of the family-marriage, in which a wife marries a group of brothers. More skilled workers like chariot-makers are of almost Aryan rank are not excluded from society. "The laws are harsh and as regards punishments, but a regard for truth and justice is the dominant trait of the law".

Manu does not recognize divorce. The bond is not snapped that ties the wife and husband. Manu who disallows the remarriage of a widow appears to allow the remarriage in proper form of a virgin widow but she will still be held to be a pumabhu. Kautilya, who allows divorce, will not permit it after the first four forms of marriage (the reputable form).

2. Manusamhita, 9.79
3. Ibid., 9.65
4. K.V. Rangaswami Aiyangar, Aspects of the social and political system of Manusmrti, p.160.
Manu has instructed a few special rules on niyoga. Manu said that there was no rule concerning on marriage which said that niyoga will be applied to the wife of another person and his married wife had niyoga of another person. Manu’s main contribution is noticed in the matter of selection of bridegroom of virgin. Manu exceptionally introduced his modern outlook in the above mentioned matter. Only in Gandharva type of marriage, the virgin can select her bridegroom. But Manu has allowed in general that a virgin can choose her own selected person as her husband. Manu has said in the following verse -

\[
\text{adiyamānā bhartāramadhigacchedāyadi svayam / } \text{1}
\]
\[
\text{naivān kincīdāvaphnū ti na ca yām sādhigacchati //}
\]

i.e. if a daughter chooses a person accordingly as her husband, there will be no sin.

In ancient times among the Kṣatriyas, there was a svayamvara-system, where the virgin can choose her husband.

1. Manusamhitā, 9.91
After passing of time for many years, in time of Manu the system of selection of bridegroom for bride again was established in Hindu society. By the enunciation of this law Manu created a stir in society and it was an epoch-making event in Hindu society and also Manu brought a revolutionary change in society. This is an extreme modern outlook of Manu which cannot be denied.

Manu has declared that three kinds of persons e.g. the wife, the son and the slave are adhanā i.e. who has no right to inherit ancestral property. But stridhana of women and wages of the slave will not be included under this category. The wife has no right in property, because she is not independent. The son and the slave as they are always under their father and master, so they have no right in father's and master's property or wealth. According to the rule of dayabhaga, after the death of father, the son will own the property of father. So long the father will be living, the son has no right to own his property.

In this context, the position of women, in time of Manu, deserves to be discussed. "Dharmasāstra raised a chaste wife to the rank of a Goddess; it has raised the mother to the rank of divinity (matrdeva) along with the teacher and the
father, and placed them immeasurably below her in the right to love and veneration. She is the best of teachers, and a super-teacher (atiguru) according to Visnusmrta. So long as one has a mother he never feels old. Indian history knows of some royal patricides but of no matricide. Abandoning a mother, even if she be an outcaste, is both a sin and a crime. The first earnings of the student must be tendered to his mother ‘sambiṣṭto mātre dāyat’.

In Manusmrta woman attains her apotheosis, as wife, mother and dependant relation, serving and radiating her love. The gods rejoice when women are honoured, and rites in their honour yield no rewards in home in which women are not cherished and revered. The tears of dependent women light a family, their grateful smiles make it blossoms into fortune; their curse, when treated with contumely, wither the home. Honour and cherish your women, therefore, for your own good, on holidays and in festivals, with gifts of dainty fare, raiment and jewells. Joy dwells in the home in which there is conjugal love. Let a woman cherish her beauty that she may

1. Manusmrta, 2.145
2. Apastambadharmasutra, 1.7.24
retain her husband’s love and become fruitful. With her radiance the house will be alit and without it, be dark and dismal. It is in such terms that Manu, supposed to be the divider of woman, makes almost a religion of her adoration. Regarding āyā and dayābhāga, Manu’s conception is to be discussed. Manu has said about dayābhāga in following verse.

\[
\begin{align*}
\text{urādhvam pituṣṭa mātuṣṭa sametya bhrātaraḥ saṃmam / } \\
\text{bhajeraḥ paītrkam rikthamaniṣṭe hi jivatoḥ /}^{2}
\end{align*}
\]

i.e. after the death of father and mother, the brothers being united can divide the paternal properties equally, but during his life, if father himself does not divide the property of his own accord, the sons have no right in that property. Manu has not said something new concerning dayābhāga. On the other hand Manu has said something new regarding the division of property of brothers. Manu has given recognition to the sari eldest son to be owner of all properties of parents.

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2. Manusamhita, 9.104
3. Ibid., 9.105 jyeṣṭha eva tu gṛhniyāt pitryaṃ dhanamāsēṣataḥ / śēṣāṣṭamupajīveyuryathaiva pitaram tathā //
Manu has discussed on the division of property of different categories of son.

First he says, if a son is born of elder brother's wife of younger brother, he will not be the owner of like eldest son.

Secondly, if a son is born after the acceptance of putrika, the son and putrikaputra will be equal sharer because the woman has no eldership (jyesthatva).

Thirdly, if an aurasa-son is born after the acceptance of adopted son, the adopted son will obtain the sixth part of aurasa-son.

Fourthly, if a son is born of a brahmin, Ksatriya, Vaisya and Sudra mother, the brahmin, Ksatriya, Vaisya and Sudra son will get 3, 2, 1½ and 1 part of property respectively.

If a person has aurasa and kṣetraja, both type of sons, they will obtain the property of their own father. Aurasa-son will give 6th or 5th part of his own share to kṣetraja son intime of division of paternal property. If the father of kṣetraja-son has aurasa-son, then this rule will be promulgated.

1. Manusamhita, 9.164-165
Manu prescribed the rule about the property of mother. If mother dies, her property will be divided among her own brothers and unmarried sisters. If she has married daughter, she will get fourth part from mother's property.

Manu has divided stridhana in many categories and he has mentioned the persons among whom the stridhana will be divided.

If the brothers are once divided, but again they live unitedly, then in time of redivision, everybody will get equal share. The eldest son will not get 'uddhara'.

According to Manu, the son who is sonless, his property will be inherited by his mother and after the death of mother, grand-father will get.

A few persons viz. impotent, outcaste, blind, deaf, lunatic, invalid, dumb and who has no five organs, e.g. eyes, ears etc. are not entitled to be the owner of father's property.

1. Manusamhita, 9.194-196
2. Ibid., 9.210
If the wealth earned by a person, wealth obtained from a friend, the property received from father-in-laws' house in time of marriage and the priest who earns from sacrifice - all those properties will never be divided by dayāda, these will be obtained by the earners themselves.

The above discussion shows that Manu had kept his keen eyes in all aspects of judicial laws. By the promulgation of criminal and civil laws Manu established the legal administration firmly, vice versa by establishing the law of severe punishment i.e. legal punishment he was successful to establish an ideal, disciplined and peaceful Hindu state. Manu not only established legal punishment but also gave importance upon prayāscitta-punishment. He knew that there was a necessity of penance for moral rectification of people. That is why he appointed three learned brahmins and a daśavāra pariṣad to conduct the penance. As Manu regarded the brahmin and he was the worshipper of brahmins he could not deny penance. The people after facing the cruel and harsh type of penance became very much conscious and it pricked their conscience also. So they never involved themselves again for another crime. Sometimes the penance was so harsh that they had to face corporal punishment also. In ancient age, prayāscitta punishment first evolved in society, there was no legal punishment.
The brahmins were most powerful in ancient times. According to Manu the brahmins were the greatest among men. A brahmin is born for the fulfilment of the sacred law. He is an eternal incarnation of the law. Whether ignorant or learned, whether following noble or mean occupations, a brahmin is a great divinity. Manu has accepted that the brahmin is the greatest administrator of whole world. The brahmin is a God. In the period of Suṅga, the brahmin was regarded as an administrator, because they were the astringent and protector of religion. The brahmins were the king and they were the lord and owner of whole world. For the superiority of their birth, the brahmin is the owner of the wealth of the world and also they were lord as they were the owner of all the property of sealed deposit (nidhi). Manu has stated the brahmin as the supermost caste (Isā) and God (Īśvara), because they were the astringent of all moral-laws and administrator of political law. As the brahmins were the administrator of the country, they were the lord for imposition of law of prayāścītta-punishment. As Manu was the worshipper of the brahmin, so he could not deny at all the importance of prayāścītta-punishment. But as time rolled on, and society more advanced, vice versa complications and problems of society also grew and developed.

1. Manusamhitā, 1.100-101, IX. 313-321
2. Ibid., 1.99
Manu then gave importance to the temporal world i.e. on artha as well as dharma i.e. on religious world also. Manu was orthodox as well as liberal. He did not accept all the verdicts as true which came out from the mouth of the brahmin. That is why he established legal punishment to control the state and gave the power of administering legal punishment in the hand of king taking it from the hand of the brahmin. If anyone did not go through prayascitta, he was not saved from the hand of legal punishment. Manu was very much strict in the application of legal punishment. Even the brahmin and king were not immune from legal punishment. During the period of Manu, the brahmans were sometimes leaving their own occupations and they involved themselves in various types of non-Vedic and anti-Vedic activities. That is why Manu became very strict and promulgated legal punishment for non-virtuous brahmin.

Manu was really impartial regarding the establishment and application of judicial law and legal punishment. The whole Vedic society and the state were under the bindings of strict political administration, judicial laws and legal punishment. That is why Manu was successful to establish an ideal Hindu society and an ideal Hindu state. In a word it can be said that Manu was the founder father of modern democracy.