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THE *KAPILASMṚTI* – A LITTLE-KNOWN TEXT
ON HINDU *DHARMAŚĀSTRA*: AN OVER-VIEW

Introductory

The *Kapilasmṛti* (*KS*), which belongs to the category of the later texts in Hindu law, is a work whose author was obviously concerned by the social problems of his day. As we shall see below, he took notice of such issues as child widows and the initiation of dumb brahmins, for whom he went so far as to advocate the use of a written form of the *Gāyatrī*. In spite of its intrinsic interest, it is to be noted that it has neither been referred to nor quoted in any secondary work on *dharmaśāstra* to date¹. The following brief study is based on the critical edition of the *KS* being prepared by the present writer based on nine manuscripts and also the edition of the *KS* in the *Smṛtisandarbha*². Among the nine manuscripts³ four of them are in Devanāgarī, four in Telugu and one in Grantha script.

1. A statement of P. V. Kane (*History of Dharmaśāstra*, (Bhandarkar Oriental Research Institute, Poona, 1968, Second edition) Vol. I, p. 25) which reads: "One remarkable piece of information contained in the Baudhāyana [*dharmasūtra*] (II.6.30) is that he quotes from a work (of the Brāhmaṇa class in language), a prose passage wherein the division into four *āśramas* is ascribed to an *asura* Kapila, son of Prahlāda", is not a reference to this *KS*.

2. *Smṛtisandarbha*, (Gurumandal Series, Calcutta, 1952-57), Vol. IV, pp. 2559-2622.

3. Two manuscripts from the Adyar Library and Research Centre, Adyar, Madras; two from the Govt. Oriental Manuscripts Library, Madras; two from India

From among the several *smṛti* texts which the *KS* refers to, such as those of Manu, Bhṛṅgu, Kaṇva, Jābāla and Kāśyapa, the latest is that of Aṅgiras, whose date has been ascertained to be before A. D. 800⁴, which provides the upper date of the *KS*. Among the available manuscripts of *KS*, the one which carries the earliest date of transcription is Ms. 1754, preserved in the Staatsbibliothek, Berlin, bearing a date corresponding to A. D. 1262. On the basis of the above, the *KS* could be assigned a date between A. D. 800 and 1200. It is more easy to identify its place of composition. The Telugu script, in which most of its known manuscripts have been written, coupled with certain vernacular expressions⁵ used in it and certain local customs which it prescribes⁶ point to its place of composition as the Telugu-speaking

Office, London; one each from the Bodleian Library; Staatsbibliothek, Berlin and the Royal Asiatic Society, Calcutta.

4. See the introduction to the *Āṅgirasasmṛti*, ed. A. N. Krishna Aiyangar, The Adyar Library and Research Centre, Madras, 1953, p. xxxi.

There are three editions of this *smṛti*, which differ from each other - the Jīvananda edition (Part I, pp. 554-560, 72 verses), the Ānandāśrama edition (Ānandāśrama Sanskrit Series No. 48, pp. 1-8, 168 verses) and the Adyar edition (Adyar Library Series No. 84, 1277 verses). Among these three, the *KS* is closest to the Adyar text. Number of verses and certain ideas are common to the *Āṅgirasasmṛti* and the *KS*, for example:

dadyātām dāmpatī putraṃ grhṇīyatām ca dāmpatī |
tayor evādhikāro 'yaṃ taddāne tatpratigrahe |

Āṅgirasasmṛti, pūrvāṅgirasam 303b-304b = KS 384.

Close parallels are to be found also in the following texts (References are given according to the *Smṛtīnām samuccaya*, Ānandāśrama Sanskrit Series No. 48): *Atrisamhitā* 381 (= *KS* 46); *Gobhilasmṛti* 16 (= *KS* 85b); *Dakṣasmṛti* I. 1 and I. 10 (= *KS* 6b-7a and 662); *Prajāpatismṛti* 193 (= *KS* 84-85); *Yamasmṛti* 78 (= *KS* 413a); *Laghuhārītasṛti* 115 (= *KS* 509) etc.

5. Usage of the word 'varṇaka' (*KS* 463b, 465d) in the meaning of 'group of villages', as in Telugu, is an example. (vide *Sūryarāyāndhranighaṇṭuvu*, (Andhra Pradesh Sahitya Academy, Hyderabad, 1982.), Vol. VII, p. 78.

6. While dealing with the serving of food in *śrāddha*, the text says that ghee is to be served several times. As other *smṛti* texts, it prescribes that the house should not be decorated on the day of *śrāddha*. Further it adds that after sending the *brāhmaṇas* who represented the manes, one may decorate the house by making drawings. These practices, viz. serving ghee several times for the *brāhmaṇas* in the *śrāddha* and making drawings in front of the house on the *śrāddha* day (after sending away the *brāhmaṇas* who represented the manes) are, to my knowledge, followed only in Andhra Pradesh.

region of Andhra Pradesh in South India. This explains also the neglect of its study and the absence of manuscripts in North India.

Nature and contents of Kapilasmṛti

The KS, is a medium-sized work of Hindu social religious law couched in 1002 verses in the *anuṣṭubh* metre. It has been composed with the specific purpose of prescribing rules and restrictions to regulate the daily life of the *brāhmaṇa*, as has been clearly expressed at the beginning of the work:

*purā tu śaunakaḥ śrīmān bhāvinam kalim iḥṣya vai /
bhīto 'tyantam kalau bhūmyām tiṣṭhed vipratvam ity asau // 1 //
atyantam cintayāviṣṭam kapilaṃ viṣṇurūpiṇam /
avaśād āgatam vikṣya prahr̥ṣtas satvaram tadā // 2 //
samutthāyābhivādyainam gām arghyam udakam śivam /
kalpayitvā naṣṭaśramam paścāt prāñjalir abravīt // 3 //
śaunakaḥ:-
kalau pāpaikabahule dharmānuṣṭhānavarjite /
kathaṃ tiṣṭhati vipratvam bhūtale vada me mahan! // 4 //
saṃśayo 'tīva sumahān vartate chindhi tam vibho! /
itī tena kṛtapraśnaḥ kapilas sa sanātanaḥ // 5 //
smayaṃ kṛtvā jagadbhartā sasmitam vākyam abravīt / 6a /*

Thus it is stated that sage Śaunaka, worried about how Vedic brāhmaṇahood would survive the onslaught of the sinful Kali age which would destabilise all righteousness in the world, felt happy at the fortuitous arrival of the sage Kapila, the incarnation of Viṣṇu, the preserver of all worlds, and, receiving him with reverence, laid before him the misgivings which he had. The remainder of the KS forms the long oration of the sage Kapila addressed to Śaunaka.

The work deals primarily with the social and domestic life which the Vedic *brāhmaṇa* is instructed to lead in the Kali age, unaffected by his surroundings and preserving his pristine brāhmaṇahood. The several subjects which come under the span of *dharmāśāstra* texts are touched upon, specifically those laying down the rules and restrictions which should be followed by the *brāhmaṇa*, the more important of

these subjects being *śrāddha*, *dāna* and *prāyaścitta*. There too, certain topics which are ignored or merely glossed over in other texts find detailed treatment in the *KS*. I shall present here some of these.

Upanayana

Upanayana, being one of the important *saṃskāras* which has been preserved intact even in these days, implies the initiation of the *Gāyatrīmantra*. In the early days, persons who were inherently incompetent for education, such as the blind and the dumb were excluded from it. Later it was advocated that the *upanayana* should be performed for the dumb, deaf, blind etc.

In the case of the handicapped, the doer (parent of the boy) himself chants the mantras and performs the rituals. However, he must make the boy place the *samidhs* into the fire by the boy's own hand, mutely.

*bhrāntasya cāpi mūkasya svayaṃ mantrakriyāś caret /
yājñikīṃ samidhaṃ tūṣṇīm ādhāpayati tatkarāt //
tūṣṇīm aśmānam āsthāpya samantrāmantrato 'pi vā /
sarvaṃ kuryād vidhānena tad aśakyaṃ yad eva hi //
tantramātraṃ prakurvīta kṛtsne tadvacanādike /
sarvasmīn api tatkārye svayam eva tadā tadā //*

KS 308-310.

The '*pratipraśnapravacana*'⁷ can be performed by gestures. The doer should recite the *Gāyatrīmantra* and he should make the pupil grasp the same. For the hard of hearing the *Gāyatrīmantra* can be uttered loudly.

The *KS* mentions a peculiar custom for the said compulsory *upanayana* of the dumb.

*mūkamātrasya ko 'py eko viśeṣo vakṣyate 'dhunā //
pradhānahomād atha ca sthālīpākavidhānataḥ /*

7. In this the teacher asks certain questions to the boy and he answers those questions. vide *History of Dharmaśāstra*, Vol. II, pp. 282-283.

caruṃ kṛtvātha sāvitryā huned ekāhutim̐ tathā ||
svayaṃ kṛtvākhilam̐ kṛtyaṃ yad yad yogaṃ yathā tathā |
paścāt taddattakūrce 'sminn upaviṣṭo jale tathā ||
kṣīre dadhni gṛṇte vāpi sāvitṛm̐ tāṃ śalākayā |
lekhayitvā ca saṃpūjya dhyānāvāhanakarma ca ||
dhūpadīpau vidhāyaivaṃ naivedyaṃ ca pradakṣiṇam̐ |
namaskārān nīrājanopacārān akhilān api ||
svayaṃ kṛtvā tena cāpi kārayitvā ca tatparam̐ |
tat praśayed vidhānena tenāsau kṛtakṛtyatām̐ ||
prayātīti vidhiḥ prāha tato nityam̐ asau punaḥ |
sandhyātrayaṃ cābhinayan kriyayā sarvam̐ ācaret ||

KS 323b-329*.

After performing the necessary rituals, the doer should make the boy write the *Sāvitṛī* with a stick of *palāśa* in water, milk, curd or ghee and then that medium is to be worshipped with *dhyāna*, *āvāhana*, *dhūpa*, *dīpa*, *naivedya*, *pradakṣiṇa*, *namaskāra*, *nīrājana* etc. and then it should be sipped. By this ceremony the requirements are fulfilled. After the *upanayana* he (the dumb boy) has to perform *sandhyā* everyday by gestures.

Śrāddha

The KS devotes about a quarter of its text to *śrāddha*. It speaks about the 108 *śrāddhas* to be performed annually by a *brāhmaṇa*.

aṣṭottaraśatāni syuḥ śrāddhāny etāni santatam̐ |
kartavyatvena khyātāni sarvaśāstreṣu vacmi vaḥ ||
tatra dvādaśasaṃkhyāni māsi śrāddhāni santatam̐ |
māsi māsi yathākāmaṃ tattatkāleṣu tāni vai ||
kṣṇapakṣe viśeṣeṇa vihītāni samāsataḥ |
amāmanuyugakrāntadhṛtipātamahālayāḥ ||
tisro 'ṣṭakā gajacchāyā ṣaṇṇavatyāḥ prakīrtitāḥ |

KS 156-159a.

8. In the above quoted verses, verse 324 uses 'huned', an *ārṣa* form for 'juhūyāt' which has many parallels, for example in *Āṅgirasasmṛti*, *pūrvāṅgirasam* 88.

KS 327cd (*nīrājanopacārān*) is unmetrical, but this may be authorial, for the text contains a few such slips.

They are:

i. <i>amāvāsyā</i> 12	vi. <i>vyatīpāta</i> 13
ii. <i>manvantara</i> 14	vii. <i>mahālaya</i> 15
iii. <i>yugādi</i> 4	viii. <i>aṣṭaka</i> 12
iv. <i>saṅkrama</i> 12	ix. <i>gajacchāyā</i> 1
v. <i>vaidhṛti</i> 13	x. <i>māsiśrāddha</i> 12

The *KS* gives a detailed description of the yearly *śrāddha* (*pratyābdika*). While giving the instructions to be followed on the *śrāddha* day, it says that the house should be cleaned with cowdung but any decoration should be avoided. The *yajamāna* and his wife should not put on any religious marks on their forehead. Later it says that after sending away the *brāhmaṇas* (who represented the manes and had been fed on their behalf), the house can be decorated and one can wear religious marks on one's forehead. As we have remarked above, this practice appears to be restricted to parts of Andhra Pradesh. It instructs that the *Nāndīśrāddha* should be performed on the occasion of the marriage of sons and daughters, entering a new house, naming a child, *cūḍākarma*, *sīmantonmayana* and the birth of a son.

kanyāputravivāheṣu praveśe veśmanām api /
nāmakarmaṇi bālānām cūḍākarmādike tathā //
sīmantonmayane caiva putrādīmukhadarśane /
nāndīmukhaṃ prakartavyaṃ ...//

KS 77-78.

It adds that in this *śrāddha* the worship of the mother should be undertaken first, followed by that of the father. The *KS* suggests that in the *Nāndīśrāddha* a *dattaka* (adopted son) should worship his maternal grandfather. It is to be noted that a *dattaka* leaves out only the *gotra* of his parents. As he does not leave out the maternal grandfather, he (maternal grandfather) should be worshipped.

The *KS* discusses in detail whether the *devapūjā* (*nitya*) should be performed before the *śrāddha*. According to the text, the *nitya* will be superceded (*bādhyate*) by the *naimittika* and, as such, it suggests that the *devapūjā* could be performed after the completion of *naimittika*.

The *KS* makes certain remarks about the *aupāsana* fire. For (performing the rites of) a paternal uncle, the *aupāsana* fire should

not be used. It can be used for parents, wife, maternal grandfather and maternal grandmother. Since the wife is the agency for the *aupāsana* fire, one should give up the same with the wife's death, using the fire to cremate her body. If he wants, he can marry again and by this he will be able to get a new *aupāsana* fire. But if he is not able to marry again, he can cremate his wife using a new fire. And in the original fire he can perform the necessary duties such as *sarpabali*, *āgrāyaṇa* etc. The *KS* also mentions the opinion of some ṛṣis in this regard: he can give up a half portion of the *aupāsana* fire to his wife (for cremation) and he can keep the remaining half.

The *KS* gives great importance to the participation of the daughter-in-law (of the performer and also of the one for whom the *śrāddha* is performed) in the *śrāddhapāka* (cooking in the *śrāddha* for the *brāhmaṇas* who represent the manes). It adds that a daughter-in-law has the place in *śrāddhapāka* that a wife has in *sthālīpāka*. It is said that one gets *snuṣātva* (the state of being the daughter-in-law) and *putratva* by participating in the ancestor's *śrāddha* function.

The *KS* notes certain peculiar points related to the *sapiṇḍīkaraṇa*⁹ of a *dattaka* (adopted son). In *sapiṇḍīkaraṇa*, the son of the *dattaka* should reconcile the *piṇḍa* of the *dattaka* to his own *pitṛ*, *pitāmaha* and *prapitāmaha* (natural father etc.) who are in the forms of *Vasu*, *Rudra* and *Āditya*. The *KS* gives a detailed note emphasising this point (to reconcile the *piṇḍa* of the *dattaka* with his natural father etc.). It says that the *piṇḍa* of the *dattaka* cannot be joined with the *piṇḍas* of his adoptive father because the *dattaka* is a *miśragotrīn* and therefore does not possess *tatatva*. *Rasatva* or *pitṛtva*, *śuṣmatva* or *pitāmahatva* and *jīvatva* or *prapitāmahatva* are *tatatvas*. These characteristics are genetically inherited and therefore cannot be attributed to the adoptive father. Thus the *dattaka*'s *piṇḍa* cannot be reconciled with the *piṇḍas* of his adoptive father, grandfather and great-grandfather, since they are not the progenitors of the *dattaka*. *Vasutva*, *Rudratva* and *Ādityatva* can be found only in the *tatādins*.

The *KS* also deals in detail with adoption, including an account of the rite to be performed and its mantras (*KS* 389-401). It describes the

9. Name of the *śrāddha* performed after one year or on the twelfth day from death. It is supposed to unite the deceased with his ancestors.

importance of the *dauhitra* (daughter's son) and says that one who has a *dauhitra* will not be eligible to adopt a son. It strongly recommends that an only son should never be given or received in adoption. In the same manner the eldest and youngest also should not be given. According to the *KS*, if the adopter (one who had adopted a son from another family) begets his own son, the later will be treated as the eldest though he is younger than the adopted one. The *KS* insists that one should adopt a son only from one's own *gotra* and points out the defects caused by adoption from another *gotra*. It is to be noted that if the adopted son is dead, one should not adopt again. But he can take an *apaviddha* son¹⁰.

The *KS* defines several types of widows. *Ajñātā* is a widow who lost her husband in her childhood and does not know even his name; *Prajñātā* is one who knows only the name of her husband; *Sprṣṭā* is one who lost her husband after consummation and *Asprṣṭā* is one who lost her husband before the union with him after her puberty. *Naṣṭaputrā* is a widow who has lost all her children. It deals in detail with their daily duties and the way of life they should lead. The *KS* suggests that the widow should make proper arrangements for giving back the land which she had received from her father, mother and brothers or from her husband. It further instructs that a widow should get permission from her *jñātis* for adopting a son or for making a gift of land. Finally it says that widows should be protected by all.

Conclusion

The *KS* mostly devotes space to social issues which are not dealt with at length in other texts. Its explanation of the *upanayana* for the dumb is a case in point. Whereas the *Brahmapurāṇa*¹¹ prescribes the

10. One cast off by one's parents and accepted by another person as his son.

11. *dhvastapuṁstveṣu caiteṣu saṁskārāḥ syur yathocitaṁ /*

mattaunmattau na saṁskāryāv iti kecit pracakṣate /

karmasv anadhikārāc ca pātīyaṁ nāsti caitayoḥ /

tadapatyaṁ ca saṁskāryam apare tv āhur anyathā /

saṁskāramantrahomādīn karoty ācārya eva tu /

upaneyāṁś ca vidhivad ācāryaḥ svasamīpataḥ /

ānyāḥgnisamīpaṁ vā sāvitṛiṅ sprśya vā japeḥ /

(*Brahmapurāṇa* quoted in *Nirṇayasindhu* and *Saṁskāraprakāśa*), *History of Dharmasāstra*, Vol. II, p. 298.

ācārya to chant the *Gāyatrī* on behalf of the boy, the *KS* goes further and prescribes a new method of identifying a medium in which the *Gāyatrī* is worshipped and then consumed. The duties and privileges of widows and their division into several classes, which are dealt with elaborately here, are not common in other *smṛtis*. Mentioning *niyoga* as a bad practice, it shows the degeneration of this custom. The *KS* allows the *śūdra* to give gifts and makes him eligible even for *upanayana*, which was opposed by earlier writers. On adoption the *KS* gives elaborate rules and regulations.

In this brief account I hope I have made clear from the few instances cited the distinctive character of the text: the author was concerned with social problems and appears to have handled some of them in a manner that is entirely original. I intend soon to submit for publication my critical edition of the work.