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Viśvarūpa

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The recovery of the whole of Viśvarūpa's Bālakrīḍā, the earliest commentary extant of the Yājñavalkyasmṛti, is among the most important recent finds in the field of legal Sanskrit literature. Whoever may be the fortunate man, says R. Sarvadhikari in his Tagore Lectures (1882)¹, to first open the commentary of Viśvarūpa, will lay students of Hindu Law under great obligations. A copy of this important work was first noticed as existing in the Library of the Maharaja of Cochin, in Oppert's List of Sanskrit Manuscripts, Southern India (1880). S. Sitarama Sastri published from a MS. obtained from A. S. Aiyar, Travancore, an edition and English translation of the inheritance chapter of the Bālakrīḍā, in the Madras Law Journal, and afterwards as a separate little book with a preface (Madras, 1900). The whole of the Vyavahāra part was printed by S. S. Setlar in his edition of the Mitākṣara. The present writer procured in 1902 a good transcript of the second Adhyāya only from a MS. in the library of the Maharaja of Travancore and noticed and described the same afterwards in his Catalogue of the Sanskrit MSS. in the R. Library,

¹ Tagore Law Lectures—1880. The Principles of the Hindu Law of Inheritance. By R. Sarvadhikari. Calcutta, 1882, 331.

Munich (1912). Mr. Gaṇapati Sāstrī, the learned Curator of the department for the publication of Sanskrit Manuscripts, Trivandrum, has succeeded in bringing together six MSS. of the Bālakriḍā, five of which are palm-leaf codices in Malayalam characters, and the text which he has worked out from these ample materials is very satisfactory.¹ The first part, which has just been published, contains the two first Adhyāyas ; the third Adhyāya, which is the longest of the three, will be contained in the second part ; and it is to be hoped that it will follow soon.

The name of Viśvarūpa has long been known from the introduction to the Mitākṣarā, the most renowned of legal commentaries, in which the author, the ascetic Vijñāneśvara, claims to have explained the law-book of Yājñavalkya, which had been interpreted by Viśvarūpa in uncouth or obscure language and diffuse style, in clear and measured or concise expressions, so that it may be easily comprehended even by children. The very name of the Mitākṣarā or Ṛjunitāksara, as it is properly called, implies that it is a clear and concise treatise, *i.e.* probably an abridgement of some more voluminous work. Vijñāneśvara, as R. Sarvadhikari puts it,² undertook the task of another Etienne Dumont to another Jeremy Bentham, and translated into Sanskrit the learned and extensive work of Viśvarūpa. “ If we could, therefore, lay our hands on the commentary of the teacher, and compare it with that of his disciple, the Mitākṣarā Law of Inheritance would become as clear as the day.”

What with the present edition of Viśvarūpa and what with Sitarama's edition and translation of the inheritance chapter, which closely agrees with the former, it has become easy to institute a comparison of this kind, but the result is surprising, not to say disappointing. Vijñāneśvara's long and important introduction to his chapter on inheritance, in which he deals

¹ The Yājñavalkyasmṛti with the Commentary Bālakriḍā of Viśvarūpachārya ed. by T. Gaṇapati Sāstrī, Part I. Trivandrum, 1922. Trivandrum Sanskrit Series.

² *Loc. cit.*

with the origin of property, obstructed and unobstructed inheritance, and other general questions, is entirely wanting in Viśvarūpa's Bālakrīḍā. The copious discussion of the order of heirs to one leaving no male issue, which occupies seven closely printed pages in B. Sh. Moghe's edition of the Mitākṣarā (Bomb. 1882), by far exceeds in length Viśvarūpa's meagre gloss on the same subject (p. 251). Altogether, the inheritance chapter in the Mitākṣarā is more than double the size of what it is in the Bālakrīḍā. Far from being an abridgement of the latter work, then, the Mitākṣarā is decidedly the fuller and more voluminous composition of the two if we may take the inheritance chapter as a test. Vijñāneśvara is no mere epitomizer; he has aimed at clearing up or avoiding the obscurities of his predecessor even at the cost of brevity.

Vijñāneśvara being more independent of Viśvarūpa than his preface might lead us to suspect, we need not wonder at the considerable difference of doctrine between their respective works. Thus according to Viśvarūpa the unequal division of the property by a father distributing his estate among his sons is entirely unrestricted in its scope and he may give to each of his sons whatever he likes (p. 242). The Mitākṣarā, on the other hand, restricts the father's power to make an unequal division to the specific deductions ordained by Manu for the eldest, middle-most, and youngest sons (on Y. II, 114). In the next verse but one of Yājñavalkya, Viśvarūpa finds a confirmation of the father's entirely unrestricted power of unequal division, while Vijñāneśvara repeats the doctrine that none but the specific deductions are allowed. Moreover the reading differs from Viśvarūpa and the two hemistichs are interpreted as containing two separate rules. The text of Yājñavalkya (II, 118) regarding effects not liable to partition contains three clauses each of which is in the Mitākṣarā construed with the restrictive remark "without detriment to the father's estate". Viśvarūpa combats this theory and connects the restriction with the first clause only, declaring friendly and nuptial gifts to constitute no partitionable property even though acquired "with detriment to the father's estate" (p. 244).

The same explanation is given in the *Dīpakalikā* and by *Aparārka* and it seems to be the correct interpretation of the text. The text immediately following (Y. II, 119) is joined on here in the *Mitākṣarā* while *Viśvarūpa* inserts it after II, 122 and explains it accordingly (p. 245). The fourth share of an unmarried daughter (Y. II, 124) according to the *Mitākṣarā* means that she shall participate for a quarter of such a share as would be assignable to a brother of the same rank. *Viśvarūpa* restricts the fourth share of a daughter to the case of an indigent family, when each brother has to contribute a fourth part of his own share for the sister, the remainder being equally divided (p. 246). The one share of a son by a *Śūdra* wife (Y. II, 125) is in the *Mitākṣarā* referred to the case of other property than land obtained by acceptance of a gift. *Viśvarūpa* refers it to the case of a marriage with a *Śūdra* woman having been concluded through ignorance of the law, such marriages being in general forbidden. The prohibition of the *Niyoga* or *levirate* is general in the *Mitākṣarā*, excepting only the case of a bridegroom dying before consummation of the marriage (Y. II, 127). *Viśarūpa* permits *Niyoga* in the case of *Kṣatriya* women, in agreement with the epic (p. 247). *Viśvarūpa*'s list of twelve kinds of sons, legitimate and otherwise, is the same as elsewhere but the *Putrikā* or daughter considered as a son is not among the number, though he mentions the *Putrikāputra* (p. 247). The rule regarding the half of a share which a *Śūdra*'s son by a slave woman is to get (Y. II, 134) is literally interpreted in the *Mitākṣarā*, while *Viśvarūpa* explains the half-share as denoting a lesser share and quotes an otherwise unknown text of *Bṛhaspati* as proving that in certain cases a special permission from the king is required, who otherwise succeeds to the property of one leaving no issue. On failure of male issue the widow inherits according to *Yājñavalkya* (II, 135). This claim of the widow is variously restricted by commentators. The *Mitākṣarā* confines its operation to the chaste widow of one divided in interests from his coparceners. The *Dīpakalikā* admits a virtuous widow only to succession, her virtue having to consist in sacrificing, a chaste life, etc. *Aparārka* adds the restric-

tion that the property must have been acquired by a praepositus himself without using the paternal estate. Viśvarūpa restricts the widow's succession to the case of a pregnant widow (p. 251). In the definition of Strīdhana, (Y. II, 148) Viśvarūpa reads अधिवेदनिकं चैव, like Aparārka and the Bengal writers on inheritance, instead of Vijñāneśvara's अधिवेदनिकाद्यं च. This is an important difference, because owing to it Vijñāneśvara includes all acquisitions whatever of a woman in his definition of Strīdhana, while Viśvarūpa only speaks of female ornaments and the like as belonging to Strīdhana (p. 254). The term Anvādheyaka he refers to presents to be enjoyed by one's issue (p. 251). This interpretation is apparently based on an erroneous derivation of the term Anvādheyaka from अन्वय 'issue'. The Mitākṣarā refers it to a present received after marriage. The rule regarding Adhivedanika or compensation for supersession (Y. II, 148) is restricted to the case of groundless supersession (p. 255), a restriction unknown to Vijñāneśvara.

We will now examine some such differences as may be attributed to a definite tendency on the part of Vijñāneśvara, notably to his favourable attitude towards woman's rights which appears clearly from his wide interpretation of the term Strīdhana, "a woman's property". The opposite tendency manifests itself in Viśvarūpa's commentary. Thus, as shown before, he restricts the widow's right of succession to the case of a pregnant widow, which means that she does not inherit in her own right, but as a representative of her future son. In the same way, the present on supersession is confined to the case of uncalled-for supersession. The rude custom of Niyoga or levirate is allowed in the case of wives of lower rank such as Kṣatriya wives, while the Mitākṣarā forbids it. The unmarried sisters are only given a claim to be married, except where there is little or no property, when each brother has to give them a fourth of his own share. The Putrikā, or daughter considered as a son, is not mentioned as an heir, but the son of an ordinary Putrikā is one of the heirs to one leaving male issue (p. 251). Adoption by a widow is forbidden. It

should be noted that other ancient commentators were equally averse to a woman's right to inherit, as may be seen from the *Mitākṣarā* on Y. I. 2, 135 (II, 1 in Colebrooke's *Mitākṣarā*) where Dhāreśvara's and Śrīkara's restrictive interpretation of the widow's succession is discussed.

These considerations tend to show the historical importance of Viśvarūpa's commentary, though it is not quite what it might have been expected to be. The question of its date is discussed in the Editor's Introduction where he first gives some information about the two existing commentaries of the *Bālakrīḍā*. One of these, the *Vacanamālā*, by an anonymous writer, refers to three older commentaries, the first of which, named *Vibhāvanā*, is perhaps identical with the other extant commentary, a very voluminous fragment mentioning neither its own name nor that of its author. This is said to be a very old work written by a venerable ascetic called *Vedātman*, and the existence of four old commentaries of the *Bālakrīḍā* proves the celebrity and influence it had attained at an early period.

More precise information about the date of Viśvarūpa may be obtained from an examination of his personality and probable identity with *Sureśvarācārya*, a pupil of the celebrated *Śaṅkarācārya* (about 800 A. D.) The two existing commentaries call Viśvarūpa by the name of *Sureśvara*. *Mādhavācārya*, on the other hand, substitutes *Viśvarūpācārya* for *Sureśvara*, and so does the *Śaṅkaravijaya*. Besides, the *Naiṣkarmyasiddhi*, a work ascribed to *Sureśvarācārya*, is similar in style and method to the *Bālakrīḍā*, which confirms the identity of Viśvarūpa with *Sureśvarācārya*, civilly called *Maṇḍanamīśra*, who afterwards became a disciple of *Śaṅkarācārya* and entered the ascetic order of life. It should be noted here, that Aufrecht in his *Catalogus Catalogorum* has separated the legal writer Viśvarūpa, the author of a commentary on the *Yājñavalkyasmṛti*, from *Sureśvarācārya* or Viśvarūpa, the disciple of *Śaṅkarācārya* and author of the *Naiṣkarmyasiddhi* and other works.

In the third place, the Editor has adverted to the quotations in the *Bālakrīḍā* as proving its early date. None but

Vedic works and Smṛtis of the Vedic type are quoted, and when quotations from the Arthaśāstra are required by the context, they are not taken from Kauṭilya, but from Kauṭilya's predecessors, Bṛhaspati and Viśālākṣa. Viśvarūpa evidently regarded the compositions of these two authors as Arśa works known to Yājñavalkya and therefore quoted from them, but not from Kauṭilya. The Editor has entered here into an elaborate argument regarding the relative age of Yājñavalkya and Kauṭilya which need not detain us. Suffice it to say that he appears to have proved his point, Kauṭilya showing his special regard for and acquaintance with the Yājñavalkya-smṛti by extensively quoting from it as well as by explaining and supplementing it. The present writer has arrived at the same result in a Concordance, published some years ago in the Journal of the German Oriental Society, of the correspondences between Kauṭilya and the Smṛtis of Yājñavalkya and other Smṛti writers. On the other hand, it would be going too far to say that Viśvarūpa was not acquainted with Kauṭilya's Arthaśāstra. Though he does not refer to Kauṭilya or Cāṇakya by name, he quotes in the chapter on Rājadharmā (p. 185) a Nīti rule to the effect that all Amātyas, *i.e.* royal counselors, should be examined as to their trustworthiness by tests (Upadhās) relative to their honesty, etc. This rule corresponds exactly to the contents of the chapter of Kauṭilya's Arthaśāstra (I, 10) on Upadhas to be applied to the Amātyas to ascertain their integrity or otherwise. Further on in the same chapter, Viśvarūpa quotes an anonymous text regarding calamities of neighbouring states :—

सामन्त्यांस्मसनसाय्ये च यातव्यं तमसिन्नमेव यायादिति ।

A closely analogous text occurs in the Arthaśāstra VIII, 1 :—

आसनयौपपद्ये सौकर्यतः यातव्यं रक्षितव्यं च इति व्यसनचिन्ता ।

There can be no doubt, therefore, that Viśvarūpa has known and consulted the Arthaśāstra of Kauṭilya.

Another difficulty lies hidden in two passages of the Smṛticandrikā (p. 164 and p. 189 of T. K. Iyer's transl.) in which Viśvarūpa is cited as having refuted the opinions of Dhāreśvara as to the widow's right of succession attaching in the case of

Niyoga only, and regarding the order of heirs to one leaving no male issue. Now, Dhāreśvara means the ruler of Dhārā, the celebrated king Bhojadeva who lived and reigned in the first half of the eleventh century. If, therefore, Viśvarūpa attacked the opinions of a royal writer of the eleventh century, he cannot be identical with Sureśvara who lived in the ninth century, and his date must fall about 1050 A. D., as he is quoted by Vijñāneśvara who flourished in the second half of the eleventh century. However, the name of Dhāreśvara or Bhojadeva does not occur in the Bālakrīḍā, nor can the above doctrine regarding the widow's succession be traced to the Bālakrīḍā, which allows the pregnant widow only to inherit and does not refer to Niyoga in this connection. Nor is Dhāreśvara's doctrine regarding the order of heirs alluded to by Viśvarūpa. The natural conclusion is either that the two references to Viśvarūpa and Dhāreśvara in the Smṛticandrikā are erroneous or that the Bālakrīḍā has not been preserved in its original shape. A third quotation of Viśvarūpa in the Smṛticandrikā (p. 44) on the subject of unequal partition can also not be traced to the Bālakrīḍā, and the same remark applies to some references in the Mitākṣarā either to Viśvarūpa himself or to the "holy teacher", *i.e.* Viśvarūpa (Y. I, 81 ; II, 135). It is not till we come to Jimūtavāhana's Dāyabhāga that we meet with two quotations clearly traceable to Viśvarūpa's Bālakrīḍā. A discussion of the right of the daughter's son to inherit is concluded with the statement that succession of the daughter's son, as affirmed by Viśvarūpa, Jitendriya, Bhojadeva, and Govindarāja, should be maintained.¹ This agrees with the saying of Viśvarūpa that a daughter's son should inherit on failure of sons (p. 250). Further, the succession of the half-brother, as affirmed by Śrīkara and Viśvarūpa, is declared.² Viśvarūpa says that half-brothers shall inherit as well as brothers (p. 250). Two other quotations of Viśvarūpa in the Dāyabhāga cannot be traced to the Bālakrīḍā. Altogether, we must reckon with

¹ Dāyabhāga, Calcutta 1829, p. 289 ; Colebrooke's transl. XI, 2, 29.

² *Loc. cit.* p. 296 ; XI, 5, 12.

the possibility of its text having undergone some changes, though of course Sanskrit writers are not always exact in their quotations.

To sum up, the chief value of Viśvarūpa's commentary may be said to lie in the following :—

1. It is one of the oldest if not the very oldest of Dharmaśāstra commentaries extant. If we may identify Viśvarūpa with Sureśvarācārya, as appears to be probable, he would belong to the first half of the 9th century, while Medhātithi, whose gloss on Manu was hitherto regarded as the earliest extant production of this kind, lived in the ninth or tenth century. If it be true that Viśvarūpa quotes Dhāreśvara, his date would be about 1050 A. D. Even this is an early date, considering that most legal commentaries are much more recent productions.

2. The explanations of difficult texts in the Yājñavalkya-smṛti differ considerably in many cases not from the Mitākṣarā alone, but from other commentaries as well, such as Aparārka's and the Dipakalikā of Śulapāṇi. Viśvarūpa's explanations deserve careful consideration in every case even where he is palpably wrong. Considering his early date, they may be taken as a basis for investigating the history of legal institutions in India, as has been shown in the case of women's rights.

3. The text of Yājñavalkya in the Bālakrīḍā is not quite what it is in the Mitākṣarā and elsewhere. Thus the first or Acārādhyāya has only 363 verses against the 368 verses in the Mitākṣarā. The second or Vyavahārādhyāya has 310 against 307. The third Adhyāya has not yet been printed. The order of the verses is not always the same, as we saw in the chapter on inheritance. The variation of reading is not considerable otherwise, still it would be useful to collect all the various readings of the Bālakrīḍā in a critical new edition of the Yājñavalkyasmṛti, which would have to contain the *varietas lectionis* to be gathered from all other commentaries. Yājñavalkya's law-book is so important that no trouble should be spared to establish a thoroughly correct and reliable text of it.

4. The *Bālakrīḍā* quotes a wealth of texts from ancient works chiefly *Smṛtis*, many of which are not accessible otherwise. A list of the *Pratīkas* of these texts is given in an appendix to the present edition. Thus *Bṛhaspati* is quoted, partly in prose and partly in verse, twice in the *Ācārādhyāya* and eleven or twelve times in the *Vyavahārādhyāya*. None of these texts is contained in my collection of the fragments of *Bṛhaspati*, which was published in the 33rd volume of the *Sacred Books of the East* (1889) from the ten available Sanskrit commentaries and *Dharmanibandhas*. Some of these new texts are very interesting : thus there is a long prose text of *Bṛhaspati* on the qualities of royal officials such as the commander of the army, the chamberlain, the inspector of elephants, the inspector of horses, the ambassador, the counsellor, the *Uparika*. *Manu*, *Bṛhaspatii*, and *Uśanas* are mentioned in this text as the principal authorities on the subject of polity (p. 184). This *Bṛhaspati* must not be confounded with the reputed author of the *Bārhaspatyasūtra* recently published at Lahore in the Punjab Sanskrit Series, which *Sūtra* work, as pointed out by its first editor Dr. F. W. Thomas, is far from representing the ancient *Bārhaspatya* doctrine and cannot be older than the twelfth century A. D., from its apparent mention of the *Yādavas* of *Devagiri*. Mr. Gaṇapati *Sāstrī* has shown that *Viśvarūpa*'s quotations from *Bṛhaspati* are not found in it : he compares it to the *Cāṇakyaśūtras* printed in the second edition of R. Shamasastri's *Arthaśāstra* of *Kauṭilya* (1919). Of legal texts ascribed to *Bṛhaspati* in the *Bālakrīḍā* we may mention the prose rule that a king failing to make good from his treasury stolen property unrecovered is as guilty as a thief (p. 215). One who has performed an ordeal is to be watched for three or five days to make sure that he has practised no tricks (p. 240). A king bestowing a field on some one should do so in the presence of many witnesses, or he should give a royal charter (p. 256). The king's percentage of the stakes in a game should be a tenth, or as agreed upon (p. 272). A text on self-defence identical with *Manu* VIII, 351 is quoted from the *Vyavahāra* chapter of the *Arthaśāstra* (p. 210), but the *Arthaśāstra* meant can-

not be the Kautilya Arthaśāstra, as the text does not occur there. We may note here that Mr. Gaṇapati Śāstri is going to publish a new edition of the Kauṭīliya Arthaśāstra in the Trivandrum Sanskrit Series.

The Bālakrīḍā being a commentary of the Yājñavalkya-smṛti, it may not be out of place to add to the above a few remarks on the other commentaries of that important Smṛti composition and on the text of Yājñavalkya itself. Vijñāneśvara's celebrated Mitākṣarā has been mentioned before and its title explained. It has been shown that, in the introduction to his commentary, Vijñāneśvara refers in somewhat depreciatory terms to his predecessor Viśvarūpa. In the colophons, he calls himself an ascetic of the highest order, the son of Padmanābha Bhaṭṭa of the Bhāradvāja Gotra. At the end of his work, he gives some account of himself in six stanzas in which he claims for himself the merit of having explained the work of the sage Yājñavalkya which had never before been commented upon by a knowing person, in profound and pregnant, though clear and brief terms. He describes himself as a Pandit who gives wealth exceeding their wishes even to a multitude of supplicants, and the liberality thus attributed to him shows him to have enjoyed the favour of his king and perhaps held a high office (Sir R. G. Bhandarkar). With a punning allusion to his own name he designates himself as the lord of the knowledge of truth (Tattvavijñānātha) and expresses a wish that he himself may live as long as the sun and moon endure. The same eternal duration he wishes to the incomparable town of Kalyāṇapura and to the equally incomparable king Vikramārka or Vikramāditya, whose powerful rule he declares to extend as far as the Western and Eastern Oceans, and up to Rāma's bridge (Rāmesvaram) in the south and the Vindhya mountains in the North. Vijñāneśvara, king Vikramāditya, and the city of Kalyāṇapura are declared to form a celestial triad. These statements are sufficient to identify king Vikramāditya, the patron of Vijñāneśvara, with Vikramāditya VI, the most powerful and most long-lived king of the restored Cālukya dynasty (A. D. 1076—1127),

who is known both from his numerous inscriptions and from the historical poem devoted to his life and achievements by his court poet and panegyrist Bilhana. This identification is confirmed by Vijñāneśvara's referring to Bhoja or Dhāreśvara (the ruler of Dhārā), whose kingdom was attacked and devastated by the father of Vikramāditya VI., as we may learn from Bilhana. Bhoja flourished in the middle of the eleventh century. Kalyānapura, the capital of Vikramāditya and of other Cālukyas, is identical with the still existing town of Kalyan near Bīdar in the Nizam's dominions, which in its ruins of palaces and in its enormous tanks has preserved some remains of its former greatness. As a contemporary of king Vikramāditya VI, Vijñāneśvara must have written in the latter half of the 11th century, or early in the following century. His work is not a mere commentary, but rather a new and original work based on the short rules of Yājñavalkya, and one more fit to serve as a code of law than the original, his expositions certainly meriting the high repute enjoyed by them (Bühler).

The *Mitākṣarā*, as observed by Colebrooke, is received in all the schools of Hindu law, from Benares to the southern extremity of the peninsula of India, as an authority from which they rarely dissent. The influential position thus accorded to the work of a simple Pandit may be partly due to the prestige of his royal patron. That position was strengthened, in the English period, by Colebrooke's translation of the section on Inheritance, which was followed afterwards by Sir W. Macnaghten's translation of the chapter on Evidence, and by other English translations.¹ On the other hand, some interesting arguments against the theory of the territorial jurisdiction of Sanskrit law-books have been recently brought forward by Govinda Das, of Benares, in his paper on the real character of Hindu Law, and deserve to be quoted *in extenso*. Thus he says of the *Mitākṣarā* that it was composed in far-away Deccan among the Kanarese-speaking people and has yet been made by the English rulers of the country

¹ *Mitākṣarā* and *Bālabhāṭṭi* were translated by Śrīśa Chandra Vasu, Allahabad, 1909.

the law of Northern India. The Mayūkha was composed at the instance of a petty chief of Bundelkhand by a Benares Pandit and it has been made authoritative for Gujerat. This is not the view of the Pandits who hold that all commentaries and all digests are equally authoritative. There may be a little leaning towards the one or the other, but there is no such thing as complete exclusion. Not a single one of these works is wholly and absolutely followed anywhere. Every commentary and every province picks what it will follow and what it will not from the whole mass of these. Nor were the Digests compiled originally to meet any actual necessities of the case, the Court Pandits being left to their own devices and ideas of what was right and wrong uncontrolled and undirected by political authority, each work reflecting the personal views and particular idiosyncracies of its compiler. Hindu law in the main was never more than a pious wish of its priestly promulgators and but seldom a stern reality. Its sacerdotal basis is shown by the fact that large portions of Civil Law, *e.g.* the law relating to gifts and to ownership in works of public utility, are all treated in the Canon Law. The observations of Sir H. Maine on the code of Manu—that it does not as a whole represent a set of rules ever actively administered in Hindustan and is indeed a picture of that which, in the view of the Brahmans, *ought* to be the law—apply with equal force to every other Sanskrit law-book. The authors of these works, one and all, belong to the same class of closet scholars and lawyers, untouched by the myriad activities of the world. Worldly interests to them are merely unavoidable and unpleasant incidents in a life meant to be devoted to spiritual purposes. While Hindu kingdoms were falling like nine-pins round him, the Brahman was busy carefully calculating the exact amount of expiation necessary for the helpless individual who had become impure by the touch of the house-lizard.

These strictures may not be undeserved, but, as regards the Mitākṣarā, the wide range of authority early attained by that work is proved by the Digests composed after it in various parts of India. Thus the Smṛticandricā of Devaṇṇabhaṭṭa,

a Madras Digest of about 1200 A. D., in its inheritance part follows the *Mitākṣarā* in most points of importance. When in the early part of the sixteenth century king Pratāparudradeva of Orissa compiled his great Encyclopaedia of religious and moral law and called it *Sarasvativilāsa* or the Recreations of the Goddess of Learning, he closely followed, in the chapter on inheritance at least, the *Mitākṣarā* of Vijñāneśvara, whom he frequently quotes, mostly with approval. As observed by Foulkes in his edition and translation of the inheritance chapter of the *Sarasvativilāsa*, it is remarkable how persistent the rule of succession to property, as it is taught here, has been in South India during the eight centuries which have elapsed since the *Mitākṣarā* was written. The standard writers of Benares in the 17th century are not less anxious to uphold the doctrines of the *Mitākṣarā* and to defend them against the objections raised by the Eastern or Bengal authorities, both on questions of inheritance and on other subjects. Thus Kamalākara in his legal work, called *Vivādatāṇḍava*, speaks of a certain doctrine held in the Bengal School as an absurd opinion originating in aversion to the *Mitākṣarā*. Mitramiśra's *Viramitrodaya*, another Digest of the sacred law, reads much like a commentary of the *Mitākṣarā*, Mitramiśra, as observed by Bühler, adhering more closely to the *Mitākṣarā* than any other writer on law. Down to modern times, the *Mitākṣarā* was held in such high esteem in Benares, that the native judges, previous to the establishment of English tribunals, used to ask the Pandits in each arising case to consult the *Mitākṣarā*.¹

The fact that the *Mitākṣarā*, though a mere commentary itself, was in its turn repeatedly commented upon by learned and distinguished Pandits, furnishes another proof of the very special authority it had acquired. Three of these commentaries are at present accessible, the earliest among them being the *Subodhinī* or *Mitākṣaratikā* *Subodhinī* or *Viśveśvarī* composed in the 14th century by Viśveśvara Bhaṭṭa, son of Peṭṭi Bhaṭṭa. The same Pandit wrote afterwards, under the patronage of king Madanapāla of Kāṣṭhā near Delhi, the

¹ See my volume of Tagore Law Lectures for 1883, p. 14 foll.

Digest called Madanapārijāta after his patron, which has been printed in the Bibliotheca Indica. The second or Vyavahāra chapter of the Subodhinī has also been repeatedly printed in India. The Subodhinī is not a running commentary and explains selected passages of the Mitākṣarā only, elucidating points of difficulty. The second commentary is called Pramitākṣarā or Pratitākṣarā: it was composed in the beginning of the seventeenth century by Nandapaṇḍita, the son of Rāmapaṇḍita, a Dharmadhikari of Benares and author of numerous learned works including a treatise on adoption, the Dattakamīmāṃsā, which was translated into English by Sutherland, and a commentary on the Viṣṇu-smṛti, the Keśava-Vaijayantī, extracts from which were published by the present writer in the Bibliotheca Indica. The latter work contains a reference to Nandapaṇḍita's commentary of the Mitākṣarā. It is, however, quite uncertain whether that commentary was ever finished by its author, since a copy of it, which I have seen many years ago at Benares in the possession of Pandit Dhunḍhiraj Dharmadhikari, Librarian of the Sanskrit College, ninth in descent from Nandapaṇḍita, and which appears to be now in possession of Professor Nageshvar Pant Dharmadhikari, another descendant of Nandapaṇḍita living at Benares, consists only of the comment on the first portion of the first or Ācāra section of the Mitākṣarā. Another copy of the same work, now in the India Office Library, is equally incomplete.

By far the most important commentary of the Mitākṣarā is the Bālabhaṭṭi partly edited with a valuable Introduction by Gavinda Das. The Bālabhaṭṭi, indeed, as shown by him, is a composition of unequal merit, the first portion, on Ācāra, consisting of no less than 17,000 Ślokas and containing learned discussions and many quotations on every part of the religious law, while the third or Prāyaścitta portion is rather poor and consists of 8,000 Ślokas only. The second or Vyavahāra portion comprises about 10,000 Ślokas and is an excellent composition, explaining the whole of the text carefully, discussing the merit of different readings of it, and containing many quotations of parallel

passages found in other Sanskrit texts. The inheritance chapter of the *Bālabhāṭṭī* has been used a great deal for Colebrooke's translation of the *Mitākṣarā* on inheritance. Govinda Das has shown that there are two distinct recensions of this commentary, the author after completing the work having made large additions to it as well as some small changes. The latter recension represents his maturer views and has therefore been followed in the printed edition. Govinda Das has succeeded also in clearing up the doubts attaching to the personality of the author, who was no female and whose performance therefore cannot be said to show the author's intellectual petticoats, as was supposed at one time. *Bālabhāṭṭa*, surnamed *Pāyaguṇḍa*, was the son of *Vaidyanātha* and *Lakṣmīdevī*, and all his works on grammar were composed in his father's name, and all his law works in his mother's name. This explains why his commentary on the *Mitākṣarā* is called *Lakṣmī* or *Lakṣmīvyākhyāna*. *Bālabhāṭṭa* was a contemporary of Colebrooke who calls him *Bāla Sarma Pāyaguṇḍa*, a venerable old Pandit at Benares, where he compiled for Colebrooke a Sanskrit Digest of Civil Law, a copy of which is now in the India Office Library. The opening stanzas of that composition, which is called *Dharmaśāstrasamgraha* (an abstract of legal rules), give *Bālabhāṭṭa*'s parentage and his relation to Colebrooke and to the East India Company. There is still some uncertainty about the exact dates of his birth and death, as he is said to have been eighty in 1800 and still alive in 1830, so that he would have lived to be 110 years at least. He must have written the *Bālabhāṭṭī* before 1775, as one manuscript of that commentary preserved at Benares is dated S. 1832 (A. D. 1775). It is the last comprehensive treatise on *Dharmaśāstra* which was composed independently of any patronage. Some descendants of *Bālabhāṭṭa* are still alive.

To return to the commentators of *Yājñavalkya*, the nearest in point of time to *Vijñāneśvara* is *Aparārka*, a *Śilāhāra* king of Konkan. His voluminous commentary which has been printed and fills two handsome volumes of 1252 pages in the *Ānandāśrama Sanskrit series* (1903-04), is called an ancient

and copious gloss by Colebrooke, who has taken a number of remarks from it in his translation of the *Mitākṣarā* on inheritance. Govinda Das has characterised it as a fuller and better work than the *Mitākṣarā*. No doubt this *Yājñavalkya-dharmaśāstranibandha* is a valuable commentary and abounds in quotations from other *Smṛtis* and from the *Purāṇas*, a list of which has been printed at the end of the *Ānandāśrama* edition. Certain opinions on inheritance which have been viewed as peculiar to the Bengal School may be traced to *Aparārka's* commentary. It agrees with the *Mitākṣarā* rather than with *Viśvarūpa*, but the *Mitākṣarā* or its author is never mentioned in it. This may be due to Indian etiquette, which forbids a sovereign to make any public mention of the servant of a king and to ignore the existence of his master. Moreover *Aparārka* as a royal author may not have cared to notice the discrepancies between himself and the servant of a neighbouring and rival king.¹ It is, however, not certain that *Aparārka* was acquainted with the *Mitākṣarā*, as he may have been for some time a contemporary of *Vijñānesvara*. This appears particularly probable if *Aparārka* or *Aparāditya* is identical with the older of the two *Aparādityas* who reigned over *Konkan* in the 12th century, one of whose grants is dated A. D. 1130. This *Aparāditya I* is mentioned as sending a representative to a great meeting of learned men in *Kashmir* (*Pühler*). The *Mitākṣarā*, as belonging to the time of king *Vikramāditya VI*, may not have been composed till the first quarter of the 12th century, and the correspondences between it and *Aparārka's* commentary may be due to both writers' having drawn from a common source.

The *Dīpakalikā* of *Śūlapāṇi* is a very short gloss explaining select passages of *Yājñavalkya* only. It has been used occasionally by Colebrooke for his translation of the *Mitākṣarā* on inheritance. He calls it modern, while *R. Mitra* makes of *Śūlapāṇi* a contemporary of king *Lakṣmaṇasena* of *Bengal* (beginning of 12th century). It seems advisable to strike a middle course between these two different opinions and to refer *Śūlapāṇi* to the 15th or 16th century or so. He is quoted

¹ See *R. Sarbadhikari, loc. cit.*, 384.

by Raghunandana (about 1600), and himself quotes none but early writers, such as Bhoja, Bhavadeva, and Lakṣmīdhara. He was a native of Bengal and is better known as the author of a large Digest of the sacred law.

A work called *Vīramitrodaya* by *Mitrāmīśra* has been mentioned before as a Digest of Law adhering closely to the doctrines of the *Mitākṣarā*. This huge *Vīramitrodaya* must not be confounded with another less bulky *Vīramitrodaya* by the same *Mitrāmīśra*, the son of *Paraśurāma* and grandson of *Hamsapaṇḍita*, which is a commentary on the *Yājñavalkya-smṛti* (*Yājñavalkyavyākhyana*) and was first noticed by the late Professor Peterson in his second Report 1884, p. 49-53, where he gave from it a table of variations from the text as given in Stenzler's edition of *Yājñavalkya*. The title of *Vīramitrodaya* evidently contains a punning allusion to the names of *Mitrāmīśra*'s patron, *Vīrasimhadeva*, by whose command the two works were composed by him, and of himself. *Vīrasimha*, the son of *Madhukara Shah*, belonged to the Bundela family. The names of *Vīrasimha*'s ancestors as given by *Mitrāmīśra* may be identified with the names of the Bundelas of *Orecha* in *Bundelkhand*, and *Vīrasimhadeva* himself must be identical with *Birsimh Deo* of *Orecha*, the contemporary of the Mogul Emperors *Akbar*, *Jehangir*, and *Shah Jehan*, notorious for the assassination of *Akbar*'s minister *Abul Fazl* (1692). The composition of the two *Vīramitrodayas* may therefore be referred to the first half or first quarter of the seventeenth century. This date is confirmed by a certain commentary, dedicated to *Candrabhānu*, the youngerson of *Vīrasimha*, having been written in 1635 A. D.

We may now proceed to make some observations on the text of the *Yājñavalkyasmṛti* which has been made the subject of so much comment by learned Pandits belonging to divers ages and countries. The celebrity of this law-book is also proved by its having been reproduced in two *Purāṇas*, the *Agnipurāṇa*, which contains the whole of chapter II of *Yājñavalkya*, and the *Garuḍapurāṇa*, in which the first and third chapters of *Yājñavalkya* are found almost entire, each section beginning with the words, Thus said *Yājñavalkya*,

which shows the author of the Puraṇa to have been the borrower and not Yājñavalkya. The recent discovery of the Arthaśāstra has made us acquainted with an analogous case of borrowings from Yājñavalkya and it has been seen before that in this case also the opposite hypothesis of a supposed dependence of Yājñavalkya for the other work cannot be upheld. The author of the Arthaśāstra, whoever he may have been, must have had the law-book of Yājñavalkya before him and supplemented its somewhat meagre and laconic rules with additions of his own, while utilising it for his two legal chapters (III, IV) more extensively than any other book of its kind.

The sources and origin of Yājñavalkya's Smṛti or Dharmaśāstra are difficult to determine. From general reasons it is likely to have been evolved from some Sūtra work of the Vedic period of Sanskrit literature and to have been turned from the manual of a Vedic School into a code of general authority, like the code of Manu with which it has a great deal in common. Thus it opens, like the latter work, with a request of the sages to the promulgator of the code to expound the sacred law to them, whereupon he condescends to proclaim his laws. These laws are, however, decidedly more advanced, systematic, and modern in their character than the laws of Manu. They are arranged in three chapters of about equal length, treating respectively of custom, law, and expiation, and consisting of 1009 Ślokas against the 2648 Ślokas of Manu. The legal chapter contains no reference to the eighteen Vivādapadas or titles of law of Manu, but that ancient division seems to underlie the legal rules of Yājñavalkya as well, only he has the two additional titles of rules for servants and miscellaneous rules. The law of inheritance forms the third title of law, while Manu makes the seventeenth title of it. The right of succession of the widow and daughter on failure of male heirs is fully recognised, while Manu takes a very unfavourable view of woman's claims to inheritance. The two ancient ordeals by fire and water are the only kinds of ordeal known to Manu, while Yājñavalkya knows and describes no less than five different kinds of ordeal. In the law of debt the rules concerning pledges, sureties, and liability for debts

are far more detailed and elaborate than the corresponding provisions of Manu. The idea of partnership in Manu is in the main confined to priests performing together some religious ceremony and dividing the fees paid for their performance, while Yājñavalkya includes agriculture and various trades in his corresponding rule (II, 265).¹ In the law of evidence, Manu confines himself to a discussion of the oral evidence of witnesses, besides briefly mentioning the two ordeals by fire and water. Yājñavalkya lays particular stress on documentary evidence and the examination of documents as to their authenticity and gives rules about possession and prescription. In the marriage laws Manu advocates latitudinarian views regarding the marriage of a Brahman with a Śūdra wife. Yājñavalkya attacks these views and objects to such marriages. He mentions several penances not occurring in Manu. He refers to grants of land and copper-plates on which they are recorded as well as to coined money ; whereas Manu only speaks of weights of silver and gold.

He enumerates no less than fourteen sources of sciences and law, *viz.* the four Vedas, the Purāṇas, the Nyāya and Mīmāṃsā philosophies, the Dharmaśāstra, and the six Angas or complements of the Veda (I. 3). He recommends offerings to be made to the planets and has an anatomical chapter in which the exact number of veins, muscles, nerves, and hairs in the human body is stated.

In some of these particulars Yājñavalkya's work closely resembles the Viṣṇusmṛti with which it also agrees in the rules for documents, inheritance, and funerals, and otherwise. It is true that there are analogies with other law-books as well, as indeed all these books hang closely together and were used to supplement each other. Their authors seem to have drawn from ancient traditions common to all schools. Nevertheless the correspondences between Viṣṇu and Yājñavalkya are so numerous and striking that they call for an explanation and, considering the fact that the Viṣṇusmṛti is probably a recast of an original Dharmasūtra of the Kāthaka School of the Black Yajurveda, we may conjecture Yājñavalkya to be connected

¹ See Hopkins in Cambridge History of India, I, 206.

with that school himself. This would account also for his relations with the Mānavagr̥hyasūtra, another Sūtra of the Black Yajurveda, with which he shares the passage on the symptoms and cure of possession by Vināyaka or Gaṇeśa (I, 270-292). It is, however, with the White Yajurveda that Yājñavalkya is connected most closely. Thus the description of funeral ceremonies and impurities caused by death (III, 1 foll.) agrees with the rules laid down in the Pāraskara Gr̥hyasūtra (III, 10), a Sūtra work belonging to the White Yajurveda. Yājñavalkya Vājasaneyā is the supposed author of the Vājasaneyā branch of that Veda. The Śatapatha Brāhmaṇa of the White Yajurveda, the most voluminous and most interesting of all Brāhmaṇas, frequently refers to Yājñavalkya as an ancient teacher and claims him for its author. King Janaka of Videha, his contemporary, is said to have made him a present of a hundred cows, because he had investigated the true purpose of fire oblations. The Bṛhadāraṇyaka Upaniṣad, another composition belonging to the White Yajurveda, gives philosophical discourses between Yājñavalkya and two women. The former is said to have brought the Yajurveda from the Sun. The same tradition is recorded in the Yājñavalkyasmṛti which states its author to have received the Āraṇyaka from the Sun. The history of the revelation of the Yajurveda by the Sun is also related in several Purāṇas. Some of the Vedic Mantras or sacred formulas to be recited at the offerings to ancestors according to Yājñavalkya (I, 229 foll.) seem to have been taken from the White Yajurveda, and the description of a Śrāddha (I, 219-271) agrees with the Śrāddhakalpalatā of Kātyāyena, the supposed son of Yājñavalkya, who is said to have written the Sūtras expounding the ritual of the White Yajurveda. The existence of a relation between the Yājñavalkyasmṛti and the White Yajurveda may thus be regarded as an established fact, but the style of the former work differs too much from the Vedic style to identify Yājñavalkya with the Vedic writer of the same name, though he may have composed the Sūtra work from which the metrical Smṛti of Yājñavalkya seems to have been derived. It is quite possible that he was altogether a

mythical personage, as shown by his connection with the Sun. The Mahābhārata states him to have officiated as priest at the kingly sacrifice of Yudhiṣṭhira and to have discoursed with the latter on questions of philosophy after the great battle of Kurukṣetra. He is also represented as having inculcated the duty of religious meditation, which tradition agrees with the Yājñavalkyasmṛti's calling him the lord of Yogins and the teacher of the science of Yoga (III, 110).

The locality of the composition of the Yājñavalkyasmṛti may be gathered from the introduction (1, 2) stating him to have been a resident of Mithilā (Tirhut). This agrees with the tradition which represents Yājñavalkya's patron, king Janaka, as the king of Mithilā or Videha (North Bihar). The White Yajurveda was composed in the same country, the eastern part of Hindostan.

The relative date of Yājñavalkya's book is determined by its posteriority to the code of Manu and to the Vedic works mentioned. For the absolute date the occasional references to Greek astrology (I, 295 and I, 80) and to Greek coinage (I, 240) are important. Thus he enumerates the seven planets in the same order as the treatises on astrology and astronomy. From these data the Yājñavalkyasmṛti is not likely to have been composed before the third or fourth century A. D. It should be observed, however, that isolated passages like those referred to cannot be held decisive, as they may be due to subsequent interpolations. Much of the matter in this Smṛti is certainly very old.

We will now try to give some idea of the contents of this work, using Mandlik's translation. The introduction informs us that no less a person than the ancient sage Yājñavalkya, the lord of Yogins, has composed the whole work and that the laws to be proclaimed by him relate to the country where the black antelope roams, that animal being viewed as the purest of all animals, so that its skin must be worn by Brahmans at the time of the Upanayana or initiation ceremony. Twenty propounders of the sacred law are mentioned by name, Yājñavalkya himself being among the number, in accordance with the old practice of writers mentioning their own name

in the third person in their writings. The commentators explain that the Yājñavalkya-smṛti is a collection of the doctrines of Yājñavalkya by a member of his school. The Śruti or revelation is declared to be the first among the sources of sacred law, after it come Smṛti or tradition, the practice of honourable men, one's own liking, and the desire called forth by a correct resolution.

The Saṃskāras or sacraments are described in the usual way, the Upanayana or initiation being considered particularly important, as it makes the young Brahman acquainted with the sacred Gāyatrī prayer and fit to receive instruction in the Vedas from his teacher. His life while studying with his Guru is one of strict austerity: he should live by begging, and wear the staff, the skin of the black antelope, the sacred thread, and the girdle. Bathing, praying, subduing the breath, and fire-worship also belong to his daily obligations. On completing his studies he is to present some valuable present to his Guru and return to his own home, after having performed the requisite ablution. He is now old enough to marry and curious rules are given for the selection of a suitable bride, including the sensible advice not to marry one diseased herself or belonging to a family tainted with hereditary disease. Low-born wives, especially of the Śūdra class, should also be avoided by the high-born. Eight forms of marriage are distinguished, two of which consist of marriage by purchase. To make sure of a girl being married, a number of givers of a girl (Kaṇyāpradāh) is mentioned, with the father and other paternal relations at their head, whose duty it is to provide for her being married at an early age and who incur heavy reproach by not fulfilling this duty. A wife may be superseded or repudiated if she is refractory, addicted to drinking, deceitful, diseased, or barren, but she has a claim to maintenance against her husband, and he must give her a third of his property if she be obedient, sweet-spoken, and the mother of sons. Obedience towards her husband is the first and highest duty of a wife, and in her old age she is to follow the bidding of her sons or of her kinsmen, because women are never to enjoy independence. His wife having died the husband should

provide for her body being burned and should take without delay another wife. The religious duties of a married man or householder are manifold: thus he is to perform five daily sacrifices by offering rice-grains to certain unseen spirits, Śrāddha ceremonies to the departed fathers, oblations to fire, repetition of the Veda to the divine sages, and hospitality to guests. In the rules regarding diet abstention from meat is particularly recommended. Absolute purity in a religious sense and careful purification of what has been soiled form an important subject in the eyes of the ancient Indian and so do the Śrāddhas or funeral repasts, the characteristic Indian form of ancestor-worship.

The form of government as described in the section on the duties of a king is simple and patriarchal. The king, who must be of a noble family himself, should appoint able and high-born, steady and righteous ministers, but above all a domestic priest familiar with astrology, well-grounded in the Śāstras and Vedic lore and skilled in polity. Brahmans should be gifted by him with manifold donations and if he makes a grant of land to them it should be recorded on a copper-plate marked with the royal seal. In battle the king should be brave, as those who are killed in fighting for their country without turning their backs go to heaven, unless they should use treacherous weapons. The king should rise early and should attend to state business and to the control of his spies all day long, allowing himself but little relaxation. In his relations with neighbouring kings he should use all the expedients of policy, trying conciliation in the first place, and only resorting to open attack when all other measures have failed. Having conquered a foreign kingdom, he should maintain the customs, practices, and family usages prevalent in that country. The trial of lawsuits according to the open court system and the punishment of offenders form another important obligation of a king.

Civil and criminal law and procedure are the subject of the second chapter. The king should attend to the administration of justice in person or appoint a learned Brahman together with the assessors as his representative, if he is pre-

vented by pressure of business from trying causes himself. The plaint and answer should be taken down in writing and all contracts of debt or other contracts should also be entered in a document and attested by witnesses. Evidence is of three kinds, written documents, actual possession, and witnesses; in the absence of these some one of the ordeals is to be resorted to. The judge should exhort the witnesses to speak truth, and false witness as well as the suborners of false evidence should be heavily fined, but whenever the death of a man of any class might be caused by the evidence of a witness, he may tell an untruth. In the law of debt, legal interest should not exceed the rate of sixty per cent, except in the case of those who expose themselves to great danger by travelling through forests or traversing the ocean. Deposits may be delivered in a box and sealed without being described; they need not be made good by the depositary if destroyed by the act of fate. In the law of inheritance self-acquisitions if acquired without detriment to the parental estate, are declared to be impartible. Women's property consists entirely of wedding-gifts and other presents: it goes to their children after their death. The laws regarding boundaries are chiefly concerned with the boundaries between two villages, the villagers holding the land around the village in common, just as the families are generally of the joint-family type. The law of commerce is in a highly advanced condition, but it is for the king to fix the rates so as to be advantageous both to the buyer and the seller, the general rule being that a trader shall make five per cent as profit on commodities of his own country, and ten per cent on those arrived from abroad. The profit and loss of partners in trade shall be according to their shares in the capital. Gambling is allowed to take place under state supervision and when the king's share has been paid, as a means of detecting thieves. Criminal law is characterised by cruel punishments and mutilations, partly according to the *lex talionis* and by the gradation of most punishments according to the caste of the offender and offended, but many offences may be bought off by paying a fine, and this system of fines must have formed an important

source of income to kings and judges. Abuse and assault, manslaughter and murder, theft and robbery, adultery and other sexual offences, cheating and high treason are perhaps the most prominent crimes. Judges passing an unjust decision should pay twice the amount in dispute as a fine, and a king having made an acquisition through an unjust fine should devote his gain to the god Varuṇa and hand it increased thirty-fold to Brahmans.

The third chapter treats of penance and expiation and begins with rules for the duration and removal of impurity caused by death and birth. Then come some regulations for the life of a Brahman in times of distress (*Āpaddharma*), when he may neglect the duties of his own order and live by the calling of a soldier or a merchant, avoiding, however, in the latter case the sale of certain specified articles, such as gems, flesh, land etc. When anxious to enter the order of *Vānaprastha* or hermit in the wood, the third stage in the life of a Brahman, he should leave his wife to his sons or take her with him and enter a wood, where he should live a life of austerity and self-mortification, bathing three times a day, abstaining from accepting alms, studying the Veda, exercising charity, and seeking the welfare of all creatures. These austerities should be increased if possible during the fourth stage in the life of a Brahman, that of an ascetic, who should spend all his time in meditation on the Supreme Spirit. This gives the author an opportunity of exposing his pantheistic philosophy and describing the rise of individual souls from the universal soul, which resembles the springing of sparks from a red-hot ball of iron. As the universal soul at the beginning of the creation created the five elements of space, air, fire, water, and earth, even so it grasps the same in generation and becomes a body. The growth of the embryo and the anatomy of the human body is described in detail. The soul is seated in the heart like a steady light with innumerable rays. The doctrine of the transmigration of souls is illustrated by the case of great sinners coming again into existence in this world, after having been tormented after their death in frightful hells such as *Savisa* (the hell full of poison) or *Tāpana* (the hell full of

scorching heat), as animals such as a worm or insect, if they have stolen gold, or as asses, if they were drunkards, and are then reborn as the most degraded of mankind with various bodily defects. Long lists of great sins and secondary sins are given and various penances described by which they may be expiated. Fasting, muttering prayers, swallowing hot drinks or the five products of a cow including her urine and excrements, ablutions, prostration are among the regular practices in the prescribed modes of expiation.

The sentient element is very conspicuous in this code as indeed in all the codes. Thus the accomplishment of one's aims is said to depend on both fate and exertion, fate being identical with the acts committed in a former existence (I, 348 foll.). Mourners should be consoled by reflecting that it were foolish to seek for anything permanent in human life which is as perishable as the stem of a plantain tree and as transitory as a bubble of water (III, 8). Wherefore should you wail on the body dissolving into the five elements from which it has arisen owing to its acts in a former existence? (III, 8,9). As a dirty mirror is not capable of reflecting a visible object, even so the individual soul with its imperfect senses is not capable of obtaining knowledge (III, 141). It is by remembering the real nature (of the human soul as being one with the supreme spirit pervading the universe), by meditation, by uniting with the quality of goodness, by the suppression of all actions (as being the cause of existences), and by associating with the virtuous that the union (of the individual soul with the universal soul) is effected (III, 160). By omitting to do what is ordained, by doing what is prohibited and by not restraining his senses a man incurs his fall (III, 219). Great sinners who do not perform penances to remove the consequences of the primary or secondary offences committed by them go to the hells (III, 225). It should be remembered that the Dharmaśāstras are not codes in the proper sense of the term, but didactic compositions and handbooks of moral philosophy and theology.

JULIUS JOLLY.