

## DHARMA SHASTRAS: THE TRACES

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### 1) The Primary Sources

It is well known that the Vedas have been treated as infallible authorities as they are either eternal and not a product of any being or they are the injunctions of Supreme Being whose knowledge is immutable and perfect. Hence, Vedas are treated as the Primary Source of any purposeful endeavor of mankind including Dharma – “वेदोखिलो धर्ममूलम् | Hence the primary sources of धर्म are always the Vedas. But the Vedic recensions being unavailable in their totality and also due to the fact that with the passage of time, the Spiritual corruption flooded the mankind, it was impossible for everyone to observe the teachings of Vedas in totality and put it to practice by understanding the value behind such an injunction. Thus, the secondary source of धर्म which evolved over a period of time made the concept of धर्म more accessible and understandable to the common man. These secondary sources in their order of prominence as an authority of धर्म are enlisted by मनुः as follows :

“वेदोखिलो धर्ममूलं स्मृतिशीले तु तद्विदाम् |

आचारश्चैव साधूनाम् आत्मनस्तुष्टिरेव च || (Manusmriti, II.6)

“The entire Veda is the Primary source of Dharma. Then comes the स्मृति , the Noble Character and the Right Conduct of those who are the Knowers of the Vedas. Last comes the inner Contentment or the Mental Dictate of the Virtuous persons”.

### 2) The Secondary Sources

When we come to the Secondary Sources, the स्मृति texts play an important and an enlisted vital role. The term Smrti which can be translated as “recollection” contains the instruction recollected by the various Seers. Sage has this to say regarding Smrtis:

“वैदिके स्मर्यमाणत्वात् तत्परिग्रहणेन च |

सम्भाव्यवेदमूलत्वात्स्मृतीनाम् वेदमूलता || (Mani, 8)

“Revelation is inferred to be the source of the Smrtis because they are remembered and compiled by those who admit the Vedas only as the source of Law , and since they have been adopted and acted upon as authoritative by such persons, and also because it is probable that they are founded on the Vedas” .

Hence, Smrtis are the Compilations of the ऋषयः who were considered as authorities and who received the revelation and elucidated them.

The Codes laid down by the Smrtis though were based on Vedas, were not Static in nature. The rules for the well being of organized society blend the moral, social, religious and juridical laws to be followed. With changing times, the authors of Smrtis adopted the existing law to suit the changing society without diluting upon the essential truths acceptable. These authors brought about growth and expansions in the system. मनुः himself declares the changing nature and adaptability of the rules as follows :

अन्ये ऋतयुगे धर्माः त्रेतायाम् द्वापरेऽपरे |

अन्ये कलियुगे नृणाम् युगहासानुरूपतः || (Manu , I.85)

“The rules prescribed for the men differ from what is prescribed in त्रेतायुगम् as well as for द्वापरेः | There is another set of rules in the कलियुगम् in accordance with the depreciation of time period in these Yugaas”.

Similar opinion is enunciated by Sage पराशरः too :

अन्ये ऋतयुगे धर्मास्त्रेतायाम् द्वापरे युगे |

अन्ये कलियुगे नृणाम् युगरूपानुसारतः || (Parashara Smrti, I.21)

The Smrtis no doubt closely followed the Vedas. However, if due to any circumstantial evidence the prescription of Smrti were to go against the Vedic principles they had to be given up, as Vedas were the superior authority on Dharma than the Smrtis. Sage वेदव्यासः rightly observes as follows :

श्रुतिस्मृतिपुराणानाम् विरोधो यत्र दृश्यते |

तत्र श्रौतम् प्रमानम् तु तयोर्द्वेषे स्मृतिर्चरा || (Vyasa Smrti, I.4)

Smrti is always given a supreme place next only to the Vedas by Sage नारदः. He proclaims that if there were to be any discrepancies between Smrtis and अर्थशास्त्रम् etc., the Smrti (धर्मशास्त्र) is to be adopted.

यत्र विप्रतिपत्तिस्त्यात् धर्मशास्त्रार्थशास्त्रयोः |

अर्थशास्त्रोक्तमुत्सृज्य धर्मशास्त्रम् समाचरेत् || (Narada Smrti, I.39)

Among the Smrtis , Manu Smrti enjoys a prime position being the oldest authority though all the other Smrtis too are supposed to be based on the Vedic teachings, hence equally authoritative . The prominence is given to Manu's work, it being closer to the Vedic diction. This is declared by himself thus:

यः कश्चित् कस्यचिद्धर्मो मनुना परिकीर्तितः |

स सर्वोभिहिते वेदेसर्वज्ञानमयो हि सः || (Manu, II.7)

कुल्लुकलभट्टः quotes the view of Sage ब्रह्मस्पतिः regarding the authority of Manu in his मन्वर्थमुक्तावली as follows :

वेदार्थोपनिबद्धत्वात् प्राधान्यम् हि मनोस्समृतम् |

मन्वर्थविपरीता या सा स्मृतिर्न प्रशस्यते || (Manu, I.I)

“Manusmṛti is to be regarded as Supreme, being the essence of Vedas. Hence those Smṛtis which go against the dictates of मनु are to be dishonoured”.

There is a declaration even in तैत्तिरीयसंहिता which raises the status of मनुस्मृति from others “यद्वैकिञ्चमनुरवदत् तद्वैष्णम्” || (Tait.Sam. II.2.102) “Whatever Manu says is Panacea “.

There are eighteen authors of Smṛtis accepted by Manu. According to him they are as follows :

विष्णुः पराशरो दक्षः सम्वर्तव्यासहारीताः |

शतातपो वसिष्ठश्च यमापस्तम्बगौतमाः || (Mani, 9)

देवलः शंखलिखितौ भरद्वाजोशनो त्रयाः |

शौनको याज्ञवल्क्यश्च दशाष्टौ स्मृतिकारिणः || (Mani, 9)

Sage याज्ञवल्क्यः refers to a total of twenty स्मृतिकाराः in his text. They are :

मन्वत्रिविष्णुहारीत याज्ञवल्क्योशनोगिराः |

यमापस्तम्बसम्वर्ताः कात्यायनब्रह्मस्पती || (Yajnavalkya Smṛti, I.4-5.)

पराशरव्यासशंखलिखितौ दक्षगौतमौ |

शतातपो वसिष्ठश्च धर्मशास्त्रप्रवर्तकाः || (Yajnavalkya Smṛti, I.4-6)

The above are the authentic authors of धर्मशास्त्र according to Sage याज्ञवल्क्य | Likewise Sage पराशरः also refers to some nineteen authors of Smṛti texts. He mentions those names while answering to the question related to the स्मृतिकाराः, of his son sage वेदव्यासः |

Apart from the above Smṛtikaras, there are also references about some उपस्मृतिकाराः : and they have been enumerated by Sage Angiras.

Scholars differ in their opinion about the number of Smṛtis as thirty six Or twenty four.

Among the Smṛti authors, there is always difference of opinion regarding the comparative authoritativeness. For example Sage पराशरः holds that in कलियुगम्, it is his text which is authoritative :

कृते तु मानवा धर्मास्त्रेतायाम् गौतमास्समृताः |

द्वापरे : शंखलिखिताः कलौ पराशराः स्मृताः || (Parashara Smṛti, IX.28.)

Sage याज्ञवल्क्यः however says that when there is difference of opinion between two Smrtis then the decision is to be taken by considering the justification in prescription. He says as follows : “स्मृत्योः विरोधे न्यायस्तु बलवान् व्यवहारतः | (Yajnavalkya Smrti, II.29)

विज्जानेश्वरः, the famous commentator of Smrti texts , too opines as follows :----

“एतेषां (स्मृत्याः) प्रत्येकम् प्रामाण्येपि साकांक्षाणां आकांक्षा परिपूरणमन्यतः | विरोधे तु विकल्पः |”  
(Mitakshari of Vijnaneshwara)

“As each of the Smrtis possesses authority, the rules not mentioned by one, may be complimented by the other. But if one set of rules contradicts the other, then there is an option (to follow any one of them)”.

The authors of the Smrtis were ready to adopt and implement the necessary changes to suit the local needs. They made a clear distinction between juridical rules and other rules. Hence we find in some of the later Smrtis, the rules being divided into three sections namely (i) आचारधर्मः (code of conduct) (ii) व्यवहारधर्मः (Juridical code) and (iii) प्रायश्चित्तधर्मः (code of Expiation) .

#### (A) सदाचारः (Sadaachara)

Sadaachaara i.e. Code of Conduct of Wise men comes as the next important secondary source of our Hindu Dharma. By Sadaachaara, is meant Customs and usage. The practices or customs are considered to be based on texts or authorities now lost to us. An established usage which is not supported explicitly by any available text of Smrti still holds the ground on the presumption that there must have been some text of Smrti as the basis of the usage which is not now available. Manu defines the term Sadaachaara as follows :

तस्मिन् देशे य आचारः : पारम्पर्यक्रमागतः |

वर्णानाम् सान्तरालानां स सदाचार उच्यते || (Manu. II. 18)

Which means “The custom handed down traditionally across the generations (since time immemorial) among the (four chief) Varnas and the mixed races of that country is called the conduct of Virtuous men”.

Manu also says the following :

येनास्य पितरो याता : येन याताः पितामहाः |

तेन यायात् सताम् मार्गं तेन गच्छन् स रिष्यते || (Manu, IX. 178)

“One ought to follow the righteous path that has been undertaken by one's ancestors. By following that path, one does not undergo sufferings.

Sage याज्ञवल्क्यः has the following view, on this :

यस्मिन् देशे य आचारो व्यवहारः कुलस्तिथिः |

तथैव परिपाल्योसौ यथा वंशमुपागताः || (Yajnavalkya Smrti, II. 343)

When a country is conquered its usage and customs and family traditions should be followed as they were followed before.

(B) आत्मतुष्टि : (Self-Satisfaction)

आत्मतुष्टि : has also been mentioned as the source of Dharma . However, it is to be noted that this criterion is to come into play when Dharma Sastras are not able to guide and one has to choose between alternative courses of action according to his own mental conscience. Accordingly it has been rightly declared by Sage गर्ग : as follows :

“वैलल्पिके तु आत्मतुष्टिः प्रमानाम्” (Garga Samhita)

“Self satisfaction is the guiding principle when no other option exists”.

Manu also says for this as : “आचारश्चैव साधूनाम् आत्मनस्तुष्टिरेव च” ||(Manu, II. 6)

“Next to Vedas, Smritis and Virtuous Conduct of holy men, आत्मतुष्टिः also is the source of the Sacred Law”.

Even Kalidasa's principal character King दुष्यन्तः relies on his mental dictate (आत्मतुष्टि :) while deciding in testing his love towards शकुन्तला whether it is pure to his heart or not when he uses to meet her at first.

“सतां हि सन्देहपदेषु वस्तुषु प्रमाणमन्तःकरणः प्रवृत्तयः :” | (Shakuntalam of Kalidasa, I-22)

(C) शिष्टाचार : (Opinion of Shishtaas)

It has been stated that with respect to the points of Law which have not been specifically mentioned in Dharma Sastras, that which is propounded by the शिष्टाः will have the sanction for implication. Shishtaas have been defined as those Pious men who are learned in Vedas and who are able to support with proofs from the revealed texts and who are virtuous and selfless. For this Sage वसिष्ठः states as follows :

श्रुतिस्मृति विहितो धर्मः |

तदलाभे शिष्टाचाराः प्रमाणम् ||(Vasishta Smrti, I.4.5)

“On failure of (rules given in) श्रुति and स्मृति, the practice of the Shishtaas has the authority.” Sage बौधायन : too observes thus :

स्मार्तो द्वितीयः | तृतीयः शिष्टागमः ||(Bhodhayana, I.1.1.1.4)

“In the sequence of authority , the Sacred law (smrti) stands second and the practice of Shishtaas stands third “.

Manu mentions thus:

:यम् शिष्टाः ब्राम्हणाः ब्रूयुः |

स धर्मस्स्यात् अशंकितः ||(Manu, XII. 108)

“That which Braamhanas , who are Shishtaas profess, shall indeed have legal force” .

#### (D) Legal Assemble or a Council of Persons

These persons are learned in different Vedas and वेदान्ताः has been stated to be another such source of Law. The Opinion expressed by it on points of doubt will have legal force. Public opinion and reason have also been described as sources of Law. However, it is to be stated that these are more a rule of interpretation of texts than an independent source of धर्म . On this मनुः says:

त्रैविद्यो हेतुकस्तर्को नैरुक्तो धर्मपाटका : |  
त्रयश्चाश्रमिणः पूर्वे परिशत्स्यात् दशावरा || (Manu, XII. 111)

“Three people who know one of the three primary Vedas , a तार्किकः , a मीमांसकः , one who knows the etymology , one who recites texts on sacred Law, and three men belonging to the first three वर्ण should constitute a Legal Assembly , with at least ten members”.

Sage याज्ञवल्क्यः on this states as follows :

चत्वारो वेदधर्मज्ञाः पर्षद्त्रैविद्यमेव च |  
सा ब्रूते यम् स धर्मः स्यादेको वा अध्यात्मवित्तमः || (Yajnavalkya Smrti, I. 9)

“Four persons who know the Vedas and the Dharmas , Or those who know only the three Shastras , constitute a Legal Assembly (परिषद्) . What the Assembly declares is Dharma Or that which even one person , who is best among the knowers of Spiritual sciences, declares is also to be treated as Dharma”. मनुः on this once again strictly declares that :

दशावरा वा परिषद्यम् धर्मं तु परिकल्पयेत् |  
त्र्यवरा वापि त्रस्तथा तंधर्मं न विचालयेत् || (Manu, XII. 110)

“Whatever an assembly, consisting either of at least ten, or at least three persons, who follow their prescribed Occupations, declares to be Dharma, should be accepted unquestionably”. He also adds on this as follows :

रुग्वेदविद्यजुर्विच्च सामवेदविदेव च |  
त्र्यवरा परिषद् ज्ञेयाः धर्मसम्शय निर्णये || (Manu, XII. 112)

“One who knows the Rgveda , one who knows the Yajurveda and one who knows the Saamaveda , shall be known to form an assembly consisting of atleast three members (and fit) to pass Judgement on the doubtful points of Law” .

#### स्मृतिकाराः (Or) Smrti Authors:

With regard to स्मृतिकाराः or number of Smrti texts , there is divergence of opinion.

Different Smrtikaaraas and commentators have given different enumerations of Smrtis. However, these enumerations have been treated as illustrative and not exhaustive. This is borne out by the fact that विज्ञानेश्वरः, in his commentary मिताक्षरी refers to some 87 स्मृति texts .अनन्तदेवः in his commentary work संस्कारकौस्तुभम् refers to 104 and कमलाकर : in his निर्णयसिन्धुः refers to 131 Smrtis.

## CONCLUSION

After a very clear cut examination of the sources and traces of Dharma Shastra texts; their numbers and authors (i.e. the Smrtikaaraas), some unknown Smrti texts bear some Smrti-passages, but their authors are not named. In fact, the number is very large. Unfortunately, many have been lost; some exist as fragments; others are only known from quotations in other Smrtis, commentaries or digests of more modern authors. But anyway to conclude, Smrti or Dharma Shastra, were given the secondary importance by the Seers, next to the four Vedas, since they are remembered and compiled by those Seers who admit the Vedas, only as the source of Law and also because it is probable that they are founded on the Vedas.

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