

CHAPTER 23

THEIR WISHES ARE LAWS UNTO US

I. Adharma for Dharma. II. Manu and Dharma. III. Modern Counterparts. IV. Effect of Dharma on character and outlook.

Any one who reads of the lawlessness of the Hindus in suppressing the movement of the untouchables, I am sure will be shocked. Why does the Hindu indulge in this lawlessness is a question he is sure to ask and none will say that such a question will not be a natural question and in the circumstances of the case a very pertinent question—Why should an untouchable be tyrannized if he wears clean clothes? How can it hurt a Hindu. Why should an untouchable be molested because he wants to put a tiled roof on his house? How can it injure a Hindu? Why should an untouchable be persecuted because he is keen to send his children to school? How does a Hindu suffer thereby? Why should an untouchable be compelled to carry dead animals, eat carrion, and beg his food from door to door? Where is the loss to the Hindu if he gives these things up. Why should a Hindu object if an untouchable desires to change his religion? Why should his conversion annoy and upset a Hindu? Why should a Hindu feel outraged if an untouchable calls himself by a decent, respectable name? How can a good name taken by an untouchable adversely affect the Hindu? Why should the Hindu object if an untouchable builds his house facing the main road? How can he suffer thereby? Why should the Hindu object if the sound made by an untouchable falls upon his ears on certain days? It cannot deafen him. Why should a Hindu feel resentment if an untouchable enters a profession, obtains a position of authority, buys land, enters commerce, becomes economically independent and is counted among the well-to-do? Why should all Hindus whether officials or non-officials make common cause to suppress the untouchables? Why should all castes otherwise quarreling among themselves combine to make, in the name Hinduism, a conspiracy to hold the untouchables at bay?

All this of course sounds like a fiction. But one who has read the tales of Hindu tyranny recounted in the last chapter will know that beneath these questions there is the foundation of facts. The facts, of course, are stranger than fiction. But the strangest thing is that these deeds are done by Hindus who are ordinarily timid even to the point of being called cowards. The Hindus are ordinarily a very soft people. They have none of the turbulence or virulence of the Muslims. But, when so soft a people resort without shame and without remorse to pillage, loot, arson and violence on men, women and children, one is driven to believe that there must be a deeper compelling cause which maddens the Hindus on witnessing this revolt of the untouchables and leads them to resort to such lawlessness.

There must be some explanation for so strange, so inhuman a way of acting. What is it?

If you ask a Hindu, why he behaves in this savage manner, why he feels outraged by the efforts which the untouchables are making for a clean and respectable life, his answer will be a simple one. He will say: "What you call the reform by the untouchables is not a reform. It is an outrage on our Dharma". If you ask him further where this Dharma of his is laid down, his answer will again be a very simple one. He will reply, "Our Dharma is contained in our Shastras". A Hindu in suppressing what, in the view of an unbiased man, is a just revolt of the untouchables against a fundamentally wrong system by violence, pillage, arson, and loot, to a modern man appears to be acting quite irreligiously, or, to use the term familiar to the Hindus, he is practising *Adharma*. But the Hindu will never admit it. The Hindu believes that it is the untouchables who are breaking the *Dharma* and his acts of lawlessness which appear as *Adharma* are guided by his sacred duty to restore Dharma. This is an answer, the truth of which cannot be denied by those who are familiar with the psychology of the Hindus. But this raises a further question: What are these Dharma which the Shastras have prescribed and what rules of social relationship do they ordain ?

II

The word *Dharma* is of Sanskrit origin. It is one of those Sanskrit words which defy all attempts at an exact definition. In ancient times the word was used in different senses although analogous in connotation. It would be interesting to see how the word *Dharma* passed through transitions of meaning¹. But this is hardly the place for it. It is sufficient to say that the word *dharma* soon acquired a definite

¹ See P. V. Kane—History of Dharma Shastra, pp. 1-2.

meaning which leaves no doubt as to what it connotes. The word Dharma means the privileges, duties and obligations of a man, his standard of conduct as a member of the Hindu community, as a member of one of the castes, and as a person in a particular stage of life.

The principal sources of Dharma, it is agreed by all Hindus, are the Vedas, the Smritis and customs. Between the Vedas and Smritis, so far as Dharma is concerned, there is however this difference. The rules of Dharma, as we see them in their developed form, have undoubtedly their roots in the Vedas, and it is therefore justifiable to speak of the Vedas as the source of Dharma. But the Vedas do not profess to be formal treatises on *Dharma*. They do not contain positive precepts (*Vidhis*) on matters of Dharma in a connected form. They contain only disconnected statements on certain topics concerned with *Dharma*. On the other hand, Smritis are formal treatises on Dharma. They contain enactments as to the Dharma. They form the law of the Dharma in the real sense of the term. Disputes as to what is Dharma and what is not Dharma (Adharma) can be decided only by reference to the text of the law as given in the Smritis. The Smritis form, therefore, the real source of what the Hindu calls Dharma, and, as they are the authority for deciding which is Dharma and which is not, the Smritis are called Dharmashastras (scriptures) which prescribe the rules of Dharma.

The number of Smritis which have come down from ancient times have been variously estimated. The lowest number is five and the highest a hundred. What is important to bear in mind is that all these Smritis are not equal in authority. Most of them are obscure. Only a few of them were thought to be authoritative enough for writers to write commentaries thereon. If one is to judge of the importance of a Smriti by the test as to whether or not it has become the subject matter of a commentary, then the Smritis which can be called standard and authoritative will be the Manu Smriti, Yajnavalkya Smriti and the Narada Smriti. Of these Smritis the Manu Smriti stands supreme. It is pre-eminently the source of all Dharma.

To understand what is the Dharma for which the Hindu is ready to wage war on the untouchables, one must know the rules contained in the Smritis, particularly those contained in the Manu Smriti. Without some knowledge of these rules, it would not be possible to understand the reaction of the Hindus to the revolt of the untouchables. For our purpose it is not necessary to cover the whole field of Dharma in all its branches as laid down in the Smritis. It is enough to know that branch of the Dharma which in modern parlance is called the law of persons, or to put it in non-technical language, that part of the Dharma which deals with right, duty or capacity as based on status.

I therefore propose to reproduce below such texts from Manu Smriti as are necessary to give a complete idea of the social organization recognized by Manu and the rights and duties prescribed by him for the different classes comprised in his social system.

The social system as laid down by Manu has not been properly understood and it is therefore necessary to utter a word of caution against a possible misunderstanding. It is commonly said and as commonly believed that what Manu does is to prescribe a social system which goes by the name of Chaturvarna—a technical name for a social system in which all persons are divided into four distinct classes. Many are under the impression that this is all that the Dharma as laid down by Manu prescribes. This is a grievous error and if not corrected is sure to lead to a serious misunderstanding of what Manu has in fact prescribed and what is the social system he conceived to be the ideal system.

I think this is an entire misreading of Manu. It will be admitted that the divisions of society into four classes comprised within Chaturvarna is not primary with Manu. In a sense this division is secondary to Manu. To him it is merely an arrangement *inter se* between those who are included in the Chaturvarna. To many, the chief thing is not whether a man is a Brahman, Kshatriya, Vaishya or Shudra. That is a division which has existed before him. Manu added, accentuated and stratified that difference. The division did not originate with him. But what did originate with Manu is a new division between (1) those who are within the pale of Chaturvarna and (2) those who are outside the pale of Chaturvarna. This new social division is original to Manu. This is his addition to the ancient Dharma of the Hindus. This division is fundamental to Manu because he was the first to introduce it and recognize it by the stamp of his authority.

The texts which have a bearing on the subject must therefore be arranged under two heads (1) texts relating to those who are within the Chaturvarna and (2) texts relating to those who are outside the Chaturvarna.

1. *Those within the Pale of the Chaturvarna. Their origin and their duties*

- (1) This (Universe) existed in the shape of Darkness, unperceived, destitute of distinctive marks, untenable by reasoning, unknowable, wholly immersed, as it were in a deep sleep.

(1) Manu I. 5.

- (2) Then the divine self existent (Svayambhu, himself) indiscernible (but) making (all) this, the great elements and the rest discernible, appeared with irresistible (creative) power, dispelling the darkness.
- (3) But for the sake of the prosperity of the worlds, he caused the Brahmana, the Kshatriya, the Vaishya, and the Shudra to proceed from his mouth, his arms, his thighs and his feet.
- (4) But in order to protect this Universe. He, the most resplendant one, assigned separate (duties and) occupations to those who sprang from his mouth, arms, thighs and feet.
- (5) To the Brahmans he assigned teaching and studying (the Vedas), sacrificing (performing sacrificial ceremonies) for their own benefit and for others, giving and accepting (of alms).
- (6) The Kshatriya he commanded to protect the people, to bestow gifts, to offer sacrifices, to study (the Veda), and to abstain from attaching himself to sensual pleasures.
- (7) The Vaishya to tend cattle, to bestow gifts, to offer sacrifices, to study (the Veda), to trade, to lend money and to cultivate the land.
- (8) One occupation only the lord prescribed to the Shudra, to serve meekly even these (other) three castes.
- (9) A student, an apprentice, a hired servant, and fourthly an official; these must be regarded as labourers. Slaves are those who are born in the house and the rest.
- (10) The sages have distinguished five sorts of attendants according to law. Among these are four sorts of labourers (mentioned above). The slaves (are the fifth category, of which they are) fifteen species.
- (11) One born at (his master's) house; one purchased; one received by gift; one obtained by inheritance; one maintained during a general famine; one pledged by his rightful owner.
- (12) One released from a heavy debt; one made captive in a fight; one won through a wager, one who has come forward declaring 'I am thine' an apostate from asceticism; one enslaved for a stipulated period.
- (13) One who has become a slave in order to get a maintenance; one enslaved on account of his connection with a female slave; and one self sold. These are fifteen classes of slaves as declared in law.
- (14) Among these the four named first cannot be released from bondage, except by the favour of their owners. Their bondage is hereditary.
- (15) The sages have declared that the state of dependence is common to all these; but that their respective position and income depends on their particular caste and occupation.

(2) Manu I. 6; (3) *Ibid.*, I. 31; (4) *Ibid.*, I. 87; (5) *Ibid.*, I. 88; (6) *Ibid.*, I. 89; (7) *Ibid.*, I. 90; (8) *Ibid.*, I. 91; (9) Narad V. 3; (10) *Ibid.*, V. 2; (11) *Ibid.*, V. 26; (12) *Ibid.*, V. 27; (13) *Ibid.*, V. 28; (14) *Ibid.*, V. 29; (15) *Ibid.*, V. 4.

2. *Those outside the Pale of Chaturvarna. Their origin and their duties.*

This is what Manu has to say about their origin and their position.

- (1) All those tribes in this world, which are excluded from (the community of) those born from the mouth, the arms, the thighs, and the feet (of Brahman), are called Dasyus, whether they speak the language of the Mlekkhas (barbarians) or that of the Aryans.
- (2) Near well-known trees and burial ground, on mountains and in groves, let these (tribes) dwell, known (by certain marks), and subsisting by their peculiar occupations.
- (3) But the dwellings of the Chandalas and Shwapakas shall be outside the village, they must be made apapatras and their wealth (shall be) dogs and donkeys.
- (4) Their dress (shall be) the garments of the dead, (they shall eat) their food from broken dishes, black iron (shall be) their ornaments, they must always wander from place to place.
- (5) A man who fulfils a religious duty, shall not seek intercourse with them; their transactions (shall be) among themselves and their marriages with their equals.
- (6) Their food shall be given to them by others (than an Aryan giver) in a broken dish; at night they shall not walk about in villages and in towns.
- (7) By day they must go about for the purpose of their work, distinguished by marks at the King's command, and they shall carry out the corpses (of persons) who have no relatives, that is a settled rule.
- (8) By the King's order they shall always execute the Criminals in accordance with the law, and they shall take for themselves the clothes, the beds and the ornaments of (such) criminals.
- (9) He who has had connection with a woman of one of the lowest castes shall be put to death.
- (10) If one who (being a member of the Chandalas or some other low caste) must not be touched, intentionally defiles by his touch one who (as a member of a twice born caste) may be touched (by other twice born persons only) he shall be put to death.

I have already said, that to Manu, this division between those who are within the pale of Chaturvarna and those who are outside of it was a division which was real. It was so real that Manu calls those who were outside the pale of Chaturvarna by the name *Bahayas* which means excluded i.e. excluded from or outside of the system of Chaturvarna. It was a division to which he attached far reaching

(1) Manu X. 45, (2) *Ibid.* X. 50; (3) *Ibid.* X. 51; (4) *Ibid.* X. 52; (5) *Ibid.* X. 53; (6) *Ibid.* X. 54; (7) *Ibid.* X. 55; (8) *Ibid.* X. 56; (9) Vishnu V. 43; (10) *Ibid.* V. 104.

consequences. This division was intended to result in a difference of status and citizenship. It is true that all those who are within the pale of Chaturvarna are not all on the same level. Within the Chaturvarna there are the Brahmins, Kshatriyas, Vaishyas, Shudras and Slaves all unequal in status. Still they are within the Chaturvarna. Those within the Chaturvarna have a status in the eye of the law of Manu and a respect in the eye of the public. Those outside it have no respect in the eye of that society. The difference is also one of citizenship. Those within the Chaturvarna have rights to enjoy and remedies to enforce them. Those outside the Chaturvarna have no rights and no remedies.

This difference between those who are within the Chaturvarna and those outside of it have a kind of resemblance to the difference between *civics* i.e. citizens and *preregenis* or *hostis* i.e. non-citizens in the early Roman Law. The early law of Rome was essentially personal—not territorial. A man enjoyed the benefit of its institutions and of its protection, not because he happened to be within Roman territory, but because he was a citizen—one of those by whom and for whom its law was established. The story of the early *jus gentium* was that a man sojourning within the bounds of a foreign state was at the mercy of the latter and its citizens; that he himself might be dealt with as a slave, all that belonged to him appropriated by the first comer. For he was outside the pale of the law. Under the *jus civile* the private rights which were peculiar to a Roman citizen were summed up in three abstract terms, *Conubium*, *Commercium* and *Actio*. *Conubium* was the capacity to enter into a marriage which would be productive of the *palua potestas* and agnation which in their turn were the foundation of intestate succession, guardianship etc. *Commercium* was the capacity for acquiring or alienating property. *Actio* was the capacity to bring a suit in a Court of law for the vindication, protection, or enforcement of a right either included in or flowing from *connubium* or *commercium*, or directly conferred by *statute*. These three capacities were enjoyed only by the Roman Citizens. A non-citizen was entitled to none of these rights.

III

The division between classes who are within the Chaturvarna and those who are without it though real and fundamental is undoubtedly archaic in its terminology. The system of Chaturvarna is no longer operative as law. It is therefore somewhat academic to speak of classes being within Chaturvarna and without Chaturvarna. The question will be asked, what are the modern counterparts of these ancient classes? The question is perfectly legitimate especially as I have to explain how

the ancient law of Manu is responsible for the present day lawlessness of the Hindus. Although I am using archaic language, two things will show that my thesis is true. The first is that the ancient social divisions of Manu are not without their counterpart in modern times. The modern counterparts of those ancient divisions are Hindus and untouchables. Those whom Manu included within the Chaturvarna correspond to the modern composite class called Hindus. Those whom Manu called Bahayas (outside the Chaturvarna) correspond to the present day untouchables of India. The dividing line between the four classes—Brahman, Kshatriya, Vaishya and Shudra—included within Chaturvarna have in modern times become some what blurred and there has been some degree of amalgamation between them. But the line which Manu drew between those within the Chaturvarna from those outside the Chaturvarna is still clear and is not allowed to be effaced or crossed. That line is the line which at present separates the Hindus from the untouchables. The first thing that is clear is that the ancient divisions have descended to modern times. The only change is the change of names.

The second question is, has the law as laid down by Manu for the Bahayas any counterpart in the present day social relationship between the Hindus and the Untouchables? To those who doubt I ask to take the following case into consideration. The incident has occurred in the Ramnad District of the Madras Presidency.

In December 1930 the Kallar in Ramanad propounded eight prohibitions, the disregard of which led to the use of violence by the Kallar against the untouchables whose huts were fired, whose granaries and property were destroyed, and whose livestock was looted. These eight prohibitions were as follows :—

- “(i) that the Adi-Dravidas shall not wear ornament of gold and silver;
- (ii) that the males should not be allowed to wear their clothes below their knees or above the hips;
- (iii) that their males should not wear coats or shirts or banyans;
- (iv) No Adi-Dravida should be allowed to have his hair cropped.
- (v) that the Adi-Dravidas should not use other than earthenware vessels in their homes;
- (vi) their women shall not be allowed to cover the upper portion of their bodies by clothes or ravukais or thavanies;
- (vii) their women shall not be allowed to use flowers or saffron paste; and
- (viii) the men shall not use umbrellas for protection against sun and rain nor should they wear sandals”.

In June 1931, the eight prohibitions not having been satisfactorily observed by the exterior castes in question, the Kallar met together and framed eleven prohibitions, which went still further than the original eight, and an attempt to enforce these led to more violence. These eleven prohibitions were :—

- “1. The Adi-Dravidas and Devendrakula Vellalars should not wear clothes below their knees.
2. The men and women of the above-said depressed classes should not wear gold jewels.
3. The women should carry water only in mud pots and not in copper or brass vessels. They should use straw only to carry the water pots and no clothes should be used for that purpose.
4. Their children should not read and get themselves literate or educated.
5. The children should be asked only to tend the cattle of the Mirasdars.
6. Their men and women should work as slaves of the Mirasdars, in their respective Pannais.
7. They should not cultivate the land either on waram or lease from the Mirasdars.
8. They must sell away their own lands to Mirasdars of the village at very cheap rates, and if they don't do so, no water will be allowed to them to irrigate their lands. Even if something is grown by the help of rain water, the crops should be robbed away, when they are ripe for harvest.
9. They must work as coolies from 7 a.m. to 6 p.m. under the Mirasdars and their wages shall be for men Rs. 0-4-0 per day and for women Rs. 0-2-0 per day.
10. The abovesaid communities should not use Indian Music (melam etc.,) in their marriages and other celebrations.
11. They must stop their habit of going on a horse in procession before tying the Thali thread in marriage and they must use their house doors as palanquins for the marriage processions, and no vehicle should be used by them for any purpose”.

Compare these prohibitions laid down by the Hindus of Ramnad with the prohibitions contained in the texts of Manu quoted earlier in this chapter against the untouchables.

Is there any difference between the law laid down by Manu for the *Bahayas* and the conditions imposed upon the untouchables by the Kallars in 1931 ? After this evidence, who can doubt that the Hindu in doing what appears to be an Adharma to a non-Hindu is merely asking the untouchables to follow the Dharma as prescribed by Manu.

Take another case. Those of the Balais of the Central India. The Balais are an untouchable community. About the year 1927, the Balais started a campaign of social improvement of their community and had made rules prescribing that the members of their community should not do certain kinds of work which is degrading and should dress in a certain manner. These rules did not in any way affect the interests of the Caste Hindus. But the Caste Hindus took offence at this effort of the Balais to raise themselves above the status prescribed by custom and they decided to deal a deadly blow to what they regarded as the insolence of the Balais. The following is the report which appeared in the papers of how the Caste Hindus dealt with the rebellious Balais.¹

Tyranny of Hindus

Rules for Balais

Mode of Life Laid Down

“Last May (1927) High Caste Hindus, viz, Kalotas, Rajputs and Brahmins, including the patels and putwaris of villages Kanaria, Bicholee Hafsi, Mardana and of about 15 other villages in the Indore District, informed the Balais of their respective villages that if they wished to live among them, they must conform to the following rules :—

(1) Balais must not wear gold lace bordered pugrees; (2) they must not wear dhoties with coloured or fancy borders; (3) they must convey intimation of the death of any Hindu to relatives of the deceased—no matter how far away these relatives might be living; (4) in all Hindu marriages, the Balais must play music before the processions, and during the marriage; (5) the Balai women must not wear gold or silver ornaments; they must not wear fancy gowns, or jackets; (6) Balai women must attend all cases of confinement of Hindu women; (7) the Balais must render services without demanding remuneration, and must accept whatever a Hindu is pleased to give; (8) if the Balais do not agree to abide by these terms, they must clear out of the villages.

BALAI REFUSE COMPLIANCE

“The Balais refused to comply; and the Hindu element proceeded against them. Balais were not allowed to get water from the village wells, they were not allowed to let their cattle graze. Balais were prohibited from passing through land owned by a Hindu; so that if the

¹ The report is taken from the Times of India of 10-2-38 & 1-4-38.

field of a Balai was surrounded by fields owned by Hindus, the Balai could have no access to his own field. The Hindus also led their cattle to graze down the fields of Balais. The Balais submitted petitions to the Darbar against these persecutions; but as they could get no timely relief, and the operation continued, hundreds of Balais, with their wives and children, were obliged to abandon their homes in which their ancestors lived for generations and migrate to adjoining States, viz., to villages in Dhar, Dewas, Bhopal, Gwalior and other States.

COMPULSORY AGREEMENT

“Only a few days ago the Hindus of Reoti village, barely seven miles to north of Indore City, ordered the Balais to sign a stamped agreement in accordance with the rules framed against the Balais by the Hindus of other villages. The Balais refused to comply. It is alleged that some of them were beaten by the Hindus; and one Balai was fastened to a post, and was told that he would be let go on agreeing to sign the agreement. He signed the agreement and was released. Some Balais from this village ran up to the Prime Minister the next day, i.e. on the 20th December, and made a complaint about the ill treatment they received from the Hindu villagers of Reoti. They were sent to the Subha of the district. This officer, with the help of the police, made inquiries at the village, and recommended that action be taken against the Hindus under section 342 and 147 and against the Balais under section 147, Indian Penal Code.

Balais leave villages

Caste Tyranny

Ignorance of law a handicap

“There has been no improvement in the treatment of the Balais by the Hindu residents of certain villages. Balais, it has already been reported, have been ill treated by the higher caste Hindus. From the Dopalpur Pargana alone, Indore District, a large number of Balais have had to leave their homes and find shelter in adjoining States. The villages from which Balais have been forced to clear out are Badoli, Ahirkharal, Piploda, Morkhers, Pamalpur, Karoda, Chatwada, Newri, Pan, Sanauda, Ajnoti, Khatedi and Sanavada. Pamalpur village has been altogether deserted and not a Balai man, woman or child is to be found there. Nanda Balai a resident of one of the above villages, it is alleged, was severely beaten by the Hindus of the village. In one village, the report goes, the Hindus burnt down all the dwellings of the Balais but the offenders have not yet been traced.

“Balais are ignorant village folk, who are ignorant of legal procedure and think that if a petition is sent to the Sirkar all that is required will be done for them. They have not the knowledge; or the means and practices, to pursue a complaint to its end; and, as they, it is said in some cases, failed to attend or produce witnesses in support of their allegations, the magistrate had no alternative but to dismiss their complaint.”

Looked at from the point of view of Dharma and Adharma, can it be doubted that underneath the lawlessness and ruthlessness of the Hindus in suppressing the revolt of the untouchables, they are actuated by what they think a noble purpose of preventing an outrage upon their Dharma ?

IV

It may well be asked how much of this Dharma of Manu now remains ? It must be admitted that as law in the sense of rules which a Court of Judicature is bound to observe in deciding disputes, the Dharma of Manu has ceased to have any operative force-except in matters such as marriage succession etc.—matters which affect only the individual. As Law governing social conduct and civic rights it is inoperative. But if it has gone out as law, it remains as custom.

Custom is no small a thing as compared to Law. It is true that law is enforced by the state through its police power; custom, unless it is valid it is not. But in practice this difference is of no consequence. Custom is enforced by people far more effectively than law is by the state. This is because the compelling force of an organized people is far greater than the compelling force of the state.

Not only has there been no detriment to its enforceability on account of its having ceased to be law in the technical sense but there are circumstances which are sufficient to prevent any loss of efficacy to this Dharma of Manu.

Of these circumstances the first is the force of custom. There exists in every social group certain (*habits**) not only to acting, but of feeling and believing, of valuing, of approving and disapproving which embody the mental habitudes of the group. Every new comer whether he comes in the group by birth or adoption is introduced into this social medium. In every group there goes on the process of persistently forcing these mental habitudes of the group upon the attention of each new member of the group. Thereby the group carries on the socialization of the individual of the shaping of the mental and practical habits of the new comer. Being dependent upon the

* Inserted by Ed.

group he can no more repudiate the mental habitudes of the group than he can the condition and regulation of his physical environment. Indeed, so dependent the individual is on the group that he readily falls in line and allows the current ways of esteeming and behaving prevailing in the community, to become a standing habit of his own mind. This socializing process of the individual by the group has been graphically described by Grote. He says—

“This aggregate of beliefs and predispositions to believe, ethical, Religious, Aesthetical, and Social respecting what is true, or false, probable or improbable, just or unjust, holy or unholy, honourable or base, respectable or contemptible, pure or impure, beautiful or ugly, decent or indecent, obligatory to do, or obligatory to avoid, respecting the status and relations of each individual in the society, respecting even the admissible fashions of amusement and recreation—this is an established fact and condition of things, the real origin of which for the most part unknown, but which each new member of the group is born to and finds subsisting.....It becomes a part of each person’s nature, a standing habit of mind, or fixed set of mental tendencies, according to which particular experience is interpreted and particular persons appreciated..... The community hate, despise or deride any individual member who proclaims his dissent from their social creed..... Their hatred manifests itself in different ways..... At the very best by exclusion from that amount of forbearance, good will and estimation without which the life of an individual becomes insupportable.”¹

But what is it that helps to bring about this result ? Grote has himself answered this question. His answer is that, this is due to— “Nomos (Law and Custom), King of all” (which Herodotus cites from Pindar) exercises plenary power, spiritual and temporal, over individual minds, moulding the emotions as well as the intellect, according to the local type.... and reigning under the appearance of habitual, self suggested tendencies.

What all this comes to is that, when in any community, the ways of acting, feeling, believing, or valuing or of approving and disapproving have become cystalized into customs and traditions, they do not need any sanction of law for their enforcement. The amplitude of plenary powers which the group can always generate by mass action is always ready to see that they are not broken.

The same thing applies to the Dharma laid down by Manu. This Dharma of Manu, by reason of the governing force which it has had for centuries, has become an integral and vital part of the customs and

¹ Grote : Plato and the other Companions of Socrates, Vol. I, p. 249.

traditions of the Hindus. It has become ingrained and has given colour to their life blood. As law it controlled the actions of the Hindus. Though now a custom, it does not do less. It moulds the character and determines the outlook of generation after generation.

The second thing which prevents the Dharma of Manu from fading away is that the law does not prevent its propagation. This is a circumstance which does not seem to be present to the minds of many people. It is said that one of the blessings of the British Rule is that Manu Smriti has ceased to be the law of the land. That the Courts are not required to enforce the provisions contained in Manu Smriti as rules of law is undoubtedly a great blessing—which might not be sufficiently appreciated except by those who were crushed beneath the weight of this “infamous” thing. It is as great a blessing to the untouchables as the Reformation was to the peoples of Europe. At the same time it must be remembered that the Reformation would not have been a permanent gain if it had been followed by what is called the Protestant Revolution. The essential features of the Protestant Revolution as I understand them are: (1) That the state is supreme and the Church is subordinate to the state. (2) The doctrine to be preached must be approved by the state. (3) The clergy shall be servants of the state and shall be liable to punishment not only for offences against the general law of the land but also liable for offences involving moral turpitude and for preaching doctrines not approved of by the state. I am personally a believer in the “Established Church”. It is a system which gives safety and security against wrong and pernicious doctrines preached by any body and every body as doctrines of religion. I know there are people who are opposed to the system of an “Established Church”. But whether the system of an “Established Church” is good or bad, the fact remains that there is no legal prohibition against the propagation of the Dharma laid down by Manu. The courts do not recognize it as law. But the law does not treat it as contrary to law. Indeed every village every day. When Pandits are preaching it to parents and parents preach it to their children, how can Manu Smriti fade away? Its lessons are reinforced every day and no body is allowed to forget that untouchability is a part of their Dharma.

This daily propagation of the Dharma of Manu has infected the minds of all men and women young and old. Nay, it has even infected the minds of the judges. There is a case reported¹ from Calcutta. A certain Dome (untouchable) by name Nobin Dome was prosecuted for theft of a goat. He was found to be not guilty. He filed a complaint for defamation against the complaint. The magistrate dismissed the

¹ 2 W.R. (Cr.) 35. Queen v/s Nobin Dome.

complaint on the ground that as he was low caste man he had no reputation. The High Court had to intervene and direct the Magistrate that he was wrong in his view and that under the Penal Code all persons were equal. But the question remains, how did the Magistrate get the idea that an untouchable had no reputation ? Surely from the teaching of the Manu Smriti.

The Dharma of Manu had never been a mere past. It is as present as though it were enacted today. It bids fair to continue to have its sway in the future. The only question is whether its sway will be for a time or for ever.

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