Slaves and slavery in the *Smṛticandrikā*

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This article contains both a study and a translation of the laws relating to slavery found in the thirteenth-century Hindu law digest called the Smṛticandrikā. By focusing on a single text, we can clearly see the ideology of slavery in the view of one important author of medieval India. First, slaves formed one end of a categorical continuum of workers, all of whom laboured for the benefit of others as they were denied legal autonomy. While not equivalent, slavery and other forms of work formed a unified topic under what is often called Master and Servant law. Second, slaves were frequently likened to both Śūdras and wives in the text, indicating the persistent relevance of caste and gender to slave status. As a result, the characterisation of slavery as 'social death' is less helpful in this case than the unsettling idea that slavery is an intensified form of work in general. All work, including slavery, is affected by a loss of freedom and personal benefit, as well as the biases of social stratification.

Keywords: slavery, workers, labour, Hindu law, Dharmaśāstra, *Smṛticandrikā*, servant

All slavery studies face two challenges. First, it is difficult to escape modern attitudes, assumptions and ideologies when approaching the topic of slavery historically.¹ Second, the extensive scholarship on the Atlantic slave trade and slavery in the American South has often made that specific history the touchstone of comparison for other histories of slavery, with other histories judged in terms of their

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¹ Finley, *Ancient Slavery*, especially pp. 63–66, offers a trenchant critique of both 'moralist' and 'economist' accounts of slavery in ancient Greece and Rome. The absurdities of both approaches reveal the impact of modern ideology on history.

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deviation or congruence.² Our visceral reactions to slavery and our presuppositions about it today colour our expectations when studying its ideology and practice in other historical times and places. Though we cannot escape our own interpretive framework, we can continue to diversify our understanding of slavery by examining understudied contexts and evidence.

Recent work on slavery in India's history has demonstrated the need to distinguish the many different forms of slavery that have occurred in distinct regions and times.³ In Richard Eaton's words, 'Each instance of slavery in South Asia was shaped by a unique conjunction of contingent factors; hence each, in order to be properly understood, must be placed in its own unique context'.⁴ Ideally, studies of slavery would put rich, historically grounded studies such as these in conversation with careful philological studies of slavery in the religious, literary, and other textual sources, in order to establish a composite picture of both the ideologies and the practices of slavery. On the ideological side, however, we do not yet have a close reading of a singular articulation of the conceptual and categorical framing of slavery in classical or medieval India. What I mean is the view of one person, one author from the classical or medieval period, who synthesises other materials into a coherent depiction of slavery.

What we have, instead, in the classic studies by Ruben, Chanana, and Bongert is the standard philological approach of surveying a large number of texts and then piecing together a composite portrait of the assumedly singular institution of slavery.⁵ While it is certainly interesting to compare and contrast views on slavery that appear in texts from widely divergent regions and traditions, in doing so we run the risk of flattening or homogenising ideological differences about slavery in ways that we now reject for the diverse practices of slavery. In my view, the wide net cast in these classic studies fails to capture the ideological integrity of any given genre or source in favour of a pastiche presentation of disparate and sometimes antithetical sources.

² Kane, *History of Dharmaśāstra*, vol. 2, p. 180, opens his useful summary of slavery in Hindu law with a comparison of this sort: 'It was however left to such Christian nations of the West as England and the United States of America to carry on the institution of slavery in the most horrible manner possible never dreamt of by any nation of antiquity'. An argument could also be made for slavery in Rome as a frequent point of comparison.

³ Chatterjee and Eaton, *Slavery and South Asian History* is the gold-standard collection of historically situated studies of slavery in India.

⁴ Eaton, 'Introduction', p. 1.

⁵ Ruben, *Die Lage der Sklaven*; Chanana, *Slavery in Ancient India*; and Bongert, 'Réflexions sur le problème de l'esclavage', remain the best overviews of slavery as depicted in ancient Indian texts. Shrimali, 'Slavery', is a notable recent addition in the same tradition. All of them lay emphasis on the variety of forms of slavery mentioned in these sources, but their wide perspective pushes them away from close reading toward a view that ultimately elides differences of space and time or, worse, ethnocentric language games that question whether 'slavery' or 'l'esclavage' are even known in India. Eaton, 'Introduction', p. 6 warns us that slavery is 'a historical process and not, as it is so often depicted, a static "institution"'.

By examining just one text, we gain some insight into how one author made sense of the topic of slavery in the context of a specific agenda. In many ways, the efforts of a single author mirror the kind of interpretive work that we ourselves are trying to accomplish in the present moment. How was slavery defined or delimited? To what other institutions was slavery related? What types of slavery were recognised? How did people become slaves? How were they freed? The answers to such questions differed between authors of different periods, motivations, and backgrounds. The view of a single author, however, should contain a reasonably coherent presentation of slavery and related institutions. This article describes one author's answers to these and other questions pertaining to slavery.

Specifically, I offer a close reading of slavery's definition and categorisation in a medieval Dharmaśāstra from south India, the thirteenth-century *Smṛticandrikā* of Devaṇṇabhaṭṭa (hereafter SC). I also give a complete translation of the relevant section of the text as a long appendix later in the chapter. I frequently turn to this text because it unfailingly provides a coherent collection of sources and an intelligent commentary that brings them together. The SC is regularly cited in later *dharma* texts, but what it offers is perhaps the best combination of synthesis and original commentary of any Dharmaśāstra discussion of slavery. Moreover, it is one of the longest expositions of the topic in this tradition. As a digest of, and commentary on, previous legal prescriptions on slavery, Devaṇṇabhaṭṭa's work represents more than his own ideological views; it is rather his distillation or summary of the accumulated views on slavery from earlier Dharmaśāstra texts. As part of the conservative scholastic tradition of *dharma* commentary, Devaṇṇabhaṭṭa's views are quite similar to the views of other commentators, but he states them more clearly and at some length. The only sources for Devaṇṇabhaṭṭa are other *dharma* authors, not direct experience or other textual genres. Given the insular quality of Dharmaśāstra, one cannot often make direct connections between a text and the sociohistorical context of its author.⁶ Nevertheless, the organisation and explanations given are definitely Devaṇṇabhaṭṭa's and thus give us the coherent perspective of an individual. As a text centred on *dharma*, however, we should not expect a comprehensive approach to slavery. Nor should we mistake this account of slavery for a general account of slavery at this time and place. Devaṇṇabhaṭṭa highlights legal and social aspects of slavery in the context of his volume dedicated to legal procedure (*vyavahāra*). He thus presents an historical ideology of slavery, not an account of slavery in practice. In short, I am interested here only in the words and concepts set forth in the *Smṛticandrikā*, its ideological assumptions, not in the historical reality of the institutions described.⁷

⁶ On the difficulties of using Dharmaśāstra, especially commentaries, as a direct source for history, see Rocher, *Studies in Hindu Law*, p. 427.

⁷ Orr, 'Slavery and Dependency' provides an excellent historical account of slavery from inscriptions and other literature in roughly the same time and place as the *Smṛticandrikā* (SC).

Failure to Perform Service Entered into (*abhyupetyāśuśrūṣā*): A Title of Law

As in other Dharmaśāstras, slavery (*dāsatva*) in the *Smṛticandrikā* is a special form of service (*śuśrūṣā*), and slaves are a special type of servant (*śuśrūṣaka*). The fifth-century *Laws of Nārada*, cited by Devaṇṇa, contains the earliest list of servants:

Five types of servants are recognised by the authorities in the texts: four types of worker and fifteen types of slave. Workers are defined as students (*śiṣya*), apprentices (*antevāsin*), wage-labourers (*bhṛtaka*), and overseers (*adhikarmakṛt*) as the fourth; there are also slaves, such as the house-born, etc. Authorities declare that what these all have in common is that they lack legal independence (*asvatantratva*). What is distinctive to each, however, is determined by their caste and work, as well as their means of livelihood.⁸

The broadest legal category under which slaves fall, therefore, is ‘servants’. Slavery enters Hindu jurisprudence through the title of law called Failure to Perform Service Entered Into (*abhyupetyāśuśrūṣā*).⁹ Servants include both ‘workers’ (*karmakara*) and ‘slaves’ (*dāsa*).¹⁰ For Nārada, workers include students, apprentices, wage-labourers, and overseers, while slaves comprise 15 sub-types. Before explaining this title of law a bit more, I want to cite the notebook of one George Josiah Sturges Walker, a student at the Litchfield Law School in Connecticut in 1826: ‘The kinds of servants in Connt. are five. Where slavery is not known there are but 4 kinds. 1st Slaves. 2d Apprentices. 3d Menial Servants. 4th Day labourers. 5th Agents, of any kind as Factors, Brokers, Stewards, Bailiffs, Ship Masters, Attorneys etc’.¹¹ Walker cites Blackstone’s *Commentaries* as a source of this list, and it does, indeed, appear there in the chapter on Master and Servant.¹² In Britain and its empire, the history of statutes framed in terms of Master and Servant extends back to the labour shortage created by the Black Death in the fourteenth century and went through several major shifts through the twentieth century.¹³ For my purpose, the parallel between the conceptualisation of servants as including slaves both in Blackstone’s

⁸ *Laws of Nārada* 5.2-4, cited at SC, p. 454.

⁹ Though this title of law first appears briefly in the *Laws of Yājñavalkya* (2.182-184), it is Nārada’s exposition (*Laws of Nārada* 5), along with Kātyāyana’s, that became the standard point of reference for the later tradition, including Devaṇṇabhaṭṭa.

¹⁰ Chakravarti, ‘Of Dasas and Karmakaras’ provides a useful overview of these two categories, but like others avoids a careful analysis of the categories and ideological assumptions about slavery in any single textual source.

¹¹ Cited in Durham and Pruitt, *Commonplace Books*, p. 57.

¹² Blackstone lists: (a) slaves; (b) menial/domestic servants; (c) apprentices; (d) labourers; and (e) stewards, factors and bailiffs.

¹³ On the history of Master and Servant statutes and the uses of law to define and control labour of various kinds in English law, see the excellent studies in Hay and Craven, *Master, Servants, and Magistrates*.

Commentaries (1771) and in the *Laws of Nārada* (ca. fifth century CE) softens the distinction between slaves and others. The conclusion of Hay and Craven for British history anticipates one conclusion I will make about the *Smṛticandrikā*, ‘the dichotomous bright line between freedom and coercion, found in American constitutional jurisprudence and enshrined in a long sociological literature, misleads about the realities of both slavery and employment’.¹⁴ Although Blackstone expressly denies that slavery is legal in English law,¹⁵ it is clear that English jurists had long considered slavery in relation to other forms of service or employment—as part of the same legal terrain.

Though surely coincidental, the parallel between these two texts reveals how easy it is to mistake the ideological assumptions around slavery in historical contexts because our own views are different. In these classifications, we see a continuum between various forms of obligatory service rather than a stark differentiation between slavery and other forms of servitude. In the Hindu law perspective of Devaṇṇabhaṭṭa, it is important that the service in question was ‘agreed to’ or ‘entered into’ (*abhyupetya*). This term is usually rendered as ‘contracted’, but that term does not quite capture what is at stake for most of the servant categories enumerated. As we will see, a few of the listed servants enter into service voluntarily, but some workers and servants are forced into service. Students and apprentices, for example, have almost no choice, while several slave-types enter into slavery of their own accord. What distinguishes workers from slaves, therefore, is not a voluntary contract. Rather, both workers and slaves have a legal requirement, whether self-accepted or forced upon them, to perform service.¹⁶

According to the *Smṛticandrikā*, the 4 categories of ‘workers’ (*karmakara*) and the 15 categories of ‘slaves’ (*dāsa*) ‘share in common a *dharma* marked by a lack of legal independence or self-governance’.¹⁷ The key word here is *asvatantratva*. The concept of *svatantratva* (or *svātantrya*) in Dharmaśāstra refers to the legal capacity to enter into transactions, to make decisions for oneself and to do things for one’s own benefit.¹⁸ It certainly connotes ‘freedom’ in a general sense, but the specific legal valence is important to keep in mind because legal incapacity and unfreedom do not provide a complete definition of slavery. Instead, the lack

¹⁴ Hay and Craven, *Master, Servants, and Magistrates*, p. 28.

¹⁵ Blackstone, *Commentaries*, vol. 1, p. 423: ‘As to the several sorts of servants: I have formerly observed that pure and proper slavery does not, nay cannot, subsist in England such I mean whereby an absolute and unlimited power is given to the master over the life and fortune of the slave. And indeed it is repugnant to reason, and the principles of natural law, that such a state should subsist any where’.

¹⁶ One could, therefore, render this title of law as Failure to Perform Legally Required Service.

¹⁷ SC, p. 455: *karmakarāṇām dāsāṇām cāsvatantratvalakṣaṇaṃ dharmam sādharmaṇam*.

¹⁸ Derrett, ‘Development of the Concept of Property’, p. 96 claims, ‘The concept [of *svātantrya*] is not the same as *vyavahāra-yogyatva* or *vyavahāra-prāptatva*, the legal capacity to enter into binding transactions’. The citations in Olivelle *Sanskrit Dictionary*, p. 443, however, suggest a strong, if not total, overlap between the two ideas, such that *svātantrya* primarily means the capacity to enter into legal transactions.

of legal independence is a trait shared by slaves with workers (and with women and children). *Asvātantrya*, therefore, only partially defines slavery. The negative formulation of this concept matters because it removes slaves, workers, and others from the ability to engage fully or at all in ordinary interactions except through the agency of their master or lord. Workers have legal independence outside the restrictions of their employment or required service; slaves do not. Full status as a legal person means possessing *svātantrya*. However, it is fairly common to lack complete autonomy as a legal person in the frameworks outlined in the *Smṛticandrikā*. From this legal perspective, therefore, slavery is merely an extended or extreme form of the common incapacity of individuals freely and fully to engage in commerce, own property and profit from their own decisions and work.

The Definition of Slavery (*dāsanirūpaṇa*)

After Devaṇṇa's general summary of the title of law pertaining to required service, he adds two sections devoted especially to slavery. In the first, he defines slavery by using and elaborating on two prior definitions from earlier texts. First, Devaṇṇa cites *Laws of Nārada* 5.23 to say that slaves 'are obliged to perform vile work (*jaghanyakarma*)'.¹⁹ He then glosses 'vile work' (following *Laws of Nārada* 5.6-7) as 'obliged to perform impure work such as cleaning house-entrances and dirty spaces – by this rule the author states the distinction of slaves according to their work'.²⁰ In this view, slaves therefore carry out impure work (*aśubhakarma*).²¹ Second, Kātyāyana distinguishes slaves from workers by making an analogy between slaves and wives: 'Just as wifehood arises from the gift of a woman's body for the enjoyment of her husband, so slavehood arises from the gift of one's own legal independence for the benefit of another person—this is the opinion of the teacher Bhṛgu'.²² Devaṇṇabhaṭṭa seems unhappy with the incompleteness of the second definition. He comments,

By this statement we should understand that the author has also stated a further distinction: slaves are servants under total obligation to benefit another; workers

¹⁹ Lariviere translates *jaghanyakarma* as 'menial work'. At least in Devaṇṇa's eyes, the issue is not that the work is merely associated with servants and baser forms of work. The work itself is vile, last in line, or worst. It is the opposite of *śubhakarma* in the first half of *Laws of Nārada* 5.23.

²⁰ SC, p. 460: *jaghanyakarmabhājas tu dāsāḥ ... grhadvārāśucisthānāśodhanādy-aśubhakarmabhājaḥ | anena dāsānām karmato bheda uktaḥ*.

²¹ Chatterjee, *Gender, Slavery, and Law*, p. 7 observes that the neat analogy between pure/impure work and slave/free was forced in such dichotomous terms on to colonial India by administrators such as Colebrooke who had the Atlantic slave trade as their ideological model. Without denying the specific historical interpretation of slavery in early colonial India, it seems important to recognise that Devaṇṇabhaṭṭa makes a close connection between slavery and impure work without emphasising a binary counterpart of free, pure work on the other side.

²² SC, p. 460: *yathā bhartuḥ sambhogārthaṃ svaśarīradānād dāratvam tathā svatantrasyātmanaḥ parārthatvena dānād dāsatvam iti bhṛgur ācāryo manyate*.

are servants under narrow obligation to benefit another. And, total obligation to benefit another means that they are obligated to benefit another person by denying any means of livelihood for their own personal benefit.²³

The notion of ‘total obligation to benefit another’ (*atyantapārārthya*) characterises the legal status of slave. ‘Total’ (*atyanta*) might be rendered as ‘extreme’, but the idea is that a slave’s subjugation to the interests and benefits of the master is absolute. The contrasting notion for workers is ‘narrow obligation to benefit another’ (*pārārthyamātra*). ‘Narrow’ (*mātra*) here means ‘mere’ or ‘simple’ and indicates a restricted form of service, in which only specified work done is for the benefit of the master, not all work. Earlier parts of this title of law, in fact, set out restrictions on what work a teacher may demand from a student, a master from an apprentice, or an employer from an employee. So, for example, a master may not require an apprentice to perform ‘any work other than his apprenticed trade’.²⁴ Outside of the agreed-upon work that benefits the superior, subordinates retain the benefit of their own work.

The obligation of a slave, however, is absolute. As Orlando Patterson puts it, ‘The slavemaster’s power over his slave was total. Furthermore with nonslaves, the proprietor’s powers, however great, were usually confined to a specific range of activities; with slaves, the master had power over all aspects of his slave’s life’.²⁵ Slaves have to suppress their own interests and benefits at every turn in favour of those of their masters. The always complicated term *artha* signifies both material benefit and personal interest. *Pārārthya*, therefore, functions as the positive counterpart of *asvatantratva*, but *atyantapārārthya* is absolute in degree. Both categories deny legal standing, self-choice, and material gain. The first emphasises the slave’s or worker’s loss of legal capacity, while the second tells us that the legal capacity of the master substitutes for that of the slave or worker. The legal agency and capacity of masters expand to the limits of the physical bodies under their control. In the case of slaves, the slave’s body is a pure legal extension of the master’s, with no difference recognised. The law empties slaves of their own desires, decisions, and benefits and fills them with the master’s. What distinguishes slavery from work, according to Devaṇṇabhaṭṭa, is the extremity of the legal and personal disability imposed by slave status. While slavery excludes people legally and inhibits them personally, however, it does not fully sever their social ties and identity.

All categories of service in this title of law are differentiated by distinctions (*viśeṣa*) of caste (*jāti*), work (*karma*), and livelihood (*vṛtti*).²⁶ That slaves do vile,

²³ SC, p. 460: *anenātyantapārārthyam āsādyā śuśrūṣakā dāsāḥ pārārthyamātram āsādyā śuśrūṣakāḥ karmakarā itī bhedo ’py ukta ity avagantavyam | atyantapārārthyam tu teṣāṃ bhavati yaiś tu svapurūṣārthavṛttinirodhena pārārthyam āśritam.*

²⁴ SC, p. 456: *na cānyat kārayet karma...anyatkarma svaśilpavyatiriktaṃ karma.*

²⁵ Patterson, *Slavery and Social Death*, p. 28.

²⁶ SC, p. 455: *jātikṛtāḥ karmakṛto vṛttikṛtāś ca viśeṣaḥ śiṣyāntevāsīdāsānām eva uktaḥ.*

impure work is perhaps expected as part of the legal interpretation of slavery, but the idea that caste identities endure is surprising. In theory, slaves seem not to lose their social status, especially *varṇa* (identity), as slaves.²⁷ The *Smṛticandrikā* contains long discussions of the illegality of enslaving Brahmins and of enslaving others against the social order of classes (*prātilomyena*), though it certainly knows and regulates the enslavement of Kṣatriyas and Vaiśyas, and not just Śūdras. Brahmins may never be enslaved, even in the time of emergency; the hierarchical *varṇa*, order must be followed such that a slave is never of higher class or caste than a master. Why should it matter what the caste background of a slave is, once he or she is a slave? In itself, this way of looking at things contradicts the idea that slavery is a form of social death and alienation from social identity, since slaves retain the most basic form of social and legal identity in the Hindu law texts.

In his definition of slavery, Devaṇṇa first imagines situations in which slavery is ‘entered into’ (*abhyupetya*) due to some emergency. The reasons for slavery are variegated and often understandable. Desperation caused by famine or severe debt, for example, is depicted as a reasonable justification for voluntarily entering into slavery for a stipulated period. Citing *Laws of Manu* 8.411, Devaṇṇa states, ‘By saying “he should support those starved for a livelihood” (*vṛttikarśītau bibhṛyāt*), Manu is also saying that one may only enslave a Kṣatriya or Vaiśya according to what they require, not merely to display his power’.²⁸ A Brahmin who shows off in this way is subject to punishment, specifically 600 *paṇa* coins. Citing Manu again (8.412), Devaṇṇabhaṭṭa clarifies that ‘by naming the “twice-born”, Manu shows that this punishment does not apply in the case of Śūdras’.²⁹ *Prābhavatya*, the raw display of power for power’s sake, must be avoided, but not in the case of Śūdras. By implication, we see that an assertion of power (*prabhava*) defines slavery when it relates to the lowest *varṇa*, but not when it relates to the exigent slavery of the middle *varṇas*. To enslave the middle *varṇas* ‘against their will’ (*anicchataḥ*) is a fineable offense, but the Śūdra was ‘created for slavery’ (*dāsyāyaiva hi sṛṣṭaḥ*).³⁰ We see here the homology between Śūdras and slaves, noted in several studies.³¹

²⁷ Chatterjee, *Gender, Slavery, and Law*, p. 10 shows that the caste identity of slaves was ‘open to negotiation and formalisation’ in ways that challenge the Dharmaśāstra picture. See also Guha, ‘Slavery, Society, and the State’, p. 173 and Patterson, *Slavery and Social Death*, pp. 48–49. The question may be: why were *dharma* authors invested in the preservation of caste identity into and out of slave status?

²⁸ SC, p. 462–3: *vṛttikarśītau bibhṛyād iti vadann ākāṅkṣānusāreṇa kṣatriyavaiśyayor dāsyam kārayitavyam na prabhutvamātreṇety etad api jñāpayati*.

²⁹ SC, p. 463: *dvijān iti vadan na daṇḍaḥ śūdraviśaya iti darśayati*. In Manu’s rule, the phrase ‘twice-born who have undergone vedic initiation’ (*saṃskṛtān dvijān*) may suggest a difference between adults and children in a way that would open the possibility for female slaves (who do not perform the rite) and child slaves who have not yet ritually had their second birth. Medhātithi, however, does not interpret the verse in that way, but rather as a way to differentiate Brahmins from other ‘initiated twice-born’.

³⁰ SC, p. 463, citing *Laws of Manu* 8.413.

³¹ Rocher, ‘*Dāsadāśī*’, p. 509: ‘Yet scholars have noted that the term *dāsa* is not always used in the technical meaning “slave”, but that it occasionally stands as a synonym for Śūdra’. Compare Olivelle,

Devanṇa confirms his own view that Śūdras are slaves by saying, ‘Therefore, by whatever means necessary, one should subject a Śūdra to slavery’.³² In the case of Śūdras, shows of power are part and parcel of the experience of slavery. Social status, according to rigid Dharmaśāstra ideology of this text, persists in and out of slavery. As with many issues in Hindu law, all other issues are subordinated to the issue of *varṇa*. Even slavery takes a backseat to the preservation of the *varṇa* hierarchy. Slavery is uncivilised and punishable in the face of ‘against the social order’ enslavement,³³ but it is otherwise acceptable and especially appropriate for the lowest social stratum.

Further Issues Regarding Slavery (*dāsaviśayāṇi*)

Thus, when defining slavery, Devanṇabhaṭṭa emphasises power and status, the absolute control over a slave’s interests and legal persona. In the enumeration of slave types and other topics, however, Devanṇa gives more emphasis to property by regularly using categories of ownership, sale, purchase, and debt to describe the many types of slaves listed in Dharmaśāstra. The explanation of the 15 slave-types begins by distinguishing hereditary slavery (*dāsyam kramāgatam*) from various forms of debt slavery. Only through the ‘grace of the owner’ (*svāmiprasādavaśāt*) can a hereditary slave be freed.³⁴ Debt slaves, by contrast, can pay their way to freedom, either by paying their debt or by paying a standard amount, ‘two cows’ (*godvayārpaṇāt*), etc. Throughout this discussion, the vocabulary of ownership is prominent, though the text never explicitly declares slaves to be property. Neither does the text make clear how a debt slave pays off the debt. There is no clear term in the Sanskrit for the *peculium*, the wealth and goods that a master allows a slave to control.³⁵ Nevertheless, the text assumes that debt slaves may be redeemed by payment, even though the precise legal mechanism is not stated.

The concluding discussion in this section also cites a passage of Kātyāyana, ‘Whatever property a slave may have, his owner is the master of it – this is the tradition’.³⁶ Devanṇabhaṭṭa adds, ‘On the basis of this rule by Kātyāyana regarding the mastery of a male slave’s property, we must conclude that the owner is also

Manu’s Code, p. 330. Rocher’s observation suggests the possibility that *śūdra* may also be a synonym for *dāsa*. See also Olivelle, *Upaniṣads*, p. xxvi: ‘[T]he Śūdra group...included a motley array of people, including subjugated non-Aryans, servants, and slaves’.

³² SC, p. 463: *ata eva śūdraṃ yathākathañcid api dāsyam kārayat*.

³³ SC, p. 463: ‘Viṣṇu declares the punishment for enslavement against the social order of class, “The highest fine should be assessed on one who places a person of higher class in slavery”’ (*viṣṇus tu prātīlomyena dāsyam kārayitum daṇḍam āha yas tūttamavarṇam dāsyē niyojayati tasyottamasāhaso daṇḍaḥ iti*).

³⁴ SC, p. 464. Compare Patterson, *Slavery and Social Death*, p. 211.

³⁵ On *peculium*, see Patterson, *Slavery and Social Death*, pp. 182–6.

³⁶ SC, p. 469: *dāsasya tu dhanam yat syāt svāmī tasya prabhūḥ smṛtaḥ*.

the master of a female slave's property'.³⁷ Rather than speak directly about slaves as the object of property, the text culminates by denying that a slave can be the subject or owner of property. The *Smṛticandrikā* avoids treating slaves as property, except in general terms of describing the various forms of slavery. That is to say, the text eschews any theoretical reflection on slaves as property, but it does use the vocabulary of ownership and sale to describe several types of slaves. This text thus follows Patterson's declaration that 'the slave was a slave not because he was the *object* of property, but because he could not be the *subject* of property'.³⁸

While the idiom of property recurs throughout this section, the enumeration of slave-types puts severe limits on forcible enslavement. In line with the general picture of original enslavement in South Asia, capture in war and impoverishment are also the primary sources of new slaves in Dharmaśāstra.³⁹ In contrast to many ideologies of slavery, the Dharmaśāstras prohibit enslaving people by force, outside the context of war. The *Smṛticandrikā* says:

Yājñavalkya (2.182) declares the emancipation of false-slaves: 'Both one who is enslaved by force and one who is sold by thieves are to be freed'. Anyone who has been made a slave by force, even though he is not a slave, by any master and anyone who has been captured by thieves and sold, or pledged or given, into slavery must be immediately freed without any legal cause at all for release by the master under whose control he lives as a slave. If he is not released out of greed or other motive, then the king should have him released. Nārada (5.36) declares the same.⁴⁰

This rule may distinguish the Hindu tradition from most others. Slaves, once legally put in slave status, can be forcibly kept as slaves, but, in principle, Hindu law prohibits the use of violence to place someone in slave status. Obviously, prisoners of war and other war captives (2 of the 15 slave-types) fall outside of this rule in a way that could still cause many people to be enslaved. In terms of legal ideology, however, the proscription of forcible enslavement suggests a range of required legal service quite different from a free-slave binary.

Another intriguing aspect of this section of the *Smṛticandrikā* points to the kind of intimate family connections of slaves noted by Indrani Chatterjee for the colonial period in India. Two rules of Kātyāyana establish the legal consequences

³⁷ SC, p. 469: *kātyāyanena dāśadhanaprabutve smṛte 'pi dāśīdhane 'pi svāmīnaḥ prabhutvaṃ smṛtam iti mantavyam*.

³⁸ Patterson, *Slavery and Social Death*, p. 28.

³⁹ Eaton, 'Introduction', p. 5.

⁴⁰ SC, pp. 467–8: *yājñavalkyas tu dāśābhāsānām visarjanam āha | balād dāśīkṛtāś coraiḥ vikṛtāś cāpi mucyate | iti | yo balātkāreṇādāśo 'pi kena cit prabhuṇā dāśaḥ kṛtaḥ | yaś ca corair apahr̥tya dāsatvena vikṛta āhito datto vā | sa yasya pārśve dāśabhāvena tiṣṭhati tena prabhuṇā mocanahetum antareṇaiva śighram evāsau mocanīya ity arthaḥ | yadi tena lobhādīvaśād asau na muktas tadā rājñā mocayitavyaḥ | tathā ca nārada*.

of sexual relations (and marriage) between a slave woman and an owner or a slave man and a woman. When an owner impregnates his female slave, both the woman and her child are released from slavery.⁴¹ Devaṇṇabhaṭṭa elaborates, ‘Because he impregnated her himself, the owner should free both the female slave and her child from slave status by the rite of manumission from slavery in order to nullify their slave status’.⁴² In the converse situation, however, a woman who marries a slave becomes a slave herself.⁴³ According to Kātyāyana, the woman, as property of her husband, becomes subject to ownership by his master through a transitive property, ‘since the husband is her master and he [the husband], as her master, is under the control of his owner’.⁴⁴ Neither here nor in general is the labour capacity of slaves the dominant issue. The text knows and accounts for sexual and marital relations between slaves and free people, making no mention in this case of their caste background.

Patterson’s still regnant study of slavery makes the important point that slaves had to maintain interactions with others, in order to do their work. In his view, therefore, the limits on social interaction imposed by caste difference cannot be the same as the social death of the slave. Patterson argues,

Although the slave is socially a nonperson and exists in a marginal state of social death, he is not an outcaste.... There was an almost perverse intimacy in the bond resulting from the power the master claimed over his slave. The slave’s only life was through and for his master. Clearly, any notion of ritual avoidance and spatial segregation would entail a lessening of this bond.⁴⁵

The ‘perverse intimacy’ of master and slave in Patterson’s view leads him to state categorically, ‘enslaved persons are never relegated to the status of an outcaste group, nor are they ever stratified as one of several castes in any of the societies that have a complex hierarchy of castes’.⁴⁶

I see two problems with his claim. First, even by Patterson’s own definitions, castes such as the Parāyas and Pulayas and some Nadar groups, for example, seem to fall within the allegedly impossible category of ‘slave caste’.⁴⁷ India did contain

⁴¹ SC, pp. 468: ‘Kātyāyana states a special rule regarding the owner of a female slave: “If a man has sex with his own female slave and she subsequently gives birth, then on seeing his own seed the woman and her child should no longer be slaves”’ (*dāsīsvāminam adhiṣṭṛya viśeṣam āha kātyāyanaḥ | svadāsīm yas tu saṃgacchet prasūtā ca bhavet tataḥ | avekṣya bījaṃ kāryā syān na dāsī sāvayā tu sā*).

⁴² SC, pp. 468: *svāminā svadāsī santānasahitā dāsatvavimocakavidhinā svakṛtagarbhādhānāder dāsatvaparihārārtham adāsīvena kāryā syāt*. See the similar rule at *Arthaśāstra* 3.13.23.

⁴³ SC, pp. 469: *tathā ca sa eva dāsenā yā pariṇītā sāpi dāsītvam āpadyate*.

⁴⁴ SC, pp. 469: *yasmād bhartā prabhuḥ tasyāḥ svāmyadhīnaḥ prabhur yataḥ*.

⁴⁵ Patterson, *Slavery and Social Death*, pp. 48–50.

⁴⁶ *Ibid*, p. 48.

⁴⁷ See Mohan, *Modernity of Slavery*, pp. 38–64; Hardgrave, *The Nadars*, p. 34; Kumar, *Land and Caste* pp. 34–48; Saradamoni, *Emergence of a Slave Caste*.

socially marked castes whose lives and work resembled those of slaves, who were bought and sold, and who were considered both by Indians and by foreigners to be slaves. As noted earlier, in the section defining slaves, the *Smṛticandrikā* also makes a strong connection between Śūdras and slaves, using the standard Dharmaśāstra framework of *varṇa*, not particular *jātis* or mixed-caste groups. Second, apart from linking the lowest *varṇa* with slavery, this section of the text also envisions forms of slavery that incorporate precisely the same social ostracisation that we associate with outcasting or excommunication. Devaṇṇa describes the rite of manumission (*dāsatvavimocoko vidhiḥ*) from slavery⁴⁸ and the subsequent reacceptance of the former slave into society. The latter description shows an explicit connection between the social exclusion of slaves and outcasts:

When he has been freed by this procedure, the sociolegal exclusion (*ayogyatva*) created by his slavehood goes away, as the same author states: ‘From that moment on, one may again speak to him [or: he is again eligible for social interaction],⁴⁹ safeguarded by the kindness of his master; one may again accept food and gifts from him; good people should again show him respect’. The meaning of the verse is: Safeguarded by the kindness of his master/owner, namely by nullifying this most wretched status, returned to his original status, he becomes at that very moment eligible (*yogyā*) for conversation, etc. The same procedure applies also for one who wants to make a female slave into a non-slave.⁵⁰

The interesting category in this passage is *yogyā/ayogyā*. In general, Dharmaśāstra employs this term to indicate a qualification or entitlement to perform a religious rite or a legal act (e.g., *Laws of Yājñavalkya* 2.235, *Laws of Viṣṇu* 5.116). In this sense, it approaches the more common idea of *adhikāra*.⁵¹ However, the passage suggests more than just legal disqualification of the slave as both the citation from Nārada and Devaṇṇa’s own comment confirm. The freed slave moves essentially from the status of an outcast to a normal member of society.⁵² The forms of rehabilitation

⁴⁸ The rite of manumission is set forth at SC, pp. 468–9 from *Laws of Nārada* 5.40–41. A jar of water is removed from the shoulder of the slave and broken; grain and flowers are sprinkled on the slave’s head; the master says, ‘You are not a slave’ (*adāsa iti*) three times, and the slave is released facing east.

⁴⁹ The printed edition of the SC has *kartavyaḥ*, probably wrongly for *vaktavyaḥ*, found in Lariviere’s critical edition and the *Dharmakośa*. Devaṇṇa seems to gloss the term with *sambhāṣaṇādi*, which also corroborates the standard reading. *Laws of Manu* 11.185 gives a list of social exclusions: refusing to speak with someone, not sitting with them, withholding inheritance, and avoiding ordinary interaction.

⁵⁰ SC, p. 469: *evam samutsarge sati dāsatvakṛtam ayogyatvam apaitīty āha sa eva | tataḥ prabhṛti kartavyaḥ [vaktavyaḥ] svāmyanugrahapālitaḥ | bhojyānno ‘tha pratigrāhyo bhavaty abhimatas satām || svāmyanugraheṇa kaṣṭataradaśānāpākaraṇarūpeṇa pālitaḥ nijasvarūpaṃ nītaḥ sambhāṣaṇādiyogyo bhavati tadānīm every arthaḥ | dāśīm adāśīm kartum icchato ‘pi samānam etad vidhānam.*

⁵¹ Lariviere, ‘*Adhikāra*’; Lubin, ‘Indic Conceptions of Authority’.

⁵² Patterson, *Slavery and Social Death*, p. 216, misses the parallel language between the rite of manumission and the rite of readmission to caste. His symbolic interpretation fails to account for the legal and social rehabilitation of the slave into ‘normal’ conversation and interaction with others.

specified focus not on legal eligibilities, but rather on social interaction. We can once again talk to, eat with and generally interact with the freed slave. Thus, while freed slaves return to their former legal status, the important point for the *Smṛticandrikā* seems to be their reintegration into society itself. In this way, the text treats slavery procedures and the disabilities of slaves as similar to, or the same as, those of outcasts.

This passage envisions the movement from slave to non-slave as straightforward. There is no indication that it is an extraordinary or rare event. Given the oppressive view of Śūdras expressed by the same text, however, it is possible that the manumission and social reintegration of slaves in this passage applies to upper-caste slaves. Whatever the case, the parallel made between manumission from slavery and readmission to caste shows a strong conceptual link between the two institutions in the mind of Devaṇṇabhaṭṭa and his predecessors. Patterson's disaggregation of the two, therefore, does not work in the case of this Hindu law text. Slaves and the outcasts share the same legal and social disqualifications and exclusions.

Though Patterson's ideas of social death and deracination as the keys to slavery resonate with many aspects of this discussion in the *Smṛticandrikā*, we might speak instead of the 're-personing' of slaves. In this text, slaves lose much of their legal and social persona, but they do not suffer a full social death. Slaves maintain their caste identities; they can marry, including non-slaves; they can be freed and restored to full social interaction.⁵³ From being one kind of person (or potential person in the case of hereditary slaves), a slave is 're-personed' in the image of, and as an extension of, the master. The master's legal and social position engulfs the slave, as it would a wife or a minor child.⁵⁴ Slaves are maximal servants whose full personas are suspended until their release. Slaves exist publicly according to the narrowly defined terms of their enslavement.

To conclude, for Devaṇṇabhaṭṭa, slavery primarily means taking the denial of legal privilege, choice and property to its logical, final conclusion. Slaves are property, but it is more significant legally that they are not owners and have no legal independence or self-interest so long as they are slaves. In essence, though, slavery is not different from other work that benefits others and not oneself. But, when the benefit to others becomes total, the condition of slavery arises. This conceptualisation puts slavery in a continuum with ordinary work, not in a separate sphere. Slavery is an intensification, or totalisation, of experiences and practices we already know and endure. One of the moralising tendencies of contemporary slavery scholarship is to describe slavery in terms that make it seem wholly other, utterly

⁵³ Though it comes from another Dharmaśāstra source, the twelfth-century *Mitākṣarā* of Vijñāneśvara (see *Yājñavalkyasmṛti* 2.290, p. 314), states plainly that slaves retain the obligations of their caste: 'But, a woman does not lose her right and responsibility to observe the law of her own caste just because she is a slave. For slavery means being under the control of another person, not forsaking one's proper legal duty' (*na ca dāsībhāvāt svadharmādhikāryutiḥ | pāratantryaṃ hi dāsyam na svadharmaparityāgaḥ*).

⁵⁴ Compare Patterson, *Slavery and Social Death*, p. 63: 'a permanent minor who never grew up'.

foreign to modern ways of thinking. David Brion Davis, for example, endorses the idea that the earliest ‘model for enslaving humans’ was the domestication of animals.⁵⁵ In this text, however, we find no such ‘animalisation’, but rather an analogy between a slave and a wife, much closer to Gerda Lerner’s argument that the oppression of women provided the model for slavery.⁵⁶ The analogy rests on two factors: one should only marry a woman or possess a slave of equal or lower *varṇa* status (Brahmins excepted), and both are then subject to the legal control (*pāratantrya*) of their husband or master.

Perhaps no analogy covers all cases. We treat people like things or animals and make them property. We abuse and exploit women and then transfer that form of oppression to others. Or, we inflict upon a people a social death that removes them from kinship and love and normal human relationships. Each perspective has been argued in bold, elegant terms. The evidence of the *Smṛticandrikā*, however, is more frank and perhaps more frightening. Slavery is a permutation of things we all already do and experience. We just push the negation of legal agency and material benefit to its logical conclusion and the result is slavery. There’s a matter-of-factness in the *Smṛticandrikā*’s treatment of slavery that we should not cover up. Whatever softening of slavery appears in the texts comes in the service of *varṇa* hierarchy and the preservation of social stratification, especially the oppression of Śūdras. The institution of slavery should not interfere with or upset the ‘natural’ order of caste. Upper-caste slavery may be temporary and a necessary legal instrument for times of emergency, but lower-caste slavery is hard to distinguish from slavery itself. Both are explicitly power-driven, respect-denying processes of social exclusion and coerced labour. In the end, therefore, *Smṛticandrikā* teaches us to view slavery on a continuum, both with other forms of service and with the sociolegal experience of caste.

Appendix: Translation of the *Abhyupetyāśuśrūṣā* Section of the *Smṛticandrikā*

Next, the rules are stated for the title of law called The Failure to Perform a Service Commitment.

General Topics Related to Workers

On this topic, Nārada states:

Workers are defined as students, apprentices, wage-labourers, and overseers as the fourth; there are also slaves, such as the house-born, etc. Authorities declare

⁵⁵ Davis, ‘At the Heart of Slavery’, p. 126.

⁵⁶ Lerner, ‘Women and Slavery’. See SC, p. 461: *dāravād dāsatā matā*, ‘slavery is held to be like wifehood’.

that what these all have in common is that they lack legal independence. What is distinctive to each, however, is determined by their caste and work, as well as their means of livelihood.

Servants of these four kinds, **students, etc.**,⁵⁷ should be recognised in the category of **workers**. Servants of the 15 kinds, the **house-born slave, etc.**, however, should be recognised in the category of **slaves**. **Authorities**, such as Manu, etc., **declare** that the law common to both workers and slaves is defined by the fact that **they lack legal independence**. The **distinctive** laws determined by caste, work, and means of livelihood are stated only with regard to students, apprentices, and slaves—this is the meaning.

Among these, the distinctive, caste-based rules for students defined differently than those that apply to all three upper classes must be ascertained, as they are set forth in the legal treatises, for example:

One should conduct the ritual consecration for a Brahmin in the spring.

Likewise, Bṛhaspati states a distinctive, work-based⁵⁸ rule for students:

The Triple Knowledge is well known to consist of the Ṛg, Yajur, and Sāma Vedas. For the sake of that knowledge, one should perform the formal service for a teacher (*guruśuśrūṣā*) as enjoined by the legal treatises.

Specifically, a student should—that is the unstated part. Nārada says the same:

Until he has mastered the Vedic knowledge, a student should diligently serve his teacher.

Furthermore, Nārada says that he should also perform service for the teacher's wife, etc.

And, his comportment toward his teacher's wife and son should be exactly the same.

The distinctive law for students according to their means of livelihood—receiving food alms and such—has already been stated in the Book on Consecratory Rites,

⁵⁷ Typographically, I have indicated commentarial glosses on key words and phrases through the use of boldface and the equals sign (=). This convention allows readers to get a better sense of the original texts, its arguments, and its style.

⁵⁸ The work (*karma*) in question is the formal service of a teacher (*guruśuśrūṣā*) and, more specifically, the study of the Vedas by a student. The second chapter of the *Laws of Manu* gives a thorough description of this obligation. See also Scharfe (2002).

and for fear of repetition, it is not stated again here. Having described a certain distinctive law according to comportment,⁵⁹ the same author states:

One who has completed his studies should give his teacher the teacher's fee and then return to his home – this is called the student's comportment.

He should return to his home just means that he should go back to his own house.⁶⁰

In anticipation of the question, *what then are the distinctive laws based on caste and work for apprentices?* The author Brhaspati says:

Artisanal trades such as the smithing of gold or other metals and dancing, etc. are called professional skills. To acquire these skills, one should do work in the house of a teacher (*guru*).

The fabrication of gold, straw, etc.; the performance of dances, songs, etc.; and (because of the word **and**) the making of posts, pots, etc., are all said to fall within the category of **professional skills**, that is, artisanal skills. In order to obtain those skills, an apprentice should do **work** related to gold, straw, etc., **in the house of a teacher**—this is the full meaning. By this statement, the author shows distinctive laws of apprentices both according to their caste, such as goldsmith, etc., and according to their work such as fashioning with gold, straw, etc.⁶¹

Now, Nārada states what should be done by apprentices when approaching a master for training in a trade:

If someone desires to take up his own trade, he should first receive permission from his relatives and then reside in the vicinity of a master (*ācārya*) having agreed on a fixed time-period.

In the vicinity of = near. **Having agreed on a fixed time-period** = Having fixed a specific length of time for the training as determined by a master who says, 'You must stay and work with me for X amount of time'. This is the meaning. The same author also states what the master must do:

⁵⁹ The word *vṛtti* is used in this section in two senses, to mean both 'means of livelihood' and 'comportment'. Students survive by receiving alms—food and performing obedient service to their teacher and his family. The latter is called *vṛtti* in some texts, though it would be classified as a type of work, *karman*, in the SC.

⁶⁰ The root-text has an unusual plural *svagrāṇ* that would normally mean 'to one's own houses', but the commentary clarifies that the root-text has to mean simply returning to one's family dwelling (*svamandiram*).

⁶¹ It is hard to see any reference to caste (*jāti*) in the root text of Brhaspati, but it is interesting, nonetheless, that Devaṇṇabhaṭṭa does read it that way. The distinctive law according to work in this case seems to be the banal fact that apprentices of goldsmiths work with gold, while apprentices of dance teachers train in dancing. In other words, not all 'apprentices' do the same work.

The master should train him and provide him with food in his own home. He should not require other work from him and he should treat him as a son.

Other work = any work different than his apprenticed trade. One may thus conclude from this that an apprentice should perform the formal service of his teacher only by offering the results of his work with gold, etc.⁶² When the author says **provide him with food in his own home**, he illustrates the distinctive law for apprentices according to means of livelihood.

When a master does not act in this way, Kātyāyana states the punishment:

If he does not help him learn the professional skill, if he requires him to do other work, he should receive the first-level fine. The student may quit because of it.

Nārada states a punishment also for cases of a student's illicit behaviour:

But, if one abandons a master who has been training him without abuse, then he should be forcibly made to remain and is liable to corporal punishment and confinement.

Made to remain in the service of his master—that completes the sense. Corporal punishment in this rule means a beating, not execution, because the offense is minor.⁶³ The same author declares what someone who has completed his studies must do:

Even when his instruction is complete, an apprentice must fulfill his stipulated time. The results of whatever work he does during that time go only to the master.

Stipulated time = the time affirmed as the period for remaining under the master. **That time** = everyday during the time still remaining to be fulfilled; even at the cessation of training, he must compulsorily complete any work in which he was trained so that his master may acquire wealth. Also, in the remaining time, he should continue to take food in his master's home. So, says Yājñavalkya:

One who has completed his training should still remain in the home of his master for the stipulated time. An apprentice eats what he receives from his master and gives back the fruits of his labour.

Nārada now states what must be done by apprentices as soon as they have acquired the necessary knowledge and completed their service:

⁶² Here, too, the work-based rule for apprentices is that they are distinguished by the fact that they train in different fields that require different kinds of work.

⁶³ The term in the root-text here is *vadha*, which normally denotes killing. Devaṇṇa reasonably understands the term to mean a beating or whipping.

An apprentice who has completed his training should at that time perform a ritual circumambulation of his teacher, honor him to the fullest extent, and then give up his service.

Wage-labourers are not distinguished by caste or means of livelihood, as apprentices are. Rather, they are distinguished by their wages, their work, and their specified term of service. So, says Brhaspati:

One who enjoys the slave-woman of another man is known as a ‘hired-by-the-woman’ and must perform work for her master, just as another man hired for wages would. Wage-labourers (*arthabhrta*) are said to be of several kinds; so also share-labourers (*bhāgabhrta*). Each is called either low, middle, or high. Whether hired for a day, a month, half a month, six months, three months, or a year, he must carry out the work promised and also receive what was stipulated.

Her master = the master of the slave-woman. The several kinds of **wage-labourers** are recognised in proportion to their lesser or greater wage. And, that proportion should be evaluated based on the worker’s ability to do the work, because of Nārada’s text:

Wages should conform to a worker’s ability; wages are based on work.

The same author now states the division of the share-labourer category:

Share-labourers fall into two categories in the texts: agricultural and pastoral labourers. They should most definitely receive part of the farm produce or of the milk products, respectively.

The same author also declares the work-based distinction divided into low, middle, and high as it pertains to work, such as security, etc.

Among these, the highest is a soldier; the middle is a ploughman; and the lowest is a porter, or a domestic servant.

Ploughman = farmer. As the text states, ‘the lowest is a porter’, in the same way, anyone who performs domestic work of any sort, such as cooking, etc., is deemed the lowest. The distinction of labourers based on their term of service relates to the lesser and greater time periods as mentioned earlier in the phrase ‘a day, a month...’. Nārada also describes the nature of the overseer about to be described:

One authorized to oversee all of these, or at the head of a family, is categorized by the texts as an overseer or as the head of household, respectively.

Among **all of these** (*sarveṣu*) labourers, **one authorised** = placed above as a supervisor. Some read, instead, 'one appointed to oversee these matters (*artheṣu*)'. In that case, the meaning would be: **one authorised** = appointed as manager over fields, gold and the like. To the phrase **at the head of a family**, the word 'placed' must be carried over.⁶⁴ Placement at the head of a family simply means appointment as the manager of the family's income and expenses.

The same author describes students, apprentices, labourers, and overseers, thus, defined as **clean-work labourers** (*śubhakarmakara*):

Since these four are considered clean-work labourers.

Clean work should be understood as the opposite of despised work (*jugupsitakar-metarad*). As the same author says:

Cleaning house-entrances, dirty spaces, roadways, and sweepings⁶⁵; touching private body parts; collecting and removing food spittle⁶⁶, feces, and urine; and, lastly, attending to the limbs of the master at his wish – this is known as unclean work (*aśubhakarma*). Anything other than this is clean work.

Sweepings = dirt swept together into piles. The word **cleaning** construes with each of the four areas beginning with house-entrances. **Removing** = getting rid of. **Fianlly**, when the master finishes urinating or defecating, and at his request, he gives his own hand for the sake of cleaning away the impurity.

The Definition of Slavery

On this topic, Nārada states:

And the remaining servants are those who perform the lowest forms of work – slaves of fifteen types.

Remaining = servants other than the student, apprentice, hired labourer and overseer already discussed. **Those who perform the lowest forms of work** = those who perform unclean work such as cleaning house-entrances, dirty spaces, etc. By this rule, the author states the distinction between slaves according to their work. **A total of 15** = types of slave numbering 15. Kātyāyana states the difference between slaves and workers by describing the etymology of the word 'slave':

⁶⁴ The word 'authorised' (*adhi-kṛta*), literally 'made/placed over' incorporates the sense of 'placed' (*kṛta*) that Devaṇṇa wants to carry over from the earlier compound participle.

⁶⁵ The term *avaskara* usually means either faeces or toilet area. Several medieval commentators, however, understand the term as heaps of swept-up dust and dirt.

⁶⁶ *Ucchiṣṭa* refers to the impure remains of food in the mouth or on the hands after eating. It may also refer more generally to leftover food unused for a meal or rite. In a list with other bodily excretions, the author has opted for the first meaning. See Olivelle, 'Caste and Purity', pp. 206–207.

Bhrgu says that it is called slavery (*dāsatva*) because of the gift (*dāna*) of one's own legal independence (*svatantra*), just like a wife.⁶⁷

This means that just as the status of wife arises through the gift of her own body for the sake of sexual union with her husband, the status of slave arises from the gift of one's own legal independence as being controlled by another, according to the opinion of the teacher Bhrgu. By this statement, we should understand that the author has also stated a further distinction: slaves are servants under total obligation to benefit another; workers are servants under narrow obligation to benefit another. And, total obligation to benefit another means that they are obligated to benefit another person by denying any means of livelihood for their own personal benefit. Slavery of this sort is recognised only among non-Brahmins, that is, the three other classes, because of the statement by the same author, 'There is no slavery of a Brahmin under any circumstances'. This rule states the distinction of slaves according to caste. Even among non-Brahmins, slavery should only occur in accordance with the natural order (*anulomyenaiva*):

Slavery occurs in accordance with the natural order of class, and never against it, among those Rājanyas, Vaiśyas, and Śūdras who give up their legal independence.

Among those who give up their legal independence means among those who accept a total obligation to benefit another. The phrase 'against the social order' should be understood to refer to cases except apostate renouncers who have forsaken their proper duties because of the rule of Nārada:

Slavery against the natural order of the classes is not legal, except in the case of those who have forsaken their proper duties. Slavery is held to be like wifehood.

This rule means that just as a wife should be of a lower or equal class in relation to her husband, and certainly not of higher class, so also should a slave be. However, lest one think that that the maxim 'a slave is like a wife' means that one of equal class may accept a Brahmin in slavery in times of emergency, Kātyāyana makes the following prohibition:

Even a person of the same class may never subject a Brahmin to slavery.

The same author states what appears at first sight to be a repetition of the same idea:

⁶⁷ The etymology is phonological, not historical, the giving (*dā*) of oneself (*sva*) results in a status of slave (*dāsa*).

The king's dignity is destroyed when a Brahmin is made a slave. One whose duty is that of a Kṣatriya, Vaiśya, or Śūdra may sometimes compel the work of a slave from one of the same class, but not a Brahmin – this is the view of Bṛhaspati.

Three statements are made in this passage. First, if someone enslaves another against the social order, then the perpetrator suffers a loss of dignity. Second, slavery is not the duty of mixed castes. Third, even a person of the same class must not under any circumstances subject a Brahmin to the work of a slave, as though he were a slave. In this way, this passage is not really a repetition of the other.

Of his own volition, a Brahmin may perform some work as a favour to a distinguished person, but he should never perform unclean work. As the same author declares:

By his own choice, a Brahmin may do inferior work for a person of good character and learning. Even in that case, however, he should not perform any unclean work whatsoever.

The first half of this passage means that if one person has agreed to do a favour for another person, then he may do **inferior work** = even work lower than the middle and high forms **by his own choice** = without any payment of wages and by his own volition for the sake of benefitting the other person.

Regarding the owner, Manu states:

A Brahmin should support those starved for a livelihood, both the Kṣatriya and Vaiśya, and without cruelty have them perform their appropriate work.

In the phrase 'both those starved for a livelihood' the accusative is used like the accusative in the Pāśa formula⁶⁸ with the intent to emphasise the object of the sentence. Thus, it means that an owner should without cruelty sustain a Kṣatriya, as well as a Vaiśya, who is starved for a livelihood and who has become a slave by putting him to work. The same phrase also shows that the enslavement of a Kṣatriya or Vaiśya is acceptable only in dire circumstances, and certainly not just when the opportunity arises. By the word **appropriate**, the author means that he should not force them to do the work of his own relatives. Since the word **work** is used in a general sense, it indicates that there is no restriction such that they must be made to perform the lowest forms of work. By saying **he should support** (*bibhryāt*) those starved for a livelihood, Manu is also saying that one may only enslave a Kṣatriya or Vaiśya only according to what they require, not merely to display his power. For this reason, Manu then goes on to repeat that one who enslaves another merely

⁶⁸ Devaṇṇa seems to refer here to a frequently encountered mantra in Vedic sources (*Maitrāyaṇi Saṃhitā* 2.7.12b, *Śatapatha Brāhmaṇa* 7.2.1.15, etc.). It is unclear to the author how the accusatives used in that mantra help us understand this rule. The gist of the passage in context is that only Kṣatriyas and Vaiśyas who are destitute may be subjected to slavery, and not others in these groups.

for the show of power is criminally liable due to his ignorance of the matter just instructed, and also specifies a punishment:

A Brahmin who through ignorance and out of superiority enslaves consecrated twice-born people against their will should be punished 600 by the king.

The feeling derived from power is **superiority**; to say **out of superiority** suggests that he does so *only* from a sense of superiority. The word twice-born shows that the punishment does not apply in the case of Śūdras. Therefore, by whatever means necessary, one should subject a Śūdra to slavery, as the same author states:

He should, however, enslave the Śūdra whether purchased or not, for the Śūdra was created by the Self-existent One himself solely for the purpose of slavery.

And, Viṣṇu declares the punishment for a person who enslaves another against the natural social order (*prātilomyena*):

One who subjects a person of higher class to slavery should be punished with the highest penalty.

Other Topics Related to Slavery

Now, several other rules pertaining to slaves are also written. Among these, Nārada states:

House-born, purchased, acquired, inherited, supported in a time of emergency, pledged to an owner, released from a large debt, captured in war, won at gambling, voluntary, an apostate from renunciation, fixed-term, subsistence, married to a slave-woman, and one who sells himself—these are the fifteen slave-types recognized in the texts.

The following are the 15 types of slave recognised in the Dharmaśāstra:

1. **House-born** = born to a slave-woman in his own house.
2. **Purchased** = received for a price from another owner.
3. **Acquired** = received by means of gift, etc. only after already a slave (*tata eva*)
4. **Inherited** = acquired as the recipient of an inheritance.
5. **Supported in a time of emergency** = sustained at a time of famine.
6. **Pledged by an owner** = one pledged by his owner to another whose given him a loan.
7. **Released from a debt** = one who accepts slave-status as the consideration for the cancellation of a debt.

8. **Captured in war** = seized after a victory in battle.
9. **Won at gambling** = won at a dice-game or the like in which the stake was slavery.
10. **Voluntary** = one who of his own accord accepts slavery saying, 'I am your slave'.
11. **Apostate from renunciation** = one who has broken his vow of renunciation.
12. **Fixed term** = one who agrees, 'I will be your slave for this fixed period of time'.
13. **Subsistence** = one who agrees, 'I am your slave', when the master says, 'I will provide you subsistence = food up to a certain amount'.⁶⁹
14. **Married to a slave-woman**. Slave-woman (*vaḍavā*) = a female house-slave (*gṛhadāsī*). One who marries her and has entered slavery with the goal of obtaining her owner's permission for the marriage.
15. **One who sells himself** = one who, of his own accord, sells himself for the sake of the sale-price, etc.

The first four of these—the house-born, purchased, acquired, and inherited slaves—can be freed from slavery only by the grace of their owner and not otherwise. So, says Nārada:

Among these, the first four may not be released from slavery except by the grace of their owner. Their slavery is inherited.

Further, Nārada also says that one more type of slave, that is, one who sells himself, is not emancipated except through the grace of his owner:

The vile man who, though legally free, sells himself is lowest of all and he too should not be released from slavery.

The qualification 'except by the grace of his owner' should be understood here as well. And, thus, this means that one who sells himself, like the house-born, etc., is also never to be released from slavery, except by the grace of his owner. In this way, we should understand that the text shows indirectly that the house-born, etc., whose fifth member is the one who sells himself may, like the one supported in the time of emergency, be released from slavery by the grace of his owner. Members of both of these groups of slaves may also be released by saving the life of their owner. As Nārada says:

Anyone of these who rescues his owner from life-threatening situation should be released from slavery and should receive a son's share of the inheritance.

⁶⁹ The text appears corrupt here, using confusing pronouns that indicate a mistake. This well-known type of slave (see *Mitākṣarā* on *Laws of Yājñavalkya* 2.181) is one that performs slave work only for the sake of food.

Of these = of the 15 types of slaves, emancipation from slavery through the grace of one's owner and through saving the owner's life does not include the apostate from renunciation because of the rule of Yājñavalkya:

An apostate from renunciation is the slave of the king until his death.

Slave of the king = he is the slave only of the ruler and not of anyone else. For this reason, Nārada states:

A man who is an apostate from renunciation should be the slave only of the king. There is no manumission for him and no way to purify himself.

A man = other than a Brahmin is presupposed because of the prohibition against Brahmin's slavery. Thus, Kātyāyana:

If there are apostates from renunciation among the three twice-born classes, one should exile the Brahmin and enslave the Kṣatriya and Vaiśya—so says Bhṛgu.

The king **should exile** is assumed. Similarly, Nārada:

One who accepts the vow of renunciation but does not follow the proper duty (*svadharme na tiṣṭhati*) should be branded with the foot of a dog and immediately banished by the king.

With the foot of a dog = with a hot iron in the shape of a dog's foot, the king should also banish both a Kṣatriya and Vaiśya with the stated procedure if they do not become the king's slaves because the phrase **does not follow the proper duty** applies generally. As the same author states:

These two are seen as Caṇḍālas-by-deed and are exiled far away from society—the one who forsakes his vow of renunciation and the false renouncer.

This statement applies to those who do not become the king's slaves because banishment of the king's slave makes no sense.⁷⁰ Thus, we should understand that the emancipation of a slave other than the apostate from renunciation is recognised by both the grace of the owner and saving the owner's life. The other nine starting with the one supported in time of emergency and excluding the apostate from renunciation and one who sells himself are released from slavery in separate ways such as the giving of a pair of cows, as the same author states:

⁷⁰ The illogical element is that enslavement and banishment are two separate punishments that cannot be simultaneously carried out.

The slave supported in time of emergency is released from slavery by the payment of a pair of cows. The pledged slave too should be freed when his original owner has paid back the loan. A debt-slave (*ṛṇin*) should be released from slavery when he has paid back the debt plus interest. The voluntary, captured in war, and won at gambling slaves should be released if they provide a replacement capable of the same work. The fixed-term slave is released when the stipulated time has elapsed. A subsistence slave is released immediately if he rejects the subsistence. The one married to a slave-woman is released by rejecting her.⁷¹

This is what is stated: one made a slave as sustenance at a time of famine is released through the gift of a pair of cows. The pledged slave is released from enslavement to the creditor when the loan taken out by his owner, the debtor, is paid back. The debt-slave is released by paying off the full amount of a loan plus interest, which he had himself taken out. The three specific slave-types starting with the voluntary are released by providing another slave, who can carry out all the tasks that these slaves were meant to carry out themselves. The fixed-term slave is released when the time agreed upon as the term for enslavement has passed. One who falls into slavery through his lust for a domestic female slave is released when he gives up his sexual relationship with her.

Yājñavalkya declares the emancipation of false-slaves (*dāsābhāsa*):

Both one who is enslaved by force and one who is sold by thieves are to be freed.

Anyone who has been made a slave by force, even though he is not a slave, by any master, and anyone who has been captured by thieves and sold, or pledged or given, into slavery, must be immediately freed by the master under whose control he lives as a slave without the need of legal cause for release. If he is not released out of greed or other motive, then the king should have him released. Nārada declares the same:

Those who are overpowered and sold by thieves and then forcibly enslaved should be freed by the king. Their enslavement is not lawful.

One who is already the slave of one person and is then accepted as the slave of another person must be set free by the latter, as Nārada indirectly states:

If someone not legally free gives himself to another saying, 'I belong to you', one should not accept that same one as desired. He should be given back to his previous owner.

⁷¹ The edition used reads *nigrahāt*, 'by checking, blocking', but the reading should probably be *vigrahāt* 'by separating' from his slave-wife.

Not legally free = not legally free because he is the slave of another. **As desired** = according to what is desired by the slave, namely to be the slave of the new owner instead of the old owner.

Thus, all of what is stated here about the male slave applies also to the female slave insofar as possible. But, Kātyāyana states a special rule regarding the owner of a female slave:

If a man has sex with his own female slave and she subsequently gives birth, then in consideration of the seed he should release the woman and her child from slavery.

With consideration to the fact that he impregnated her himself,⁷² the owner should free both the female slave and her child from slave status by the rite of manumission, in order to nullify the slave status of the foetus, etc. In anticipation of the question, *what is the rite of manumission from slavery?* Nārada states:

One whose heart is pleased and desires to free his own slave should take jar filled with water from the slave's shoulder and break it upon the ground. He should sprinkle his head with water containing unhusked grains and flowers. He should then say, 'You are not a slave' and release him facing toward the east.

When he has been freed by this procedure, the sociolegal exclusion (*ayogyatva*) created by his slave status goes away, as the same author states:

From that moment on, one may again speak to him,⁷³ he is safeguarded by the kindness of his owner; one may again accept food and gifts from him; good people should again show him respect.

The meaning of the verse is **safeguarded by the kindness of his owner**, namely by nullifying this most wretched status, returned to his original status, he becomes at that very moment eligible (*yogya*) for conversation, etc. The same procedure applies also for one who wants to make a female slave into a non-slave because the word slave in this section is not meant to specify one of the two genders. **Safeguarded** = protected by the permission of his owner he becomes a person with whom one can eat again and receive things from, and he is shown respect by good people. From this:

⁷² This phrase glosses the root-text's *avekṣya bījam*, 'in consideration of the seed'.

⁷³ The printed edition of the SC has *kartavyaḥ*, probably wrongly for *vaktavyaḥ*, found in Lariviere's critical edition and the *Dharmakośa*. Devaṇṇa seems to gloss the term with *sambhāṣaṇādi*, which also corroborates the standard reading. *Laws of Manu* 11.185 gives a list of social exclusions: refusing to speak with someone, not sitting with them, withholding inheritance, and avoiding ordinary interaction.

Whatever property a slave may have, his owner is the master of it—this is the tradition.

On the basis of this rule by Kātyāyana regarding the mastery of a male slave's property, we must conclude that the owner is also the master of a female slave's property. In the same way, the same author states that a woman who marries a slave becomes a slave herself:

A woman who marries a slave becomes a slave herself, since the husband is her master and he, as her master, is under the control of his owner.

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