

## **Exploring the Interactions between Sexuality, Law and Gender in Early**

### **India: A Case Study of the *Mānavadharmasāstra***

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The present work attempts to offer a gendered analysis of sexual crimes and punishments in early India and account for the probable reasons and understanding behind the criminalization of activities like adultery and sexual assault, that in turn acted as an ingenious strategy to exercise control over male and female sexuality. Like other grave offences which tend to threaten the well-being of an individual and the maintenance of social harmony, lawmakers are constantly engaged even today in introducing amendments to the sexual laws of the land. It would be, therefore, interesting to see what the attitude towards sexual crimes in early India was, which all transgressions were included within its ambit, and how does the most (in)famous ethico-legal text, the *Mānavadharmasāstra*, deal with it. The fundamental concern here is to delve into the manner in which the three important categories of gender, sexuality and law intersected with each other, and what a combined analysis of these manifests regarding the socio-psychological and cultural system of early India. An in-depth exploration of this nature is essential to gain an understanding of the attitude(s) early Indians maintained towards sexuality, and investigate the manner and degree to which the biological sex of an individual impacted its formulation and construction.

The concept of sexuality evolves over a period of time, i.e., the way in which any particular society constructs or represents sexuality varies, depending on the legal, social, political and cultural attitudes prevalent at any given moment in history. Generally defined as the feelings and activities connected with a person's sexual desires, the term could mean different things to different people, and has no one fixed meaning attached to it. It encompasses many ideas and issues within its domain, from the act of sex itself to the varied sexual practices

adopted by people; sexuality may also refer to the sexual orientation or preference a particular individual chooses for herself/himself. A survey of Sanskrit literature produced in early India depicts that when it came to defining and representing sex and sexuality, early Indians maintained divergent positions and one, therefore, comes across numerous attitudes being adopted towards this topic. Where texts like the *Kāmasūtra* and Sanskrit *Kāvya*s appear to celebrate the sexual practices prevalent during the times, the *śāstras*, particularly those dealing with *dharma* and *artha*, propounded extensive codes to restrict the sexual experience of the people. As the present analysis reveals the *Mānavadharmasāstra* comprises detailed legal codes and social norms constructed with the intention to enforce restrictions on people's psyche, to convince them of the worldly and otherworldly benefits of sexual suppression and self-control.

### ***Mānavadharmasāstra* As An Ethico-Legal Treatise**

The extant text of the *Mānavadharmasāstra* (hereby *MDh*, popularly known as the *Manusmṛiti*) unfortunately furnishes no substantial information on the exact date, geographical location and other biographical details of its author Manu. A number of myths surround this figure, with the Vedas proclaiming Manu or Manus as heroes of the human race. He is frequently referred to as the progenitor of humankind, and it is in this capacity that he is variously designated as the founder of the social and moral order, a ruler, author of legal codes and a *ṛiṣi*. Amidst all these divergent legends, what we are certain of is that he was a learned Brāhmaṇa, based in northern India. The compositional style (the text of Manu is entirely written in *ślokas*) indicates that this treatise was composed after the *Dharmasūtras* (the four extant *Dharmasūtras* of Gautama, Baudhāyana, Āpastamba and Vasiṣṭha being prose compositions)<sup>1</sup> (Olivelle, *Between the Empires* 184-185). The sections of the text dealing with legal and judicial procedure, statecraft and royalty also display clear advances in thinking from the preceding *Dharmasūtras*. In fact,

Olivelle's extensive statistical study shows that Manu devotes a total of 20.5 per cent verses in his treatise to matters concerning the law and the State's handling of the judicial procedure, which is a significant increase in comparison to Āpastamba's 5.8 per cent, Baudhāyana's 2.9 per cent, Vasiṣṭha's 9 per cent and Gautama's 16.1 per cent on related topics (Olivelle, *Between the Empires* 187). These figures also indicate a gradual increase in these composers' engagement with *vyavahāra* or judicial matters over time (with the exception of Baudhāyana), finally culminating in the text of *Mānavadharmasāstra*. Manu's compositional style where he actively engages with and complements treatises belonging to other contemporary traditions of *artha* and *kāma*, also marks an advance from the previous texts by developing the scope of *dharma* literature in general. He adopts a broader purview where women appear and are discussed not just in connection with the Brāhmaṇa male; but also, as this analysis will further reveal, in concepts like "willingness" and "mutual consent" regarding matters of 'sexual misconduct' that endow women with some amount of agency.

Placing the other metrical *Dharmaśāstras* like those ascribed to Yājñavalkya, Nārada, Bṛhaspati and Kātyāyana, later than Manu's text, Bühler opines that the text was composed between c. second century BCE-second century CE (Bühler cxvii).<sup>2</sup> Jayaswal further compresses this timeline by arguing that the text was composed during the Śuṅga period, which witnessed Brahmanical revival post Aśokan reforms. He therefore placed the text during the last two centuries before the common era (Jayaswal 29). On the basis of internal and external evidence from texts, Olivelle assigns a lower limit of first century BCE and an upper limit of second-third centuries CE (Olivelle, *Manu's Code of Law* 21-25), for the text's composition and his dating seems the most probable.

The myths and authoritative legends surrounding its author Manu render the *Mānavadharmasāstra* as the most famous representative text of the *Dharmaśāstric* literary

tradition in India. The text is divided into 12 *adhyāyas* or chapters and it presents a textual history of itself, ascribing the original treatise to the Creator, the Imperishable One, in turn legitimizing its norms and injunctions with divine sanction. It significantly offers a detailed and extensive analysis of the early Indian concept of *dharma*, which comprised legal, ethical, social and religious dimensions within its ambit. This present analysis of the *Mānavadharmasāstra* as a law book rests on its self-recognition as a legal treatise as in the very beginning Manu claims to have laid down law in its entirety, by including the good and the bad qualities of actions and the timeless norms of proper conduct for all four classes<sup>3</sup> (*MDh* I.107). Interestingly, Manu also recognises the flexible and ever-changing nature of law by arguing that the law disappears a foot at a time as we move from one age to another—

There is one set of Laws for men in the *Kṛta* Age, another in the *Tretā*, still another in the *Dvāpara*, and a different set in the *Kali*, in keeping with the progressive shortening taking place in each Age. (*MDh* I.85)

This clearly depicts that the proponents of law in early India did not promote a static understanding, but believed in the fact that legal codes at any given time are intricately connected to the historical context in which they are codified and circulated. As Choudhary argues, “law is the outcome of the socio-economic conditions of a particular country and the expression of its intellectual capacity for dealing with these conditions, and therefore growth of justice is connected with the social and political organisations” (10). The tenets prescribed in the *Mānavadharmasāstra* were influenced by the immemorial traditions and customs; and their analysis thus offers some valuable insights into the social structure of early India, and the interactions between law, sexuality, caste and gender at a particular juncture in history. Scholars like Stokes, Galanter, Cohn, Skuy, Davis and others are unanimous in their opinion that the *dharmaśāstric* texts acted as legal codes and it is in this capacity that they exerted a lot

of influence on the minds and actions of people. However, in his thought-provoking essay, Sinha questions the selective idea of viewing Indian tradition from the lens of Manu. In his opinion, the colonial government chose to appropriate Manu's treatise for the drafting of the Indian Penal Code in 1860 because of the similarities it exhibited with Victorian Puritanism, something they fervently believed in themselves (Sinha 66). Although this line of argument seems plausible to explain the ultimate appropriation of a large portion of Manu's tenets in the Indian Penal Code, the very circulation and popularity these 'law-books' enjoyed even till the colonial times cannot be denied.

At this point I would also like to present a convincing case for the use of normative texts for historical reconstruction, especially in the context of early India. Having enjoyed the prime position as source of history for a long period of time, scholars are increasingly doing away with the use of these texts as in their opinion the norms propounded here are prejudiced and unreliable, and therefore cannot be taken as evidence to represent the 'reality' of the times. However, as the present work intends to prove the *śāstras* or technical treatises are an inimitable and valuable source of history, even if belonging to a particular ideological tradition, as these norms cannot be completely divorced from the historical context in which they emerge and flourish. Always aiming for the higher moral ground, these texts are useful to extract information upon what was considered to be the 'ideal' situation or behavior, and what amounted to transgressions. An analysis of sexual crimes and punishments here therefore offers an opportunity to explore what was considered to be the 'ideal' sexual code of conduct or approved sexual practices/relations in different stages of an individual's life and what punishments were proclaimed for those who transgressed it in one form or another. The text indulges in elaborate discussions of justice and crimes and punishments, ranging from petty offences like robbery and verbal assault to severe crimes like murder and sexual and physical

assault. And Manu's text is a useful source for this analysis because of its self-identification and recognition as a legal treatise, till very recent times.<sup>4</sup>

*Dharma*, the Sanskrit term narrowly translated as Law, has a complex array of meanings and the English vocabulary fails to offer an equivalent of this unique early Indian concept. The word *dharma* is derived from the root *dhr*, which means to maintain, support or sustain. In simple terms, it is the socially approved and appreciated conduct, in relation to one's fellow men or to the other living beings. *Dharma* includes within its ambit law, ethics, morality, and most of what we mean by the term religion. Derrett has rightly observed that the concept of *dharma* "harmoniously embraced moral, social, intellectual, spiritual and psychiatric problems along with those that would appear to us to be entirely legal." (Derrett, *History of Indian Law* 8) However, scholars like Kane and Nair are divided on the essential question as to what role did these various facets of *dharma* play in the formulation of ancient legal codes. In other words, were the norms based more on religion, or did the ethical and moral aspect overshadow the religious one?

A careful reading of the *dharma* literature reveals that it would be more appropriate to club together the social, religious and moral aspects of *dharma* into a single term called 'Ethics'—defined as the "moral principles that govern a person's behavior or the conduct of an activity"—as the concept of *dharma* made a person react as member of a class/caste rather than an individual (Doniger and Derrett xvi), and thereby to study the *Mānavadharmasāstra* as an ethico-legal text, where the legal and ethical aspects interact and intermingle in such a way that it gets difficult to separate one from the other. Thus, in addition to the proper, ideal conduct of a person living in society, law in ancient times also covered fields of morality and enforcement of duty. Another very important characteristic of law in early India is that it adopted a collective terminology, i.e., instead of being addressed as individuals, people were

clubbed together as members of particular castes, classes and gender. The rules and punishments were formulated keeping in mind their respective position in society, as this analysis with further elaborate.

Before going into additional details of the legal and ethical norms, let me take this opportunity to comment on the *daṇḍa-prāyaścitta* binary, as this further justifies the use of the term ethico-legal for the *dharmasāstric* corpus in general, and *Mānavadharmasāstra* in particular. The idea of *daṇḍa* or punishment in early India evolved over a period of time. The term is generally translated as a stick, staff, or rod; coincidentally, all symbols of power. In his interesting essay on the legal and symbolic aspects of *daṇḍa*, Glucklich traces the range of meanings denoted by this term, “from the simple stick to the complex concept of legal punishment” (97). In the *Mānavadharmasāstra* one witnesses a prominence of the authoritative and aggressive aspects of punishment, where punishment is the king (*rājā*); male (*puruṣo*); and leader (*netā*) (*MDh* VII.17). Manu personifies punishment as the Lord’s son “dark-hued” (*śyāmo*) and “red-eyed” (*lohitākṣo*), which comes to the King’s rescue in the disciplining and protection of his subjects and is physically inflicted by the King, after careful examination, in the form of *daṇḍa* on the ones who go astray (*MDh* VII.25). While discussing the necessity and positive impacts of punishment on the individual and society at large, Manu highlights its transcendental nature, as “when men who have committed sins are punished by kings, they go to heaven immaculate, like virtuous men who has done good deeds” (*MDh* VIII.318).

Michel Foucault in his much-acclaimed work, *Discipline and Punish*, has revealed how in Paris, during the 1830s, the horrific spectacles of physical punishment came to be replaced by the “ordered world of the prison” where the aim was “not to torment the flesh but to reach beyond the body to correct, reclaim and cure the soul of the prisoner” (10). This shift from the retributive or deterrent punishment to a reformatory one is seen as a significant development in

the modern justice system, while interestingly in early India we find that both these aspects, of the physical infliction of severe punishment (*daṇḍa*) and the idea to reform the soul through penances (*prāyaścitta*), exist simultaneously, and sometimes ‘public’ *daṇḍa*, inflicted by the King or other persons in authority acted as a precursor to the more ‘private and self-regulated’ *prāyaścitta*. Kane recognises four possible motives or purposes behind the application of punishments as found in early Sanskrit literature. These are retributive, wherein the State satisfied an individual’s urge for revenge or retaliation by punishing the wrong doer. Secondly, punishment as deterrent, i.e., an exemplary punishment which serves as a warning to all the others who might be tempted to commit such a crime. Thirdly, the preventive aspect of punishment, where a criminal is imprisoned or punished to prevent him/her from repeating the crime and lastly, reformatory, in which punishment is inflicted with the purpose of redemption of the criminal (Kane 400-410).

The idea of *Prāyaścitta* as developed during this time in history intended to perform this reformatory function. The most distinguishing feature of *prāyaścitta* in early India was that it was a private affair (especially for Brāhmaṇa males who were exempted from severe physical punishments and death penalty); and the rituals performed as a part of it were eligible for non-offenders too. It therefore basically served as a precautionary measure, to reform offenders, as well as to keep the general populace under some sort of psychological control by imposing self-censorship. Secondly, while it was the responsibility of the King<sup>5</sup> to ensure the infliction of just punishment; the correction of soul was largely a self-regulated task, with little or no vigilance from an external factor.<sup>6</sup> Thus, Manu’s aim was to completely transform an individual as well as other members of the society by strategically connecting individual transformation in the form of penance or *prāyaścitta* with the protection of society and its members through severe punishments or *daṇḍa*.



## Legal Codes

In the third portion of his text, titled *Vyavahārapada*, Manu exclusively deals with the justice system and discusses the Eighteen Grounds for Litigation, which include *vākpāruṣya* (verbal assault), *daṇḍapāruṣya* (physical assault), *sāhasa* (violence), *strīsaṃgrahaṇa* (sexual crimes against women) and *strīpum̐dharma* (law concerning husband and wife) amongst others (*MDh* VIII.4-7). In the text, one comes across elaborate descriptions of the various actions/gestures which were considered amounting to sexual transgressions. And before the prescription of punishments for sexual offences, both the offender and the victim's gender, caste, class, age, stage in life, mental and physical condition, frequency of the crime, etc., are taken into due consideration. Punishment is not arbitrarily pronounced by those in authority, but it calls for a detailed analysis and judgement of the intensity of the crime committed, the person's social standing, or rather the caste and gender to which the offender and the victim belong (the severity of the punishment majorly depended on these two factors). Moreover, with regard to crime and punishment, this study rests upon a distinction between the legal and social aspects of crime, whereby "from the legal viewpoint, crime is a violation of legal norms and from the social viewpoint, it is the motivated deviation from the conduct of the normative groups" (Ahuja 2). Manu in his pronouncements recognises the difference between the two and extensively deals with both aspects.

Sexual assault has been considered a heinous crime since ancient times, as unlike theft and murder, Manu doesn't approve of sexual violence even under exceptional circumstances. The text proclaims that a man who forces himself upon a virgin should be executed and two of his fingers cut off immediately, however no execution takes place in case of mutual consent (*anumati*) (*MDh* VIII.364). Significantly, caste and the woman's consent play a crucial role in determining whether a sexual union is deemed punishable or not. For example, no restriction

is imposed if a virgin woman falls in love with a man superior to her, but she should be put under restraint and confined to her house (or in other words, guarded) if she makes love to an inferior man, and the man, on the other hand, is to be executed (*MDh* VIII.365).

Manu also discusses and frowns upon same-sex assault as well as consensual union (remarkably, the perpetrators in both cases are women). When a virgin (*kanyā*) violates another virgin, a fine of two hundred *paṇas* is imposed on the violator, in addition to ten lashes and a payment of three times the bride-price. In case a married woman (*strī*) assaults a virgin, she should be severely punished by shaving her head or cutting two of her fingers and is paraded on a donkey (*MDh* VIII.369-370) (rendering punishment into a public spectacle).

Invoking tradition, Manu states that “doing favors, dallying, touching the ornaments or clothes, and sitting together on a bed” (*MDh* VIII.357) and other such acts amounted to adultery. He significantly recognises the power of consent as it is mutual consent which separates the two crimes of adultery and assault, for example, “when a man touches a woman at an inappropriate place or permits her to touch him— all such acts done with mutual consent, tradition tells us, constitutes adultery” (*MDh* VIII.358). And since adultery was considered a heinous crime, the punishments prescribed are equally grave, aiming “to inspire terror”, for example, the King should disfigure the body of an adulterous man and later execute him (*MDh* VIII.352); or he shall be burnt upon a heated iron bed. Only a Brāhmaṇa was exempted from death penalty in case of adultery (*MDh* VIII.359) (as well as all other offences), and instead his head was shaved, which upon careful examination appears tantamount to “social death”.<sup>7</sup> For a Śūdra man, the woman’s guarded or unguarded status determined the severity of punishment, as when a Śūdra has sex with an unguarded woman of a twice-born class, he loses a limb and all his possessions (*MDh* VIII.374). But in case the woman is guarded, he loses everything. Sex with a guarded upper-class woman was in general considered a much severe

offense, judging from the fact that Manu imposes the same punishment on a Kṣatriya and Vaiśya if they have sex with a guarded Brāhmaṇa woman. On having sex with an unguarded Brāhmaṇa woman, the fine amounted to five hundred and thousand *paṇas* respectively (*MDh* VIII.376). Even Brāhmaṇas were fined sometimes, for example five hundred *paṇas* in case of a willing guarded woman and double the amount for forcibly taking her (*MDh* VIII.378).

The punishment for an adulterous wife however tended to be more “public” in nature: either their limbs were mutilated, or they were to be punished in a public place, by the King, so that it acts as a deterrent for all those who witness the spectacle. Manu explicitly states that “when a woman, arrogant because of the eminence of her relatives and her own feminine qualities, becomes unfaithful to her husband, the king should have her devoured by dogs in a public square frequented by many” (*MDh* VIII.371). It is noteworthy that adulterous women are clubbed together into a single category, i.e., their biological sex is the defining feature here, and not their *varṇa* affiliations. Although most of these rules were applicable for both males and females, it is with regard to women that a unique three-fold pattern of control is evident. First of all, women (and in this case, males too) were suggested to exercise self-control over their sexuality, depending on their stage of life. However, a unique strategy of *psychological control* was devised in case of women, as Manu advises the husband to employ his wife in the collection and disbursement of his wealth, in cleaning, in meritorious activity, in cooking food, and in looking after household goods, as in this way they guard themselves by themselves (*MDh* IX.10-12).

Moreover, in case a woman transgresses these rules, patriarchal set-up of the household entrusted the male members of the family the authority to guard and protect her. And still if she manages to break loose from their bonds, the head of the State or King (generally a male figure in those times), was given the right to publicly punish her, so that it acts as a deterrent

to all the other females. Their procreative powers and the resultant association of a family's honour and shame with its women folk must have called for these harsh measures. Besides the prescription of severe and public punishments for women suggests that they exercised some sort of control over their sexual lives and found ways to transgress the restrictions imposed upon them. In fact, the kind of fear and fickleness attached to female sexuality, throughout the *Mānavadharmasāstra* and other texts as well, may in fact have been the very result of such transgressions.

### **Ethical Norms**

In addition to above mentioned legal norms, Manu also discusses in detail the socio-ethical reasons and justifications behind the severity of sexual crimes and punishments. Here, adultery was considered a grave offence as he plainly states that “fidelity to each other should be observed until death” and should be recognised as the highest Law between husband and wife put in a nutshell (*MDh* IX.101). After a closer evaluation of these extensive legal norms against sexual crimes, it appears that Manu was in fact trying to restraint male and female sexuality by encouraging and convincing people of the innumerable worldly and other worldly benefits of adhering to their proper *dharma* as, “...by following the Law proclaimed in scripture and tradition, a man achieves fame in this world and unsurpassed happiness after death” (*MDh* II.9).

Avoiding the commission of adultery was important, but it was not enough as chastity was accorded the highest virtue. As Flood observes, the restraint of the senses and the body that is aimed at controlling the senses and avoiding the impurity seems to have been an underlying message of the *Mānavadharmasāstra*, and the leading spirit of Hindu belief (40). Self-control was portrayed as a key to enhance social esteem, improve religious qualities and achieve well-being of the self and family,<sup>8</sup> (Derrett, *Religion, Law and State in India* 64) and

this explains the discouragement of excessive or unbridled sexual activity even within marriage.

Basically, the pious doctrine of marriage as conceived in early India was diametrically opposed to the idea of sexual transgressions like adultery. The *āśrama* system, which was presented as a way of life compatible with or in tune with one's religion and *varṇa* was also modelled in such a manner that chastity was granted undisputed preference. In three out of the four stages, a person was advised to follow a virtuous and celibate life. And although the rules pertaining to the *gṛhastha āśrama* or householder stage were different from the other three, Manu propagates new methods of ethical and social control to be exercised here as well.

A detailed analysis of marital/post-marital rituals and norms in the *Mānavadharmasāstra* indicates that the main aim behind marriage was to harness the procreative powers of a woman. In the threefold purpose of marriage, *rati* or fulfilment of pleasure was considered the last, superseded by more urgent needs like *dharmasampattī* (acquiring religious merit) and *prajā* (offspring). Throughout the text one comes across constant references of the need to produce offspring, especially sons. Manu, who has been severely criticized for his misogynistic attitude towards women, accords importance to a wife and compares her to *Śrī*, the Goddess of Fortune herself, on account of the fact that she is the producer of offspring (*MDh IX.26*).

As the primary aim of marriage was the procreation of offspring, it is hardly surprising that the text encourages sexual union between a husband and wife only and specifically to fulfill this goal, and not for pleasure. Several injunctions were formed and what could be referred to as a 'code of sexual behavior' was prescribed for a married couple. Manu thinks it proper for a husband to have sex with his wife only during her season (*rtū*). Out of the sixteen nights when a woman is in her natural season and four other days prescribed by tradition, the days of the moon's change (the new-moon day and full-moon day) as well as the first, fourth,

eleventh and thirteenth night is forbidden. This complicated calculation leaves only fourteen nights which are recommended for a sexual union, and since sons were believed to be conceived on even nights, the number decreases further. This clearly depicts that the composers of *dharma* texts intended to exercise social, legal, ethical and psychological control both within and outside marriage, and the aim here appears not just to stop the menace of sexual transgressions, as others and the text itself makes us believe, but to in fact control the sexual passion of both males and females.

Thus, while exploring the interactions between sexuality, gender and law; and the reasons behind the criminalization of certain sexual activities in the *Mānavadharmasāstra*, what one comes across appears to be a desperate need to exercise control over male and female sexuality. Now, the question arises as to what was the need for such control? And what reasons were propounded to convince people of the likely benefits of suppressing their sexual desires? There is a strong reason to believe that sex before and outside marriage was prohibited to avoid *varṇasaṃkara* or the mixing of *varṇas*, as it resulted in the emergence of new *jātis* or castes; the loss of caste (*pātaka*); or exclusion from caste (*jātibhramśakaram*), all feared most by early Indian lawgivers. The four-fold *varṇa* division was central to the social and legal discourse of the Brāhmaṇical tradition in early India. However, it is difficult to account for the reasons behind sexual control within marriage. One likely reason could be to avoid sexual tiredness within marriage and thereby cover a full circle to overcome the possible menace of sexual transgressions in the form of adultery and assault. As Manu categorically states, “desire is never quenched by enjoying desires; like a fire fed with ghee, it only waxes stronger” (*MDh* II.94).

In conclusion, going by the hypothesis that law codes respond to contemporary socio-economic/political conditions and norms reflect the needs and ‘realities’ of a particular time, what seems probable here is that both males and females must have been indulging in such transgressive activities (and more so females, based on the extensive system of control and

much harsher punishments laid for them) and therefore Manu, and the law-givers who followed him, found it necessary to address the issue in detail, trying to take over the rein of control in their hands. A closer reading of these conventional norms and punishments laid down for transgressions also gives a glimpse of the sexual freedom and rights enjoyed by individuals in early India. Lawgivers and other powerful sections in society often resort to the enactment of such detailed codes only under circumstances where transgressions actually take place, and therefore it becomes necessary to codify norms, in order to prevent other such occurrences. Scholars have mostly seen these norms as against women, fulfilling the purpose of representing them in a bad light. But as this study clearly indicates, addressing and dedicated to women under most circumstances, these codes indicate that women often indulged in such transgressions, and they somewhere posed a larger and more intense threat to the maintenance of the whole socio-ethical set-up. Having been inculcated with the power to procreate, women posed a greater danger, and the legal and social codes therefore address them in greater detail. Finally, these codes acted as a strategically formulated device to exercise psychological control over individuals; to make them aware of and convince of the likely benefits of keeping their sexual potential under restraint.

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<sup>1</sup> *Ślokas* appear to have gained authority towards the centuries prior to the common era as the Upaniṣads too display this shift from mixed prose and verse to the later ones composed entirely in verse. The epics claiming religious and social authority were also composed in verse.

<sup>2</sup> Lingat and Kane, too, endorse Bühler's timeline.

<sup>3</sup> Addressing Manu, who is totally absorbed in contemplation, the great seers request him to enumerate upon the Laws of all social classes, as well as those born in between (*MDh.*, I.2).

<sup>4</sup> In 1772, the British Governor General Warren Hastings proposed a plan to recognise the *dharmaśāstric* body of texts and commentaries as detailed codes for a smooth and effective administration of the Indian populace. See Cohn, B. *Colonialism and Its Forms of Knowledge*, p.61 for further details.

<sup>5</sup> Manu refers to the King as *danḍadhara*, one whose duty it was to protect his subjects and to maintain law and order. King's role as the giver of justice was an important characteristic of the ideal of Kingship in early India.

<sup>6</sup> The only times when an outsider kept track of the penance ritual is in case of women, especially those who have been found guilty of adultery, as then their husband or other male members of his external family, were supposed to supervise the ritual. At *MDh* XI.177, the text proclaims, "The husband should keep an adulterous wife concerned in a single room and make her perform the observance prescribed for a man who has sex with another's wife."

<sup>7</sup> At *MDh.*, VIII.380, Manu warns the King to never put a Brāhmaṇa to death, even if he has committed every sort of crime; he should banish such a Brāhmaṇa from his kingdom along with all his property, without causing him hurt as there is no greater violation of the Law on earth than killing a Brāhmaṇa.

<sup>8</sup> "The prescription of norms, irrespective of one's personal choice, convinces people from a very early age that self-control is the key to procure favour by unseen forces in life."

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