

MIKAEL AKTOR

THE 'GRAMMAR OF DEFILEMENT' REVISITED:
COMPARING RULES OF PRĀYAŚCITTA
WITH RULES OF ĀŚAUCA

This article takes its departure from an essay that the American social anthropologist Henry Orenstein published in 1968. In the anthropological theory of the time, the notions of purity and taboo were new and exciting areas of comparative research. Two years earlier, Douglas (1966) had opened the field with her famous *Purity and Danger*, and Dumont (1966) had published the original French edition of *Homo Hierarchicus*.

The title of Orenstein's article, "Towards a Grammar of Defilement in Hindu Sacred Law," clearly indicates the linguistic and social orientation of the structuralism that inspired the author. And like Dumont – though in a much more extensive manner – Orenstein, as a social anthropologist, based his examination of South Asian purity systems on the ancient and medieval Dharmasāstra literature. He used as his sources, therefore, a large range of Dharmasāstra texts in the translations then available (mainly of Bühler and Dutt) with some philological support from van Buitenen (Orenstein 1968: 115).

It should be noticed that Orenstein's article was influential and was discussed – in particular within *Contributions to Indian Sociology* circles – by a number of scholars over subsequent decades including Tambiah (1973), Marglin (1977; 1985), Glucklich (1988: 96-113), and Mines (1989). Nevertheless it seems evident – not only from the perspective of another discipline, namely Sanskrit studies, but also from

that of another time – that Orenstein’s strategy is flawed in its attempt to formulate an unambiguous set of rules about material so incredibly diverse as the so-called “purity system” of the Law Books. The diversity of the material is a natural consequence of its history. It had its origin in the complicated ritual science of the Vedic period before gradually proliferating into other aspects of personal and social life, presumably as a means of emphasizing Brahmin spiritual superiority in relation to Buddhists and other world-renouncing groups. Eventually it both adapted to and came to express the social complexity of a country of extremely varied ethnography.

Basically, what was seen as an abstract purity system by these anthropologists is more appropriately described as bundles of rules, each concerned with particular concrete sets of action and behavior. The two contexts selected by Orenstein, penance and mourning rituals, are two such sets of actions. To understand the rules, one has to respect the particular context of activity that governs each bundle, and one has to understand the specific rationale lying behind each context of activity. Therefore the abstract and overarching notion of purity that we find in the anthropological literature on South Asia can be misleading. It is problematic to apply a notion of purity that has been constructed as a theoretical simplification comprising many different criteria from South Asian materials and then to project this notion back into the texts as something actually assigned to different people as a general status marker. Olivelle examined the legal literature in terms of this alleged systematic vocabulary, but did not find it. Purity in the Law Books expresses a more complex spectrum of concerns than is suggested by Dumont’s notion of purity as a marker of caste status (Olivelle 1998). The same, I would say, applies to Orenstein’s analysis. But let us start out by understanding his classifications.

Orenstein’s System

Orenstein’s basic idea is that each *varṇa* has an inherent impurity level expressed in his text as the “Normal Condition” (1968: 117). These impurity levels are specified by numbers, 2 for Brahmins, 3 for Kṣatriyas, 5 for Vaiśyas and 8 for Śūdras. Further, he distinguishes

between two types of pollution, “Act-Pollution” and “Relational Pollution.”

His notion of “Act-Pollution” covers impurity as he found it expressed in rules of *prāyaścitta*, or penance. That is, he assumes that each *prāyaścitta* expresses a degree of purification that is designed to atone for a degree of pollution that has been incurred. His idea is that when a transgressor recovers from the incident, he has regained his normal impurity level. If, say, the pollution of the incident is set to 10, he would need a degree of purification that in principle is a subtraction of his normal impurity level from the pollution of the incident. The degrees of purification will then be 8, 7, 5 and 2 respectively for all four *varṇas* (p. 117). That is, the higher one’s normal purity level, the higher the amount of purification needed. Śūdras, who are relatively impure, therefore need less purification to regain their normal high level of impurity. This is in line with the general rule (discussed below) regarding amounts of penance in the Dharmaśāstras for all four *varṇas*: most for Brahmins, least for Śūdras.

“Act-Pollution” is further divided between “internal” and “external” pollution, the first being some kind of sin – say, murder or the killing of an animal – and the other an incident of physical contact with impure people, animals or substances – for example, touching a dog (p. 116).

In the former case the degree of impurity incurred is proportionate to the purity of the victim of the *pātaka*. The higher the purity of the victim, the more purification is needed on the part of the offender and vice-versa. A case would be Manu’s rule (MDhŚ 11.127): “One-fourth the penance for the murder of a Brahmin is prescribed by tradition for the murder of a Kṣatriya; one-eighth for the murder of a virtuous Vaiśya; and one-sixteenth for the murder of a Śūdra.”

In the second case, i.e. the “external pollution” by touch, the pollution is proportionate to the level of impurity of the person, animal or thing with which contact is made. However, the distinction between external and internal pollution does not in itself alter the general subtraction rule common for all “Act-Pollution,” namely more penance for Brahmins, proportionately less for the *varṇas* below.

“Relational Pollution” covers the *āśauca* of death and birth. It is “relational” because it affects all relatives within the *sapiṇḍa* sphere.

Therefore it is multiplied. If the event of death in the family is set to a multiplication factor of 5 for all *varṇas*, the impurity when entering *āśauca* is five times one's normal impurity level (the 'Normal Conditions' of 2, 3, 5 and 8 respectively), that is, 10, 15, 25 and 40, and the purification needed to gain the normal level is gained by subtracting the normal levels from the impurity values of *āśauca*, that is, $10 - 2 = 8$, $15 - 3 = 12$, $25 - 5 = 20$ and $40 - 8 = 32$ (p. 117), which are approximately the number of days usually assigned to the four *varṇas* in cases of *āśauca*, namely 10, 12, 15 and 30 respectively (see MDhŚ 5.83).

Criteria of Comparison

Notwithstanding the mathematical interpretation of the rules and the simplification involved, we may at least recognize the general observation behind Orenstein's grammar, namely the different amount of observance distributed across the four *varṇas* expressed in *prāyaścitta* and *āśauca*, respectively. In the former case, the general formula seems to be "the higher the *varṇa*, the greater the penance," whereas in the latter case it is the opposite, "the lower the *varṇa*, the longer the period of *āśauca*." Can we reach any consistent explanations of these differences?

First, we simply have to notice that the Dharmasāstra texts do not themselves supply any explanation of the difference between the two sets of ratios. What we may come up with, therefore, can only be our own interpretations, not statements about the views of Dharmasāstra.

In regard to the periods of *āśauca* for the four *varṇas* from Brahmin to Śūdra, there is sufficient consensus in the texts to accept at least the general structure. There *are* rules that make exceptions for certain people, such as Vedic students, ascetics, kings and people engaged in rituals (Kane 1968-75: 4.297-298), but these exceptions can be explained in terms of the special religious or social significance of these individuals. So the general rule holds.

With respect to penance, however, there is more confusion, and we need to look at specific texts. But it is necessary at the outset to be aware of those difficulties involved here that have not adequately been taken into account. It has been taken for granted that we are able to

compare penances without subjecting the criteria of comparison to a systematic examination. Some of the criteria, such as the duration of the penance, are evident. What is not evident is how such elements are calculated relative to other criteria in terms of clear degrees of purification. How to compare the hardship of a Lunar penance (the *can-drāyana* in which food intake follows the course of the moon for one month) with a complete fast for a lesser period? And what about the purifying ingredients and mantras that are involved? These do not necessarily add to the duration or the hardship of the penance, but still they indicate the degree of pollution which these means are supposed to remove. There will be an example of that below (PS 2.11.1-3). Other questions might also be raised. What about the *dakṣiṇā*? This is generally left out of the analysis, but is that reasonable? In fact, it turns out that if *dakṣiṇā* is considered, the picture changes radically. Taken together, these and other problems force us to restrict the method of comparison. We might start, at least, by restricting such analyses to cases where there are explicit *varṇa* differentiations in the texts themselves.

Prāyaścitta

Such differentiations are not, in fact, especially rare. I mentioned Manu's rule on homicide (MDhŚ 11.127) which diminishes the amount of penance downwards according to the *varṇa* of the victim. However, things can get much more complicated. Mādhavācārya, the author of the mid-fourteenth century *Parāśaramādhaviya*, discusses the matter of differentiation in connection with the number of members in the *pariṣad*, which is the council of Brahmins that decides the penance. The general rule is that the *pariṣad* consists of ten persons with different qualifications (PS 2.8.27). But according to some the number depends on the *varṇa* of the person who is liable to penance, and Mādhava wants to elaborate on that. He says:

Aṅgiras states the particular [number of council members] when a Kṣatriya or a Vaiśya becomes liable to penance: "The number of members in the council established for Brahmin penitents is supposed to be doubled for Kṣatriya penitents and tripled for Vaiśyas, and the council

settles the observance. [...]” In proportion to the increase of the council for Kṣatriyas and Vaiśyas, the observance also grows. This increase of the observance should be respected in cases where a person of a higher birth is violated [by a person of lower birth], since in other circumstances a decrease of the observance is mentioned. Thus, in *Caturviṃśatimata* it is explained as follows: “A Kṣatriya should do three-quarters of the penance which is mentioned for a Brahmin by the great sages. A Vaiśya should perform the half. A Śūdra, among all sinners, should perform a quarter”¹.

Let us divide up these rules. First we have a rule that the amount of penance increases downwards for the four *varṇas*, but this rule is clearly an exception. It applies only when there is an inverse status relation, the *pratiloma*, between offender and victim. In the case of murder, for instance, this would occur when a Śūdra kills a person of higher *varṇa*. I will return to this situation later.

The other rule in the text is the general one. It says, as we have observed already, that the penance is more elaborate for higher than for lower *varṇas*. This rule applies, for instance, when there is no idea of a victim, the incident being regarded not as an offence against a person but against a principle. One example from my study of Untouchability rules² is the following rule which accounts for the case where men of different *varṇas* have illicit sexual contact with a woman of the same low caste:

A Twice-born man who has sexual intercourse with a Caṇḍāla or Śvapāka woman has to fast for three days with the permission of the Brahmins. He should then tonsure his head including the top-knot,

1. *yadā kṣatriyavaiśyau prāyaścittinau bhavataḥ tadā viśeṣam aṅgirā āha – pariśad yā brāhmaṇānāṃ sā rājñāṃ dviguṇā matā / vaiśyānāṃ triguṇā caiva pariśac ca vratam sthitam // [...] // iti / yathā kṣatriyavaiśyayoḥ pariśadvrddhis tathā vratam api vardhate / iyaṃ ca vratavrddhir uttamajātihanane draṣṭavyā / itaraviśaye vratahrāsasyābhidhānāt / tathā ca caturviṃśatimate darśitam - prāyaścittam yad āmnātam brāhmaṇasya maharṣibhiḥ / pādonam kṣatriyaḥ kuryād ardham vaiśyaḥ samācaret / śūdraḥ samācaret pādām aśeṣy api pāpmasu / iti // (PM 2.8.27, Vol. 2.1, pp.231-232).*

2. Aktor 1997; this is an unpublished doctoral thesis, but see a summary in Aktor 2002.

observe a double Prajāpati penance [lasting 24 days in all] and give two cows as Dakṣiṇā. This is the purification as related by Parāśara. If a Kṣatriya or a Vaiśya has sexual intercourse with a Caṇḍāla woman he should perform a double Prajāpati penance and give two pairs of cattle. If a Śūdra has sexual intercourse with a Śvapāka or a Caṇḍāla woman he should observe the Prajāpati penance [i.e. a single one lasting 12 days] and give four pairs of cattle³.

As Mādhava remarks (2.10.5-6), the expression “twice-born” here is a synonym for *brāhmaṇa*, since the *kṣatriya* and the *vaiśya* are treated separately⁴. But this text is also interesting because it shows the role of the *dakṣiṇā*: the higher the *varṇa*, the harder is the penance, but the less is the *dakṣiṇā*, and vice-versa. As the penance decreases from a double *prājāpatya* including a preceding fast to a single *prājāpatya*, the *dakṣiṇā* increases from one to four pairs of cattle. Here it is evident that we cannot ignore the *dakṣiṇā* when comparing penances. In fact, the structure seems to indicate that the degree of atonement is *the same* for all four *varṇas*, and only the distribution of means (penance and *dakṣiṇā*) is different. Why so?

As an answer we might speculate along the lines of Halbfass (1991: 306) that it has something to do with the qualifications of the *varṇas* in terms of the *apūrva*, the power which connects visible acts with invisible karmic results, and which is derived from the Vedas. In fact Mādhava confirms such a connection when he mentions the erroneous view that *prāyaścitta* generates the extraordinary power (*apūrva*) of merit, and in so doing removes sin *only* in cases where the sinful quality of the act is invisible⁵. This view is wrong according to the *mūla* text (PS 2.11.37c-38b); *prāyaścitta* removes sin even when its qualities are

3. *caṇḍālīm vā śvapākīm vā hy abhigacchati yo dvijaḥ / trirātram upavāsivā viprāṇām anuśāsanāt // saśikhaṃ vapanam krtvā prājāpatyadvayam caret / godvayam dakṣiṇam dadyāt śuddhim pārāśaro 'bravīt // kṣatriyo vātha vaiśyo vā caṇḍālīm gacchato yadi / prājāpatyadvayam kuryād dadyād gomithunadvayam // śvapākīm vātha caṇḍālīm śūdro vā yadi gacchati / prājāpatyam caret kṛcchram caturgomithunam dadet //* (PS 2.10.5-8, PM vol.2.1, pp.305-307).

4. [...] *dvijaśabdo 'tra brāhmaṇaparah / kṣatriyavaiśyayoḥ pṛtag vakṣyamānatvāt / [...]* (PM 2.10.5-6, vol.2.1, p.306).

5. *yah pratyavāyah sa kevalādrṣṭarūpatvāt tasya prāyaścittajanyena sukr̥tāpūrveṇa nivṛttir yujyate* (PM, vol.2.1, p.438).

visible, but this does not affect the view that whether visible or invisible, *prāyaścitta* removes the sinful quality of the act by the power of *apūrva*. Now, it is the Brahmins, more than anyone else, who possess the Veda, while Kṣatriyas and Vaiśyas possess it to a lesser degree, and Śūdras not at all. In our case this would have the consequence that those with a limited access to the Veda, and by extension to the power of *apūrva*, must rely on other qualities in order to recover from the evil they may have incurred. This is exactly what seems to be confirmed by the additional prescription regarding increasing amounts of *dakṣiṇā* downward from Brahmin to Śūdra. What the Śūdra lacks, then, with respect to the invisible force of the Veda, he possesses in visible power, i.e. in his capacity for manual labor and its tangible product, wealth. The distribution of penance and *dakṣiṇā* might express this understanding of the *varṇas*.

This may seem speculative, but at least the texts do recognize that the different degrees of access to the Veda can be a determining factor, such as when penances apply Vedic elements like mantras or hymns. One example is *Parāśarasmṛti* 2.11.1-3 which deals with the penance for having swallowed various impure substances:

If a Brahmin swallows something impure such as semen, if he eats beef or the food of a Caṇḍāla, he should observe the Lunar penance. For a similar incident a Kṣatriya and a Vaiśya should perform half of a Lunar penance, whereas a Śūdra who has eaten these matters should perform a Prajāpati penance. [In addition] a Śūdra should take Pañcagavya, a Twice-born should take Brahmakūrca. They should give [as *dakṣiṇā*] one, two, three and four cows respectively in the order from Brahmin to Śūdra⁶.

The Lunar penance is a fast that follows the course of the moon for one month. The Prajāpati penance is a fast lasting 12 days. In other words, this nicely follows the rule that a lower varṇa performs less penance. Additionally, the three *dvijas*⁷ should take *brahmakūrca* as a

6. *amedhyareto gomāmsaṃ caṇḍālānnaṃ athāpi vā / yadi bhuktaṃ tu vipreṇa kṛcchraṃ cāndrāyaṇaṃ caret // tathāiva kṣatriyo vaiśyo 'py ardhmaṃ cāndrāyaṇaṃ caret / śūdro 'py evaṃ yadā bhuñkte prājāpatyaṃ samācaret // pañcagavyaṃ pibet śūdro brahmakūrcaṃ pibed dvijaḥ / ekadvitricaturgā vā dadyād viprādyanukramāt //* (PS 2.11.1-3, PM vol.2.1, pp.364, 374).

7. In contrast to the use of the word “*dvija*” in PS 2.10.5 above, here it refers to

purifying medicine (which is the ritually prepared five products of the cow – milk, curds, butter, urine and dung) whereas the Śūdra should take *pañcagavya*. *Pañcagavya* here probably refers to the “raw” ingredients, while *brahmakūrca* refers to the same ingredients when they are collected from specially selected animals and prepared with Vedic mantras at each step of the process as prescribed elsewhere in the same text (PS 2.11.26-40). Accordingly, Mādhava stresses in this case that the Śūdra lacks Vedic mantras and, hence, that *pañcagavya* is performed without these in his case⁸. Although this distinction is necessitated here because the procedure of *brahmakūrca* involves Vedic mantras, it might be taken as a hint of a general difference – in particular in relation to the Śūdra – in terms of ritual capability and efficacy, and this would then also apply to the ritual observances of penance.

But in this case, too, the pattern we noted earlier applies and is accompanied by the opposite, counterbalancing scale of an increasing amount of *dakṣiṇā* downwards through the *varṇas*, that is, of one, two, three, and four cows, inversely proportionate with the degree of penance.

The *dakṣiṇā* in the context of *prāyaścitta* is presumably a fee for the assistance of the *pariṣad* and not given to just any Brahmin⁹. If that is the case, we have a structure consisting of two agents, the sinner and the *pariṣad*, and two means associated with the agency of each of these, that is the penance and the *dakṣiṇā*. Of course, the larger *dakṣiṇā* of the Śūdra might simply be a result of the rule of Aṅgiras quoted above, that the number of *pariṣad* members increases downwards with the *varṇas*, but it could also be a recognition that the efficacy of the penance of a Śūdra is less than that of the *dvijas* and that the Śūdra for that reason relies proportionately on the spiritual power of the *pariṣad*. That both agents, the sinner and the *pariṣad*, are involved together in

all three upper *varṇas* as distinguished from the *śūdra varṇa*. This is confirmed by the word “*itareṣām*” (plural) in Mādhava’s commentary, see the following footnote.

8. [...] *tatra śūdrasyāmantrasyāmantrakaṃ pañcagavyam / itareṣāṃ samantrakaṃ brahmakūrcam* / [...] (PM 2.11.3, vol.2.1, p.374).

9. I have not seen texts that actually make this point clear. *Dakṣiṇā* is generally discussed in the context of sacrifice, but historically *prāyaścitta* does belong to the sacrificial paradigm (Kane 1968-72: 4.57-59). MS 8.206-211 discuss how *dakṣiṇā* is distributed among several priests as a case of partnership. These principles are then made general also in other contexts where men “carry out their activities in this world by forming partnerships.”

the process is expressed by emphasizing that the sin neither affects the sinner nor the *pariṣad* once the penance has been properly declared; penance simply burns away the misdeed (PS 2.8.9-10).

However, a simpler explanation of the *prāyaścitta-dakṣiṇā* relation could also be seen in terms of the economic structure of the *varṇas*. The pattern simply reflects the idea that the wealth of Śūdras truly belongs to the Brahmins whose sacrifices uphold the world.

At the very least these examples show that when other criteria of penance, such as the *dakṣiṇā*, are taken into account, the whole interpretation of *prāyaścitta* in terms of degrees of purification must change.

Offender-Victim Relations

I now return to the exceptional rule, that is the rule that in cases where a *pratiloma* relation exists between offenders and victims of different *varṇas*, the amount of penance increases downwards from Brahmin to Śūdra, that is the inverse of the general rule. Ideally a Kṣatriya will be given lesser amounts of penance than a Vaiśya and even less than a Śūdra in relation to a common Brahmin victim. But apart from two cases in *Āpastambadharmasūtra* (1.25.11-12 and 1.26.4), these *pratiloma* cases are hardly found in rules dealing with penance. They are much more common in the context of punishment, where the rule seems to be clear. The *Arthaśāstra* 3.18.7 in the context of verbal abuse is a systematic rule which accounts for both *pratiloma* and *anuloma* relations in one common formulation:

In case of libel concerning character, among Brahmins, Kṣatriyas, Vaiśyas, Śūdras and the lowest born, the fines are three *paṇas* increased by three *paṇas* successively (if it is) of the earlier [the higher] by the later [the lower], decreasing by two *paṇas* successively up to two *paṇas* if of the later [lower] by the earlier [higher], also in case of vilification like 'low Brahmin' and so on. (Kangle's translation)¹⁰.

10. *prakṛtyupavāde brāhmaṇakṣatriyavaiśyaśūdrāntāvasāyīnām apareṇa pūrvasya tripañottarā daṇḍāḥ, pūrveṇāparasya dvipañādharāḥ, kubrahmaṇādibhiḥ ca kutsāyām* // (AŚ 3.18.7).

Kangle spells out the rule in his footnote:

tripañottarāḥ, i.e., 12, 9, 6 and 3 if an Antāvāsāyin vilifies a Brahmin, a Kṣatriya, a Vaiśya and a Śūdra, 9, 6 and 3 if a Śūdra vilifies the upper *varṇas*, and so on. – *dvipañādharāḥ*, i.e., 8, 6, 4 and 2 if a Brahmin offends a Kṣatriya, Vaiśya, Śūdra and Antāvāsāyin, 6, 4 and 2 if a Kṣatriya offends and so on. (Kangle, footnote to preceding text).

We may then formulate the rules in a general way as follows: in *pratiloma* situations, the lower the *varṇa* of the offender in relation to a victim of a higher *varṇa*, the larger his penalty; conversely, in *anuloma* circumstances, the lower the *varṇa* of the victim, the less the penalty for an offender of higher *varṇa*. As noted by Glucklich (1988: 110), the whole scheme seems to be “based on the principle that protects the higher castes as victims and grants them privileges as offenders.”

As I have mentioned, the *pratiloma* case is much rarer when we are dealing with *prāyaścitta*. The *anuloma* case, however, is what we have in Manu’s rule (11.127) mentioned above that the penance for murder is reduced considerably according to the lower *varṇa* of the victim. This is clear from the subsequent *ślokas* (128-131) that spell out the rule with slight modifications and only mention a Brahmin in the role of the assassin. If I am right in my observation that the *pratiloma* rule, which is common in the context of *daṇḍa*, is virtually irrelevant for *prāyaścitta*, what explanation can be found for this?

There might be two reasons. Firstly, it must be remembered that the *pratiloma* relation is not particularly relevant for the Brahmin authors in the context of penance where the whole attention is on the harm that the perpetrator has done to himself by transgressing a moral law, that is on removing the bad *karma* of the offender. As offenders in relation to possible victims, Brahmins would never be in any other relation than equal or *anuloma*. In the context of *daṇḍa*, however, where the attention is on the harm that the perpetrator has done to the victim, the relation is indeed relevant to Brahmins – as victims.

Secondly, this is in line with the idea that not all evil actions can be atoned for by *prāyaścitta*. Some are beyond this remedy, which is essentially a sacred procedure to help a transgressor regain his karmic status. There are cases where this sacred remedy ought not to be avail-

able. We know this line of thinking from the discussion about whether or not it should be at all possible to atone for intentional transgressions (Kane 1968-75: 4.61-68). Cases of transgression in which the subject is in a *pratiloma* relation to the object of the crime, a relation which in other contexts is regarded as a violation of the natural order¹¹, may belong to this category.

Āśauca

Āśauca is quite another matter. At a general level *āśauca* follows a universal pattern of mourning rituals, in which we can distinguish two separate types of ritual procedures. One is the *rites de passage* for the deceased which transform him from the sphere of mortals to that of ancestors. This is an initiation into a superior state of being. The other is a crisis ritual for the bereaved, which isolates them from society for a time, but gradually heals the crisis and leads them back to a normal position in society. The isolation is for the protection of the surrounding community and of its ritual activities, and the restitution of the mourners is primarily for that purpose. With regard to *āśauca*, this can be seen from the fact that a whole range of religious and economic transactions between the close family of the deceased and the surrounding community are suspended during this period. They cannot participate in rituals, serve food for others or give gifts, and they are untouchable (Haradatta on GDhS 14.1)¹². The two procedures are sometimes interconnected in the sense that the time it takes for the secondary process – that of bereavement – is dependent on the time it is supposed to take to ensure the transformation of the deceased. In line with this universal pattern, one might expect the increasing time periods of *āśauca* downwards from Brahmin to Śūdra to be dependent on the idea that the creation of an afterlife body is thought to be slower for the Śūdra whose creative power might be seen as relatively less than the twice-born *varṇas* – again as a consequence of the

11. Ronald Inden's (1985) study of the terminology of *anuloma* and *pratiloma* in the context of divination is an interesting case.

12. *kiṃ punar idam āśaucalakṣaṇam / karmaṇy anadhikāro 'bhojyānmatāsprṣyatā dānādiṣv anadhikāritā* / (MitHa, 2.5.1 (14.1), p.141).

Śūdra's lacking access to the Veda. Confronted with the bewildering and often conflicting rules of the texts, however, such an expectation finds no support.

In the procedures that our texts prescribe, we have at least three different layers of ritual – all blended into one another in the dimension of time. One is the death rituals proper, those rituals which have as their object the dead body, and include cremation and the collection of the bones. At another level are those rituals which have as their object the creation of an afterlife body, like the *śrāddha* rituals of offering water and food at different intervals, including the *sapīṇḍīkaraṇa*. At a third level are those which have as their object the bereaved, that is, the mourning rituals, the observance of the *āśauca* taboos. Of these procedures, the only one which is regulated in relation to *varṇa* on a time scale is the last one, the *āśauca*. The other two do not take account of this feature. This rules out any interrelation between the three on a common time scale.

If such an interrelation were to hold, we would expect, for instance, that the *śrāddha* rituals would be regulated in time in such a way that those rituals that mark certain stages in the creation of the afterlife body would be fixed in accordance with the time-*varṇa* regulation of the *āśauca*. The only stage that is clearly fixed in this way is the so-called *bhogadeha*, a preliminary afterlife body produced by the offerings of water and food during the *āśauca* period and by that process made capable of receiving the subsequent monthly *śrāddhas*. According to Kane (1968-75: 4.265), however, this *bhogadeha* is not mentioned in any of the classical Dharmaśāstras, but only in some Purāṇic passages and in late medieval digests. The final stage as an ancestor is only attained by the *sapīṇḍīkaraṇa* ritual. This is said to take place at different times in different texts irrespective of *varṇa* (pp. 520-521). The general rule, however, is that it takes place after one year of monthly *śrāddhas* (see for instance VS 21.11-12). The only *varṇa*-specific rule about *sapīṇḍīkaraṇa* pertains to Śūdras; according to *Viṣṇusmṛti* (21.20), they must perform the ritual on the twelfth day after death, in other words almost in the middle of their *āśauca* period, which lasts a month according to the same text (VS 22.4). These conflicting rules seem to indicate that there is no inherent relation between the process of creating an afterlife body and the process of *āśauca*.

I need not go into further detail. The point I want to make is simply that there is no internal explanation in terms of the transformation of the deceased into an ancestor for the time periods of *āśauca* for different *varṇas* as one hypothesis might have had it. But this was also not Orenstein's own explanation. Instead, he suggested the multiplication principle by which the inherent impurity of each *varṇa* is multiplied because death pollution is a matter of kinship relations. This, however, is a purely theoretical suggestion with no empirical support in the texts.

Adharma and Death

On the surface *prāyaścitta* and *āśauca* have much in common. Both are structured as series of taboos combined with ritual activities. Both function as a protection of the surrounding society in that the agents are both marked (by dress, hairstyle and other markers) and isolated to some extent (this applies mostly to *āśaucins* and to *patitas* who undergo penance for severe transgressions). What makes the difference is that *prāyaścitta* has a double focus. It acts as a protection for society, but it also focuses on the subject in a way *āśauca* does not. It is a sacred means by which the subject is freed from the evil karma he has incurred, whether by an intentional transgression or unintentionally by an unlucky event within his sphere of activity. This focus on the karma of the subject is missing from the *āśauca* complex.

The need to control karma is explicitly given as the reason to undergo *prāyaścitta*, whereas the observance of *āśauca* is simply unexplained. The clearest reason for the necessity of penance is found in *Mānava-Dharmaśāstra* 11.53-54 which states that penance must be performed in order to avoid the serious effects of bad *karma* in the form of mental or physical disabilities in a coming life. What creates such bad *karma* has been defined previously (11.44) as the failure to carry out acts that are prescribed (*vihiṭa*) or doing acts that are disapproved (*nindita*). This suggests a clear connection between *karma* and *dharma*. The source of the sinner's impurity is the *adharmā* that he committed. *Adharma* is linked to personal activity and as such it is an individual condition, not a common, natural con-

dition like death¹³. As the four *varṇas* differ with regard to their “natural” activities (*svakarman*), so expectations of them in terms of *dharma* are also different – very high for Brahmins, low for Śūdras. Brahminical society came to perceive itself as the guardian of *dharma*, and the *dharma* concept, which had varied in the Vedic and early Buddhist literature, ended by being articulated as a summary of Brahminical values in the Dharmaśāstras (Olivelle 2005: 134). The self-identification of the Brahmins with the notion of *dharma* was an important part of Brahmin self-promotion in relation to rulers, but it also meant that recognition and influence became dependent on internal moral self-discipline in the Brahmin community. Immorality had social consequences, and this message was strengthened by making the connection to *karma* and rebirth: stepping out of line was a sure way to personal disaster. We may say, therefore, that it is the self-imposed identification with *dharma* and the self-expectations of a higher moral standard that accounts for the relatively larger amount of penance for Brahmins that we noticed in the general rule of distribution of penance among the four *varṇas*. “Moral,” however, should not primarily be understood in the sense of an inner conscience, but, precisely as it is formulated in MDhŚ 11.44, as failing to do what is prescribed (by *smṛti*) or doing what is disapproved (by “good people” – in other words by the Brahmin community). Undergoing penance was therefore also a public display of the Brahmins’ commitment to *dharma* – both as its upholders and followers.

While the reasons for undergoing penance are made clear with reference to *karma*, the texts are silent with regard to *āśauca*. Even Kane (1968-75: 4.269-270) did not find any real attempt to explain this institution. It is taken for granted without much reasoning – like death itself. Unlike *adharmā*, death – the source of *āśauca* impurity – is neither personal nor moral. It is the same everywhere, be it for Brahmins or for Śūdras. As such, it leaves natural relations between the *varṇas* intact. As I suggested above in relation to penance, the relation between Brahmins and Śūdras is overlaid with ritual and cosmological

13. There are texts that refer to a common increase of *adharmā* due to the effects of the *yugas* (eons) (PS 2.11.50c-51b). But this moral deterioration affects all, and therefore leaves the basic *varṇa* differentiations in terms of moral capability intact.

connotations deriving from their opposite position in relation to the Veda. This is also expressed in terms of life and death. “[B]ecause he retains the Veda, the Brahmin is by Law the lord of this whole creation,” according to MDhŚ 1.93, whereas ĀDhS 1.9.9 regards the Śūdra (like the *patita* and other degraded people) as “just like a cremation ground” in the sense that Veda recitation, which is not allowed on a cremation ground, should be suspended when these people are nearby¹⁴. Such stereotypes seem to express the idea that Brahmins, as lords of creation, are associated with life-giving, creative forces, while Śūdras are associated with death. Although death as a natural phenomenon is the same for all, we might interpret these ideas as an indication that Brahmins are in some degree resistant to the impurity that spreads from it, whereas Śūdras contract more of this impurity than the twice-born. If my assumption that *āśauca* is first of all a means of protecting the surrounding community is accepted, it follows by extension that, in the natural event of death in the family, Brahmins are a lesser source of impurity to the surroundings than are Śūdras.

Conclusions

There are three conclusions I want to draw from all this. The first is that the efforts of anthropologists to put these rules into a simple formula – whether Orenstein’s mathematical scheme or Mines’ *guṇa* model – are far from convincing when their formulae are placed alongside the dense details and conflicting rules of the actual texts material.

The second is that the notion of “impurity” which for Orenstein, Dumont and other anthropologists was the common criterion that connected the two different institutions of penance and mourning rituals, is an empty concept, a mere marker of different, specific types of harmful influence.

The third conclusion, then, is that it is in these distinct types of harmfulness that the real content, and perhaps the rationales, of these two institutions must be sought. *Prāyaścitta* and *āśauca* are two dif-

14. [...] *brahmaṇaś caiva dhāraṇāt / sarvasyaivāśya sargasya dharmato brāhmaṇaḥ prabhuh* // (MDhŚ 1.93b-d). *niḡameṣv adhyayaṇaṃ varjayet* / [...] / *śmaśāne sarvataḥ śamyāprāsāt* // [...] / *śmaśānavac chūdrapatitau* / (ĀDhS 1.9.4, 6 and 9).

ferent institutions organized around quite different events each having different causes and sources of harm. *Prāyaścitta* is primarily intended to remedy the effects of *adharmā*, i.e. the violations against the moral norms of *dharma*. As the Brahmins identify themselves with *dharma*, and perhaps also because *prāyaścitta* is regarded as a ritual associated, like Vedic rituals, with *apūrva*, Brahmins are subjected to greater amounts of *prāyaścitta* than the other *varṇas*, whereas Śūdras, with no Vedic ownership are unqualified to benefit from these observances except by the power of the Brahmin *pariṣad*. Like the Vedas themselves, *prāyaścitta* is a privilege. We saw how Mādhava, at least, referred to *apūrva* when explaining how *prāyaścitta* is able to remove bad *karma*, just like *apūrva* for Kumārila is supposed to explain how Vedic rituals produce good *karma* (Halbfass 1991: 306-307).

The total picture of *prāyaścitta* is not simple, however. There are cases, not mentioned above, where penance is not done because of personal violations of *dharma* but due to the occurrence of some harmful event that the individual has not intentionally wished for. Several such events are discussed: the case where a cow gets strangled by its tether (PS 2.8.1); a situation where a Caṇḍāla has stayed in one's house, but this has been without one's knowledge (PS 2.6.34-38); and other smaller events labeled by Orenstein as external act pollution, for instance the touch of a dog. In a sense, these events are like a death in the family: unlucky events for which the individual bears no direct responsibility. Still, they involve a bad *karma* for the person who owns the cow or who meets the dog. As a matter of *karma*, such events are therefore treated as cases within the *prāyaścitta* paradigm, although the events themselves are much like death in the family. This is because only *prāyaścitta* has this focus on the karma of the subject.

Āśauca is another matter. It is a cure for death pollution, an impurity that must be avoided by all. The close relatives cannot escape it, but the surrounding community is protected by the *āśauca* taboos observed by the relatives. Attention is on protection of the surrounding environment, and there is no idea of personal *karma* involved. It leaves the natural relations between the *varṇas* intact. As Brahmins are associated with creative, purifying qualities and Śūdras, according to standard stereotypes, with death and destruction, it is no wonder that Śūdras observe a longer period of *āśauca* than the upper three *varṇas*.

Only parts of all this can be deduced directly from the texts. Much is interpretation; some would say speculation. Still I hope at least to have pointed out some lacunas in our understanding of these prominent themes in the Dharmasāstra. Certainly, further close, textual study is needed in order to throw more light on these obscure areas.

Abbreviations

ĀDhS	<i>Āpastambadharmasūtra</i>
AŚ	<i>Arthaśāstra</i>
GDhS	<i>Gautamadharmasūtra</i>
MDhŚ	<i>Mānava-Dharmaśāstra</i>
MitHa	<i>Mitākṣarā</i> . Haradatta's commentary on <i>Gautamadharmasūtra</i>
MitVi	<i>Mitākṣarā</i> . Vijñāneśvara's commentary on <i>Yājñavalkyasmṛti</i>
PM	<i>Parāśaramādhaviya</i> (<i>Parāśarasmṛti</i> with comm. of <i>Mādhavācārya</i>)
PS	<i>Parāśarasmṛti</i> , see PM
VS	<i>Viṣṇusmṛti</i>
YS	<i>Yājñavalkyasmṛti</i> , see MitVi

References

Aktor, Mikael. 1997. *Ritualization and Segregation: The Untouchability Complex in the Scholarly Indian Literature on Dharma with Special Reference to Parāśarasmṛti and Parāśaramādhaviya*. University of Copenhagen.

Aktor, Mikael. 2002. Rules of Untouchability in Ancient and Medieval Law Books: Household, Competence, and Inauspiciousness. *International Journal of Hindu Studies* 6, 3: 243-274.

Āpastambadharmasūtra. Olivelle, Patrick (ed., tr.). 2000. *Dharmasūtras: The Law Codes of Āpastamba, Gautama, Baudhāyana, and Vasiṣṭha*. Delhi: Motilal Banarsidass.

Arthaśāstra. Kangle, R.P. (ed., tr.). 1992 [1960-1965]. *Arthaśāstra*, 3 vols. Delhi: Motilal Banarsidass.

Douglas, Mary. 1966. *Purity and Danger: An Analysis of Concepts of Pollution and Taboo*. London: Routledge and Kegan Paul.

Dumont, Louis. 1966. *Homo hierarchicus: Le système des castes et ses implications*. Paris: Editions Gallimard.

Gautamadharmasūtra. Olivelle, Patrick (ed., tr.). 2000. *Dharmasūtras: The Law Codes of Āpastamba, Gautama, Baudhāyana, and Vasiṣṭha*. Delhi: Motilal Banarsidass.

Glucklich, Ariel. 1988. *Religious Jurisprudence in the Dharmaśāstra*. New York: Macmillan.

Halbfass, Wilhelm. 1991. *Tradition and Reflection: Explorations in Indian Thought*. Albany: State University of New York Press.

Inden, Ronald. 1985. Kings and Omens. In *Purity and Auspiciousness in Indian Society*, eds. J.B. Carman & F. Marglin. Pp.30-40. Leiden: E.J. Brill.

Kane, Pandurang V. 1968-1975 [1930-1962]. *History of Dharmaśāstra (Ancient and Mediæval Religious and Civil Law)*, 5 vols., 2nd ed. Pune: Bhandarkar Oriental Research Institute.

Mānava-Dharmaśāstra. Olivelle, Patrick (ed., tr.). 2005. *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra*. New York: Oxford University Press.

Marglin, Frédérique A. 1977. Power, Purity and Pollution: Aspects of the Caste System Reconsidered. *Contributions to Indian Sociology* (NS) 11, 2: 245-270.

Marglin, Frédérique A. 1985. Types of Opposition in Hindu Culture. In *Purity and Auspiciousness in Indian Society*, eds. J.B. Carman & F. Marglin. Pp.65-83. Leiden: E.J. Brill.

Mines, Diane P. 1989. Hindu Periods of Death 'Impurity'. *Contributions to Indian Sociology* (NS) 23, 1: 103-130.

Mitākṣarā (Haradatta). Umeśa Candra Pāndey (ed.). 1966. *Gautamadharmasūtra with the Commentary of Haradatta*. Varanasi: Chowkhamba.

Mitākṣarā (Vijñāneśvara). Umeśa Candra Pāndey (ed.). 1967. *Yājñavalkyasmṛti, with the Commentary of Vijñāneśvara*. Varanasi: Chowkhamba.

Olivelle, Patrick. 1998. Caste and Purity: A Study in the Language of the Dharma Literature. *Contributions to Indian Sociology* (NS) 32, 2: 190-216.

Olivelle, Patrick. 2005. *Language, Texts, and Society: Explorations in Ancient Indian Culture and Religion*. Florence: Firenze University Press.

Orenstein, Henry. 1968. Towards a Grammar of Defilement in Hindu Sacred Law. In *Structure and Change in Indian Society*, eds. M. Singer & B.S. Cohn. Pp.115-131. Chicago: Aldine Publishing Company.

Parāśaramādhavīya (*Parāśarasmṛti* with the commentary of Mādhavācārya). Islāmpurkar, Vāman Śāstri (ed.). 1893-1919. *Parāśara Dharma Saṅghitā or Parāśara Smṛti with the Commentary of Sāyaṇa Mādhavāchārya*. Bombay: The Department of Public Instruction.

Tambiah, Stanley J. 1973. From Varna to Caste through Mixed Unions. In *The Character of Kinship*, ed. J. Goody. Pp.191-229. London: Cambridge University Press.

Viṣṇusmṛti. Jolly, Julius (ed.). 1962 [1881]. *Viṣṇusmṛti (the Institutes of Viṣṇu)*. Reprint. Varanasi: Chowkhamba.