SUBJECT: HISTORY –I

PAPER CODE: 107

SYLLABUS

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a. Relevance of history to Law: Interdisciplinary Approach

b. Rethinking History and Historian's Craft

c. Indian Historiography : Orientalist , Utilitarians , Nationalists ,Marxist ,Religious Nationalist , Subalterns and Regional Bistories

Unit – II:Ancient India

a. State polity and Goverance: Nature of State, Notions of kingship(Brahminic, Buddhist, Kautalyan), and Administrative apparatus in Vedic Age,Age of Mauryas and Guptas.

b. Kinship, caste and class : Social Differentiation, Family, Rules of Marriage, Gutra, Jatis and Varnas, Access to Property and Gender

c. Religious Traditions and Polity : Brahaniminism, Buddhism, Jainism.

Unit – III: Medieval India

a. Kings and their Courts:

i. Cholas: Local Self- Government

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Unit-IV : The Concept of Justice and Judicial Institutions in Ancient and Medieval india

a. Sources of Law in Ancient: Concept and Sources of Dharma, Veda, Sutras (Kalpa and Dharma), Dharma Shastra,Tradition and good custom, types of Courts and Procedures

b. Legal Thinkers of Ancient India : Manu and Yajnavalkya

c. Legal Traditions in Medieval India : Sources of Islamic Law(Quran, Hadis ,Ijma, Quran). Salient features of Islamic Criminal Law, Hanafi school of Thought.

UNIT-I

MEANING OF HISTORY

The popular meaning of the word 'History; is "a narrative of recording or inquiry of past events of men in society." History is the knowledge relating to the development in science, in arts, in politics, in war, in religion and in law with human efforts in a particular country.

The quest about knowing the past is known as history. History is the branch of knowledge dealing with past events, political, social, economic, of a country, continent, or the world.

According to the Oxford English Dictionary, history means a "a written narrative constituting a continuous methodical record, in order of time or importance or public events especially those connected with a particular country, people or individual."

E.H.Carr says, "the function of history is to promote a profounder understanding of both past and present, through interrelation between them."

History is a narration of the events which have happened among mankind, including an account of the rise and fall of nations, as well as of other great changes which have affected the political and social condition of the human race.—John J. Anderson. 1876.

History relates to two points-collections of facts and interpretations. In Greece, Herodotus, who belonged to sixth century B.C is recognized as the father of History. Ancient Indian History can be traced in Vedas, Itihasas and Puranas. However, it is only in the 12th century A.D. that we have a real historical Chronicle in Kalhana's Rajatarangani.

If a science of history were achieved, it would, like the science of celestial mechanics, make possible the calculable prediction of the future in history. It would bring the totality of historical occurrences within a single field and reveal the unfolding future to its last end, including all the apparent choices made and to be made. It would be omniscience. The creator of it would possess the attributes ascribed by the theologians to God. The future once revealed, humanity would have nothing to do except to await its doom.—Charles Austin Beard. 1933. "Written History as an Act of Fate." Annual address of the president of the American Historical Association, delivered at Urbana, Illinois. December 28, 1933. American Historical Review 39(2):219-231.

History is and should be a science..... History is not the accumulation of events of every kind which happened in the past. It is the science of human societies.—Fustel de Coulanges

SCOPE OF HISTORY

We can present the scope of history as-

i. Narrative of past history events those, connected with particular country;

ii. Ascertaining the severest truth as to the past and set it forth without fear or favour;

iii. Understanding the totality of past human actions;

iv. Recording the past facts to explain and interpret not only what has happened, but also why, where and how it happened, rationally and logically by raising questions to understanding the historical process.

According to E.H.Carr, the scope of history is "a continous process of interaction between the historian and the facts, and an understanding dialogue between the present and the past."

RELATIONSHIP BETWEEN LAW AND HISTORY

History is information, interpretation, education and enlightenment. To the legal community, history is the very process of understanding law in context. Without history, law is a set of bare principles devoid of social meaning and cultural orientation. It is in historical context, law assumes the quality of life and evolves organic structures, developing and changing to the need of good governance. No wonder, historical jurisprudence both as a method as well as a substantive school of thought, captured the attention of scholars pursuing legal studies everywhere since long. Admittedly, history is essential reading for every law student.

The importance of history has led to a variety of problems too. Because history can be written from a variety of viewpoints and the interpretation can be as varied as the author choose to have it, there have been a lot of differences and great deal of disenchantment in the study of legal history. Student of law look at history with a view to understand the nature of polity, the development of freedom and human rights, the pattern of administration of justice and the nature of legal and judicial institutions. There are value assumptions and cultural imperatives implicit in the analysis of these aspects and unless the historian is careful about them, there is

likelihood of distortions with dangerous consequences to society. This is all the more true when the history relates to pluralist society in colonial domination.

Law is a rule of life. It is founded on the dogmas and experiences of life; and life's dogmas and experiences are recorded in a vastly wider library than the covers of the law book comprise. The well being of humanity depends upon order and progress, and order means, stability of social institutions which, if they are to endure, must be based on the supremacy of rational law. The test of political progress of a state is therefore the predominance of justice or Dharma, which means respect for human personality and well being, and this means quality of all before law. Though law cannot make all men equal if there is no restraining influence of law, there would be anarchy and would be flying at each others through.

In primitive and modern societies, law has always represented Supreme social force compelling obedience by communal disapprobation of its transgression. Forms of disapproval have varied from time to time and reaches by habits and custom in past were looked upon as frequent source of calamities, not to individuals but also to the groups, offenders were segregated and proprietary sacrifices were offered to gods. There is a body of custom in all forms of modern societies too, that are regarded as binding upon the whole body of persons, violation of which is visited by penalties enforced by the authority of its member. When the community in collective capacity commands or prohibits the performance of certain actions and inflicts penalties for violation of custom, its will has not merely transmuted the habits of individuals into custom of community, but has also sanctified by force or the compulsive sanctions so complete as to guarantee against injury and loss and this sanction has to be supplements by other restrained based on personal recognition and public opinion for the authority of law itself may be derived by divine source, by custom, or by fate of some human authority. Law, then, is a form of social force and ordering and adjusting of human activity and relations, through the systematic application of the force of politically organized community, the aim of law is right and justice and it may express canons for the guidance of men's conduct and may have reference also to the internal acts of will.

The great function of law is "the maintenance of fundamental orders, with which men will find security and common conditions of opportunity and the adjustment of those conflict of interest between individuals and groups, which they cannot settle for themselves or in settling which, they encroach upon the interest of others.

Spencer define law as "mainly and embodiment of ancestral injunctions". But he also recognize that legal institutions develop as other social institutions developed and that the law is nor merely a body of formal rules possessing objective validity but is an institution the development of which is inseparable part of social process.

It follows from this, law is a body of principles applied by the courts in the exercise of their jurisdiction, and its sources are custom, judicial construction and precedent and legislative enactments. Custom was law, a restraining force and a bond of primitive society, which did not

p[possess a strong, unifying coercive, authority to enforce its authority in spite of the growth of laws in modern times, custom remains still a substratum, and its judicial recognition provides for legal regulation of social facts and circumstances which law cannot readily take cognizance of. New circumstances and the influence of new consideration necessitates the modification of original authority. A statement made by a judge in course of judgment by way of explanation or illustration or general exposition of law becomes a precedent. Such obiter dicta have no binding force but are entitle to respect. Often the principles so formulated in precedents may correspond to the clause of a statue in enacted law, a statute enacted by legislature aims emphatically at the formulation of legal rules in a definite manner.

Law has thus become an important instrument of progress. The habits and customs of the people, their history and traditions, their qualities of character and conduct, social life and religious beliefs are represented in the law of state. The knowledge of the sources of which can be considered as the essence of the subject-matter of legal history, connects history with law. Just as the present is the daughter of yesterday, the past, the present legal system is rooted in the past. Law is said to be a tool to prise open the mind of a man and the sprit of the nation of the period of study. legislation as a source of law is inseparable from a process of interpretation by the courts. Some laws demand a literal interpretation; some are concerned not merely with general principles of social order, intelligible to everybody, but with the regulation of some highly technical matter which requires special knowledge.

This demands the determination of the general meaning of a clause and peculiar technical significancethat the legislature intend to convey. In such cases there has to be a historical interpretation which in turn, requires a thorough knowledge of historical background for the enactment. Law is primarily the mirror of active organic political life today, and it ought to be an often is instructed by ethical judgments of the community, though its own providence is neither ethical nor religious.

Theories as to origin and functions of the state, ideas as regards the meaning and purpose of life, the sanctions by which social duties are enforced in the community. Various agencies through which justice is administered, are some iof the factors that have determinant the nature of law in history.Some have argued, perhaps rightly, that the legal historian must be a lawyer. The utilitarian connection between his subject and the law is as clear as day light. Precedents play in the courts of law of most countries apart to which it is entitled nowhere else, that of a norm that stands almost above discussion.

In great Britain where the memory of law goes back further than in any other country, the story of the realm is a matter of considerable practical importance as well as a subject asking for the most radical specialization. Yet the legal historian must not exclusively dwell in the world of his own; he must refer to the advances made by certain other branches such as political, social and economic history. Bereft of the knowledge of history it may not be possible for the legal historian to get a better look into issues involved necessitating enactment which

alone will enable him to perciece its true import. Therefore history and the law are mutually dependent on one another.

C) INDIAN HISTORIOGRAPHY

Orientalist School of Historiography: This school tried to link the history of India to the history of Europe. This was done, by the study of languages(as the European and the Indian languages both belong to the strata of Indo-European languages with the same origin). They also tried to link the biblical texts of India like the Dharmashastras to those present in Europe, again indicating similar origin of both these civilisations.

This school also studied the social structures like the caste system in India. This was important not only from the point of intellectual curiosity but it was of administrative importance as well, as this knowledge was helpful in furthering colonial rule in India.

This school to a large extent, considered India as an exotic civilisation bereft of all material considerations and a civilisation which focussed on aspects like spiritualism and other similar meta-physical concepts. This can be interpreted as 'in part a reflection of an escape from 19th century European industrialisation and the changes which this industrialisation brought, which were somehow difficult to comprehend.'

One important thing to be noted about this school is that it was the first to apply the Aryan label to the Indian society , which again pointed to a unified origin of the Indian and European societies. Further, they intermingled caste and race, and thus the upper castes were considered Aryan(as they were advanced) and the lower castes were considered of non-aryan and mixed origins.

In my view this school and its prominent historians like Max Muller were to a large extent responsible in the creation of the 'stereotype ' of the Indian society in the European academic and social discourses. It should also be noted that, the nature of colonial rule in this school was non-interventionist in nature.

Utilitarian School of Historiography: This school also believed in the 'exocity' of Indian society, but it used those facts to state that the Indian society lacked rationality and individualism and hence the European civilisation was needed to make the 'stagnant' Indian society 'progressive'. This was a departure from the oriental school's non-interventionist policies. This school of historiography is responsible for the three staged periodisation of the Indian history into, the Hindu civilisation, the Muslim civilisation and the British period.

This school created the concepts of 'oriental despotism' , which again was used to legitimise the colonial conquest of the sub-continent.It should be noted that this change in historical thinking also coincided with a change in the colonial policies. By this time the colonial conquest of India was nearly complete, and the need of the hour was to reconstruct the economic structure of the colony, so as to be a source of raw material and an importer of the finished British goods. Thus, the change from a non-interventionist to an interventionist ruler, required certain kinds of interpretation of the history of India, which was provided by the utilitarian historians.

It should also be noted that the concept of Indian society being the 'other' of the European societies, had an important place in this school of historiography. This is clear from the ideas of 'Asiatic mode of production' which is an anti-thesis of the 'European mode of production'. This was used to give legitimacy to the British intervention in the sub-continent as it was necessary to break the stagnancy of the Indian society, so it was the lesser of the two evils, the first being remaining in the same stagnant state for eternity. This contrast between Europe and India became a primary concern, and in many cases resulted in the non-representation of those empirical facts which were not in congruence with the thesis.

The Nationalist Interpretation

This school of historians emerged towards the end of the 19th century. This was used for the anti-colonial movement for independence. In this school, history was used for two purposes, firstly, to establish the identity of Indians and secondly by establishing the superiority of the past over the present.

For the first purpose, the Aryan theory of race and other similar concepts came handy, whereas for the second purpose, the concept of the 'golden era of the Hindu civilisation' was created. This was done because the remoteness in history of the 'golden age' was directly proportional to its utility in imaginative reconstructions and inversely proportional to factual scrutiny.

The basic thing to be noted is that, the colonial nationalists to a large extent used the same methods of historiography as the imperialists but they interpreted these 'facts' differently so as to suit their socio-political needs. Though they did reject some of the imperial concepts like 'oriental despotism' etcetera but to a large extent they agreed on the historical facts with the imperialists.

This school was also responsible for the rise of religious nationalism based on the classification of the Hindu and Muslim civilisations. It has been argued that this was the period where the concept of separate countries for hindu's and muslims was conceptualised.

These interpretations are in the view of Ms. Thapar, distortions of Indian history. She states, "they are ideologically limited and intellectually even somewhat illiterate, because history becomes a kind of catechism in which the questions are known, the answers are known and there is adherence to just those questions and answers. No attempt is made to explore intellectually beyond this catechism."

The Post Colonial Interpretation

She does not discuss the Post-Independence Nationalist historians, all she says is that it is based on a communal interpretation, which has received a lot of political support.

- The two major schools in this period are,

Marxist School of Historiography

She clearly states that Indian Marxist historians do not follow the theories of Marx and Engels regarding Asian history. All they do is to follow the Marxist analysis, the dialectical method and historical materialism which are all part of the Marxist philosophy. The basic point to be noted here is that the theories of Marx and Engels were based on their studies of the European society and economy. So, the applicability of these theories to the Indian historiography was not adequate. This is shown by the refutation of Marxist concepts like Asiatic mode of production; application of the five stages of European history etcetera.

The focus of Marxist historiography is on social and economic history and it has challenged the prevailing periodisation of Indian history as enunciated by Mills. The Marxists have also addressed the following important issues; the difference between pre-modern and modern societies; the differences between pre-capitalist and modern societies; changes in the caste system and the transition from clan to caste; interpretation of religion as social ideology etcetera

Subaltern School of Historiography

This school believes that all other schools of history were elitist in nature as they were focussed on either the colonial state, the indigenous elites, the bourgeois nationalists or the middle class. So, they highlight the need to study the ‘participation of the subaltern groups’.

This school prefers local sources both private and popular in nature upon archives and official papers. They also use ‘oral tradition’ as legitimate historical source material. The following

extract is useful in understanding this school, "*they encourage the investigation of minutiae of what goes into the making of an event, of the author, of the audience, of the intention…… This kind of history then challenges the validity of making broad based historical generalisations. Each study is self contained. Eventually there are a large number of well documented studies with little cross connection.*"

Romila Thapar has certain objections to this school which are as follows, firstly, there attitude against generalisation is not acceptable to her as she thinks that by strictly avoiding generalisations there is a possibility of missing the big picture. She states that this school, 'has no framework of explanation which relates itself to a central point and to which each study can refer'. So, there is a large possibility of missing the complete picture. Secondly, she also disagrees with the axiom of this school that all readings are equally significant and that there can be no prioritisation of readings. This makes it in form similar to 19th century historiography which believed that all sources are equal.

In her view this school of historiography is still to make an impact on the historiography of pre-modern India. But, it has had a great impact on the history of the third world and has encouraged international comparative studies.

Her final conclusions are as follows:

The modern historiography of India is a continuing dialogue between colonial, nationalist and post-colonial interpretations. This has enriched historical theory and has also sharpened the debate and evaluation of comprehending the Indian past. She opines that this will provide for a more perceptive understanding of the past, which she thinks is essential on order to understand the present.

UNIT-II: STATE, POLITYAND GOVERNANCE

Nature of state, notions of kingship

ii) BUDDHIST

A king (manujinda, narinda or rāja) is a hereditary male ruler of royal descent. The Buddha defined a king as 'the chief of men' (rājā mukhaṃ manussānaṃ, Sn.568). Different religions have different theories about the origins and nature of kingship. The Bible, for example, says that all rulers derive their power from God and, thus, to obey the king is to obey God (Romans 13, 1-2). In Europe this doctrine came to be known as 'the divine right of kings.' Confucianism taught a similar idea called 'the mandate of Heaven.' According to Shinto, Brahmanism and later Hinduism, kings actually were gods. It naturally followed from all these ideas that a king's legitimacy was not derived from his fitness to rule but from divine assent or approval.

The Buddha had an entirely different and more realistic concept of kings and kingship. In the Aggañña Sutta he posited a social contract theory of monarchy. In ancient days, he said, people saw the need for some form of government and so they elected from amongst themselves a person who they thought would be best able to rule them. According to the Hindu myth, the first king of India was Mahāsammata, a name whose origin the Buddha reinterpreted in support of his idea to mean 'elected by the majority' (D.III,93; Ja.II,352). Thus according to the Buddhist theory, kings derived their legitimacy from general consent, i.e. from the people they ruled. It followed from this that a king retained his right to rule only for so long as his subjects benefited from it. Several stories in the Jātaka implicitly suggest that people had a right to overthrow a king who was cruel, unjust or incompetent (Ja.I,326; III,513-14; VI,156).

Such ideas were far too ahead of their time and there is little evidence that they were ever applied. However, the Buddha's teaching of good governance had some influence in making kings more humane. The best example of this is Aśoka who was probably being completely genuine when he said: 'All subjects are my children. I wish for them what I wish for my own children – their welfare and happiness both in this world and the next.'

While the Tipiṭaka and later literature always exhort kings to abide by Buddhist values, the general impression they give, almost certainly based on hard experience, is of kings as despotic, arbitrary, self-indulgent and ruthless. 'Kings are fickle-minded,' 'Kings are cruel,' 'Like a raging fire, kings are dangerous to be near.' (Ja.IV,432; V,345; VI,419). Some were described as being 'like dust in the eye, like grit in the soup, like a thorn in the heel' (Ja.II,240). When King Milinda asked Nāgasena if they could have a discussion on the Dhamma the latter said: 'Sire, I will discuss with you if you do so like a learned person and not like a king.' Milinda asked what the

difference was between these two approaches and Nāgasena replied: 'When the learned are discussing, beliefs are overturned, theories are unravelled, assertions are refuted, ideas are accepted, points are made and other points are made against them. When kings are discussing they say something and punish anyone who disagrees with it' (Mil.28-9).

Whether kings were good or bad, they had great power and the Buddha modified some of his teachings so as to avoid coming into conflict with them. In deference to the monarch he said that a person could not join the Saṅgha until they have fulfilled any obligations they had to the king (Vin.I,39) and that Vinaya rules could be changed if the king required it (Vin.I,137). At the same time he told monks and nuns to steer clear of royal courts so as not to get involved in all their intrigues, jealousies and temptations (A.V, 81).

The three kings who appear most frequently in the Tipiṭaka are Pasenadi of Kosala, Bimbisāra of Magadha and his son and heir Ajātasattu. It was about two years after his enlightenment that the Buddha first met King Pasenadi in Sāvatthi, the capital of Kosala (S.I,68). Impressed by his teaching, the king and his chief queen Mallikā soon became two of the Buddha's most dedicated disciples. Many discourses in the Tipiṭaka record dialogues between the Buddha and the king and nearly all the discourses in one chapter of the Saṃyutta Nikāya consists of such dialogues (S.I,68-102). Pasenadi's genuine integration of the Dhamma into his life is nowhere better illustrated than by the fact that his commitment to the Buddha's teachings did not prevent him from having respect for and being generous towards other religions (S.I,78; Ud.14). According to tradition, Pasenadi had two sons, one of whom, Brahmadatta, became a monk (Th.441-6).

Bimbisāra came to the throne at the age of 15 and ruled for 52 years. He had met Prince Siddhattha briefly while he was still a wandering ascetic (Sn.408-9), again in the year after his enlightenment and on several subsequent occasions. Bimbisāra donated one of his pleasure gardens, the Bamboo Grove, to the Buddha to be used as a monastery (Vin.I,35). Although Buddhist tradition says Bimbisāra was a devout Buddhist there is no discourse in the whole of the Tipiṭaka addressed to him. Like many Indian kings, he probably supported all religions and each claimed him as one of their followers.

While the Buddha called Bimbisāra 'a just and righteous king' (D.I,86), his son Ajātasattu is depicted in the Tipiṭaka as ruthless, scheming and unpredictable. He murdered his father to get the throne and supported Devadatta in his machinations against the Buddha (Vin.II,185). He also had territorial ambitions. He provoked a war with Kosala which turned out to be a disaster for him (S.I,82-5) and we read of him fortifying the border town of Pāṭaligāma in preparation for invading Vajji (D.II,86). There is also a brief reference to him strengthening the walls of his capital out of suspicion that his neighbours were going to attack him (A.II,182). In time, Ajātasattu came to be haunted by thoughts of his murdered father and sought consolation from the Buddha (D.I,47-9). Tradition tells us that Ajātasattu ruled for 35 years and was eventually murdered by his own son Udāyibhadda.

iii) KAUTILYAN

The history of tradition of Indian Politics is ancient and dates back during the time of Vedas. The discussions regarding politics are found in 'smritis' and 'puranas' by the name 'dandaniti'. References to various political texts are available which studied and explored the concept of 'dandaniti'. It is perhaps Kautilya's Arthashastra which stands out to be thoroughly scientific and most authoritative interpretations of these ancient studies. Written in around 4th century BC by the Prime Minister of The Great Mauryan Empire Kautilya, also known as Chanakya or Vishnugupta, Arthashastra is one of the most influential and comprehensive treatises in Political Science in the Indian Vedic Civilization. Regarded as quintessence of ancient Vedic wisdom in politics and economics, Arthashastra holds remarkable relevance in today's times with some curious resonance with the thoughts and theories of various philosophers, economists and political scientists around the world.

Unlike many other writers in the polity, Kautilya is unique Indian political thinker who was both thinker and statesman. He participated in various social and political revolutions of his Age and abstracted from his study of conflicts some general principles capable of universal application and effective in all times and ages. With more and more studies in the field of politics and economics and with a modern outlook and understanding of world affairs, the relevance and appreciation of Kautilya's 'arthashastra' is incontrovertible.

Arthashastra

Arthashastra means the science (sastra) of wealth/earth/polity (artha). 'Artha' however is bit wider and an all-embracing term with variety of meanings. In 'Arthashastra' itself it is being used in various contexts, points out L N Rangarajan in his translation of Kautilya –Arthashastra. It is used in the sense of material well-being, in livelihood, economically productive activity trade etc. This is bit similar with 'wealth' which is defined in 'Wealth of Nations'. In rather simple way, 'arthashastra' can be defined as 'science and art of politics and diplomacy'. This treatise is divided into sixteen books dealing with virtually every topic concerned with the running of a state – taxation, law, diplomacy, military strategy, economics, bureaucracy etc. The book is a masterpiece which covers a wide range of topics like statecraft, politics, strategy, selection and training of employees, leadership skills, legal systems, accounting systems, taxation, fiscal policies, civil rules, internal and foreign trade etc. Arthashastra advocates rational ethic to the conduct of the affairs of the state. The emphasis is on codification of law and uniformity of law throughout the empire. In this essay we shall try to explore Kautilya's views on legal systems, justice and king's role in maintaining law and order as discussed in Arthashastra by Kautilya himself.

Kautilya on Law and Justice

Kautilya maintained that it is essential duty of government to maintain order. He defines 'order' broadly to include both social as well as order in the sense of preventing and punishing criminal

activity. Arthashastra thus contains both the civil law and criminal law. Kautilya ascribed a lot of importance to 'dharma'. According to him, 'the ultimate source of all law is dharma'. He appealed in the name of 'dharma' to the sense of honour and duty and to human dignity, to moral responsibility and to enlightened patriotism. It's quite intelligible that the judge in the arthashastra was called 'dharmashta' or upholder of dharma. He maintained that so long every 'Arya' follows his 'svadharma' having due regard to his 'varna' and 'ashrama' and the king follows his 'rajdharma', social order will be maintained.

Kautilya's emphasis on duties of King in maintaining law and order in the society is so much that he writes in Arthashastra, "because the King is the guardian of right conduct of this world with four 'varnas' and four 'ashramas' he [alone] can enact and promulgate laws [to uphold them] when all traditional codes of conduct perish [through disuse or disobedience]."

The King was looked upon an embodiment of virtue, a protector of dharma. He too was governed by his dharma as any other citizen was. Thus if any actions of the King went against the prevailing notion of dharma, associations and/or the individual citizens were free to question him. He recalls every time that 'dharma' alone is guiding star for every king, or rather every individual and that following 'dharma' one shall have a life of dignity while social order prevailing in society. He remarks, "A King who administers justice in accordance with 'dharma', evidence, customs, and written law will be able to conquer whole world". Kautilya recognized the importance of rational law or King's law and its priority to 'dharma', 'vyayhara' and 'charitra'. He maintained that King's law was to be in accordance with the injunctions of the three Vedas wherein the four 'varnas' and 'ashramas' are defined. King was not the sole interpreter of dharma. In fact there was no specific institution vested with the authority of interpreting dharma. Every individual was deemed competent to interpret it. This was an important factor in ensuring the non-religious character of the Vedic state.

Kautilya did not view law to be an expression of the free will of the people. Thus sovereignty – the authority to make laws, did not vest with citizens. Laws were derived from four sources – dharma (scared law), vyavhara (evidence), charita (history and custom), and rajasasana (edicts of the King). Kautilya prescribe that any matter of dispute shall be judged according to four bases of justice. These in order of increasing importance are:

- 'Dharma', which is based on truth

- 'Evidence', which is based on witnesses

- 'Custom', i.e. tradition accepted by the people

- 'Royal Edicts', i.e. law as promulgated.

In case of conflict amongst the various laws, dharma was supreme. The ordering of the other laws was case specific. Rajasasana ordered the relationship between the three major social

groupings – the citizen, the association, and the state. The constitutional rules at the state level were specified in the rajasasana but the constitutional rules at the level of the association were to be decided by the members of the association. The collective choice and the operational level rules of the association were also decided by the members of the association though the state did promulgate laws to safeguard the individual member from the tyranny of the majority in the association. Arthashastra outlines a system of civil, criminal, and mercantile law (now known as business laws). For example the following were codified: a procedure for interrogation, torture, and trial, the rights of the accused, what constitutes permissible evidence, a procedure for autopsy in case of death in suspicious circumstances, what constitutes defamation and procedure for claiming damages, valid and invalid contracts.

We see in Arthashastra that law was not viewed just as code of prohibition, nor was it limited to corrective justice of law courts. Its range was wider than morality itself and institutions were creation of law while traditions and customs rested on its sanctions. All ideas of society were moulded by it and law was blended with religion, with morality and with public opinion and by its subtle operations subjected the society to its will. The role of law in the society was to bring a just order in society and the tremendous task was to be shouldered by the King along with his subordinates. As rightly pointed out by Kautilya in his famous verse –

“In the happiness of his subjects lies the King’s happiness;

In their welfare his welfare.

He shall not consider as good only that which pleases him but,

Treat as beneficial to him whatever pleases his subjects”

B) Administrative apparatus in VedicAge, Age of Mauryas and Guptas

i) VEDIC POLITY

It was believed in the early part of the 20th century that the polity represented in the Rig-Veda was the full-fledged state system with all the constituent elements of a state. However, since 1950 the researches have shown that in the early Vedic period the polity was nothing more than a tribal chief ship in which the term raj and was used for the tribal chief who was primarily a military chieftain leading the tribe in wars for the sake of taking possession of cows and other cattle wealth but not taking over possession of territories.

The concept of territory was completely absent. The tribal chief or the rajan was the leader of the people belonging to a particular tribe and not the ruler of any territory. This is why he was known as janasya gopa or gopati janasya. The terms for territory are not common in the Rig-Veda. Although the term Jana which means tribe is used 275 times, the term Janapada does not occur even once.

The term rajya is used in one instance, and the word rastra occurs ten times. This suggests that the territorial aspect of the polity appeared at the end of the Rigvedic period. The term grama, appearing 13 times in the Rigveda, does not give the sense of a village, but a tribal unit mobilized for fighting.

That is why the Vrajapati, in-charge of commonly held tribal land and the leader of the family, lead in the battles, and later became synonymous with the gramani who himself originally was the head of the tribal unit called grama.

The Rigvedic king, it is believed, was one of the equals whose hereditary position was not unquestioned. Several references suggest that the king owed his office to the choice of the people. Most references to the election of the king by the tribesmen (visa) are found in the Atharvaveda, but the practice must have begun much earlier. Some stray references to it are found in the Rigveda as well. This clearly shows that the tribe elected its chief.

However, some references suggest that kingship or chief ship was confined to certain families, even though the actual examples do not confirm the practice of royal succession in one family for more than three generations. Thus, it is quite doubtful if the law of primogeniture was sharply defined.

This lack of strong hereditary succession came in the way of chief to become the most powerful person. His authority was also curtailed by the tribal assemblies called sabha, samiti, vidatha, praised and gana.

Purohita was another powerful person who accompanied the king to battle and boosted his morale with prayers and spell. Because of the constant wars, the tribal chief or the king commanded the services of a large number of slaves (dasas). This, along with the acquisition of large number of catties, made the chief a wealthy person.

The Rigvedic king did not have elaborate administrative machinery because the nature of the Rigvedic economy could not support it. An economy in which the surplus was very small, the king and his officials received only Bali, i.e. offering to a prince or to a god. This tribute was received in kind from the cianmen of the chief and from the conquered people.

However, these tributes were neither regular and nor stipulated and hence cannot be called a tax. Similarly, the terms senani and sena (used 20 times in Rigveda) do not show the existence of a regular standing army. The military functions were invested in the Vedic assemblies.

The Vrajapati the Kulapa (head of the family) and the gramani, all appear to have functioned as military leaders. The only functionary who had some permanent responsibility for defence was purpatis (commanders of mud forts or strongholds).

The Rigvedic kings employed spies called spasa to keep an eye on the conduct of the people. Ugra and Jivagribha were officials probably meant for dealing with the criminals and the madyamasi seems to have acted as a mediator in disputes.

About half a dozen functionaries such as mahisi (literally the powerful one, was the crowned queen), the purohita, treasurer, the charioteer, the tankan (carpenter) and the duta (messenger) are mentioned. We do not hear of any code of law nor do we meet with any category of officers to administer justice.

Tribal Assemblies (Vidatha)

The term vidatha is mentioned 122 times in the Rigveda and seems to be the most important assembly in the Rigvedic period. Roth concluded that the vidatha was an assembly meant for secular, religious and military purposes. The Rigveda only once indicated the connection of woman with the sabha whereas vidatha is frequently associated with woman.

Women actively participated in the deliberations with men. It seems that the vidatha was the earliest folk assembly of the Indo-Aryans, performing all kinds of functions - economic, military, religious and social. Produces were distributed in the vidatha.

The members discussed the exploits of heroes, and conducted war against the hostile tribes. The vidatha also provided common ground to clans and tribes for the worship of their gods.

Sabha

The term Sabha (used 8 times in Rigveda) denotes both the assembly and the assembly hall. The latter sense comes from the later- Vedic texts. This assembly was also attended by woman who was called sabhavati. It was basically a kin-based assembly and the practice of women attending it was stopped in later-Vedic times.

A passage in the Rigveda speaks of the sabha as a dicing and gambling assembly. It was also associated with dancing, music, witchcraft, and magic. It discussed pastoral affairs and performed political and administrative functions and exercised judicial authority.

Samiti

All the six references to samiti come from the latest books of the Rigveda showing that it assumed importance only towards the end of the Rigvedic period. It is generally agreed that the

early samiti was a folk assembly in which people of the tribe gathered for transacting tribal business.

According to Ludwig it was a core comprehensive conference, which included the common people (vis), the brahmanas and the rich patrons. Probably it was a general tribal assembly. It discussed philosophical issues and was concerned with religious ceremonies and prayers.

A reference in the Atharvaveda suggests that the samiti was identical with the tribal military unit (grama) whose collection was called samgrama. However, the political functions of the samiti were far more prominent. References suggest that the king was elected and re-elected by the samiti.

In the beginning, there was no difference between the sabha and the samiti. Both are said to be daughters of Prajapati. The Atharvaveda shows that both were mobile units led by chiefs who kept moving along with the forces.

The only difference between sabha and samiti seems to be the fact that sabha performed judicial functions, which the samiti did not. Later, the sabha became a small aristocratic body and samiti ceased to exist.

Gana

Gana, the technical word for the republic, has been interpreted in most of the Rigvedic references in the sense of assembly or troop. A careful study shows that it was a sort of gentile organisation of the Indo-Afyans. The leader of the gana is generally called ganapati and at some places ganasya raja.

Parisad

The early parisad seems to be a tribal military assembly, partly matriarchal and partly patriarchal. However, the variety of the references to the parisad in the Rigveda may also have been due to the non-Vedic character of the parisad. In later-Vedic period it tended to become partly an academy and partly a royal council dominated by the priests, who functioned as teachers and advisers.

ii) MAURYAN STATES

The Mauryas: Indian dynasty in the fourth-third centuries BCE, which unified the subcontinent for the first time and contributed to the spread of Buddhism.

In the last weeks of 327 BCE, the Macedonian king Alexander the Great invaded the valley of the river Kabul, and in the next months, he conqueredTaxila, defeated the Indian king Porus at the river Hydaspes, and reached the eastern border of the Punjab. He wanted to continue to

the kingdom of Magadha in the Lower Ganges valley, but his soldiers refused to go any further, and Alexander was forced to go south. Many Indians now resisted the invaders. By the end of 325, the Macedonian king had left the area of what is now Karachi, and his admiral Nearchus was forced out of Patala.

Alexander's conquests had been spectacular, but he had not conquered India. On the contrary. Not even the Punjab and the Indus valley were safe possessions of his kingdom. Before Alexander had died in 323, he had redeployed nearly all his troops west of the Indus. For the first time, he had lost part of his empire. On the other hand, his invasion changed the course of Indian history. In Taxila, a young man named Chandragupta Maurya had seen the Macedonian army, and - believing that anything a European could do an Indian could do better - decided to train an army on a similar footing. In 321, he seized the throne of Magadha. The Mauryan empire was born.

Chandragupta Maurya (c.321-c.297)

Chandragupta was a pupil of a famous Brahman teacher, Kautilya. Once Chandragupta had conquered the Nanda throne, he invaded the Punjab - and he was lucky. In 317, one of Alexander's successors, Peithon, the satrap of Media, tried to subdue the leaders of the eastern provinces, who united against him. This civil war offered Chandragupta the opportunity he needed and he was able to capture Taxila, the capital of the Punjab.

When the situation in Alexander's former kingdom had stabilized, one of hissuccessors, Seleucus, tried to reconquer the eastern territories, but the war was inconclusive, and the Macedonian offered a peace treaty to Chandragupta. The latter recognized the Seleucid Empire and gave his new friend 500 elephants; Seleucus recognized the Mauryan empire and gave up the eastern territories, including Gandara and Arachosia (i.e., the country northeast of modern Qandahar). Finally, there was *epigamia*, which can mean that either the two dynasties intermarried, or the unions of Macedonians/Greeks with Indians were recognized.

Chandragupta had now united the Indus and Ganges valley - a formidable empire. There was a secret service, there were inspectors, there was a large army, and the capital at Patna became a beautiful city. His adviser Kautilya wrote a guide to statecraft which is known as *Arthasastra*. A Greek visitor, Megasthenes, gives a very strange description of the caste system (accepting seven instead of the usual four classes of people), and it is likely that he describes an attempted reform. This is certainly not impossible, because Chandragupta turned out to be not deeply attached to orthodox Brahmanism. According to the ancient scriptures of the Jainists, the king abdicated at the end of his life (in 297?) in favor of Bindusara, and converted to the Jaina faith; he died as an ascetic, having fasted to death.

Bindusara Maurya (c.297-c.272)

Bindusara was the son of Chandragupta. His reign lasted a quarter of a century, until 272, but of the three great Mauryan emperors, he is the least known. For example, he is mentioned as the man who conquered "the country between the two seas" (i.e., the Bay of Bengal and the Arabian Sea), which suggests that he conquered central India, but the same deeds are ascribed to his son Ashoka. We can not choose between these two.

Bindusara had some contacts with the far west, where Antiochus I Soter had succeeded his father Seleucus as king of the Seleucid empire. Bindusara approached him, asking for wine, figs, and a philosopher - the king sending him only the two first products, saying that philosophers were not fit for export. Whatever one thinks about this anecdote, it proves that there were diplomatic contacts. It comes as a surprise, therefore, that Bindusara is called*Amitrochates* in Greek sources, which simply can not be a rendering of Bindusara's name. A possible explanation is that Bindusara had accepted a throne name *Amitragatha*, 'destroyer of enemies'. Possible. But why isn't this mentioned in Indian sources? This king remains a mystery.

Ashoka Maurya (c.272-c.232)

Texts from southern India mention the Mauryan chariots invading the country "thundering across the land, with white pennants brilliant like sunshine". Indeed, Ashoka, who succeeded his father Bindusara in 272, was a great conqueror, and the first to unite the Indian subcontinent, except for the extreme south. However, the emperor came to hate war after he had seen the bloodshed of the conquest of Kalinga in eastern India, and he converted to Buddhism. He wanted to establish *dhamma*, 'the law of justice', everywhere in India and Arachosia. In the rock edicts he left behind on several places in his realm, the emperor says: The beloved of the gods [...] conquered Kalinga eight years after his coronation. One hundred and fifty thousand people were deported, one hundred thousand were killed and many more died from other causes. After the Kalingas had been conquered, the beloved of the gods came to feel a strong inclination towards the *dhamma*, a love for the *dhamma* and for instruction in *dhamma*. Now the beloved of the gods feels deep remorse for having conquered the Kalingas.

Indeed, the beloved of the gods is deeply pained by the killing, dying and deportation that take place when an unconquered country is conquered. But the beloved of the gods is pained even more by this -that Brahmans, ascetics, and householders of different religions who live in those countries, and who are respectful to superiors, to mother and father, to elders, and who behave properly and have strong loyalty towards friends, acquaintances, companions, relatives, servants and employees- that they are injured, killed or separated from their loved ones. Even those who are not affected by all this suffer when they see friends, acquaintances, companions and relatives affected. These misfortunes befall all as a result of war, and this pains the beloved of the gods.

It seems that Ashoka was sincere when he proclaimed his belief in *ahimsa* (non-violence) and cooperation between religions ("contact between religions is good"). He never conquered the

south of India or Sri Lanka, which would have been logical, and instead sent out missionaries -as far away as Cyrenaica- to convert others to the same beliefs, and sent his brother to Sri Lanka. He erected several stupas, founded Buddhist monasteries, softened the harsh laws of Bindusara and Chandragupta, forbade the brutal slaughter of animals, and organized a large Buddhist council at Patna, which had to establish a new canon of sacred texts and repress heresies.

Decline

After the death of Ashoka, the Mauryan empire declined. In c.240, the Bactrian leaders -who were of Greek descent- revolted from their Seleucid overlords, and although king Antiochus III the Great restored order in 206, the Bactrian leader Euthydemus declared himself independent within a decade. Not much later, the Graeco-Bactrian kingdom expanded into Drangiana and Gandara.

The invasion of the Punjab, which took place in 184, revitalized the Greek culture in the region south of the Hindu Kush mountain range, where Euthydemus' son Demetrius created a new kingdom, consisting of Gandara, Arachosia, the Punjab and even a part of the Ganges valley. Demetrius died in c.170 and left his kingdom to his sons, who continued to fight against the Mauryan empire. However, they were divided. But when king Menander reunited the Indo-Greek kingdom in c.125, the westerners were able to invade the heartland of the already contracted Mauryan empire, and even captured Patna. Never has a Greek army reached a more eastern point.

Yet, the Indo-Greek kings had to accept the realities created by the Mauryan empire. Buddhism was to be the religion of the future. King Menander converted and became something of a Buddhist saint. One of the holy texts of Buddhism is called *Milindapañha*, 'Questions of Menander'.

iii) GUPTA POLITY

India, had witnessed a number of empire building effort throughout the period of its history. We have already discussed one such successful effort at the initiative of the Mauryas. Even after the fall of the Mauryas this imperial ambition continued for centuries when different royal dynasties like Sunga, Satavahana etc tried to emulate the Mauryas, but nothing special happen on the lines of an empire, till the appearance of the Guptas in Indian politics during the 4th century AD. However Scholar like Romila Thapper refused to recognize the initiatives of the Gupta as being the perfect realization of the concept of an empire, primarily because of its decentralized form of administration. Whatever might be the fact the Gupta period (starting from 4th century AD to that of 6th century AD) is an important phase of Indian history when every manifestation of life reached a peak of excellence as to a line of classicalism.

Emergence of the Guptas

The origin of Gupta, like most of the ruling dynasties of ancient India, is somewhat obscure in nature. Different theories have been put forwarded by the historians about the origin of Gupta families from time to time. Some historian believed that they were the rulers of a small principality in Magadha, while others believed that their original homeland was the Western Ganga plain. On the other hand, depending on their name, some historians tried to identify them as being the person belonging to the Vaishya community but others tried to accord them with a status of a Brahman.

Now regarding the question of their actual emergence, the Gupta records mentioned the name of the first three rulers of the family as Maharaja Sri Gupta, his son Maharaja Ghatotkacha and the latter's son Maharajadhiraja Chandra Gupta. Depending on different records the majority of historians now confirm that during the 4th century AD there was a general tradition among the subordinate chiefs to be normally styled as Maharaja while the independent Kings liked to call themselves Maharajadhiraja. As to the line of that description- the first two rulers of the Gupta dynasty appeared to be the feudatory chief, but it is difficult to know the name of their suzerain.

Chandra Gupta I, the third ruler of the Gupta line succeeded Ghatotkacha and brought the house successfully under the full light of history by removing the veil of obscurity. It was he who determined the tract of an imperial identity for the Guptas in future. Chandra Gupta I married into the Lichchavi family, once an old established Gana- Sangha of north Bihar, now associated with the kingdom of Nepal. This Lichchhavi- Gupta matrimonial alliance had a special significance for the emergence of Gupta power in future. Eminent historian Romila Thapper has put forwarded the view that perhaps the Guptas had no royal origin, and under such circumstances, the marriage alliance with an old prestigious family, had normally set a stamp of acceptability. On the other hand V.A Smith expressed the view that the Lichchhavei prince Kumaradevi brought to her husband as her dowry valuable influence which in due course of time offered him a paramount position in Magadha and in the neighbouring countries. In other word it can be said that the marriage alliance of Chandra Gupta I was important not from the social point of view but form political point of view. Thus being received with the status of political acceptability in Indian politics, Chandra Gupta I successfully extended his rule over the main heartland of Ganga plain which had included some of the important territories like Magadha, Saketa, Prayaga. This inclusion sufficiently proved his independent status to adopt the title like Maharajadhiraja or king of kings. Based upon the campaigns of Samudra Gupta some historians consider his kingdom as consisting of whole of Bihar, a portion of Bengal except the part of Samatala or eastern Bengal, Eastern U.P. i.e. a territory extending upto Benaras. However, there are a lot confusions over the question of the extension of his empire. The establishment of the Gupta era from the date of his accession i.e. in and about 319-320 AD has further highlighted the political importance of the reigning period of Chandra Gupta I. Thus the first three rulers of the Gupta line had successfully establish them as an emerging power of Indian politics.

Extension of the Empire

Samudra Gupta's policy of expansion

The extension of Gupta Empire was mainly the handy-work of great Gupta emperor Samudra Gupta, who ascended the throne in about 335 AD. The main source of information of his campaign is a lengthy eulogy, inscribed on an Ashokan Pillar at Allahbad known as the Allahbad Pillar Prasasti. The writer of this eulogy was his court poet Harisena. Apart from this inscription, the Bhitari Seal and pillar, different numismatic evidences, along with Vayu and Bhagavata Purana throw a good deal of light on the political condition of India at that time.

There is a controversy regarding a civil war for the throne, on the basis of a Sanskrit term Tulya Kulaja i.e. princes of equal birth. Allahabad Prasasti clearly states that Samudra Gupta was nominated to the throne by his father Chandra Gupta I on the occasion of a full session of royal court. His nomination probably offended the princess of his equal birth as some historian think and provided an opportunity of a revolt under the leadership of an obscure prince Kacha. This Kacha was supposed to be the eldest brother of Samudra Gupta. But subsequent numismatic evidence proves that Kacha was an alias of Samudra Gupta himself. This view is yet to enjoy the general acceptability of the Scholars and it still remain as a matter of further research. Whatever might be the trouble that led to his coronation Samudra Gupta had successfully overcome it.

Allahbad Inscription gives an impressive list of Kings and region that were conquered and brought under various degrees of his subjection. Depending on that list the victorious campaign of Samudra Gupta can be discussed in the following.

The great king started his career of expansion by subjugating the neighbouring kings in the Ganga- Yamuna Valley and thus tried to consolidate his position at home before he started his campaign in the remote South. It was at that initial stroke he defeated four important kings of modern UP and Central India. They were Achyuta of Ahichhatra (Modern Ramnagar and Rai Bareilly district of UP) Naga sena of Mathura, Ganapati Naga of Padmavati (Gwaliar) and the prince of the Kota family (yet to be ascertained).

Samudra Gupta was a great conqueror. After consolidating his position in and around his home tract of Magadha, he might have started his campaign towards Dakshinapatha (South India). It is interesting that his South Indian campaign was formulated with a theory of Dharmavijaya which was marked by three principles viz grahana (capture of the enemy), moksha (liberation) and anugraha (principle of favoring by reinstating the enemy).

During the course of his campaign Samudra Gupta defeated as many as twelve kings of South India, whom he first captured and then liberated and ultimately reinstated in their respective Kingdom. The list of the twelve South Indian Kings as put forwarded by the Allahbad Prasasti are as follows- Mahendra of Kosala (Bilaspur, Raipur, Sambalpur district) Vyaghraja of

Mahakantara (forest tract of Jaipur reign of Orissa) Mantaraja of Kurala (yet to be ascertained), Mahendragiri of Pishtapuram (Pithapuram in Godavari district) Svamidatta of Kottura (Ganjam district), Damana of Erandapalla (Vizagopatam district), Vishnugopa of Kanchi, Hastivarman of Vengi (Ellore in Krishna- Godavari Dist), Nilaraja of Avamukta (yet to be ascertained) Ugrasena of Palakka (Vellore district), Kuvera of Devarashtra (Viz. gapatam dist) and Dhananjaya of Kushalapura (in North Arcot District).

Probably when Samudra Gupta was engaged in his Southern Campaign, some of the north Indian rulers, by taking the opportunity of his absence, might have started a revolt against him. To deal with the matter Samudra Gupta hurried back home and found that nine of his hostile North Indian King formed a confederacy to resist his victorious campaign. Among these nine rulers- three of them were the Naga rulers of Central India, namely Achyuta, Nagasena and Ganapati Naga whom he had defeated in his earlier campaign. The other six rulers of north India to form the confederacy were Rudradeva (identified as Rudrasena I of Vakataka), and Matila (Western UP), Nagadatta, Nandin and Balavarman three other Naga rulers of Central India. Inspite of their combined efforts, the descriptions of Poet Harisen has made it clear that Samudra Gupta not only defeated them but also uprooted them violently.

Apart from these three major campaign Samudra- Gupta also defeated some of the forest Kings or the tribal chiefs of Central India and the Deccan. Along with that nine republics, including the age old Malavas, Yaudheyas, Madrakas were also forced to accept the Gupta Suzerainty. His victory over the Tribal and the Republican states proved to be disastrous one for the later Guptas: accordingly when the Hunas invaded North-Western India, including Punjab and Rajasthan no power was there to act as a buffer for the Ganga Plain.

The impression of his power compelled some of the frontier States “Pratyanta nripatis” like Samatata (South Eastern Bengal) Davaka (Dabaka in Nagaon district of Assam) Kamarupa, Nepal, Kartripura, to become voluntarily his vassals by paying tribute, obeying his order and offering him personal homage. Apart from that even some of the independent or semi independent foreign powers beyond the frontier of Samudra Gupta’s empire like Daivaputra Shahi Shahanu Shahi Saka Murundas etc also entered into subordinate alliance with him. Moreover, Meghavahana, the king of Ceylon (Sri lanka) maintained diplomatic relation with him. Thus the Gupta Empire during the time of Samudra- Gupta included whole of north India except the tract of the Saka rule in Western India, Kashmir, Western Punjab, Western Pajputana. In the South the Gupta hegemony was extended even upto the tract of Tamilnadu. Despite his all round conquest the Indian subcontinent, the main area of his rule, however was much more limited as his direct rule comprised only of UP, Bihar, West Bengal a portion of Central Province and Vindhya region. To commemorate his victory Samudra Gupta performed the Asvamedha Sacrifice (Horse Secrifice), the performance of which is often regarded in history as a symbol of imperialism.

Chandra Gupta II’s policy of expansion

There was another important phase of expansion of Gupta history, which started with the reigning period of Chandra Gupta II, son and successor of Samudra Gupta. This was a campaign against the Sakas of Western India. This campaign took place in between 388-409 AD. The main source of information of this campaign is two inscriptions in Udaygiri and Vishakhadatta's Sanskrit drama Devi- Chandraguptam. According to the story of the drama after the death of Samudra Gupta, his eldest son Rama Gupta became the King of Gupta Empire. The name of the wife of King Rama Gupta was Dhruvadevi. The Sakas invaded the Gupta territory and Rama failed to resist the Saka invasion. Ultimately he had to make an agreement with the Saka ruler to surrender his wife Dhruvadevi in return for his kingdom. Chandra- Gupta II who was the younger brother of Rama Gupta was disgusted with the action of his elder brother and he in a heroic attempt not only rescued Dhruvadevi from the Sakas but also killed the Saka King. Then Chandra GuptaII killed his elder brother and occupied the Gupta throne and married queen Dhrubadevi. What ever might be the truth, the story in its turn confirmed the natural tendency of westward expansion of Gupta Empire which Samudra Gupta left to his successor.

As we have already discussed, Samudra Gupta had extended the frontier of the Gupta empire on all sides. He left his vast empire to his successor Chandragupta II. We have to depend upon various literary and geographic evidences for forming our idea about Chandragupta II's conquests. Samudragupta had extended his frontier east and southward. His westward expansion halted at Eastern Malwa. Further expansion eastward and southward was not possible. Hence the natural tendency of expansion in the reign of Chandragupta II lay westward against the kingdom of the Saka Satrapas of Western Malwa and Gujrat. He feared an alliance between the Sakas and the Vakatakas of Maharastra and the Nagas. Therefore, he followed a policy of isolating the Sakas by forging a matrimonial alliance with the Vakatakas and the Nagas. As a result of that, Chandragupta II married Kuvera- Naga, a princess of the Naga family and won the friendship of the Naga power. The Nagas formed a powerful political force in Central India and their alliance consolidated Gupta authority in the region. Prabhavati Gupta, the daughter of Chandragupta II and his queen Kuvera- Naga, was married to Rudrasena II, the Vakataka ruler of Maharashtra. The geographical position of the Vakataka kingdom was such that it could be of immense help to Chandragupta II for his projected campaigns against the Sakas of Kathiwar and their hostility could seriously embarrass him. Moreover the Vakataka alliance was an useful deterrent against future revolt of the Sakas in Saurashtra. Rudrasena II had died at a early age and after his death Prabhavati- Gupta became the regent of her minor sons, which indirectly increased Gupta influence in the Vakataka court. According to a tradition Chandragupta II or his son married a Kadamba princess of the Kuntala Country. This marriage is politically useful for operation against the Sakas. Thus, by a policy of matrimonial alliance with the Nagas, Vakatakas and Kadambas, Chandragupta II encircled the Sakas.

Chandragupta II's brilliant victory over the Saka Satrap united India with the rest of Northern India. It rounded off the Gupta Empire by pushing its Western limit to the natural frontier on the Arabian Sea. The Gupta Empire now extended from the Bay of Bengal in the east to the

Arabian Sea on the West. The annexation of Saurashtra and Malwa by Chandragupta II opened up to the Guptas free access to the ports of the Western coast specially to the part of Barygaza. Indian trade between Northern and Western India vastly increased as a result of conquest of Malwa and Saurashtra. The city of Ujjaini lay on the high road of trade between the Northern and Western India. The city became a great emporium of trade. It became a great centre of culture and religion. Chandragupta II converted this city into his second capital. However, Chandragupta II's great victory over the Sakas is not directly mentioned in any official epigraph of the Guptas.

Chandragupta II's greatest achievement was the conquest of Malwa, Gujarat and Kathiwar from the Western Saka Satraps. The Sakas of Western India were a very powerful neighbour. They remained as a thorn on the side of the Gupta empire. Chandragupta II, while he was a crown prince, acted as a governor of Eastern Malwa and was conscious of the Saka problem on the frontier. He connected Eastern Malwa as his lease of operation against the Saka Khatrapa Rudrasinha II. This is corroborated by the Udayagiri inscription and also by the Harshacharita.

Apart from the Saka war, Chandragupta II had other successful military campaigns to his credit, but we have no definite information about these conquests.The Mehrauli Iron Pillar (near the Qutub Minar in Delhi)Inscription refers to the exploit of a king Chandra who quelled a rebellion in Bengal and vanquished the rulers of the Sapta Sindhu area. As Chandragupta II is called 'Chandra' in his coin, historian generally accept his identification with the Chandra of the inscription. With the end of the reigning period of Chandra Gupta II the period of expansion of Gupta Empire has come to an end. Despite of his important conquest he was remembered not as a great conqueror but as a consolidator.

Polity and Administration of the Guptas

We have a few important sources for the study of the Gupta polity and administration. Some literary sources like various Smritis, Manava Dharma Sastra, Yajnavalka Smritis, Narada Smriti and Kamandaka's Nitisara etc are important sources. The Damodarpur and the Eran inscriptions throw light on Gupta administration.

Monarchy was advocated as an ideal system of government in the Gupta period. There were some tribal republics like those of the Malavas, Yaudheyas, Arjunayanas in Northern India. There was always contradiction between the two systems of government. Kingship being sanctioned by the Brahmanical shastras was powerful and aggressive against the republics.

The king or samrata was at the head of the government. He ruled by hereditary right. The Gupta emperors adopted the high sounding titles of Maharajadhiraja, Paramabhattaraka etc. They brought additional lustre to their position by claiming for themselves divine origin and super human qualities. Hence, they assumed magnificent titles like Paramesvara and as one equal to gods Kubera, Varuna, Indra etc. Achintyapurusha, Lokadhamadeva, Parama-daivata, etc.

Theoretically there was no limit on the King's power. He ruled over his vast empire with absolute command over all the branches of the government. He was the supreme commander of the army. Samudragupta and Chandragupta II personally led the army. The governors, important civil and military officers were appointed by the king and held office at his pleasure. The central bureaucray functioned under his personal supervision. The king was the master of all lands and he could grant them to anybody.

However, the claim of divine origin and the enjoyment of vast theoretical rights did not convert the Gupta emperors into crude despots without any touch of benevolence among them. Samudragupta and Chandragupta II were aware of their duties to the people. The government did not interfere in the daily life of the people. It was sympathetic to peoples needs. Moreover, there were certain practical checks on the king's authority and power. He had to share power with high officials. It was a custom for the king to abstain from routine duties of ministers. He had to obey the rules laid down by the Dharma Shastras. The local bodies enjoyed a good deal of autonomy in which he normally did not interfere. Moreover the system of granting agrahara and brahmadeya lands led to increasing decentralization in administration and weakening hold of the central authority.

The succession to the throne was hereditary but the emperor reserved the right of selecting the heir apparent. Samudra Gupta was nominated by Chandragupta I as his successor from among the sons of the latter. Kumara Gupta I probably nominated Skanda Gupta. But the system of nomination was not free from trouble.

The King was the supreme head of the government. Next in rank to him was the Yuvaraja or crown prince. The mantrin or ministers stood at the head of the civil administration and their offices were generally hereditary. Perhaps some other high offices were also hereditary and limited to a number of families. The Mahadanda nayakas held offices in hereditary capacity. Sandhi- vigrahika or minister of war and peace was a new office of minister created in the Gupta period. Some of the ministers combined different offices at the same time. We do not know whether there was a Mantri-Parishad or council of ministers of the Mauryan type. Kalidasa refers to a council of ministers whose decision was conveyed to the emperor by the chamberlain or kanchuki. Generally ministers acted as individual advisers and assistants of the king.

The vast empire of the Guptas could only be managed with the help of an organized bureaucracy. The central and provincial officials were differentiated by their designation. Among the high officials in the central administration mention may be made of Mahabaladhikrita (Commander-in-chief), Mahadandanayaka (chief general), Mahapratihara (chief of the palace guards), Sandhivigrahika (minister in charge of war and peace), Akshapataladhikrita (keeper of State documents); Mahakapati (head of the cavalry force) etc. They were assisted by a host of junior officials. There was no distinction between civil and military officials and sometimes both duties were combined in a single person.

There was another class of officials called Kumaramatyas and Ayuktas. They worked as the link between the central and provincial administration. High imperial officers and officers of the personal staff of the emperor were included in the rank of the Kumaramatyas. It is said that Kumaramatyas means ministers for Kumara or crown prince. It is also said that Kumaramatya was a cadet or apprentice minister, who was minister from youth. However, Kumaramatyas served both the emperor and crown prince and served in the province and district level. Ayuktas were employed by the emperor specially in districts and metropolitan towns. They also performed the duty of restoring properties of the defeated king who had been reinstated.

The empire was divided into a number of provinces. The usual names of the provinces were Bhuktis, Desas and Bhogas. The provinces were subdivided into districts called Vishyas. A part of the Vishaya was called Vithi. The villages or grama were the lowest administrative units.

The provinces called Bhuktis were governed by officers called Uparikas or sometimes by princes of royal blood bearing the title Maharajajouta Devabhattarka. The provinces called Desas were governed by officers called Goptis or wardens of the marches. The districts or Vishayas were ruled by district officers styled Vishayapatis, Kumaramatyas and Ayuktas. Sometimes districts were governed by feudatories or Samantas. Usually the district officer was appointed by the provincial governor, though sometimes he was directly appointed by the emperor. The Ayuktas served as a link between the central and district administration as discussed earlier. The Vishayapati or district officer generally acted under the Uparikas or provincial governors as testified by the Damodarpur copper plate. The antarvedi Vishaya or the doab region was the heartland of the Gupta Empire. The vishayas were pivots of the Gupta provincial administration. In every Vishaya perhaps there was an advisory council or parishad comprising local representatives.

The provincial governors and district officers were helped by junior officials like Dandikas, Dandapasikas, Prathama Kulikas, Pusta-palas (record-keepers), Nagara Sresthi (chief banker of the city) etc. The district officers were specially helped by Gramikas (village headman), Bhojakas etc. The Gramikas ruled the villages with the help of village councils. He was a paid official of the state. The Talabara, Vinayasthitisthapaka were new dignitaries vested with military and religious and judicial duties respectively.

Some North Bengal inscriptions throw an interesting sidelight on the association of popular representatives in the Gupta administration. In the provincial, district or village level of administration, the officer in charge was assisted by an ‘Adhikarana’ or Council consisting of local representatives. In the cities the municipal Boards (Adhikaranas) consisted of guild president, Chief merchant or nagara shresthi, chief artisan or prathama kulika and chief scribe or prathama kayastha. In the districts and villages the Boards consisted of village head-men, householders etc. The Guptas made a bold administrative experiment by associating popular elements in the administration.

Decline

The factors responsible for the cause of the decline of Gupta power in India were many. The Huna invasion was one of the prime factors responsible for the decline of the Gupta power in India. A branch of the Hunas from Central Asia had occupied Bactria in the 4th century and crossed the Hindukush mountains during the time of Kumara-Gupta I, son and successor of Chandra-Gupta II (415-54 AD). But we learn from the Vitari Pillar Inscription and Junagarh Rock Inscription that the Yuvaraja Skandagupta succeeded in repelling this invasion in the 5th century A.D.

But after him repeated waves of the Huna invasions made the Gupta power weak. Even Skanda-Gupta who battled violently, and resist the Huns for some time, from entering into the main heart land of India had to face different internal problems, like the revolt of his feudatories, which made his task a difficult one. The death of Skanda-Gupta in about 467 AD was followed by a succession of various kings, who could not keep the empire intact. The final blow to the Gupta power came towards the end of 5th century AD, when the Hunas poured into north India and hastened the process of ultimate disintegration of Gupta Empire within the next half a century and thus it paved the road for the creation of a number of small kingdoms.

Apart from the Huns invasions there were number of other factors responsible for the decline of Gupta power in India. As we have stated earlier, the breaking away of the feudatories of Gupta was one such major factor of the decline of Gupta Power. One such good example was the invasion of the Vakataka. By means of a matrimonial alliance Chandra-Gupta II had established a friendly relation with the Vakatakas. But the successor of Chandra-Gupta II had no peaceful relation with the Vakatakas. In the reign of Budha Gupta, the Vakataka King Narendrasena invaded some of the Central Indian region like Malwa, Kosala, and Mekala etc. This invasion considerably weakens the Gupta hegemony in central Indian region. In subsequent years, another vakataka king Harisena conquered Gujarat and Malwa from the imperial Guptas, which on one hand weakened the Gupta prestige and on the other hand, inspired their feudatories to declear their independence. Similarly the rulers like Yasodharman also inflicted a “death blow to the Gupta Empire”. These examples were followed by other feudatories which led to the ultimate disintegration of the Gupta Empire.

At the same time the decentralized form of administration also have contributed substantially to its downfall. The provincial governors of the Gupta have enjoyed a good deal of freedom and authority. The Guptas failed to erect any such administrative machinery through which they can introduce strict authority of central government on the other hand Gupta also failed to pay cash salary to any of their officials. In lieu of that they granted land by which the official developed a feudal character in them. They identified themselves only to their local interest in defiance of the central authority. Thus the growth of the feudal elements further accelerated the process of decentralization of Gupta Empire.

B) Kinship Caste and Class

VARNA

The most peculiar characteristic of the Hindu society is the system called varna and jati. Varna is caste on the basis of position in the society and jati a sub-caste. (Varna in Sanskrit actually means colour). Varna is the positional label imposed upon different castes as a yardstick for social classification. It was this discrimination, exploitation and human right violations on the basis of the varna-jati classification that the reformist movements opposed the most. The varnas are four in number: brahamanas, kshatriyas, vaishyas and shudras. This four-fold division was on the basis of profession and the grades of respectability attributed to each of these. And thus the brahmanas who were the custodians of the worship of gods and the performance of the rituals were sanctioned the highest of varnas. The shudras who were allotted the manual labour and related 'clean' jobs the lowest. Below these four layers were the numerous other castes and sub-castes engaged in 'unclean' jobs. These people were below the varnas and therefore were treated as untouchables. The practice, of 'untouchability' is prohibited by law, but it is continued in certain parts of the country. Mahatma Gandhi called the untouchables harijans, the people of Lord Vishnu. They now call themselves dalits. The government coined the term scheduled castes and scheduled tribes.

'Varna' did not have any particular use in the operations of the social system, nor had it a built-in power for that. But the most important factor was the caste or jati. Jati denoted a particular community with a definition on customs by and large, having a particular profession hereditarily and, inclusive marriage rights. Each varna would contain several jatis each of which had its own customs and practices. Historian Romila Thapar writes on the genesis and formulation of the caste system: When the Aryans first came to India they were divided into three social classes, the warriors or aristocracy, the priests, and the common people. There was no consciousness of caste, as is clear from remarks such as "a bard am I, my father is a leech and my mother grinds corn". Professions were not hereditary, nor were there any rules limiting marriages within these classes, or taboos on whom one could eat with. The three divisions merely facilitated social and economic organization. The first step in the direction of caste (as distinct from class) was taken when the Aryans treated the dasas (slaves) as beyond the social pale, probably owing to a fear of the dasa and the even greater fear that assimilation with them would lead to a loss of Aryan identity. Ostensibly the distinction was largely that of color, the dasas being darker and of an alien culture.

JATI

Jati, also spelled jat , caste, in Hindu society. The term is derived from the Sanskrit jāta, "born" or "brought into existence," and indicates a form of existence determined by birth. In Indian philosophy, jati (genus) describes any group of things that have generic characteristics in common. Sociologically, jati has come to be used universally to indicate a caste group among Hindus.

Although the lawgivers of the traditional Hindu codes (Dharma-shastras) themselves tend to treat jatis as varnas (social classes) and try to account on other occasions for jatis as products of alliances between the four *varna*s (Brahmans, Kshatriyas, Vaishyas, and Shudras) and their descendants, a sharp distinction should be made between jati as a limited regional endogamous group of families and varna as a universal all-Indian model of social class. The official Hindu view gives second place to jati as an aberration of varna.

In different parts of India, certain caste groups have sought respectability within the varnasystem by claiming membership in a particular varna. Typical and most successful was the claim of the Rajputs that they were the Kshatriyas, or nobles, of the second varna, and, to reinforce their claim, they invented a new lineage (Agnikula, the dynasty of Fire) to coexist side by side with the Solar and Lunar lineages of ancient times. Those people classified among the Scheduled Castes (also called Dalits; formerly “untouchables”) have adopted caste habits of conduct and sought the status of Shudra (the lowest varna) to escape from their pitiable condition.

The very notion of jati has been under attack by reform-minded Indians. They do not always ask for total abolition but frequently advocate a purification of the system by the reabsorption of thejatis into the original, complementarily functioning varnas.

GOTRA

The word "*gotra*" means "lineage" in the Sanskrit language. Among those of the Brahmin caste, *gotras* are reckoned patrilineally. Each*gotra* takes the name of a famous Rishi or sage who was the patrilineal forebearer of that clan. And each Gotra is addressed by the suffix 'sa' or 'asa' as relevant.

The concept of Gotra was the sociodemographic-cultural coding by Brahma to classify His family, themselves among different groups. At the beginning, these gentes identified themselves by the names of various rishis (Angirasa, Daksha, Himavan, Atri, Gautam, Vishrava,Kashyapa, Bhrigu, Vashista, Kutsa,and Bharadwaja; the first seven of these are often enumerated as Saptarishis). It is to be noted that Vishwamitra was initially a Kshatriya king, who later chose and rose to become an ascetic rishi. Hence the gotra was applied to the grouping stemming from one of these rishis as his descendants.

Many lines of descent from the major rishis were later grouped separately. Accordingly, the major *gotras* were divided into ganas (subdivisions) and each gana was further divided into groups of families. The term *gotra* was then frequently started being applied to the ganas and to the sub-ganas. Every brahmin claims to be a direct patrilineal descendant of one of the founding rishis of a certain gana or sub-gana. It is the gana or sub-gana that is now commonly referred to as *gotra*.

Over the years, the number of *gotras* increased due to:

Descendants of original rishi also started new family lineage or new *gotras*,

By inter marriage with other sub-groups of the same caste, andInspired by another rishi whose name they bear as their own *gotra*.

Pravara is the number of the most excellent (-cf. reference, Sanskrit-English Dictionary, Monier-Williams) rishis who belonged to that particular gotra to which a person belongs. Gotra is the name of the founding father. In vedic ritual, the importance of the pravara appears to be in its use by the ritualist for extolling his ancestry and proclaiming, "as a descendant of worthy ancestors, I am a fit and proper person to do the act I am performing." The sacred thread yajnopavita worn on upanayana has close connection with the concept of pravaras related to brahmin gotra system. While tying the knots of sacred thread, an oath is taken in the name of each one of these three or five of the most excellent rishis belonging to one's gotra.

The full affiliation of a brāhamana consists of (1)gotra, (2)pravaras (3)sutra (of Kalpa), (4) shakha.

(Example :) A brahmana named 'X' introduces himself as follows : I am 'X', of Shrivatsa gotra, of Āpastamba sutra, of Taittiriya shākha of Yajurveda, of five pravaras named Bhārgava, Chyāvana, Āpnavan, Aurva and Jāmadagnya (This example is based upon the example given by Pattābhirām Shastri in the introduction to Vedārtha-Pārijata, cf. ref.).

While the *gotras* were classified initially according to nine (?) rishis, the pravaras were classified under the names of the following seven rishis:

Agastya

Angiras

Atri

Bhrigu

Kashyapa

Vashista

Vishvamitra

According to the listing of authors included in the verses in Rigved, the rishi Jamadagni was a descendant of rishi Bhrigu while the rishis Gautam and Bharadwaja were the descendants of rishi Angiras. There were a group of rishis(well known as yogi), they believed that, they are

originated from Lord Shiva, successor of that rishis are under Shiva(Shiv-Adi) gotra and well known as Rudraja Brahmin.

The pravara identifies the association of a person with three or sometimes five of the above-mentioned rishis.

For example, Kashyapa Gothram has 3 rishis associated with it viz. Kashyapa, Daivala and Aavatsaara.

FAMILY

In human context, a family is a group of people affiliated by consanguinity (by recognized birth), affinity (by marriage), or co-residence/shared consumption (see Nurture kinship). Christopher Harris notes that the western conception of family is ambiguous, and confused with the household, as revealed in the different contexts in which the word is used:

"We have seen that people can refer to their relatives as 'the family.' 'All the family turned up for the funeral.... But of course, my brother didn't bring his family along - they're much too young.' Here the reference is to the offspring (as distinct from 'all' the family). The neighbors were very good, too. 'The Jones came, and their two children. It was nice, the whole family turning up like that.' Here the usage is more restricted than 'relatives' or 'his relatives,' but includes just both parents and offspring. 'Of course, the children will be leaving home soon. It's always sad to see the family break up like that.' Here the reference is not only to parents and children but to their co-residence, that is, to the household."

Olivia Harris states this confusion is not accidental, but indicative of the familial ideology of capitalist, western countries that pass social legislation that insists members of a nuclear family should live together, and those not so related should not live together; despite the ideological and legal pressures, a large percentage of families do not conform to the ideal nuclear family type.

In most societies it is the principal institution for the socialization of children. As a unit of socialization the family is the object of analysis for anthropologists and sociologists of the family. Sexual relations among the members are regulated by rules concerning incest such as the incest taboo.

As the basic unit for raising children, Anthropologists most generally classify family organization as matrifocal (a mother and her children); conjugal (a husband, his wife, and children; also called nuclear family); avuncular (a brother, his sister, and her children); or extended family in which parents and children co-reside with other members of one parent's family.

Genealogy is a field which aims to trace family lineages through history.

"Family" is used metaphorically to create more inclusive categories such as community, nationhood,global village and humanism.

Family is also an important economic unit studied in family economics.

The social reproduction of the family

One of the primary functions of the family is to produce and reproduce persons, biologically and/or socially. This can occur through the sharing of material substances (such as food); the giving and receiving of care and nurture (nurture kinship); jural rights and obligations; and moral and sentimental ties. Thus, one's experience of one's family shifts over time. From the perspective of children, the family is a "family of orientation": the family serves to locate children socially and plays a major role in their enculturation and socialization. From the point of view of the parent(s), the family is a "family of procreation," the goal of which is to produce and enculturate and socialize children.However, producing children is not the only function of the family; in societies with a sexual division of labor, marriage, and the resulting relationship between two people, it is necessary for the formation of an economically productive household.

Family types

The diverse data coming from ethnography, history, law and social statistics, establish that the human family is an institution and not a biological fact founded on the natural relationship of consanguinity. The different types of families occur in a wide variety of settings, and their specific functions and meanings depend largely on their relationship to other social institutions. Although the concept of consanguinity originally referred to relations by "blood," cultural anthropologists have argued that one must understand the idea of "blood" metaphorically and that many societies understand family through other concepts rather than through genetic distance. Sociologists have a special interest in the function and status of these forms in stratified (especially capitalist) societies.

According to the work of scholars Max Weber, Alan Macfarlane, Steven Ozment, Jack Goody and Peter Laslett, the huge transformation that led to modern marriage in Western democracies was "fueled by the religio-cultural value system provided by elements of Judaism, early Christianity, Roman Catholic canon law and the Protestant Reformation".

Much sociological, historical and anthropological research dedicates itself to the understanding of this variation, and of changes in the family that form over time. *Times have changed; it is more acceptable and encouraged for mothers to work and fathers to spend more time at home with the children. The way roles are balanced between the parents will help children grow and learn valuable life lessons. There is great importance of communication and equality in families, in order to avoid role strain.*

Conjugal (nuclear) family

The term "nuclear family" is commonly used, especially in the United States, to refer to conjugal families. A "conjugal" family includes only the husband, the wife, and unmarried children who are not of age.[14] Sociologists distinguish between conjugal families (relatively independent of the kindred of the parents and of other families in general) and nuclear families (which maintain relatively close ties with their kindred).

Matrifocal family

A "matrifocal" family consists of a mother and her children. Generally, these children are her biological offspring, although adoption of children is a practice in nearly every society. This kind of family is common where women have the resources to rear their children by themselves, or where men are more mobile than women.

Extended family

The term "extended family" is also common, especially in United States. This term has two distinct meanings. First, it serves as a synonym of "consanguinal family" (consanguine means "of the same blood"). Second, in societies dominated by the conjugal family, it refers to "kindred" (an egocentric network of relatives that extends beyond the domestic group) who do not belong to the conjugal family. These types refer to ideal or normative structures found in particular societies. Any society will exhibit some variation in the actual composition and conception of families.

Blended family

Male same-sex couple with a child

The term *blended family* or *stepfamily* describes families with mixed parents: one or both parents remarried, bringing children of the former family into the new family. Also in sociology, particularly in the works of social psychologist Michael Lamb, *traditional family* refers to "a middleclass family with a bread-winning father and a stay-at-home mother, married to each other and raising their biological children," and *nontraditional* to exceptions from this rule. Most of the US households are now non-traditional under this definition.

In terms of communication patterns in families, there are a certain set of beliefs within the family that reflect how its members should communicate and interact. These family communication patterns arise from two underlying sets of beliefs. One being conversation orientation (the degree to which the importance of communication is valued) and two, conformity orientation (the degree to which families should emphasize similarities or differences regarding attitudes, beliefs, and values).

Anthropologist Lewis Henry Morgan (1818–1881) performed the first survey of kinship terminologies in use around the world. Although much of his work is now considered dated, he argued that kinship terminologies reflect different sets of distinctions. For example, most kinship terminologies distinguish between sexes (the difference between a brother and a sister) and between generations (the difference between a child and a parent). Moreover, he argued, kinship terminologies distinguish between relatives by blood and marriage (although recently some anthropologists have argued that many societies define kinship in terms other than "blood").

Morgan made a distinction between kinship systems that use*classificatory* terminology and those that use *descriptive* terminology. Classificatory systems are generally and erroneously understood to be those that "class together" with a single term relatives who actually do not have the same type of relationship to ego. (What defines "same type of relationship" under such definitions seems to be genealogical relationship. This is problematic given that any genealogical description, no matter how standardized, employs words originating in a folk understanding of kinship.) What Morgan's terminology actually differentiates are those (classificatory) kinship systems that do not distinguish lineal and collateral relationships and those (descriptive) kinship systems that do. Morgan, a lawyer, came to make this distinction in an effort to understand Seneca inheritance practices. A Seneca man's effects were inherited by his sisters' children rather than by his own children. Morgan identified six basic patterns of kinship terminologies:

Hawaiian: only distinguishes relatives based upon sex and generation.

Sudanese: no two relatives share the same term.

Eskimo: in addition to distinguishing relatives based upon sex and generation, also distinguishes between lineal relatives and collateral relatives.

Iroquois: in addition to sex and generation, also distinguishes between siblings of opposite sexes in the parental generation.

Crow: a matrilineal system with some features of an Iroquois system, but with a "skewing" feature in which generation is "frozen" for some relatives.

POSITION OF WOMAN

The position of women was not identical throughout ancient period. But mostly the woman could not lead a free life and she lived under the tutelage of her parents, her husband or her sons. The early law books treated the women as equivalent to the Sutra.

However this did not effect the position of the women in the family. Manu, who was not advocate of the right of women, also said that gods live in joy where women are revered and if a husband abandoned the wife without sufficient reason, he should be expelled from the caste by the ruler. The high esteem in which the wife was held during the Vedic age is evidence from the fact that she was considered the half that completed the husband.

The wife assisted the husband not only in his secular duties. The husband and wife together were supposed to keep the household fire burning so that the daily offering of the angophora could be carried on. If a person lost his wife he was either expected to bring another wife to keep the sacred fire burning or else to retire and take to Vanaprastha Ashram.

No religious rites and rituals could be performed without the wife. The Rig-Veda relates us a story of a grihapati who left his wife because of her impertinence and went away for practicing penance but the God explained to him that he could not perform the penance without his wife.

Social Activities

In addition to an important position in the family the women actively participated in the various social activities. This is confirmed by the ancient Indian sculptures in which women was shown with their husbands in a number of religious and secular functions.

The women also took active part in the religious activities, though they could not officiate as priests. In the literary sphere also the women made valuable contribution. Some of the Vedic hymns and a number of Buddhist hymns are ascribed to the Buddhist nuns. In Brhudaranyaka Upanishad we are told about the learned lady Gargi Vaca Knavi, who held discussions with Yajnavalkya and nonplussed him with her searching questions. Another scholar Mastery, wife of Yajnavalkya, also participated in the learned discourses. Around the beginning of the Christian era, the women were denied access to the Vedas and Vedic literature.

Unlike, the medieval and modern times women were-encouraged to learn singing, dancing and other arts like painting and garland- making. Dancing was not merely the profession of the low-caste women and prostitutes, but ladies from respectable families also took keen interest in it.

The Rig-Veda tells us that young men and unmarried girls mixed freely and we do not find any instances of unnecessary restrictions on the married women. However, Arthashastra says that the kings kept their womenfolk in seclusion. It gives details regarding the antashpura or royal harem and the measures taken to guard it effectively. But it can certainly be said that the women were not secluded to the extent as in Muslim communities.

In the Tamil literature also we get a number of references to show that girls of good class and marriageable age visited temples and took part in the festivals without guardians. The early sculptures also confirm this impression. The sculptures at Baht and Sanchi show, wealthy ladies, necked to the waist, leaning from their balconies and watching the processions. Similarly we

find .scantily dressed women in the company of men worshipping the Bodni Tree. In short we can. Say that though the freedom of the women was considerably restricted, it was not completely denied to them.

One of the chief duties of the women was to bear children and to rear them up. In view of the odious duties the women were exempted from duties concerning moral purification or spiritual advancement. It was believed that a women attained purification and reached the goal by associating herself with her husband in the religious exercises, in the worship through sacrifices and vows etc.

Manu says, "The women, destined to bear children as they are, are possessed of the highest excellence, are worthy of worship and brighten up the household with their radiance in the homes the wives are veritable goddesses of fortune, with no difference whatsoever. The begetting of offspring, the nurture of those born and ice carrying out of the daily duties are possible because of the wife as we see before our eyes.

Offspring, the due discharge of religious duties, faithful service, highest conjugal happiness, and besides, heavenly bliss for the fathers and for one's own self, all these things are .absolutely dependent on the wife". However, the women were too much dependent on men for protection and were not supposed to take any initiative.

Standard of Morality

The women observed high standard of morality. The wives were expected to follow the path adopted by her husband, even if it meant the path of death. Even after the death of her husband a widow did not remarry and led a very pure and chaste life.

Manu says "A faithful wife, who desires to dwell after death with her husband, must never do anything that might displease him who took her hand, whether he is alive or dead. At her pleasure let her emaciate her body by living on pure flowers, roots and fry its, but she must never even mention the name of another man after her husband has died.

Until death let her be patient of hardships, self controlled and chaste and strive to fulfill that most excellent duty which belongs to yes who know but one husband only." Widow Remarriage was not favored and it was considered a sacrilege and adultery.

The Sati system was probably also in vogue. The Greek writers have recorded the incident of widow's burning themselves alive along with the dead pyre of her husband. It was considered to be a matter of great honor and the various wives weighed with each other for this privilege. We get a number of historical examples of the widows burning themselves with their dead husband viz. The queens of Kshemagupta and his predecessor Yashkar on Kashmir. Most probably during the rule of the choler king Purantaki, the practice of Sati was in vogue.

The women were permitted to have personal property in the form of jeweler and clothing. The Arthashastra permits women to have money up to 2000 silver panas. The amounts in excess of this limit were held by the husband as a trust on behalf of the wife. The property of women could be used by the husband only in case of dire necessity. He could also exercise check on his wife if she want only to give away her property. After the death of a woman the property passed to the daughters (not to the husband or the sons). When there were no sons, the widow inherited the property of the husband.

Thus we find that the position of women in ancient India was not that bad as it depicted in the smritis. She was at once a goddess and a slave. The women were to be well fed and cared for and provided with all possible luxuries according to the means of the husband. The wives were not to be beaten or maltreated for the God did not accept the sacrifice of a man who beats his wife.

C) Religious Traditions and polity: Brahminism, Buddhism, Jainism

Much modern literature in English, French, German, Hindi and other languages has been produced on early Buddhism and its relation to Brahmanism and Hinduism. It would appear from the apparently settled posture of modern Buddhist scholarship that those problems are settled beyond all doubt and dispute. However, when we reopen these matters with a view to restating them, we record our disagreement with the current theories of the origins of Buddhism, of its early relations with Brahmanism and of its position with regard to Hinduism.

In India, where the Brahmanical or the traditional standpoint has possessed the scholastic field for about a millennium now, and has been regarded with reverence not only among modern Indian historians and national leaders but also among Western Indologists, for about a century and a half, it would appear almost an impertinence on our part to put forth a view which goes against it.

However, a student of the history of religious traditions of India will have to rise above artificial conventions set by the writings of others should he find that his suggestions would help a better and clearer understanding of some significant facts of the growth of his country's central traditions as "heterodox." This custom is due to our preoccupation with the traditional or Brahmanical point of view. From the Buddhist point of view Brahmanism was a "heresy'; from the Brahmanical point of view Buddhism was a "heresy." When Dr. S. Radhakrishnan, broadcasting from All India Radio on the occasion of the 2500th Mahaparinirvana-day of the Buddha, described Buddhism as "an offshoot of the more ancient faith of the Hindus, perhaps a schism or a heresy', he not only repeated a particular view but perhaps also gave an "official" stamp to the Brahmanical standpoint in Indian history. It is no exaggeration to say that whatever has been written on the history of Buddhism in India has been written in modern times largely from this standpoint.

The conflict between Buddhism and Brahmanism, the transformation of the Buddhist heritage in India and the disappearance of Buddhism as a living faith from Indian soil during the early mediaeval centuries were largely responsible for the growth of misconceptions about Ancient Indian civilization and also for the propagation of the Brahmanical standpoint during mediaeval through modern times. The future of Buddhist studies in India will remain quite doubtful so long as Indian scholars continue to study Buddhism as a "heretical system" and from the "orthodox" standpoint. Buddhism should be studied from the Buddhist standpoint, and its relations with Brahmanism and Hinduism should be studied from the historical standpoint and on scientific lines. The study of Buddhism from the Hindu view would be a study of Hinduism and not of Buddhism.

It was an exceptional thing that a noted British antiquarian, Sir Mortimer Wheeler, actively engaged in digging up India's past, once observed that "it cannot be denied that during the seven centuries between 250 BCE and CE 450 most of the surviving sculpture of the highest quality in India was associated with Buddhism, and it was, above all, Buddhism that during the same period (and particularly the latter part of it) spread Indian art and idiom through the highways and byways of Asia. Archaeologically, at least, we cannot treat Buddhism merely as a heresy against a prevailing Brahmanical orthodoxy, however little its tenets may have affected the routine of village life."

There are about 1200 rock-cut monuments (caves, monasteries. sanctuaries, temples) of ancient India; of these 100 belong to Jainism, 200 to Brahmanism and the remaining to Buddhism. These three-fourths of ancient Indian rock-cut architecture or the unequalled masterpieces of Buddhist paintings at Ajanta cannot have been due to a heresy.

In all fields of the culture and civilization of Ancient India, viz. art, literature, language, ethics, mysticism, philosophy, epistemology, logic, psychology and social thought, the manifestations of Buddhism in contradistinction to Brahmanism were so great, so profound, so lasting and so varied that we are not justified in treating it as a "heterodox" episode in the history of "Hindu civilization." It will not be far from the truth to say that the history of Ancient Indian Culture and civilization would not have been worth writing or reading had there been only the Indo-Aryan ideals of the Vedic Samhitas and no Buddhism to transform them into the glory that was Ancient India.

Religious harmony is a noble and essential ideal not only for a country like India where many religious communities live together but also for the unity of mankind and peace in the world. Emperor Asoka had taught three and twenty centuries before that harmony among different sects is a good thing. But this harmony cannot be brought about by mystifying or overlooking the distinctive features or by minimising historical manifestations of Buddhism in contradistinction to Brahmanism and its later phase of Hinduism. The Brahmanical authors of the Vaishnava Puranas did not bring about harmony between Buddhism and Brahmanism by

writing that the Buddha was an incarnation of Lord Vishnu that came into existence "to seduce and delude the demons and devils.'

On the contrary, this policy brought about the ruin of Buddhism and its effacement in India. Moreover, propagation of the ideal of religious harmony should not come in the way of historical research in religious history. But in modern India it has become a fashion to speak and write that Buddhism is a sect of Hinduism, that the Buddha was a Hindu, that Hinduism is so catholic as to tolerate and worship a heretical and anti-Vedic teacher like the Buddha! The story of the origin and disappearance of Buddhism, told in one sentence, is a matter of street-talk for every grown-up Hindu irrespective of his or her knowledge of ancient Indian religious history and archaeology. The story is repeated whenever they happen to visit museums, which are usually crowded by Buddhist antiquities, or when they come across a pilgrim *Bhikshu* or a *Lama* or hear some news from Buddhist quarters. Just as the Government of India sought to publish all about the history and heritage of Buddhism during the last twenty-five centuries in less than five hundred pages, so the average modern educated Indian seeks to sum up the history of Buddhism by saying that Buddhism grew as a reaction against and reform of Hinduism and it disappeared from India partly due to its *Tantrika* practises and partly due to the glorious "conquests" of Samkaracarya. A few educated Hindus, who have specialised in Buddhist studies or studied something of Buddhism or some book on Buddhism, do concede that Buddhism merged into Hinduism, that the Buddha was the greatest Hindu reformer and that the Buddha was the greatest Hindu Master.

This comfortable doctrine has been so thoroughly propagated in India that it will take great efforts and long years of scholars and historians to sweep away its illusions and clear the way for the growth of Buddhist studies in India. In the following pages we propose to review and restate the origins of Buddhism, its relations with early Brahmanism and with the mediaeval form of the latter called Hinduism. Hence the title of this essay carries the three words in a *chronological order: Brahmanism, Buddhism and Hinduism*. The differences between old Brahmanism and Hinduism are more pronounced than those between Theravada and Mahayana Buddhism.

II. Current Theories of the Origins of Buddhism

Some scholars, under the influence of the materialist interpretation of history popularised by Karl Marx, have sought to correlate the rise of ascetic and intellectual thought-currents of the age of Śakyamuni (624–544 BCE, but the age of Śakyamuni may be extended to 700–500 BCE as the age of philosophers) to the rise of capitalism and mercantile middle class economy. This theory, however, is entirely speculative. There is no clear evidence to prove the existence of capitalism, in the Marxist sense, nor of a money-economy controlled entirely by an organised middle class of society in the seventh and sixth centuries BCE. Moreover, it is impossible to demonstrate that the spiritual ideas of a *Bodhisattva* are determined by that social consciousness which is consequent on material progress; indeed a materialist interpretation of

the origins of Buddhism or of the events of the life of Siddhartha Gautama is evidence only of the philosophical crudity of the authors of this theory.

The poet Rabindranath Tagore expounded the view that Buddhism and Jainism represented the ideals of the kshatriyas which conflicted with those of the brahmanas, that the history of ancient India is a record of "the pull of the two opposite principles, that of self-preservation represented by the brahmana, and that of self-expansion represented by the kshatriya." This theory, in spite of its striking character, is largely imaginary and cannot be sustained. It is true and is very well known that kshatriyas were the founders not only of Buddhism, Jainism and Ajivikism but also of the ascetic and idealistic thought of the early Upanishads. But it will be absurd and fantastic to think that supernal teachers like Kapilamuni, Parsvanatha, Kasyapa Buddha, Śakyamuni Buddha, Vardhamana Mahavira or even the royal teachers like Asvapati Kaikeya, Janaka Videha and Pravahana Jaivali of the Upanishads were inspired by a desire to struggle for the supremacy of their supposed ideal of "self-expansion" against that of the priestly "self-preservation."

The Buddha emphasised the ideal of self-abnegation and taught the tenet of "not-self" while some of the greatest teachers and followers of Buddhism came from the caste of the brahmanas. The fact is that, as we shall see below, the history of ancient India is a record of the two opposite ideologies, that of world-affirmation represented by the priestly brahmanas of the Vedic tradition and that of world-denial and world-transcendence represented by the ascetic sramanas of non-Vedic tradition. And the conflict antedates the formation of the castes of brahmanas and kshatriyas. Professor G. C. Pande has summed up his valuable researches concerning the origins of Buddhism in the following words:

"It has been held by many older writers that Buddhism and Jainism arose out of the anti-ritualistic tendency within the religion of the brahmanas. We have however tried to show that the anti-ritualistic tendency within the Vedic fold is itself due to the impact of an asceticism which antedates the Vedas. Jainism represents a continuation of the pre-Vedic stream from which Buddhism also springs, though deeply influenced by Vedic thought. The fashionable view of regarding Buddhism as a Protestant Vedicism and its birth as a Reformation appears to be based on a misreading of later Vedic history caused by the fascination of a historical analogy and the ignorance or neglect of Pre-Vedic-civilization."

This most important and epoch-making statement in the history of Buddhist studies in India, in spite of the fact that Prof. Pande thinks that Buddhism was "deeply influenced by Vedic thought" in its origins, (a view which is open to doubt and debate), does not seem to have made even the slightest impact on the more recent writings of even the most noted Indologists of India belonging to the traditional approach. The Puranic myth still holds ground and flourishes. We shall refer to the views of only two most eminent and living Indian scholars who have been awarded India's highest order of decoration and honour, "Bharata-ratna," and who

might be considered to represent the prevailing Indian standpoint towards the origins of Buddhism and its relation with Brahmanism and Hinduism.

Dr. S. Radhakrishnan's most mature opinion on this point is summarised in the following statements:

"The Buddha did not feel that he was announcing a new religion. He was born, grew up and died a Hindu. He was re-stating with a new emphasis the ancient ideals of the Indo-Aryan civilization." In support of this statement he quotes a passage from the *Samyutta Nikaya* which will be reproduced below. "Buddhism did not start," he goes on, "as a new and independent religion. It was an offshoot of the more ancient faith of the Hindus, perhaps a schism or a heresy. While the Buddha agreed with the faith he inherited on the fundamentals of metaphysics and ethics, he protested against certain practises which were in vogue at that time. He refused to acquiesce in the Vedic ceremonialism." Repeating this idea for a third time in the same lecture, Dr. S. Radhakrishnan goes on to say that "the Buddha utilised the Hindu inheritance to correct some of its expressions."8

This scholar is known for his enlightened understanding of different religious traditions and his view deserves careful attention. But as this same view has been reaffirmed with greater emphasis and closer study of Hindu sacred lore by a more recent and very eminent writer, namely Mahamahopadhyaya Dr. Pandurang Vaman Kane, it will be convenient to examine this view after setting out the observations and arguments of Dr Kane. This scholar has written a chapter on the *Causes of the Disappearance of Buddhism from India* in the concluding part of a work which deals with the history of "ancient and mediaeval religious and civil law in India" based entirely on the Brahmanical literature. A noted critic seems to have rightly doubted the desirability of including this unnecessary chapter which contains "some striking passages on Buddhism" and the "protest" and "counterblast" of this National Professor of Indology of India against Buddhism and its modern "encomiasts."

We are not concerned here with the causes of the disappearance of Buddhism from India but only with the origins of Buddhism and its relation with Brahmanism. Curiously enough the origins of Buddhism have been discussed under the causes of its disappearance. "The Buddha was," observes Dr. P V. Kane, "only a great reformer of the Hindu religion as practised in his time. He did not feel or claim that he was forming a new religion nor did he renounce the Hindu religion and all its practises and beliefs. The Buddha referred to the Vedas and Hindu sages with honour in some of his sermons. He recognised the importance of Yogic practises and meditation. His teaching took over several beliefs current among the Hindus in his day such as the doctrine of Karma and Rebirth and cosmological theories. A substantial portion of the teaching of the Buddha formed part of the tenets of the Upanishadic period. By the "Hindu religion" the author obviously means the religion of the Vedas, Brahmanas and Upanishads and the argument is based on the theory that the Upanishads are older than the Buddha. Therefore, he goes on to say that "It is generally held by all Sanskrit scholars that at least the oldest

Upanishads like the Brihadaranyaka and the Chandogya are earlier than the Buddha, that they do not refer to the Buddha or to his teaching or to the *pitakas*. On the other hand, though in dozens of Suttas meetings of brahmanas and the Buddha or his disciples and missionaries are reported, they almost always seem to be marked by courtesy on both sides. No meetings are recorded in the early Pali Texts or Brahmanical Texts about Śakyans condemning the tenets of ancient brahmanism or about brahmanas censuring the Buddha's heterodoxy. Besides, in all these meetings and talks, the central Upanishad conception of the immanence of Brahma is never attacked by the Buddha or by the early propagators of Buddhism."

Besides these arguments based on the supposed pre-Buddhist date of the older Upanishads, Dr. Kane seeks to support his thesis by employing a saying of the Buddha. He further observes: "What the Buddha says may be briefly rendered as follows: "Even so have I, O Bhikkhus, seen an ancient path, an ancient road followed by rightly enlightened persons of former times. And what, O Bhikkhus, is that ancient path, that ancient road, followed by the rightly enlightened ones of former times? Just this very Noble Eightfold Path, viz., right views … … This, O Bhikkhus, is that ancient path, that ancient road, followed by the rightly enlightened ones of former times. Along that (path) I have gone and while going along that path I have fully come to know old age and death. Having come to know it fully, I have told it to the monks, the nuns, the lay followers, men and women; this *brahmacariya* is prosperous, flourishing, widespread, widely known, has become popular and made manifest well by gods and men.'"

This passage is cited by Dr. S. Radhakrishnan also in support of his view that the Buddha was re-stating the Indo-Aryan ideals. Commenting on this saying of the Buddha, Dr. Kane says, "It will be noticed that the Noble Eightfold Path which the Buddha put forward as the one that would put an end to misery and suffering is here expressly stated to be an ancient path trod by ancient enlightened men. The Buddha does not claim that he was unique but claimed that he was only one of a series of enlightened men and stressed that the moral qualities which he urged men to cultivate belonged to antiquity.

Having apparently established the brahmanical theory of Vedic origin of Buddhism, Dr. P. V. Kane gives expression to his real intention of incorporating a chapter in his work, *The Crowning Glory of a Life*, at the age of eighty-two years, and makes these remarks, which seem to come from the very bottom of the heart of a staunch Hindu and must be taken to reflect the opinion and attitude of the orthodox majority in contemporary India:

"In these days it has become a fashion to praise the Buddha and his doctrine to the skies and to disparage Hinduism by making unfair comparisons between the original doctrines of the Buddha with the present practises and shortcomings of Hindu society. The present author has to enter a strong protest against this tendency. If a fair comparison is to be made it should be made between the later phases of Buddhism and the present practises of professed Buddhists on the one hand and modern phases and practises of Hinduism on the other. The Upanishads had a nobler philosophy than that of Gautama, the Buddha; the latter merely based his doctrine

on the philosophy of the Upanishads. If Hinduism decayed in the course of time and exhibited bad tendencies, the same or worse was the case with later Buddhism which gave up the noble but human Buddha, made him a god, worshipped his images and ran wild with such hideous practises as those of Vajrayana.

As a counterblast to what modern encomiasts often say about Buddhism, the present author will quote a strongly-worded (but not unjust) passage from Swami Vivekananda's lecture on *The Sages of India* (*Complete Works*, Volume III, pp. 248–268, 7th edition of 1953 published at Mayavati, Almora): "The earlier Buddhists in their rage against the killing of animals had denounced the sacrifices of the Vedas; and these sacrifices used to be held in every house … These sacrifices were obliterated and in their place came gorgeous temples, gorgeous ceremonies and gorgeous priests and all that you see in India in modern times. I smile when I read books written by some modern people who ought to know better, that the Buddha was the destroyer of Brahmanical idolatry. Little do they know that Buddhism created brahmanism and idolatry in India … Thus, in spite of the preaching of mercy to animals, in spite of the sublime ethical religion, in spite of the hair-splitting discussion about the existence or non-existence of a permanent soul, the whole building of Buddhism tumbled down piecemeal; and the ruin was simply hideous. I have neither the time nor the inclination to describe to you the hideousness that came in the wake of Buddhism. The most hideous ceremonies, the most horrible, the most obscene books that human hands ever wrote or the human brain ever conceived, the most bestial forms that ever passed under the name of religion have all been the creation of degraded Buddhism (pp. 264f.)."

III. Criticism of the Current Theory

It might be asked whether such a "protest," "counterblast" and "strongly worded passage" are worthy of the academic spirit? It is for impartial critics to judge whether these passages from the pen of India's National Professor of Indology will contribute anything to the history of *dharmasastra* or will explain the causes of the disappearance of Buddhism from India or will promote secularism and religious tolerance in India. The writer of this essay was neither shocked nor pained when he read some of the most striking passages, full of animosity and ignorance, in the criticisms of Buddhism by Uddyotakara, Kumarila, Samkara and the Puranas, because they belonged to the mediaeval ages when religious feelings and controversies determined the fate of communities and countries and religious wars were common. But he was disturbed for a moment when he read this outburst of Dr. Kane, in the *History of Dharmasastra*, because such unjust statements are not expected from so highly respected scholars, especially in twentieth century India, when an enlightened understanding of different faiths is the need of the nation. With due respect to Swami Vivekananda it should be observed that he was neither a scholar of Buddhism nor a historian of the religious history of India. We can only say that it does not give any credit to Dr. Kane's distinguished scholarship to borrow ill-conceived verbal explosive from a Hindu sectarian laboratory and explode them on the pages of his life-long work, which has no direct connection with Buddhism.

Whether the philosophy of the Upanishads was nobler than that of the Buddha is a matter of personal opinion and individual interest. That Buddhist philosophy is nobler and profounder than Brahmanical philosophy is the view of some of the most distinguished philosophers and historians of philosophy. The view that the Buddha based his doctrines on the Upanishads, however, cannot be proved because the date even of the oldest of Upanishads cannot be fixed before the Buddha with any amount of certainty. Let us therefore examine in some detail the views of Dr. P. V. Kane. To begin with the word "Hindu" and its historical perspective:

The term "Hindu" is foreign coinage, of Persian and Arabic origins. The term "Hinduism" is derived from Persian and Arabic words and stands for the mediaeval forms of Indian and Brahmanical religions. Just as Judaism before the birth of Jesus Christ cannot be properly called Christianity though Christianity is founded on pre-Christian Judaism, likewise we cannot use the word Hinduism for pre-Puranic Brahmanism of the Vedic and Upanishadic age, though mediaeval Hinduism is based to some extent on the Vedic religion. An historical analysis of the elements of Puranic Brahmanism or Hinduism shows that more than half of them are of non-Vedic and of post-Buddhist origin.

In modern Hinduism there is so much of Buddhism and Jainism that on the popular level the distinctions between them are blurred. This is not the case with old Brahmanism which was and still is easily and clearly distinguishable from early Buddhism and early Jainism. We shall point out some of these differences in the course of this essay. We shall see below that even before the oldest Upanishads came into existence and the Buddha taught his gospel, there had been non-Vedic and non-Brahmanic sages (*muni*) and ascetics (*yati*) in ancient India. The culture of these non-Vedic sages and ascetics of pre-Vedic origin may be called Śramanism for want of a better word. (This Śramanism should not be confused with what in modern times is called "Shamanism.") This pre-Buddhist and non-Vedic Śramanic culture was in some ways diametrically opposed to Brahmanism or Vedic-Brahmanic culture.

Although in the older Upanishads, due to mutual contact among the upholders of these two seemingly irreconcilable traditions, we find a partial fusion of Brahmanism and Śramanism, of sacrificial culture and ascetic culture, of ritual thought and moral thought, yet it took several centuries to bring about this process of mutual contact and fusion. It was left to the Indians of early centuries of the Christian era to transform the old Buddhism into Neo-Buddhism or Mahayanism and Vedic Brahmanism into Puranic Brahmanism or Neo-Brahmanism, so as to give birth, towards the second half of the first millennium of the Christian era (500–1000 CE) to what are now called *Tantrikism* and Hinduism.

When we talk of the continuity and antiquity of Hinduism, we should not forget that from the age of Vedicism (1500–500 BCE) to the age of Tantrism and Hinduism (500–1000 CE and to our own days) the Brahmanical tradition has grown with all possible vigour and elasticity and under the powerful influence and pressure of non-Aryan and folk cultures, Buddhist and Jaina cultures, and more than half a dozen streams of non-Indian or foreign cultures, viz. those of the

Persians, Greeks, Sakas, Parthians, Kusanas, Eurasian Christians, Hunas, Arabs and the Islamic followers.

It was perhaps Alberuni (cir. 1030 CE) who first referred to Indians of non-Islamic faiths as the "Hindus" and he meant Indian "infidels." Even this Brahmanism of the first millennium before Christ was not known as Hinduism during this time. There is no authority worth the name, not even an iota of evidence, to support the racial or religious or sectarian or communal sense of the term Hindu before Alberuni's "India." The occurrence of the word "Hindu" in any ancient Indian archaeological or literary source is yet to be discovered.

The term *hidu* (hindu), a form of *sindhu*, was first used by the Persians. It occurs along with the word *Gadara*, a form of Gandhara, in an inscription of King Darius of Iran. It is used there in a geographical sense and denotes the people or country on the river Sindhu conquered by that monarch. In old Persian "Sa" is pronounced as "Ha'; "Sindhu" is called "Hindu" from which the Greeks further corrupted it into "Sinthos" or "Indos' from which are derived the Arabic and Persian words Hindu and Hindustan and the English words Indian and India. In mediaeval India the Arabs and early Muslim travellers referred to western India as "Hind" (i.e. Sindha) and the Turks, Afghans and Mongols used this geographical name, Hindustan, for the whole of the country. The word "Hinduism" began to be used for Indian religious traditions usually with a view to distinguishing them from Christian and Islamic traditions in India. What in modern times is called Hinduism is in fact the sum-total of the entire religious traditions of India excepting of course, Christian and Islamic, which have retained their individual existence despite mutual contacts. It must be added that Jainism also exists as a separate sect. So does Sikhism. It may be that Buddhism will also re-appear again as a distinct faith in the near future. At the present time, the signs are not encouraging.

We are therefore not justified in using the words Hindu and Hinduism in the historical context of the age of the Buddha. Vedic Brahmanism presents the pre-history of historic Brahmanism, and Puranic Brahmanism together with Buddhism, have provided the foundations of mediaeval and modern Hinduism. In ancient India, there was no race, no caste, nor any book which could be referred to by the term, "Hindu." Therefore the phrase "Hindu religion" in connection with pre-Muslim India is altogether meaningless and misleading. Just as early Buddhism differs from late Lamaism and Vajrayana, similarly early Brahmanism differs from late Puranicism or Hinduism, although Lamaistic Buddhism traces its origin to the Buddha's teachings and Puranic Hinduism traces its origin to Vedic doctrines. To describe the religion of the Vedic *Samhitas*, *Brahmanas* and *Upanishads* as the "Hindu religion" is both historically anachronistic and doctrinally misleading.

To say that the Buddha was a "Hindu" is wrong. To say that "the Buddha was only a great reformer of the Hindu religion as practised in his time" is doubly incorrect, since there was no "Hindu religion" in his time but only primitive Brahmanism or Vedicism; and to call the Buddha "only a great reformer" of Vedicism is also incorrect. The Supernal Teacher was a Seer, an

Awakened One, who broadcast a teaching so original, so profound and universal as to become the powerful and creative matrix of a distinct civilization which is yet unsurpassed in some respects.

His teachings, no doubt, reformed many of the debased practises of Vedic religion. But he did not claim to be a reformer; neither Hindu scriptures nor Brahmanical texts recognise him as a reformer. The Puranas recognise him only as a "seducer." As for his admission to the rank of "incarnation," this is no special tribute to the Buddha, because all sorts of beings and beasts, e. g. a fish, a tortoise, a boar, a dwarf, a half-man-and-half-lion etc. are also given that position. Dr. Radhakrishnan says: "For us, in this country, the Buddha is an outstanding representative of our religious tradition … In a sense the Buddha is a maker of modern Hinduism." But this is a modern and partially enlightened view unknown to Brahmanical antiquity and orthodoxy.

There was a constant struggle between Brahmanism and Buddhism right from the days of the Buddha to the time of the effacement of Buddhism towards the beginning of the second millennium. This struggle is proved by the Pali Texts, the Sanskrit Buddhist Texts, the Upanishads, the Dharma Sutras of Brahmanas, the Puranas, the philosophical treatises of both traditions and it is confirmed in some cases by archaeological evidence and foreign notices. This struggle ended only with the exit of the professed Buddhism from the Indian scene. The rapprochement that began to take place between Brahmanism and Buddhism from the early centuries of the Christian era was in spite of this struggle between the two: "In the twofold process of assimilation and condemnation of Buddhism, the Brahmanical priests sacrificed at the altar … of mythical Vishnu even the most historical and overwhelmingly non-brahmanical personality of the Buddha and mystified the historical existence of Buddhism as a delusive trick of a Puranic God."

It is only in these Puranic tricks and myths that the ninth Avatara of the Bhagavata God "was born, grew up, and died a Hindu." In the history of ancient India, however, the Buddha Śakyamuni lived, taught, and died as a non-Vedic, non-brahmanic and non-theistic "teacher of gods and men" (*sattha devamanussanam*) though regularly criticised, condemned and insulted by the most noted teachers and texts of the Vedic-Brahmanic tradition.

In the opinion of the most distinguished modern historian of India, Dr. R. C. Majumdar, the admission of the Buddha as an Avatara of God by the orthodox tradition was a "well-conceived and bold stroke of policy which cut the ground from under the feet of Buddhism which was already steadily losing ground and the ultimate result was the complete effacement of Buddhism from India as a separate sect." It seems to us that it was with a view to destroying the very ground of Buddhism, to overpowering the very crown of Buddhism, the Buddha, that Brahmanical priestly authors of the post-Gupta age went so far as to accept the same Śakyamuni who had been despised as a *vasalaka*, a *mundaka*, a *sramanaka*, a *nastika* and a *sudra* by the brahmanas of the pre-Christian era.

Two most fundamental elements of pre-Buddhistic Vedic Brahmanism are the doctrine of sacrifice (*yajña*) and the doctrine of four castes (*varnas*). Dr. Kane ignores the fact that both are criticised and rejected by the Buddha. By rejecting the sanctity and authority of the Vedas, the Buddha rejected all that was in pre-Buddhist Vedic culture. The anti-Vedic and anti-sacrificial ascetic thought of the old Upanishads does not belong to Vedic Brahmanism or the Indo-Aryans because it cannot be traced to the early and middle Vedic culture.

Buddhism and the non-Brahmanic thought of the Upanishads belong to a non-Aryan and pre-Vedic Indian cultural tradition. The Buddha referred to the Vedas and Vedic sages with honour not because he accepted their teachings but because he found some items of value in the faith of even those who did not follow and who opposed his doctrine. He was neither a brahmin by caste nor a teacher of Brahmanism. He was never recognised as a teacher or seer or reformer in Brahmanism prior to the age of the Puranas. The Mahabharata, for example, was compiled during the period when Buddhism flourished most in India, during cir. 400 BCE to 400 CE and though it is full of Buddhist influence yet its authors carefully avoided the name of the Buddha even from its list of Avataras. The present form of the Mahabharata, with its ethics and philosophy, would have been impossible without Buddhism. Its silence about the Buddha only speaks of the deliberate attempt to disguise the originality of Buddhist tenets and to mythologize the non-Vedic influences. The Ramayana (II.109,34) recalls the followers of the Tathagata only for their atheism and quietly incorporates the fundamentals of Buddhist ethics in its better parts. The entire corpus of Brahmanical literature before the rule of the Gupta Kings (400–500 CE) is clearly against the theory of Drs. Radhakrishnan and Kane.

The partial similarity between the Buddha's teachings and the teachings of the older Upanishads cannot by itself prove the assumption that these so called Vedic texts are older than the Buddha. The hypothesis that Buddhism was influenced by the Upanishads rests entirely on the belief that the oldest Upanishads must be pre-Buddhist in date. In fact neither of these assumptions can be supported by clear evidence. The only evidence is the traditional view that Vedic literature is older than Pali literature. But Vedic literature includes some texts which were composed long after the age of the Buddha, and so-called Vedic texts continued to be composed down to the beginning of the Christian era. The chronology of the oldest Vedic texts has to be revised in the light of the date of the Indus Valley Civilization. However, the assumption that the older Upanishads are earlier in date than the Buddha has been one of the fundamental arguments of the upholders of the theory of a Vedic origin of Buddhism. Let us, therefore, turn our attention to the chronological position of the oldest Upanishads.

IV. Date of the Oldest Upanishads

There are more than 110 texts called Upanishads. Some of these Upanishads, e.g. the Allah Upanishads, were written in the reign of the Mughal King Akbar in the 16th Century CE and some even later. About a dozen Upanishads seem to have been in existence in the 9th Century CE when Śamkara (788 CE) wrote comments on some of them. Santirakshita (800 CE) has

critcised the *Atman* doctrine of the Upanishads. The Bhagavadgita (200 CE) calls itself an Upanishad and contains Upanishadic passages from about eight of the oldest Upanishads.

It is likely that about one dozen Upanishad texts were in existence about the beginning of the Christian era. A. B. Keith has divided the fourteen so called older Upanishads into three groups in the following chronological order:

1. *First group*, oldest Upanishads 1. Aitareya 2. Brihadaranyaka 3. Chandogya 4. Taittiriya 5. Kaushitaki 6. Kena.

2. *Second group*: 7. Kanha 8. Isha 9. Śvetasvatara 10. Mundaka 11. Mahanarayana.

3. *Third Group*: 12. Prasna 13. Maitrayaniya and 14. Mandukya.

With regard to the date of the Upanishads of the first and oldest group, Keith observes that, "it is wholly impossible to make out any case for dating the oldest even of the extant Upanishads beyond the sixth century BCE and the acceptance of an earlier date must rest merely on individual fancy."

S. N. Dasgupta, A. A. Macdonell, Max Müller, Winternitz, Jacobi and a few other scholars usually place the older Upanishads in the sixth and fifth centuries BCE. The Katha, Maitrayaniya and Śvetasvatara Upanishads were placed by E. W. Hopkins in the fourth century BCE. Buddhist and Jaina impact on the Mundaka Upanishad was demonstrated by J. Hertel. M. Walleser was of the view that the illusion theory of the Upanishads was derived from the early Madhyamika thought and he placed the Mandukya Upanishad in the sixth century CE. According to Dr. Kane the Brihadaranyaka and the Chandogya Upanishads are generally held to be "earlier than the Buddha." There is no general agreement on this point. The view entertained by Walleser, Rahula Samkrityayana and others that the Tevijja Sutta of the Digha Nikaya refers to the Aitareya, Chandogya and Taittiriya Upanishads is quite wrong. As Keith said, "the definite use of any particular Upanishad by any Buddhist sutta has still to be proved." Dr. O. H. de A. Wijesekera has observed that "the older Suttas of the Digha Nikaya were composed before the end of the Brahmana period when the Upanishads had not come to be regarded as independent texts."

The Brahmana period of the Vedic age came to an end towards the third century BCE. This is true especially of the Śatapatha Brahmana of which Brihadaranyaka Upanishad forms the concluding part. According to Panini and Katyayana, the Brahmana texts of the Vajasaneyins or Yajñavalkyas were contemporary with them. Panini has been placed in the 5th century BCE by some and in the 4th century BCE by others. Katyayana should belong to the fourth or even to the third century BCE.

The only argument for placing the oldest Upanishads in the 6th century B. C. is the archaic character of their language. But their language can be compared only with the Mahabharata and Ramayana, which are very late composite compilations, or with the language of Panini and the Brihad-devata which have been placed in the fourth and third centuries BCE. There is thus no sound linguistic evidence to consider the Brihadaranyaka and Chandogya Upanishads as pre-Buddhist in origin. The Tevijja Sutta does not know the way of the Upanishads. But it refers to the Brahmana-caranas such as those of Adhvaryu, Taittiriya, Chandogya, and Bahuvrica Brahmanas. T. W. Rhys Davids and George Buhler were of the view that the oldest Pali Suttas are "good evidence, certainly for the fifth, probably for the sixth century BCE." In our opinion, the bulk of the oldest Upanishads including the Brihadaranyaka and the Chandogya should be placed between the age of the Buddha and that of Asoka. None of the Upanishads can be dated before the age of the Buddha (624–544 BCE).

There is strong evidence of Buddhist influence in the language as well as in the doctrines of the oldest Upanishads. Doctrines characteristic of early Buddhism, which are quite foreign to pre-Upanishadic Vedicism, are found in the Upanishads. This point needs emphasis because it at once establishes the *heterogeneous character and hybrid origin* of these texts and their doctrines. It will be absurd to hold that any of these Upanishads was composed at one time or by one person. They are compilations and represent many contradictory doctrines. R. E. Hume has discussed some Buddhist impact on the older Upanishads in the following words: "Evidence of Buddhist influences are not wanting in them." In Brih 3.2.13 it is stated that after death the different parts of a person return to the different parts of Nature from whence they came, that even his soul (*atman*) goes into space and that only his karma, or effect of work, remains over. This is a clear reflection of the Buddhist doctrine.

Connections in the point of dialect may also be shown. *Sarvavat* is "a word which as yet has not been discovered in the whole range of Sanskriit literature, except in Śatapatha Brahmana 14.7. 1. 10 (= Brih 43. 9) and in Northern Buddhist writings" (Kern, SBE, 21, p xvii). Its Pali equivalent is *sabbava*. In Brih 4.3 to 2.6 *r* is changed to *l*, i. e. *paly-ayate* for *pary-ayate*—a change which is regularly made in the Pali dialect in which the books of Southern Buddhism are written. It may be that this is not direct influence of the Pali upon the Sanskriit, but at least it is the same tendency which exhibits itself in Pali, and here the two languages are close enough together to warrant the assumption of contact and synchronous origin.

Somewhat surer evidence, however, is the use of the second person plural ending *tha* for *ta*. Müller pointed out in connection with the word *acaratha* (Mund 1. 2.1) that this irregularity looks suspiciously Buddhistic. There are, however, four other similar instances. The word *samvatsyatha* (Prasna 1.2) might be explained as a future indicative (not an imperative), serving as a mild future imperative. But *pricchatha* (Prasna 1.2), *apadyatha* (Prasna 1.2.3 *janatha* and *vimuñcatha* (Mund 2.2.5) are evidently meant as imperatives, and as such are formed with the Pali instead of with the regular Sanskrit ending. It has long been suspected that the later Śiva sects, which recognised the Atharva-Veda as their chief scripture, were closely connected with

the Buddhistic sects. Perhaps in this way the Buddhistic influence was transmitted to the Prasna and Mundaka Upanishads of the Atharva Veda. This alone shows that the Upanishads are not unaffected by outside influences. Even irrespective of these, their inner structure reveals that they are heterogeneous in their material and compound in their composition. Keith's criticism of Hume's view is not convincing. Some names of Vedic persons mentioned in the Aranyakas, Sutras and Upanishads are known to the Pali Suttas, where they are mentioned as contemporaries of the Buddha.

The Samkhyayana or Kaushitaki Aranyaka mentions Gunakhya Samkhyayana as a pupil of Kahola Kaushitaki. This Samkhyayana was a contemporary of Asvalayana as is clear from the fact that Asvalayana honours Kabola as a *guru*. This Asvalayana is called Kausalya in the Prasna Upanishad—that is a resident of Kosala. As Raychaudhuri has pointed out, this Asvalayana Kausalya is identical with Assalayana of Savatthi mentioned as a great Vedic teacher of Kosala in the Assalayana Sutta. He was a contemporary of the Buddha and also of Kabandhi Katyayana. It is possible that this Kabandhi Katyayana was identical with Kakudha Kaccayana or Pakudha Kaccayana mentioned as a noted teacher and contemporary of the Buddha in the Samaññaphala Sutta (DN 2). Two famous brahmanas of the later Vedic age, Paushkarasadi and Lauhitya, mentioned in the Samkhyayana Aranyaka, are also mentioned as contemporaries of the Buddha in the Ambattha and Lohicca Suttas (DN 3 and 12). This evidence thus clearly places the older Pali suttas in the sixth century BCE. Thus the Aranyaka and the Sutras associated with Samkhyayana and Asvalayana cannot be placed before the age of the Buddha.

The Upanishads are posterior to the Aranyaka texts. Panini, the author of the *Ashtadhyayi*, who cannot be placed before BCE 500–400, does not know the Vedic texts called *Aranyakas*; but Katyayana (400–300 BCE.) knows the use of the word *aranyaka* both as a "forest dweller" and as a "forest treatise." This means that the Aranyakas cannot be earlier than the Ashtadhyayi. It is well known that Yajñavalkya was a contemporary of Kahola, the teacher of Gunakhya Samkhyayana. As already noted, Panini does not recognise Yajñavalkya's works among the older (*puranaprokta*) Brahmanas. Śvetaketu, the famous person in the Brihadaranyaka (VI.2.1f.) and Chandogya (VI.1f.) Upanishads is mentioned in the *Apastamba-Dharmasutra* as an *avara* or modern scholar. Śvetaketu was a contemporary of Kahola, and therefore a contemporary of Gunakhya Samkhyayana and Asvalayana of Savatthi.

The royal philosopher, Ajatasatru, mentioned in the Kaushitaki (IV.1) and Brihadaranyaka (II.I.1) Upanishads, was evidently king Ajatasattu of Magadha, a contemporary of the Buddha. In the Upanishads he is called a king of Kasi (Varanasi) and a contemporary of Driptabalaki Gargya, Janaka Videha and other noted Upanishadic personages. In the time of the Buddha, Kasi was under the control of Bimbisara and his son Ajatasattu; the small territory of Kasi had come to the Magadhan monarch as a dowry and Ajatasatru inherited his father's kingdom. There is no reason to think that the Upanishadic Ajatasatru of Kasi was different from the Magadhan Ajatasatru known to Buddhist and Jaina literature. It would be absurd to think that the Upanishads have preserved the names of noted brahamins and kshatriyas in a chronological

order. These texts are composite in character and contain the names of persons who flourished before the Buddha (e.g. Janaka), in the age of the Buddha; and perhaps also of persons who flourished in the fifth and fourth centuries BCE.

The dialogues in the Upanishads were recorded long after the age of persons figuring in these dialogues and hence the mixing of names of persons of early and late ages. Kings of Videha lineage ruled over Kasi as is clear from the Sambula and Matuposaka Jatakas. Brahmadatta was the generic or family name of the rulers of Kasi (Varanasi) (*Jataka*, Nos. 519, 455, 421). King Ajatasatru, a contemporary of the Buddha, is called Vedehaputta as well as a Kasva (of Kasi); this is because his mother came from Videha and his step-mother came from Kasi. He is claimed by the Upanishads as an Upanishadic teacher, by the Jaina Sutras as a follower of Jainism and by the Buddhist sources as a devout follower of the Buddha.

A person called Bhadrasena Ajatasatrava, who was a contemporary of Uddalaka Aruni, is referred to in the Śatapatha Brahmana. Raychaudhuri thinks that he may have been a successor of Ajatasatru. It is possible that Bhadrasena was an epithet of the latter. We know that Uddalaka was a contemporary of Pravahana Jaivali and father of Śvetaketu. The Upanishads contain names of such persons who were contemporaries of the Buddha, even of followers of the Buddha, like Ajatashatru, Asvalayana, Lauhitya and Paushkarasadi (and his pupil Ambattha). There is therefore no reason to think that the Chandogya and Brihadaranyaka Upanishads are later than these two. The very name of the Mundaka Upanishad, "the Upanishad of the shaven-headed ones," suggests its post-Pali origin. *Mundaka*, *samanaka* and *vasalaka*—these were the words of abuse which were used as such for the Great Ascetic (*maha sramana*) Buddha by the brahmanas (Vasala Sutta, Sn I.7). Moreover, this Upanishad approves the monastic way and is most vociferous in criticising Vedic ritualism; it thus indicates the Buddhist influence in Brahmanical circles.

The Katha Upanishad criticises the Buddhist doctrine of the plurality of elements (*dharmas*). It says, "Just as the water fallen over rocks is scattered and lost among the hills, likewise, *he who holds the existence of separate dharmas* is lost after them." (*Katha Upanishad*, IV. 14.). The term "dharma" in the phrase *prithag-dharman* does not mean "quality" as Hume has translated. The theory of dharmas, or elements of mind and matter, was a Buddhist theory taught by the Buddha. The fact that the Katha Upanishad is aware of it and criticises its expounders proves that this old Upanishad cannot be earlier than the fifth century BCE.

The word sramana occurs for the first time in the Brihadaranyaka Upanishad and it never became a word of respect in Brahmanical literature. Apart from the evidence discussed by Hume, the occurrence of this word shows that this Upanishad knows Buddhist and Jaina sramanas.

The older Upanishads thus should be placed in between 500 and 300 BCE. The approval of asceticism (yoga and dhyana) and criticism of sacrificial ritualism characteristic of the older "Upanishadic period" therefore means the period between the Buddha and Asoka.

The argument of Dr. Kane that the Upanishads do not refer to the Buddha's teachings is thus wrong. If the absence of any reference to the Pali Pitakas in the older Upanishads were to prove that the Upanishads are earlier than the Pitakas, then the absence of any reference to the Upanishads in the Pali Pitakas should prove that they are earlier than the Upanishads. This argument of Dr. Kane thus does not help his thesis. He is not correct when he says that no meetings are recorded in the Pali Suttas in which hostility between brahmanas and sramanas or the Buddha and his pupils is reflected.

There are many reports in the Pali Suttas which demonstrate the hostile attitude of the brahmanas of Vedic tradition towards the Buddha, his pupils and his doctrines. Thus the Vasala Sutta of the Suttanipata records how brahmanas disliked and abused the Buddha (Sn I.7). The Pinda Sutta of the Samyutta Nikaya records that the Buddha was not given even a meal in a village of the brahmanas (SN 4:18). A noted brahmana named Sonadanda, we are told in the Digha Nikaya (DN 4), hesitated to pay homage to the Buddha in the presence of other brahmanas lest his community would excommunicate him. The demeanour of Kasibharadvaja, as reported in the Kasibharadvaja Sutta (Sn I.4), can hardly be called courteous. The heretics who, according to the commentary on the Dhammapada, killed the Arahat Moggallana were probably Vedic brahmanas. In many Suttas the Buddha says that some brahmanas and sramanas misrepresented his teachings and gave publicity to ill-conceived theories wrongly attributed to the Buddha.

Dr. Kane's view that the Buddha and his early pupils did not attack the central Upanishad conception of the immanence of Brahma is ill conceived. As a matter of fact, this conception of a neuter Brahman or absolute Atman of the Upanishads had not come into vogue in the time of the Buddha. No Pali Sutta refers to the theory of Upanishadic Brahman as the ultimate reality and the question of its criticism does not arise at all. As pointed out above, this Upanishadic idea of an absolute Brahman had not come to overwhelm the central Vedic ideas of god Brahma or Prajapati. And the ideas of supremacy of god Brahma over the creatures and of the desirability of trying to obtain his supposed heaven by performing Vedic rituals are repeatedly ridiculed by the Buddha. The greatest Vedic gods, Indra and Brahma Prajapati, appear as humble disciples of the Buddha in many Pali Texts (SN 6:1; DN 21).

The fact that the Buddha praises an ideal *brahmana*, in many of his discourses, and uses the words *brahmacariya*, *brahmakaya*, and *brahmadhuta* in some of his discourses should not mislead us. The word *brahma* was not a monopoly of the Vedic brahmanas; it was a word of common usage among the people in the age of the Buddha. In the Brahmana Vagga of the Dhammapada, the word *brahmana* does not mean a Vedic priestly brahmana. In Buddhism the concept of a true brahmana means the concept of an Arahat or a Buddha. The word *brahmana*

is a synonym of *muni* or Śramana. *Brahmacariya* means *dhammacariya*. In the Pali Texts *brahmacariya* means what Śantideva calls *bodhicarya* in his *Bodhicaryavatara*. Since Brahma, Bodhi, Dhamma, and Buddha, are here used as synonymous words, *brahmakaya* means *dhammakaya*, i.e. the Absolute Element (*dhammadhatu*) or *nirvana-dharma*. *Nirvana* is the peace that passes understanding. The word *brahmabhuta* means *nibbuta* or *sitibhuta*, an epithet of the Tathagata.

The venerable antiquity of the older Upanishads is thus a matter of mere traditional belief. Scholars heretofore have been persuaded to believe that the Buddha's teachings are partly presupposed by the older Upanishads. Our contention, however, is that the Upanishads have been greatly influenced by the Buddha's teachings. The Buddha's date (624–544 BCE) is certain; the date of the Upanishads, on the other hand, is a matter of traditional bias.

V. Early Brahmanical Ideals Contrasted with Early Buddhist Ideals

Dr. P. V. Kane says that "the moral qualities which he (Buddha) urged men to cultivate belonged to antiquity". "By "antiquity" he means the pre-Buddhist Vedic age. Dr. Radhakrishnan has also referred to the Buddha's teachings as a restatement of "the ancient ideals of the Indo-Aryan civilization." Let us therefore briefly discuss the ancient ideals of the Indo-Aryans and examine the "moral qualities" of old Vedic religion.

The doctrine of Karma and rebirth, the practise of meditation and Yoga for seeking the final goal, and the idea of the futility of rituals and sacrifices, which begin to appear in old Brahmanism or Vedic religion in the age of the early Upanishads were not the creations of the Indo-Aryans. These doctrines and practises do not represent a linear or inner evolution of the old Indo-Aryan ideology. The Upanishads are a continuation of the older Vedic tradition of the Brahmana texts, but for the most part, their spirit is decidedly antagonistic to the doctrinal tradition of the Vedas and the Brahmanas. Though the Upanishadic thought has been preserved in these texts of Brahmanical tradition and all followers of Brahmanism and Hinduism are rightly proud of it, yet the fact remains that it had no roots in the philosophy of the pre-Buddhist Brahmanical texts.

Buddhism is especially famous for its stern ethics and high moral ideals. The moral and spiritual ideals and ideas of *Ahimsa, Moksha*, Karma and Rebirth were entirely unknown to pre-Upanishadic Vedic religion or Indo-Aryan civilization.

According to A. B. Keith, the Brahmanas do not know the doctrine of transmigration "have no-conception of pessimism, and therefore seek no release from the toils of life.' The ethical content of the Upanishads, he says, is "negligible and valueless." It is a mis-search (*vippallasa*) to try to find out anything of morality in Vedic religion. "The failure to rise to the conception even of a system of ethics," observed Keith, "is a sign … of the lack of ethical sense. On the part

of the brahmans … in truth, the aims of the brahmans were bent on things which are not ethical at all."

In the opinion of Sylvain Levi, "It is difficult to imagine anything more brutal and more material than the theology of the Brahmanas … Morality finds no place in this system."

The divine stories of "Indra overcome with drink," says W. Crooke, "and committing adultery with Asura women? of the incest of Prajapati, are in contradiction with the ethical elements of faith.' "The Brahmana texts," says H. Jacobi, "are almost entirely concerned with sacrifice."

The *Purohita* or priest, and not the liberated saint, points out Bloomfield, was supreme in Vedicism, and his supremacy rested merely on his skill in magic. According to E W. Hopkins, "the priest performs the sacrifice for the fee alone, and it must consist of valuable garment, kine, horses or gold … gold is coveted most, for "this is immortality, the seed of Agni," and therefore, peculiarly agreeable to the pious priest."

The greatest principle of Vedic thinkers was the principle of sacrifice (*yajña*); sacrifice was the hallmark of ancient Indo- Aryan civilization. The origin and end of this culture of the Indo-Aryans lay in the idea of *yajña*. Though much violence and cruelty to living beings were involved in the multifarious sacrifices of the Indo-Aryans, yet it was the chief end and means in the Brahmanical philosophy of pre-Buddhist India. To quote Dr. G. C. Pande, "The chiefest idea which the priests repeatedly stress is the majesty of sacrifice. Sacrifice is indeed identified with Vishnu, and with Prajapati? and through its help the sacrificer was assured not only a celestial after-life, but safety, longevity, progeny, prosperity and fame in this life."

The doctrine of sacrifice, the heart and soul of Vedic culture, was the one and sufficient element or "ideal" which at once distinguished Brahmanism from Buddhism. In the latter system it is attacked because it did not help liberation, prolonged samsara, and involved violence to living creatures. Yet this gospel of violence was sought to be justified as late as the time of Manusmriti (200 CE). According to this sacred text of old Brahmanism, "since the Dharma has originated from the Vedas, that violence, which is prescribed in the Veda in this living and non-living world, is indeed non-violence." (V. 44).

The moral doctrine of *ahimsa* (non-violence or inoffensiveness) is unknown to the old Vedic texts. The idea of *ahimsa* in Vedicism occurs first in the Chandogya Upanishad as a thing to be given to the priest (or teacher) in the form of "gift" (*dakshina*). The text, however, declares that *ahimsa* towards all beings should be observed "at places other than the sacred spots" (*anyatra-tirthebhyah*). The *tirthas* or "sacred spots" of Indo-Aryan ('Hindu'?) people of Vedic age were the places where the slaughter of living beings at sacrifice was prescribed. Deliberate killing of living beings was thus an integral part of "the Hindu religion" and "the Hindu inheritance" of the Upanishadic period. In other words, the doctrine of non-violence, which is based on the idea of the sanctity of all forms of life and implies a positive notion of kindness (*karuna*)

towards all living beings, was in direct contradiction with the central philosophy of the Vedic Aryans.

The ideal of final liberation (*moksha, nirvana*) was quite unknown to the priests or "seers (of the gods and demi-gods) of the Vedas. Vedic "seers" endeavoured for the attainment of heaven," a glorified world of material joys as pictured by the imagination not of warriors, but of priests." The way to this heaven was the sacrificial ritualism, *yajña*.

The idea of transmigration appears only in the latest of Vedic texts which, as we have seen above, cannot he older than 5th century BCE. The doctrine of karma and transmigration is clearly said to be of non-Vedic and non-Aryan origin. Thus the legend of the dialogue between the tempter or death (*Mrityu, Mara, Yama*) and Naciketas shows that Naciketas learnt the ideas of moral karman, yoga and transmigration from some non-Aryan sage who is here mystified and mythologised as Mrityu or Yama. The later texts, e.g. the Mahabharata and the Puranas, likewise mythologised the historical and human teachers of non-Vedic tradition, the founders of the Samkhya (*Kapilamuni*) and Buddhism (*Śakyamuni*) who had taught the doctrines of karma, rebirth, immortality and freedom.

The ideal of renunciation or the homeless holy life was not known to Vedic culture. The legend of Yajñavalkya's decision to abandon his wives to seek the welfare of his own soul and go to the forest is perhaps based on the example of Siddhartha Gautama who left his wife and royal household. Not a single characteristic teaching of the Buddha can be traced to any pre-Buddhist Vedic or Brahmanical text. The early Indo-Aryan or old Brahmanical ideals were diametrically opposed to the early Buddhist ideals.

To say that the Buddha's teachings were based on the ancient ideals of Indo-Aryans is an example of *suggestio falsi suppressio veri*; for this amounts to condemning the Buddha to the category of those primitive Vedic priests who were neither ascetic in outlook nor monks in practise, who neither knew the moral doctrines of karma and rebirth nor sought Nirvana as a release from samsara. The historic founder of Buddhism was a *muni*, a *yati*, a *sramana*, a *bhikshu*, whereas the founders of old Indo-Aryan culture were warlike chiefs and householder priests. The Indo-Aryan leaders and teachers fought battles, propitiated gods through rituals and spells, and craved for the riches and joys of the world whereas the teachers and leaders of Buddhism practised compassion and non-violence, renounced the world with all its joys and sought transcendental peace. The greatest teacher of old Vedic or ancient Indo-Aryan civilization, Yajñavalkya, had two wives, and though he parted with his wives, he still continued the acquisition of wealth and fees.

The true Indo-Aryan ideal, that of a prosperous worldly life with continued progeny, is expressed in the following lines of the Aitareya Brahmana:

Kin nu malam kim ajinam kimu smasruni kim tapah
Putram brahmana icchadhvam sa vai loko vadavadah

That is to say, "What is the use of wearing dirty (*kasava*) garments, what use of antelope's hide, what use of (growing) a beard, what use of austerity? Desire a son, O brahmana; that is the only praise-worthy thing in the world." It is erroneous to trace here the theory of the fourth stage (*asrama*) of life known to post-Vedic texts. Even the Chandogya Upanishad (II.23.1), for the first time, refers only to three classes of duties (*trayo dharmaskandhah*) and it does not know the fourth stage of life and its duties. The theory of four *asramas* (stages) of life is decidedly posterior to Buddhism. In the earliest *Dharmasutras*, those of Gautama and Baudhayana, which cannot be earlier than the third century BCE, though the theory of four *asramas* (*brahmacarya, grihastha, vanaprastha,* and *parivrajaka* or *sanyasi*) is expounded, the idea of ascetic life, the stage of a mendicant, is not approved. It is clearly stated in these texts that there is really only one stage (*eka-asramyam*), the stage of a householder (*grihastha*) which is prescribed.

Baudhayana's view on this point deserves special notice. He says that all the other three stages are an obstruction to progeny; the stage of a householder, which is conducive to procreation and continued progeny, is the only prescribed stage. He says that there was "a demon named Kapila" (*Kapilo nama asura-asa*) who introduced the stages other than that of the householder because "he was jealous of the gods" (*devaih spardhaman*). "The wise should not honour his scheme." What does this statement amount to? It amounts to the facts that the institution of *sanyasi* or *parivrajaka* is of non-Aryan and non-Vedic origin; that early Brahmanism disapproved the ascetic or monastic life and discipline; that the brahmanas, gods on earth (*bhudevas*), held the life of a house-holder as the best life and that this ideal was opposed to the monastic ideal of the sramanas, *yatis* and munis—in one word, ascetics. We shall see below who this Kapila Asura, the father of the monastic way of life, was. From Badarayana's *Brahmasutras* (III 4. 18) we learnt that Jaimini, the author of the *Mimansasutras*, held, like Gautama and Baudhayana, that all the other stages were an obstacle to the stage of the householder which is the only stage sanctioned in the Vedas.

The way of the *sramanas* or *bhikshus* of the age of the Buddha was clearly opposed to the way of the Vedic and Upanishadic brahmanas. Not only Kapila but also the Buddha is described as an Asura in early Brahmanical scriptures. The idea that the supreme bliss consists in the destruction of craving and the renunciation of attachment to worldly affairs is essential for success in Yoga and meditation, and the ideal of obtaining immortality through the extinction of samsara are foreign to the Hindus of Vedic age; the old Indo-Aryan ideals were thoroughly materialistic.

The priests of the Rigveda prayed thus: "May we, O Fire, attain immortality through children" (*prajabhir agne amritatvamasyam*). This was the highest form of thought reached in the Vedic

culture and this passage is repeated in the Taittiriya Samhita and the Baudhayana Dharmasutra as scriptural authority against the ascetic and monastic way.

Upanishadic brahmanas, who regularly kept wives, produced children and maintained cattle, never failed to admonish their students "not to cut off the line of progeny (*praja tantum ma vyavacchetsim*)."58 This was meant to exalt the householder's life and to denounce the homeless life. It was the acknowledged view in Vedic culture that a brahmana is born involved in debts including a debt to his fathers (*pitris*) which he cannot repay except by producing children, especially a son (*Taittiriya Samhita*, VI.3.10.5.). Hence one must marry and beget progeny. There was no awareness of *samsara* or *dukkha,* hence no thought of any transcendental goal nor of any spiritual endeavour in this primitive Aryan way of life. It is perfectly in keeping with the central current of Vedic Brahmanism that the Śatapatha Brahmana (XII.4.1.1) declares that "Agnihotra is the only session (of duty) which must be continued till old age and death (*etad vai jara maryam satram yad-agnihotram*)." This is possible only in the life of a householder. That is why the Dharmasutras of Gautama (III.35); Manu (VI.89–90; III.77–80) Vasishtha (VIII.14–17); Vishnu (59.29); and Daksha (II.57–60) have praised the stage of a householder as the best stage of life.

Even when the brahmanas of Vedic tradition in the Maurya and post-Maurya periods (300 BCE–200 CE) began to talk of the stages (*asrama*) other than that of the householder, they kept the stage of a mendicant (*bhikshu, parivrajaka*) at the very end of the scheme, the last choice to be made in old age when no moral or spiritual virtues can be observed. The highest spiritual goal of freedom or peace was relegated to the background as if it was the concern of men only in decrepitude and on their death-bed. Indeed, there is evidence to prove that Brahmanical teachers actually held this view. The continued exaltation of the life of a *grihastha* to the exclusion of other modes of life is in itself the strongest evidence. From the *Mitaksara* commentary on the *Yajñavalkyasmriti* (III.56) we learn that according to the orthodox section of Brahmanical lawgivers the *grihastha-asrama* was the rule of life and other *asramas* were for the blind and other incapable persons. Though the author of the *Mitaksara*, Vijñanesvara (1100 CE), rejects this view as he flourished at a time when the way of the Buddha had transformed the way of the Vedas and the Buddha had been transformed into a form of Vishnu of Puranic mythology, yet his commentary reflects the old Vedic notion of materialism and hostility to ascetic philosophy.

The historic founder of Buddhism had challenged the two foundations of Vedic culture: the doctrine of sacrifices and the institution of social classes or castes. He observed a way of life and taught a doctrine which were not only unknown to the teachers and authors of Vedic texts but which continued to be resisted by the brahmanas of Vedic tradition for centuries after the age of Śakyamuni. The resistance lessened only with Samkara (781–820 CE) who based his Advaita doctrine on Buddhist teaching and took over the monastic organisation from the Buddhist institution of monks. The Puranas further sought to bridge the gulf between the two traditions by accepting the Buddha as an Avatara of Vishnu and his moral legacy as the highest

Dharma. It would be instructive to refer to a few sayings of the Buddha at this juncture and contrast them with the Vedic viewpoint discussed above.

We read in the *Dhammacariya* or *Kapilasutta* (Sn II.6 v. 1) the following: "A life of purity is indeed the supreme life; this is called the excellent gem, if one has left the home for a homeless life." Here *brahmacarya* as against gri*hastha* is exalted as the best way of life and this could be observed only through leading a monk's life. The Buddha says, in another place (A I 80/AN 2:61), the following: "There are, monks, these two pleasures. What two? That of the home-life, and that of the homeless (ordained) life. Of these two, the pleasure of the homeless life is the pre-eminent." Elsewhere (A I 93), the Teacher contrasts the spiritual quest (*dhamma-pariyesana*) with the worldly quest (*amisa-pariyesana*) and says that of these two, the former is the superior. The same is the message of the *Ariyapariyesana* or *Pasarasi Sutta* (MN 26). Here the Tathagata has taught that there are two quests: the "noble quest" and the "ignoble quest." Search after the undecaying and incomparable Peace or Nibbana is the noble quest. Search after the son (*putta*), wife (*bhariyam*) and other domestic things is the ignoble quest. The Vedic ideal is thus called an ignoble quest. The Pabbajja Sutta (Sn III.1) tells us why Bodhisattva Siddhartha renounced the home life, the stage of a *grihastha*: "This house life is an oppression, the seat of impurity" and "an ascetic life is like the open sky." So considering, he embraced an ascetic life. We shall reproduce here only two more verses, one each from the Pali and Sanskrit versions of the celebrated Khaggavisanasutta (Sn I.2), to point out the early Buddhist attitude towards the ideals of a householder's life and that of an ascetic's life. The evils and dangers of the worldly life are summed up thus:

Iti ca gando ca upaddavo ca
Rogo ca sallam ca bhayam ca metam,
Etam bhayam kamagunesu disva
Eko care khaggavisanakappo.

"These (pleasures) are to me calamities, boils,
misfortunes, diseases, sharp pains, and dangers;
seeing this danger (originating) in sensual pleasures,
let one wander alone like a rhinoceros." (Sn I.2 v. 17)

Sandarayitva grihivyañjanani
Sikhir yatha bhasmani ekacari,
Kasayavastro abhini.skramitva
Eko care khadgavishanakalpo.

"Removing the characteristics of a householder,
like lonely (Buddha) Sikhi,
clothed in yellow robe, having left the home,
let one wander alone like a rhinoceros."

Contrary to the Brahmanical ideals of seeking immortality through progeny, the Buddha taught "sons are no help, nor a father, nor relations; there is no help from kinsfolk for one whom death has seized." (Dhp 288). The Vedic brahmanas sacrificed to the gods and muttered hymns in their praise with a view to gaining health, wealth, victory, sons, cattle, and so on; the sramanas, on the other hand, endeavoured through Yoga and meditation to transcend the world and destroy the passions.

In short, the declared ideal of early Buddhism was the attainment of an utterly tranquil (*upasama*), deathless (*amata*) state of peace (*santi*) and supreme bliss (*parama-sukha*). Destruction of impurities (*asavakkhaya*) such as desire, ignorance, and will-to-be etc. and the extinction of all attachment to worldly things were the most important aims cherished by the non-Brahmanical and non-Vedic monks of the age of the Buddha.

The pursuit of early Indo-Aryan ideals required just the opposite of these things. The old Vedic world-affirming Dionysian and Olympian philosophy stood in sharp contrast to the early Buddhist philosophy of ultimate peace and transcendental good.

Early Buddhist culture aimed at obtaining the Deathless State (*amata-padam*) by the extinction (*nibbana*) of the fires (*aggi*) that are craving (*tanha*) and attachment (*raga*). The early Vedic culture aimed at kindling "the fires of male and female" (*purushagni* and *yoshagni*)." We have already referred to some passages in the Aitareya Brahmana and the Taittiriya Upanshad which teach men to desire a son above everything else and never allow the line of progeny to be stopped. There is thus no correspondence or agreement between the basic views of early Brahmanism and early Buddhism. The two religious traditions had different backgrounds in the pre-historic Vedic epoch, and in the age of the Buddha and the older Upanishads some thinkers of Brahmanical tradition seem to have been deeply influenced by non-Brahmanical, non-Vedic and non-Aryan thoughts and ideals. The earliest leaders of this hybrid Brahmanical culture were, for the most part, kshatriyas, the royal philosophers called Rajarshis, and brahmanas learnt this higher philosophy (*Brahmavidya*) for the first time from these kshatriya teachers.

This stage of the development of Brahmanism is reflected in the older Upanishads in which kings like Janaka Videha, Asvapati Kaikeya, Ajatasatru, Pravahana Jaivali etc. figure as the foremost teachers of brahmanas. Although there is a partial similarity between early Buddhism and the teachings of some of the older Upanishads, yet the old Brahmanical or Indo-Aryan ideas are quite prominent in the latter texts. The contrast or conflict between Brahmanism and Buddhism pointed out above is to be seen to some extent in the older Upanishads which have preserved for us the fundamental discord between the ideals of brahmanas and those of sramanas and yatis. This conflict in these Vedic texts of post-Buddhist date cannot be explained without acknowledging the influence of the Buddha's teachings among the royal authors of the philosophy of the Upanishads. Moreover, the Upanishads show the influence of certain doctrines which are neither Brahmanical nor Buddhist, doctrines, which in later literature are attributed to the Samkhya and the Yoga traditions. Not only the oldest Upanishads but also a

few Pali Suttas are perhaps aware of the primitive Samkhya-Yoga. There is no evidence in Vedic literature to prove that Buddhism and the Samkhya-Yoga tradition are of Vedic or Brahmanical origin. It must therefore be admitted that before the age of the Buddha and before the compilation of the earliest Upanishads there must have existed in India some *yatis* and *munis*, the ascetic and silent or meditative teachers of non-Vedic and non-Aryan cultural tradition who held non-Brahmanical or Śramanic ideas and ideals such as are found in Samkhya-Yoga, Jainism and Buddhism.

In historic times, the brahmanas of Vedic tradition had accepted the Samkhya and the Yoga as their own systems of thought so that it has become customary to count these two systems in the "six systems" of Hinduism, but originally both these systems were of non-Vedic and non-brahmanical tradition. Just as at a later stage the brahmanas of Vedic tradition accepted asceticism, some characteristic doctrines of Jainism, Ajivism and nearly the whole of Buddhism including the Buddha as an Avatara of Vishnu, they had also accepted the dualistic Samkhya system and the technique of ascetic Yoga.

In Patañjali (200 CE), yoga is turned into a theistic system and in early mediaeval days the Samkhya also was sought to be interpreted on theistic lines of Śiva (Purusha) and Śakti (Prakriti). But before the compilation of the Mahabharata and the main classical Puranas, the Samkhya, the Yoga, Jainism, Ajivaka teachings and Buddhism were held by the brahmanas to be anti-Vedic and belonging to demons or non-Aryans. The Brahmanical ideology was held to be of divine origin; the strictly Brahmanical systems seek to trace their origin to the Śruti, the sacred revealed texts, the Vedas. Jainism, Buddhism, Ajivikism, and the Samkhya-Yoga do not recognise the Veda and do not have their roots in the Brahmanical theories of pre-Upanshadic and pre-Epic origin.

The Mahabharata, that growth of centuries, that gigantic mass of heterogeneous cultural lore of ancient India, which started its career towards the third century BCE and stopped the growth of its unwieldy volume towards the end of the fourth century CE, seems to have begun the great Vaishnava processes of assimilation of non- Brahmanical and non-Aryan culture-currents, of a systematic mystification of older historical personalities and of a carefully planned mythology of fancifully conceived sages and satans, gods and demons, of Indo-Aryan war-lords and priestly bards, of Indianised barbaric Aryan races and indigenous pre-Aryan races, of what are called the Dasas, Dasyus, Nishadas, Rakshasas, Nagas, Daityas and so on.

Although the fusion of Indo-Aryan races from beyond north-western India and the indigenous pre-Aryan races of India must have started in the middle Vedic age so that the older Upanishads already bear the fruits of a mixed culture, their racial and cultural differences seem to have persisted for several centuries afterwards. In particular we must mention a few important pieces of evidence which prove the existence of a basic rift or a fundamental gulf between the ideologies of divine and human origins, between the ideologies of the brahmanas of Vedic tradition and the sramanas or munis of non-Vedic tradition. As noted above, the Baudhayana

Dharmasutra condemns Kapilamuni (the author of the institution of *sanyasa*) as an Asura, a "demon." The Vedic brahmanas in the age of the Buddha reviled Śakyamuni as a *vasalaka*, an "outcaste." At many places in the Pali suttas the way of the Vedic brahmanas is shown to be in sharp contrast with that of the Śakya sramanas.

The Jaina Sutras also refer to the cleavage between the ways of the brahmanas (*bambhannayesu*) and the sramanas or wandering monks (*paribbayayesu*). Even the Macedonian envoy, Megasthenes (cir. 310 BCE), was able to mark the differences between "*sarmanai*" (*sramanas*) and "*brachmanai* (*brahmanas*). Emperor Asoka (cir. 273–233 BCE) repeatedly refers to the brahmanas and sramanas in his inscriptions and admonishes them to live in harmony. Patañjali, the grammarian, (cir. 150 BCE) refers to the brahmanas and the sramanas as constant opponents. This conflict was based on the mutually opposed philosophies of the brahmanas and sramanic teachers.

VI. Pre-history of Śramanism

We have seen above that the older Upanishads are not earlier than the Buddha and that the non-Brahmanical ideas and ideals of the Upanishads and the Pali Suttas are not known to the Vedic Aryan culture. What then was the original source of the thoughts of the historic munis, *yatis* and sramanas? It would be absurd to think that Buddhism and Jainism or the Samkhya and Yoga or the anti-Vedic spiritual thoughts of the older Upanishads appeared suddenly in the sixth and fifth centuries BCE. The fashionable theories of "revolt" or "reaction" and "reform" within the Vedic Brahmanism are gratuitous, wholly conjectural and without any evidence. The Upanishads themselves prove that non-Vedic, non-brahmanical and non-Aryan influences were at work; the pre-Upanishadic Vedic texts prove that there were in pre-historic India non-Aryan and non-Vedic *munis* and *yatis* or "ascetics." Finally, the archaeological remains of Mohenjodaro and Harappa prove that there were ascetics or *yatis* and yogins in India in the second millennium before Christ. There is thus literary as well as archaeological evidence to furnish the pre-historic background of the origins of the Upanishads, Buddhism, Jainism and other forms of sramanism. It is a well known fact that the older Upanishads are aware of the historic *sramanas, yatis, munis* and *mundakas*.

Their evidence on sramanism, therefore, is of no value for the background of the origins of Buddhism. On the other hand, words such as *bhikshu, tapasa, nirvana*, *pratityasamutpada* are known neither to these texts nor to the older Vedic texts. But pre-Upanishadic Vedic literature contains some casual references to the *munis, yatis, vaikhanasas* and *vriatyas*. The references show that these sages or tribes with ascetics as their teachers were not of Vedic cultural stock but belonged to non-Aryan or non-Vedic cultures of India. It is most unfortunate that pre-Buddhist literature of the Śramanic culture has altogether disappeared. But it is most likely that there must have been some non-Vedic pre-Buddhist literature which is now lost forever. It is quite possible that this literature was destroyed partly through human violence and partly through the ravages of time. We must remember in this connection the story of the gradual

disappearance of Pali, Sanskrit and Prakrit versions of Buddhist scriptures from the land of Buddhism. Let us briefly review the pre-Upanishadic Vedic evidence on the culture of the munis or Ascetics in pre-historic India.

The Rigveda (X. 163. 2–4) describes a *muni* who practised meditation and led an austere life. He is said to be "long-haired" and probably wore a beard. The *munis* either lived naked (*vatarasana*, windgirt?) or wore tawny-coloured or dirty (*mala*) garments and were experts in techniques of silent ecstasy. Macdonell and Keith say that the Rigvedic *muni* was "an ascetic of magic powers with divine afflatus, the precursor of the strange ascetics of later India."

The *munis* must have been quite well known in Vedic times but they were probably not respected in Vedic circles. A *muni* was probably not approved by the priests who followed the ritual and whose views were essentially different from the ideals of a *muni*, which were superior to earthly considerations, such as the desire for children and Daksina."

The Aitareya Brahmana (VI.33.3) mentions muni Aitasa who was also known for his strange "ecstasy" (or trances). We have seen above that this text (VII.13.7) refers to such ascetics who wore tawny robes, deer skin, wore beards and performed austerities and these practises are condemned as useless compared to the ideal of having a son. At one place the Rigveda (VIII.17.14) refers to Indra as the "friend of munis" (*muninam*), showing that there were many munis or ascetics. But the mention of Indra's friendship with these ascetics is rather curious, for, in other texts Indra is the declared enemy of the *yatis* or ascetics. The Atharvaveda (VIL 74.a) refers to a "divine muni." The Śatapatha Brahmanas (IX.5.2.15) also mentions a *muni* while the Pañcavimsa Brahmana (XIV.4,7) refers to a place called "ascetic's death" (*muni-marana*) where the Vaikhanasa ascetics were killed, obviously by Brahmanical followers of Indra.

The Vedic literature knows persons called *yatis*. *Yati* means an ascetic. Modern scholars think that *yatis* were a tribe, real or mythical. In Vedic myths they are mythologised and connected with Bhriigus. Indra is said to have caused the death of the *yatis*. In the Rigveda (VIII.3.9) Indra is hostile to them. In the Taittiriya Samhita (II 4.9.2; VI.2, 7, 5) and other texts Indra is said to have thrown the *yatis* to wolves or hyenas (*vyalavriikebhyah*) The yatis and munis of the Vedic age were non-Vedic ascetics. A third word denoting ascetics in the Vedic age was *vaikhanasa*. That a *vaikhanasa* was called a *muni* is clear from the Pañcavimsa Brahmana (XIV.4.7) which refers to the slaughter of these ascetics. The Taittiriya Aranyaka (I.23.3; IV.9.29) knows the Vaikhanasas and mentions a Vaikhanasa sage called Puruhanman.

A very late Brahmanical commentator of *Gautama Dharmasutra* (on III.2), Haradatta by name states that Vaikhanasa and Bhikshu refer to the third and fourth stages (*asramas*) respectively. The term *bhikshu*, "mendicant monk," a characteristic Buddhist term, is, however, "not found in the Vedic literature."Likewise the term *asrama*, "resting place" or a stage of life, "does not occur in any Upanishad which can be regarded as pre-Buddhistic." The word *sramana*,

"mendicant monk," "is first found in the Upanishads." The Buddha was known as a *mahasramana* before the Upanishads were compiled.

We shall note one more Vedic term which refers to non-Vedic people who had some ascetic ideology. This word is *vriatya* which occurs in the Vajasaneyi Samhita (XXX.8), Taittiriya Brahmana (III 4.5, 1), Atharva Veda (Kanda XV), Pañcavimsa Brahmana (XVII.1–4) and in the latest Vedic texts, the Śrauta Sutras, Katyayana, Latyayana and Apastamba. The Yajurveda (Vajasaneyi Samhita, XXX.8) includes the vri*atya* among the victims of "human sacrifice" (*purushamedha*). This evidence alone is enough to prove that the vri*atyas* were non-Aryan and non-Vedic people and that the Vedic Aryans of Brahmanical tradition were hostile to them.

The *St. Petersburg Dictionary* defines the term *vratya* as "belonging to a roving band (*vrata*), vagrants; member of a fellowship that stood outside the Brahmanical pale." In the Brahmanical Sutras on Śrauta and Dharma, the son of an uninitiated man is considered a *vratya*; those who were not consecrated in accordance with the Vedic rituals were deemed to be "depressed" or "degraded" (*hina*). The Manusmriti regarded the Licchavis as *vratya-kshatriyas*. It has been suggested by older writers that the fifteenth book of the *Atharvaveda* represents the "idealisation of the pious vagrant or wandering religious mendicant.' This book is captioned *vratyakanda*.

The word *vratya* seems to be connected also with *vrata*, vow; the *vratyas* were possibly ascetics who kept certain pious vows. That they were wandering religious mendicants is quite in keeping with their tradition of ascetic life. It is not suggested here that all the people called *vratyas* were ascetics; but that ascetic or sramanic ideas were popular among the teachers of the *vratya* community admits of no doubt. The fact that Brahmanas or Vedic priests composed "*vratya stomas*" and prescribed formal ritual for the admission into the Brahmanical fold of persons who were of non-Aryan origin or belonged to a non-Brahmanical cultural stock confirms the fact that the *vratya* culture was different from the Vedic culture. According to J. W. Hauer, the Vedic *vratyas* were related to Kshatriya *yogins* or *yatis*. It is generally believed that the *vratyas* were a people of eastern India, the region of Kosala and Magadha. It may be noted that the leader of the *vratya* community wore a head dress which is called "*ushnisha*," one of the thirty two marks of a "great man" (*mahapurisa*) in the Pali and Buddhist Sanskrit texts. Keith and Macdonell admit that the principles of the *vratyas* "were opposed to those of the Brahmanas."

A synonym of *vratya*, "wandering religious mendicant," is *parivrajaka* a mendicant monk, a religious wanderer. The word *parivrajaka* (Pali *paribbajaka*) is unknown to Brahmanical literature prior to the Nirukta of Yaska which is usually dated at 400 BCE. It must be observed that the mystical and ritualistic picture of Vratya culture recorded in the Atharva Veda (Book XV) is a Brahmanical version of a non-Brahmnical fact. Likewise, the information about munis, *yatis*, *vaikhanasas* and *sramanas* given in Vedic texts is coloured and reflects considerable mixing of non-Aryan and Aryan cultures. At any rate, the evidence discussed above shows that

there was what may be called a pre-historic form of the culture of munis and there were before the sixth century BCE its teachers called munis, *yatis*, *vratyas, vaikhanasas*, etc. The texts of the Vedic age show that the Vedic Indo-Aryans had been deeply influenced by the non-Aryan and pre-Aryan culture of India at the time of the composition of the Samhitas and Brahmanas. The Upanishads reveal the profound and enduring impact on Vedic priests of the non-Vedic ascetics. Dr. H. Zimmer observes that "Following a long history of rigid resistance, the exclusive and esoteric Brahman mind of the Aryan invaders opened up, at last, and received suggestions and influences from the native civilization. The result was a coalescence of the two traditions".

Apart from this old Vedic evidence, there is the evidence of the literary traditions preserved not only in Pali and Sanskrit Buddhist sources, the Prakrit and Sanskrit Jaina sources, but also in some Brahmanical sources which are datable between the fourth century BCE and fourth century CE, which strongly suggest the existence of saints or ascetics such as are conceived in the traditions of Jainism, Buddhism and the Samkhya-Yoga.

Most of the older writers have held the view that these systems arose within Vedicism as a reaction against Vedic sacrificial ritualism. Drs. G. C. Pande, H. Zimmer and H. L. Jain have pointed out that Buddhism, Samkhya-Yoga and Jainism were of non-Vedic and non-Aryan origin. John Marshall had demonstrated the non-Aryan and Harappan origin of Yoga while Dr. H. Jacobi had shown the great antiquity of the Jaina tradition. But the credit of making a detailed and critical study of the pre-historic background of the rise of Buddhism and suggesting Harappan influence in the culture of the *munis* and *sramanas*, goes to Dr. G. C. Pande. However, none of these scholars seems to have taken into account the Buddhist tradition of six "past Buddhas" who are believed to have flourished before Śakyamuni Buddha in pre-historic ages.

The most important epithets of the historic founder of Buddhism, Gautama Buddha, were Muni, Śramana, and Tathagata. Although he is also called Yati, Jina, Angirasa, Adiccabandhu, etc. and although the epithets Muni and Śramana are also given to many sages of the Jaina tradition, the epithet Tathagata, "One who came thus," or "One who had arrived (at Truth; Bodhi) in the same way" is a peculiar epithet, the very meaning of which essentially implies the existence of the Buddhas before Gautama Buddha.

Tathagata (*tatha+ agata*) means "one who has arrived (*agata*) at the timeless Nibbana in the same way (*tatha*) just as the Enlightened Ones of former ages (*pubbakehi sammasambuddhehi*) had attained to it."

In our opinion, it is in this context, with reference to the Buddhas of pre-historic India, the enlightened munis and *yatis* of pre-Upanishadic and non-Vedic Śramanic antiquity, that Gautama Buddha referred to himself as a Tathagata. It is not our view that all the Buddhas and Pratyeka-Buddhas known to Buddhist tradition (e.g. the Buddhavamsa and the Mahavastu know more than 25 Buddhas and in Mahayana myths they are numberless) were historical and

human sages. But we strongly believe that the six Buddhas 1. Vipassi, 2. Sikhi, 3. Vessabhu, 4. Kakusandha, 5. Konagamana, and 6. Kassapa, mentioned in the Digha and the Samyutta Nikayas as immediate predecessors of Gautama, were most likely real human Śramanic teachers whose historicity has been shrouded in the myths and legends so universally found in the Buddhist literature and art of Asia. Besides the evidence of the Digha and Samyutta Nikayas, the Majjhima Nikaya knows at least Kakusandha and Kassapa, while an inscription of Asoka mentions Kanakamuni or Konagamana. Whatever be the Brahmanical theory of the mythical incarnation of Vishnu in the form of the historic founder of Buddhism, and whatever be the views of modern Buddhists and Buddhist scholars regarding the origin of Buddhism and the antiquity of the gospel of Śakyamuni, the latter himself and his ancient followers including the two most famous of them, Asoka and Hsuan Tsang, had a firm faith in the historicity of the six aforesaid "former" Buddhas. The present writer shares this faith of ancient Buddhists.

The famous *ipse dixit* of Gautama Buddha, which has been cited as an authority in support of their hypothesis of Hinduistic origin of the Buddha's teachings by Drs. Radhakrishnan and P. V. Kane, has to be interpreted, in our view, in the context of the Buddhist tradition of the existence of the Buddhas before Gautama Buddha. The passage quoted by these scholars occurs in the Nagarasutta (SN 12:65). It has been wrongly employed to support the modern Hindu view that the Buddha himself claimed to teach the path of the ancient "Hindu" sages and to show that the Buddha did not feel that he was announcing a new religion. The word "Hindu" does not occur in the statement of the Buddha; nor does he refer to Vedic sages or Indo-Aryan seers or brahmanas or priests as the teachers of that ancient path which he followed and preached. It has been our contention that his teaching was connected with the ancient ideals of the munis, *yatis*, and *sramanas* who were neither "Hindu" nor Brahmanical or Vedic; nor even Indo-Aryan.

The antiquity of the Śramanic, as distinguished from the Brahmanic, path (*maggo*), affirmed by Śakyamuni, must be accepted as a fact. It is impossible to trace in the Vedas and Brahmanas any one single element referred to in that statement attributed to the Buddha which is quoted by these scholars and which should be summed up as follows: The Buddha gives an example of an ancient city (*nagara*) and an ancient road (*magga*) leading to that city. Just as a man wandering in a forest sees an ancient road and following that road arrives at an ancient city which was established by men in ancient times, in a like manner, the Buddha says, when he had been a Bodhisattva wandering in quest of the Supreme Peace, he saw and followed an ancient path and arrived at the highest goal. What was that path and what that goal?

The answer is contained in these lines: "Even so (*evameva*)," says the Buddha, "Monks, I have seen an old path, and an old road, traversed by the Supremely Enlightened Ones of yore. What, monks, is that old road, traversed by the Supremely Enlightened Ones of yore? Just this noble Eightfold Path, to wit, Right Views, Right Aims, Right Speech, Right Actions, Right Livelihood, Right Endeavour, Right Mindfulness, Right Concentration. This, monks, is that old path, that old road, traversed by the Supremely Enlightened Ones of yore. Along that I have gone. Going

along that I have fully known old age and death; I have fully known the end of old age and death; I have fully known the path leading to the end of old age and death? I have fully known birth, I have fully known becoming (*bhava*)? I have fully known the path leading to the end of volitional formations (*sankhara*)."

In this statement the "Eightfold Path" is called an "Ancient Path" (*puranam maggam*). Nobody can maintain that the Eightfold Path is known to the Vedic literature; it is unknown even to the Upanishads. In later Yoga texts a theory of "eight limbs" of Yoga was advanced apparently after the old Buddhist theory of an eightfold way. Likewise, the theory of "Four Truths" concerning the origin and end of ills (*dukkha*) is unknown to the entire range of Vedic literature, though the Buddha says that it also belonged to antiquity.

In later texts on medicine and Yoga we find that a similar view of four facts concerning origin and end of disease is expounded, obviously on the model of the Buddhist theory of the Four Truths. Not only are the "Eightfold Path" and the "Four Truths" related to antiquity but also the doctrine of "conditioned origination (*paticcasamuppada/pratityasamutpada*)" is said to be ancient. This doctrine is quite unknown to the Vedas, Brahmanas and Upanishads. The idea of *nirodha* of samsara, i.e. the conception of Nibbana or Nirvana, the highest goal referred to here, is quite unknown to the Vedic tradition. Yet the Buddha was quite right in saying that these cardinal doctrines of his Dhamma or Buddhism belonged to antiquity. They belonged to the Buddhas of former ages, to the Supremely Enlightened Ones of ancient times. The six "Seers" (*isis, rishis*) or "Past Blessed Ones" (*pubba bhagavanto*), namely, Vipassi, Sikhi, Vessabhu, Krakucchanda, Kanakamuni, and Kasyapa, are called "Supremely Enlightened Ones of Yore" by the Buddha. Śakyamuni trod their ancient path and arrived at the highest "Sphere (*ayatana*)" or "City (*nagara*)" known to these ancient seers. Hence he referred to himself as Tathagata, and hence also he was called "the seventh Seer among the Seers (*isinam isi sattamo;* SN 8:8)."

The six seers or Buddhas of Yore must have belonged to the tradition of munis and *yatis* whose existence in pre-historic India is attested by the Vedic Samhitas and Brahmanas. Nothing, more than their names, is known to us. Their biographies in extant sources are quite mythical but there seems to be some historical basis of facts underlying so ancient and so universally accepted a Buddhist tradition as that concerning these past Buddhas.

A. S. Geden observes, while commenting on the evidence of the Nigalisagar pillar inscription of Asoka referring to the stupa of Kanakamuni Buddha, that "of the numerous Buddhas whose names are recorded in the Buddhist books as predecessors of Gautama, it would seem therefore historically probable that a real basis of fact underlies the name and personality of Kanakamuni; and also of his successor Kasyapa."

Confirming the interpretation offered here of the Samyutta Nikaya passage quoted above, the *Mahavastu Avadana* records the following relevant lines addressed to Bodhisattva Siddhartha:

Yena gato krakucchando kanakamuni ca kasyapo
Etena tvam gaccha vira adya buddho bhavishyasi.

These lines obviously refer to that path which had been traversed by former Buddhas called Krakucchanda, Kanakamuni and Kasyapa, and Siddhartha is being advised to go along that path so as to become a Buddha soon.

It may be noted that the Jaina tradition also seems to be older than is generally believed. It will be difficult to maintain that all the twenty-three Jinas whose legends are found in Jaina books as predecessors of Nigantha Mahavira were historical teachers. But the historicity of some of them, for example, of Parsvanatha, is now an acknowledged fact. The *sishnadevas* or naked teachers known to Vedic literature may have been pre-historic predecessors of historic ascetics of Jaina and Ajivika traditions. Dr. Jacobi, relying on Jaina sources, placed Parsvanatha in cir. 750 BCE.

We should now briefly consider the origins of the Samkhya and Yoga. In later Brahmanical tradition these two systems are generally mentioned together. Yoga as a way of religious perfection is older than the Yoga system of thought now associated with Patañjali's *Yogasutras* (cir. 300 CE). Yoga as a way was an essential element of Śramanic culture. Yoga is therefore of non-Brahmanical and non-Aryan origin. The munis and *yatis* of Vedic age practised Yoga and *dhyana*. This is clear from the Rigveda (X.136.1–3) and the Aitareya Brahmana (VII.13.7). The early Yoga was possibly identical with Buddhist Yoga or the way of meditation. As it belonged to the non-Vedic Śramanic tradition, the early Yoga was possibly non-theistic and ascetic. Even in the Yoga system of Patañjali, God (Isvara) does not seem to be an essential element in the system.

In later Brahmanical myths known to the Mahabharata and the Puranas, Yoga is said to be of divine origin and is usually interpreted on theistic lines. The older Upanishads were deeply influenced by Yoga. From the time of the Svetasvatara Upanishad onwards, Rudra-Śiva seems to have been associated with Yoga. Śiva is now known as Yogisvara. Krishna in the Bhagavadgita is called Yogesvara. It is characteristic of this text to praise not only Yoga but also the Samkhya, and the two are identified as one.

There is strong evidence to prove the great antiquity of Samkhya and its non-Vedic or Śramanic origin. This system remained anti-Vedic, non-theistic, dualistic and ascetic till as late as the *Samkhyakarika* of Isvarakrishna (cir. 300 A.D). The Upanishads and the Mahabharata including the Gita, have been greatly influenced by the Samkhya system. It is wrong to suppose, as Dr. R. Garbe has done, that the Samkhya originated as a reaction to Upanishadic idealistic monism. The system is almost certainly of pre-Upanishadic origin. The Brahmajala Sutta "probably refers to the Samkhya dualism at one place when it refers to the view that the soul and the world (*attanam ca lokam ca*; cp. *purusha* and *prikriti* or matter) were held to be real by certain sramanas." From other Buddhist sources we know that Alara Kalama, a contemporary and

teacher of Siddhartha, was possibly a Samkhya teacher. The partial similarities between early Samkhya and Theravada theories are due, in our view, to the fact that the Samkhya belonged to the same tradition to which early Buddhism belonged and the practise of Yoga was a common bond between these two sister traditions of non-Brahmanical origin.

The founder of the Samkhya system was, according to all accounts, Kapilamuni or Rishi Kapila. He was a historical teacher and may be placed in the 9th century BCE. So many are the legends in the Great Epic and Puranas woven around his name that he was completely mythologised and deified. But before the Brahmanas or Vaishnavaite Hindus accepted him as an Avatara of Vishnu, his doctrine as a way to the Highest Good, and his institution of the ascetic stage as the fourth Asrama, he was held to be a "demon" (*asura*), and his teachings were treated as heterodox. For old Brahmanism, Kapilamuni was as good or bad as Śakyamuni; in Hinduism, however, both are revered as Gods.

The Mahabharata (*Vanaparva* 221.26) as well as the Samkhyakarika (verses 70–71) recognise Kapila as the founder of the Samkhya; Asuri and Pañcasikha were the two most important teachers after Kapila. The Śvetasvatara Upanishad (III.4, IV.12, V.2, VI. 13) knows the Samkhya, Yoga and Kapila and identifies the latter with the Golden Germ (*hiranyagarbha*). The Atharvaveda (X.8.43) knows three "qualities" (*gunas*) and the Ait. Upa. (III. 3), the Prasna Upa. (VI. 4) and the Katha Upa. (III.15) refer to five great elements and their five qualities. The Mahabharata mystifies Kapila with Vasudeva, Agni and Prajapati but gives a detailed account of the Samkhya doctrine and the ascetic culture called Yoga. The great Samkhya teacher Pañcasikha is called in the Epic a "*bhikshu*," "*kapileya*" and is said to have belonged to Parasarya gotra. It is important to note here that Panini (IV.3.110) seems to attribute a text called "*Bhikshu Sutra*" to a Parasarya. Thus two sources tell us that Kapila and his pupil, Pañcasikha, were associated with the institution of *samyasa* and its organisation or rules. We have already noted that Baudhayana makes Kapila responsible for the introduction of the stage called *pravrajya* or *samyasa*. This authority refers to Kapila as "Asura" and asks people not to respect his teaching. This is clear proof of the non-Vedic origin of Kapila, his Samkhya and his fourth Asrama.

Indeed, Kapila is mentioned in the Rigveda (X 27.16: *dasanam ekam Kapilam samanam tam hinvanti kratave paryaya*) as one among the ten (*Angirasas*). The Angirasas were connected with the *yatis*. The Buddha is sometimes called an Angirasa. In a Sri Lankan tradition Kapila is known as "Isuru-muni" which is identical with Kapila-muni who is called an Asura. Dr. G. C. Pande thinks that Kapila in Baudhayana Dharma Sutra (II.6.29–31) "may be merely eponymous for the Kapilas or the tawny-clad ascetics." This should not mean that a Kapila was not a real teacher called Kapilamuni. Dr. Zimmer says that "Kapila, who stands outside the traditional assembly of Vedic gods and goddesses as an Enlightened One in his own right? must have lived before the sixth century BCE."

Something should be observed about the term *arya* (Pali: *ariya*) It will be argued that the word Arya or Ariya is of such frequent occurrence in Buddhist literature, both Pali and Sanskrit, that to trace Buddhist origins to a non-Aryan and pre-Aryan source is rather difficult to appreciate. The word *arya* or *ariya* means "noble," "honourable," "respectable," "one who is faithful to the religion of his country," etc. Modern researches have shown that there was no human race called the Aryan race. Archaeologists and philologists now use the word *aryan* for those peoples who spoke a dialect belonging to the family of Indo-European, Indo-Aryan and Indo-Iranian group of languages. In ancient India the word *arya* or *ariya* was a word of common use among educated people. It was often used to show respect for a person or a group of persons or a doctrine. We have used the word Aryan for the Vedic or Brahmanical culture following this convention.

The word perhaps originated among the victorious barbarians, who came from beyond the north-western border of India in about 1500 BCE and who referred to the autochthonous people in contemptuous terms such as *dasa*. We have a similar case in later Buddhist history when the followers of the Mahasanghikas and Sarvastivadins coined the word Mahayana for their own doctrine and described the older schools as belonging to the Hinayana. The word *arya* or *ariya* has no racial or linguistic sense attached to it, in Buddhist literature. *Ariya-puggala* means "a noble person'; *Ariya-sacca* means "noble truth" and so on.

Before we conclude this section we must say a few words about the ascetics of the pre-Vedic culture of the Indus Valley. Archaeological evidence is more reliable and authentic than literary evidence. It has been rightly acknowledged by antiquarians like Marshall, Mackay, Piggot and Wheeler that some of the basic elements of the historic religious beliefs and practises of India go back to the Harappan culture or Indus civilization of the third millennium BCE For example, we find the holy animals like deer, lion, horse, elephant, bull, rhinoceros and the sacred snake represented in the plastic art of Mohenjodaro and Harappa. These creatures are often given an important place in Buddhist art and literature of historic times. The sacred *Ficus religiosa*, the *Asvattha* or the Pipala tree is already a religious article in this pre-historic civilization. In Buddhism this becomes the symbolic *Bodhi-rukkha*, the Tree of Enlightenment. More significant than these is the discovery of at least four sculptures which show ascetics or munis in ascetic and meditative posture establishing thereby the existence of Yoga and those who practise it, in pre-Vedic India.

A steatite seal from Mohenjodaro, discovered by E. Mackay, and described by John Marshall as the prototype of historic Śiva, "Trimurti," and "Pasupati," deserves special mention. Long before the ideas of Śiva, Mahadeva, Trimurti and Pasupati had come into existence in historic Brahmanism and Hinduism, there had been in pre-historic India and in Buddhism and Jainism what are called *munis*, *yatis* and *sramanas*. The Indus seal therefore should be looked upon as the figure of an ascetic of pre-Vedic Indian culture. The figure shows a human ascetic, seated cross-legged on a pedestal, around him are figures of a lion and an elephant on his right, and a buffalo and a rhinoceros on his left while below the pedestal are figures of a pair of deer. The

ascetic wears a head-dress resembling the symbol of the Buddhist *Triratna* as found in the art of Bharhut and Sañchi. The figure is probably four-faced.

Another figure on a seal is supposed to be that of a "priest." This human figure shows only the upper half of the body, the eyes are almost closed, seemingly in meditation; he wears a beard and long hair; the cloth on his body is thrown in a peculiarly Buddhist monk's manner, keeping the right arm uncovered. Here is the prototype of a historic *bhikkhu* or monk in concentration. There is then a stone figure of a man clearly seated in meditation, dating from the second millennium BCE. Last, we may mention the figure of another *muni* or ascetic found on a steatite seal from Mohenjodaro, depicting a man seated in a cross-legged yogic posture. He is flanked by two human worshippers with raised and folded hands apparently in adoration: behind each of these worshippers is a snake (*naga*) in half-rearing posture. There are some more Harappan figures depicting ascetics which have not been considered here due to lack of space.

UNIT—III MEDIEVAL INDIA

A. Kings and their court:

i) CHOLA VILLAGE ADMINISTRATION

The Chola kings followed a highly efficient system of' administration. The entire Tanjore district, parts of'Trichy, Pudukottai and South Arcot districts formed the part of' the Chola Mandalam. The Cholas had three major administrative divisions called Central Government, Provincial Government and Local Government. Tanjore was the capital of the Cholas. The efficient Chola administrative system has been well appreciated by many historians and rulers.

King ship

The king was the head of the administration. The Chola kings and Queens were considered as representatives of God. Their idols were kept in temples. The Chola kingship was hereditary. The Chola royal family followed the principle that eldest son should succeed the king to the Chola throne. The heir apparent was called Yuvaraja, The Chola monarchs enjoyed enormous powers and privileges. The Chola kings took up titles which marked their achievements. They lived in very big royal palaces. Kings were assisted by ministers and officials in their administration. Chola kings had tiger as their royal emblem.

Central Government

The Central Government t under the headship of the King. Council of ministers and officials took active part in running the administration of Central Government. The higher officials were called Peruntaram and the lower officials were called Siruntaram.

Provincial administration

The Chola Empire was divided into nine provinces. They were also called mandalams. The head of the province was called viceroy. Close relatives of kings were appointed as viceroys. The Viceroys were in constant touch with the Central Government. Viceroys received orders from the king. They sent regular reply to the king. The viceroys had a large number of officials to assist them in the work of administration.

Administrative Divisions

The success of the Chola administration depended more on the proper functioning of the administrative division us. Generally mandalams were named after the original names or the titles of the Chola kings. Each mandalam was divided into number of Kottams or Valanadus. Each kottam was sub divided into nadu. Each nadu was further divided into (Urs) villages which form part of the last unit of the administration. Uttaramerur inscriptions speak about the administration of the Cholas.

Revenue

The land revenue was the main source of income of the Chola Government. Proper land survey was made. Lands were classified as taxable land and non taxable land. There were many grades in the taxable lands. Land revenue differed according to these grades. Generally 1/6 of the land yield was collected as tax either in cash or in kind or both according to the convenience of the farmers. Besides land revenue, there were some other sources of income like customs and tolls. Taxes on mines, ports, forests and salt pans were collected. Professional tax and house tax were also collected. Many other taxes were levied. Tax burden was more on the society. Sometimes due to failure of rain and famine people could not pay tax.

Military

The Cholas had an efficient army and navy. The Chola army consisted of elephant, cavalry and infantry. Soldiers were given proper training. Commanders enjoyed the ranks of nayaks and senapathis. The army was divided into 70 regiments. The Chola arm had 60,000 elephants. Very costly Arabian horses were imported to strengthen the cavalry. The Chola kings defeated the Cheras at Kandalur salai. The kings of Ceylon and Maldives were also defeated. The Chola navy was formidable one in South India. With the help of their navy the Cholas controlled Coromandal and Malabar coasts. Bay of Bengal became the Chola lake. The Chola army and

navy together had 1,50,000 trained soldiers. The armies of the tributary chieftains also joined Chola army at needy times. Generally the Chola army was led by the King or Yuvaraja.

Justice

The Chola king was the chief justice. The Chola kings gave enough care for the judicial administration. The village level judicial administration was carried on by the village assembly. Minor disputes were heard by the village assembly. Disputes were settled with proper evidences. Village assemblies exercised large powers in deciding local disputes. Punishments were awarded by the judicial officers. The trial of serious offences and major cases were conducted by the king himself.

Chola Local Administration

The most important feature of the Chola administration was the local administration at districts, towns and villages level. Uttaramerur inscriptions speak much about the Chola administration. Village autonomy was the most unique feature of Chola administrative system.

Nadu

Nadu was one of the important administrative units of the Cholas. Nadus had representative assemblies. The heads of the nadus were called Nattars. The council of nadu was called nattavai. Representatives of the Nattavais and nattars promoted agriculture. They also took care of the protection of the people and tax collection.

Village Administration

The entire responsibility of the village administration was in the hands of the village assembly called Grama Sabha. The lowest unit of the Chola administration was the village unit. The village assemblies looked after the maintenance of peace, tanks, roads, public ponds revenue collection, judiciary, education and temples. The village assemblies were in charge of the payment of taxes due from the villages to the treasury. They regulated public markets and helped people at times of fathine and flood. Assemblies provided provisions for education. The village assemblies possessed absolute authority over the affairs of villages. They maintained law and order in every village. Brahmin settlement was called Chathurvedi mangalam.

Variyams

Village Assemblies carried on village administration effectively with the help of variyams. Male members of the society were the members of these variyams. Composition of these variyams, qualification and durations of membership differed from village to village. There were many variyams in every village. Niyaya variyam administered justice, Thottavariyam looked after flower gardens. The Dharma variyam looked after charities and temples. Erivariyam was in

charge of tanks and water supply. The pon variyam was in charge of the finance. The Gramakariya variyam looked after the works of all committees. The members of these varivams were known as "Varivaperumakkal They rendered honorary service. The village officials were paid salary either in cash or in kind. Good functioning of these variams increased the efficiency of the local administration of the Cholas.

The Chola government during the imperial period (850 – 1200 CE) was marked for its uniqueness and innovativeness. Cholas were the first dynasty who tried to bring the entire South India under a common rule and to a great extent succeeded in their efforts. Although the form and protocols of that government cannot be compared to a contemporary form of government, the history of the Chola empire belongs to a happy age in their history and great things were achieved by the government and the people.

ii) DELHI SULTANATE

The Delhi Sultanate is the name used to describe five short-lived medieval dynasties which were successful in establishing the Muslim rule in India for the first time. These dynasties or sultanates were of Turkic origin and ruled from Delhi between 1206 and 1526 AD. The five dynasties which are together termed as the Delhi Sultanate are listed as follows:

Mamluk Dynasty (1206 AD to 1290 AD)

Khilji Dynasty (1290 AD to 1320 AD)

Tughlaq Dynasty (1320 AD to 1414 AD)

Sayyid Dynasty (1414 AD to 1451 AD)

Lodi Dynasty (1451 AD to 1526 AD)

- Mamluk Dynasty (1206 AD to 1290 AD)

The Mamluk Dynasty (sometimes referred as Slave Dynasty or Ghulam Dynasty) was directed into Northern India by Qutb-ud-din Aybak, a Turkic general from Central Asia. It was the first of five unrelated dynasties to rule India's Delhi Sultanate from 1206 to 1290. Aybak's tenure as a Ghurid dynasty administrator ranged between 1192 to 1206, a period during which he led invasions into the Gangetic heartland of India and established control over some of the new areas.

The Qutub Minar, an example of the Mamluk dynasty's works.

Mamluk, literally meaning *owned*, was a soldier of slave origin who had converted to Islam. The phenomenon started in 9th century and gradually the Mamluks became a powerful military caste in various Muslim societies. Mamluks held political and military power most notably in Egypt, but also in the Levant, Iraq, and India. In 1206, Muhammad of Ghor died. He had no child, so after his death, his sultanate was divided into many parts by his slaves (mamluk generals). Taj-ud-Din Yildoz became the ruler of Ghazni. Mohammad Bin Bakhtiyar Khilji got Bengal. Nasir-ud-Din Qabacha became the sultan of Multan. Qutub-ud-din-Aybak became the sultan of Delhi, and that was the beginning of the Slave dynasty.

Aybak rose to power when a Ghorid superior was assassinated.[4] However, his reign as theSultan of Delhi was short lived as he died in 1210 and his son Aram Shah rose to the throne, only to be assassinated by Iltutmish in 1211.

The Sultanate under Iltutmish established cordial diplomatic contact with the Abbasid Caliphate between 1228–29 and had managed to keep India unaffected by the invasions of Genghis Khan and his successors. Following the death of Iltutmish in 1236 a series of weak rulers remained in power and a number of the noblemen gained autonomy over the provinces of the Sultanate. Power shifted hands from Rukn ud din Firuz to Razia Sultana until Ghiyas ud din Balban rose to the throne and successfully repelled both external and internal threats to the Sultanate. The Khilji dynasty came into being when Jalal ud din Firuz Khilji overthrew the last of the Slave dynasty rulers, Muiz ud din Qaiqabad, the grandson of Balban, and assumed the throne at Delhi.

The architectural legacy of the dynasty includes the Qutb Minar by Qutb-ud-din Aybak in Mehrauli, the Mausoleum of Prince Nasiru'd-Din Mahmud, eldest son of Iltumish, known as *Sultan Ghari* near Vasant Kunj, the first Islamic Mausoleum (tomb) built in 1231, and Balban's tomb, also in Mehrauli Archaeological Park.

- Khilji Dynasty (1290 AD to 1320 AD)

The Khilji dynasty was the second dynasty to rule the Delhi Sultanate of India. Towards the end of Slave Dynaty rebellions. Jalaluddin Khilji killed Muizuddin Qaiqabad, the last operational sultan of Slave Dynasty and founded the Khilji Dynasty in 1290 AD. This dynasty ruled the Delhi Sultanate from 1290 AD to 1320 AD.

The Rulers

The rulers of Khilji dynasty who ruled the Delhi Sultanate were:

1. Jalal uddin Khilji

2. Alauddin Khilji

3. Qutubuddin Mubarak Shah

Jalaluddin Khilji was the first sultan of Khilji dynasty. He ruled the dynasty from 1290 AD – 1296 AD. He was very liberal towards Hindus and it was not fully accepted by the nobles. His mild policies failed to control the unfaithful nobles. In 1296 AD, his nephew Alauddin Khilji killed him while he went to welcome his victorious nephew after the conquest of Devagiri.

Aladuudin Khilji

Aladuudin Khilji was the most powerful ruler of Khilji Dynasty. He killed Jalaluddin Khilji and became the sultan of Delhi in 1296 AD. He expanded his territory to a larger area including most of the India and part of Pakistan and Afghanistan. His childhood name was 'Ali Gurshap Bam'. In 1296 AD, he killed Jalaluddin, the founder of Khilji Dynasty and became the sultan of the dynasty.

Alauddin Khilji was a very good military commander and a brilliant strategist. His policies were very strict and he had the full control over his nobles. He was extremely harsh, ruthless and cruel ruler. He expanded the borders of his empire to most of the Indian territories and part of Pakistan and Afghanistan. Alauddin Khilji had multiple powerful military commanders like Zafar Khan, Ulugh Khan, Malik Kafur and Nusrat Khan.

Alauddin Khilji inherited most of the northern Indian territories, which were occupied at the time of Slave Dynasty and his predecessor Jalal uddin Khilji. He occupied Gujrat in 1298 AD, Ranathambhor in 1301 AD, Chittor in 1303 AD, Makwa ub 1305 AD and Jalor 1311 AD.

Alauddin Khilji is also known for defeating Mongols in multiple instances. In 1297 AD Mongol army invaded his territory but the sultan army led by Zafar Khan and Ulugh Khan defeated the Mongol invasion at Jalandhar. Mongol again attacked in 1299 AD with a larger army. Sultan army had a convincing victory and defeated the Mongol.

Alauddin started his military campaign in Southern India. Malik Kafur was appointed as the military commander and he carried out tha attack to the Deccan. In 1305 AD, Malik Kafur attacked King Ram Chandra of Devgiri and made him a tribute paying ruler under the protection Sultan, King Ram Chandra paid huge indemnity to Delhi Sultan.

In 1310 AD, Alauddin sent Malik Kafur to attack against Hoysalas of Dearasamudra. Sultan army defeated Vira Ballala III of Dearasanydra and the king paid huge amount of indemnity to Delhi Sultan and accept his protection and over lordship.

In 1311 AD , Malik Kafur attacked king Vir Pandya of Pandya kingdom in Madurai of Tamil Nadu. King Vir Pandya fled away from the capital and Sultan army occupied the capital of Pandya Kingdom.

Administrative work of Alauddin Khilji

Alauddin Khilji was an efficient administrator and known for his strict and harsh policies. He introduced strict and harsh policies. He introduced a strict Price Control measure and cut all unnecessary expenditure. He controlled the market price of the commodities. He increased the tax of agriculture and introduced a strict monitoring system to prevent bribes. He controlled the demand and supply by introducing godowns to store the surplus grain and make available at the time of scarcity.

- Tughlaq Dynasty (1320 AD to 1414 AD)

Ruler of the Tughlaq Dynasty

Rulers of the Tughlaq Dynasty	AD
Ghiyasuddin Tughlaq Shah	1320-1325
Mohammad Bin Tughlaq	1325-1351
Firuz Tughlaq	1351-1388
Later Tughlaq	1388-1414

The Tughlaq Dynasty, a North Inidian Dynasty ruled the Delhi sultanate from 1320 AD to 1414 AD. In 1320 AD, Khusro Khan, a Hindu convert killed the last ruler of Khilji Dynsasty Qutubuddin Mubarak Shah and thus ended the Khilji Dynasty, Khusro Khan ruled for a shorth period of time. Ghiyasuddin Tughlaq was a governor from the time of Alauddin Khilji, he attacked khusrao Khan and overthrew him. After defeating Khusro Khan, he founded the Tughlaq Dynastym the third dynasty of Delhi Sultanate. Ghiyasuddin Tughlaq wa the first ruler of Tughlaq Dynasty and ruled the Delhi sultanate from 1320 AD to 1325 AD. He built the fort Tughlaqabad in the southern part of Delhi.

Administrative work and Development

It was not a happy period when he started his reign. There were numerous existing problems in his territory. He implemented policies to control the nobles, took measured to reinstate peace in his kingdom he improved the postal system and encourages agriculture.

Muhammad bin Tughlaq

Muhannad bin Tughlaq succeeded his father Ghiyas uddin Tughlaq and ascended the thorone of Tughlaq Dynasty in 1325 AD. He ruled the Delhi Sultanate from 1325 AD to 1351 AD. He was one of the most controversial rulers in India History. He undertook many administrative

reforms but most of them failed due to his lack of plan and judgement. In Indian history, he is referred as the wisest fool king. Bin Tughlaq was a very knowledgeable person and knew different languages like Persian, Arabic, Turkish and Sanskrit.

Bin Tughlaq's Work

After becoming the Sultan of Delhi, Muhammad bin Tughlaq wanted to expand his territory and occupied Kalanaur and Peshawar in the north west. He desired to expand his borders in southern India and re-occupied states those were initially conqueredby malik Kafur during the reign of Alauddin Khilji. He occupied Andhra, Karnataka, Maharashtram larger parts of Tamil Nadu and Kerala and thus he conquered major part of south India and annexed it to the Delhi Sultanate.

Capital from Delhi to Dulatabad

Muhammad bin Tughlaq prepared to shift his capital from Delhi to Daulatabad. He ordered the whole population of Delhi and royal household including ministries, scholars, poets, musicians to move to the new capital. It is believed that he wished to shift the capital as a safeguard measure from Mongol Invasion. During the journey from Delhi to Daulatabad many people died on the way. By the time people reached Daulatabad, Muhammad changed his mind and decided to abandon the new capital and move to his old capital Delhi. Many people died in the movement. A severe plague broke and half of the army died in the epidemic. The plan of shifting capital completely failed.

Taxation System

Muhannad bin Tughlaq increased the tax on the alluvial lands between the Ganga and the Yanunavalley. During his reign, the empire faced a severe famine and the king took worse measures. People abandoned their home involved in robbery and theft, thousands perished. He ordered his revenue department to keep the record of revenue and expenditure of all his provinces. Governor of each province were ordered to submit their book of accounts to Delhi.

Agriculture Polices

Muhammad bin Tughlaq formed a separate agriculture department for the improvement of agriculture. He spent huge amount of money but the scheme didn't succeed due to corruption of officers and other factors.

Copper Coin Introduction

Muhammad introduced copper coins and kept the value at par with existing silver and gold coins. The scheme was very poorly managed and it spoiled his reputation.

Diplomatic Relation

Muhammad maintained a good relation with the other world leaders. He sent ambassadors to China and other places.

- Sayyid Dynasty (1414 AD to 1451 AD)

The Sayyid dynasty was the fourth dynasty of the Delhi Sultanate from 1414 to 1451. They succeeded the Tughlaq dynasty and ruled that sultanate until they were displaced by the Lodi dynasty.

This family claimed to be Sayyids, or descendants of Muhammad. The central authority of the Delhi Sultanate had been fatally weakened by the successive invasion of Timur and his sack of Delhi in 1398. After a period of chaos, when no central authority prevailed, the Sayyids gained power at Delhi. Their 37-year period of dominance witnessed the rule of four different members of the dynasty.

The dynasty was established by Khizr Khan, deputised by Timur to be the governor of Multan (Punjab). Khizr Khan took Delhi from Daulat Khan Lodi on May 28, 1414 and founded the Sayyid dynasty. But he did not take up the title of sultan and nominally, continued to be a*Rayat-i-Ala* (vassal) of the Timurids, initially of Timur and after his death, his successor Shah Rukh, grandson of Timur. Khizer Khan was succeeded by his son Mubarrak Khan after his death on May 20, 1421, who styled himself as *Muizz-ud-Din Mubarak Shah* in his coins. A detailed account of his reign is available in the *Tarikh-i-Mubarak Shahi* written by Yahya-bin-Ahmad Sirhindi. After the death of Mubarak Khan, his nephew Muhammad Khan ascended the throne and styled himself as Sultan Muhammad Shah. Just before his death, he called his son Ala-ud-Din from Badaun and nominated him as his successor?

The last ruler of this dynasty, Ala-ud-Din Alam Shah voluntarily abdicated the throne of the Delhi sulatanate in favour of Bahlul Khan Lodi on April 19, 1451 and left for Badaun. He continued to live there till his death in 1478.

Khizr Khan 1414–1421

Mubarak Shah 1421–1434

Muhammad Shah 1434–1445

Ala-un-din Alam Shah 1445–1451

- Lodi Dynasty (1451 AD to 1526 AD)

Buhlul Lodi established the Lodhi Dynasty and he ruled from 1451- 1526. He was previously the governor of Sarhind (in Punjab), under the Sultan of Delhi Alauddin Alam, of the Saiyid Dynasty (1414-1451). Due to the weak position of the Saiyid dynasty, Buhlul Lodhi took advantage, he first occupied the province of Punjab and later on, captured Delhi and became the Sultan of Delhi on April 19, 1451 under the title of Sultan Abul Muzzaffar Buhlul Shah Ghazi.

During his rule though there were numerous attempts to destabilize the empire, Buhlul managed to stand by the Lodhis. He captured a number of nearby states. This was the only Afghan dynasty to rule over the Delhi Sultanate, with the exception of Sher Shah Suri. Buhlul Khan seized the throne and managed the kingdom without much resistance from the then ruler, Alam Shah. Buhlul Khans territory was spread across Jaunpur, Gwalior & Uttar Pradesh. In 1486, he appointed his eldest son Barbak Shah as the Viceroy of Jaunpur.

Sikandar Lodi

Due to the death of Buhlul Lodhi in July 1489, his son Nizam Khan succeeded him, under the title Sikandar Shah. He turned out to be the most capable ruler of the Lodhi Dynasty. Sikandar Shah established a fair system of administration & founded the historical city of Agra. His empire extended from Punjab to Bihar and he also signed a treaty with the ruler of Bengal, Alauddin Hussain Shah.Sikandar Shah was the one who founded a new town where the modern day Agra stands and was known to be a kind and generous ruler who cared for his subjects.

Ibrahim Lodhi

Sikandar's death emerged the fight for succession between his sons, which resulted in the decline of rule of the Lodhi dynasty. Ibrahim Lodhi, son of Sikander, was the last Sultan of the Lodhi Dynasty. Zahiruddin Babur, the Mughal ruler from Central Asia, attacked India and defeated Ibrahim in the first battle of Panipat on April 21, 1526.

As the time came for Ibrahim to ascend the throne of Lodhi Dynasty, the political structure in the Dynasty had dissolved due to abandoned trade routes and depleted the treasury.

The Deccan was a coastal trade route, but in the late 15th century the supply lines collapsed. The decline and failure of specific trade route resulted in cutting off supplies from the coast to the interior, where the Lodi Empire resided. The Dynasty was not in a position to protect itself from the warfare if it would break out on the trade route roads therefore, the trade routes where not utilised and thus their trade declined, so further did their treasury leaving them vulnerable to internal political problems.

One more problem Ibrahim had when trying to ascend the throne as the next Lodi emperor was due to the Afghan chiefs. The chiefs did not like Sultan Ibrahim, so they divided the Lodi Empire and gave Ibrahim’s older brother, Jalaluddin the area in the east at Jaunpur and gave Ibrahim the area in the west, Delhi. Despite this situation, Sultan Ibrahim being the military man, he

gathered enough military support and killed his brother and reunited the kingdom by the end of that same year in 1517.

Later Ibrahim Lodhi arrested Afghan nobles who opposed him. The Afghan nobles were loyal to the Governor of Bihar, Dariya Khan as they wanted him to rule Delhi, not Sultan Ibrahim.

People who tried to take over the Lodi throne were extremely common during Sultan Ibrahim's time. Due to the lack of the law of succession, Ibrahim was forced to put down a great group of these ambitious men. Ibrahim Lodhis' own uncle, Alam Khan, working off his own ambitions, betrayed Ibrahim because he wanted to rule Delhi. Alam Khan decided to place his loyalty to the Mughal emperor, Babur.

The defeat of Ibrahim ended the Lodhi Dynasty and marked the beginning of Mughal rule in India. Due to the demands of the nobles, Ibrahim Lodhi's younger brother Jalal Khan was given a small share of the kingdom and was crowned the king of Jaunpur. Later, Ibrahim's men assassinated him soon and the kingdom came back to Ibrahim Lodhi. He was known to be a very stern ruler and was not liked much by his subjects. To take revenge of the insults done by Ibrahim, the governor of Lahore Daulat Khan Lodhi asked the ruler of Kabul, Babur to invade the kingdom. He was defeated in a battle with Babur founded the Mughal dynasty in India. The death of Ibrahim Lodhi, made the end of Lodhi dynasty.

Lodi Gardens is a park in Delhi spread over 90 acres- it has Mohammed Shah's Tomb, Sikander Lodi's Tomb architectural works of the 15th century which ruled much of Northern India during the 16th century and the site is now protected by Archeological Survey of India (ASI). The gardens are situated between Khan Market and Safdarjung's Tomb on Lodi Road. It is beautiful and serene and is a hotspot for morning walks for the Delhiites.

End of the Delhi Sulanate:- There were many reasons for the decline of the Delhi Sulanate.During the Medieval period,the personality of a ruler was very important.Forceful and powerfull personalities like that of Baghan and Ala-ud-din Khalji were not only able to control the territories they inhetited,but were also able to expand the empire. He passed an order stating that when a soldier grew old,his son,son-in-law or even his slave could take his place irrespective of wheather the new recuit was fit for military service or not.THis weakened the Sultanate.

Impact of the Delhi Sulanate:- The establishment of the Delhi Sulanate led to some important changes in the political,social,economic and cultural life of the country.Another important result of the establishment of the Delhi Sulanate was change in the language of

administration.Persion was adopted as the language of administration.Later on.it led to the developement of a new lanuage Urdu.

II Vijayanagaragara state

A Well Organised Administrative System:

Vijayanagara empire which lasted for more than two hundred years in the Deccan had a well-organised administrative system. It was on account of this system that there was an all round prosperity in the state. Under the leadership of its several rulers, the state made a remarkable progress in the economic, cultural, political and social fields. Many foreigner visitors like Nicolo (onti-ltalian), Abdul Razaq (Persian) and Dominigos Pius (Portuguese) etc. have praised the prosperity of the state.

image source: bsvprasad.files.wordpress.com/2013/11/early-vijayanagara-sculpture-on-the-temple-e1385875861384.jpg

Kingship Krishnadeva Raya, the greatest ruler of the Kingdom of Vijayanagara explains the position of Kingship in his book 'Amuktamalyda" that a King should gather round him people skilled in state craft and seek their advice and help in administration. He further writes, "A crowned king should always rule with an eye towards Dharma".

The ruler was a benevolent despot. He was the head of the state and was regarded as the God's representative on earth. The king was the supreme authority in civil, military and judicial matters. The king, however, was assisted and guided by a council of ministers. He was an enlightened and benevolent ruler.

Council of Ministers:

The king was assisted by ministers who were nominated by the king. The ministers were appointed from the three classes i.e. The Brahmans, the Kshatriyas and the Vaishayas. The office of the minister was sometimes hereditary. The three important key posts of the state were the Prime Minister, the Chief Treasurer and the Prefect of the Police.

Rule of two rulers simultaneously. Sometimes two rulers ruled at the same time-a strange practice and perhaps the only one in history; Hari Har I and his brother Bukka Rai ruled at the same time. Likewise Vijay Rai and Dev Rai ruled at the same time.

Provincial administration:

For purpose of administration, the empire was divided into 6 provinces. A province was called Prant, or Rajya. Each province was under a viceroy or Nayak who was either a member of the royal family or influential noble of the state. Every viceroy enjoyed civil, military and judiciary powers within the province. He was required to submit regularly account of the income and expenditure to the central government.

Decentralised administration:

The rulers of Vijayanagar a adopted the principle of the decentralisation of political power. The empire was, divided into provinces prants, districts, 'Nadus', 'Melagrams' and 'grams'. Administration of the villages was autonomous.

Local administration:

The province was divided into smaller units. The village was the smallest unit. It was self-sufficient. The village assembly (Panchayat) was responsible for the administration of the village. Village accountant and the village watchman were the hereditary officers. These officers were paid either by grants of land or from a portion of the agricultural produce.

Nayankar system of administration:

Under this system, the ruler assigned a land track to officials in lieu of pay i.e. for maintaining themselves and that of their army from the land track itself. These officials or landlords provided military service to the ruler.

Sources of revenue:

Land revenue was the chief source of income. Land was divided into four categories for purposes of assessment, wet land, dry land, orchards and woods. Usually the share was one sixth of the produce. Land revenue could be paid in cash or kind. The rates varied according to

the type of the crops, soil, method of irrigation, etc. Apart from land revenue, other taxes were: irrigation tax, grazing tax and import- export duties on merchandise goods.

Administration of justice:

The king was the highest authority or the supreme court of justice. His word was final. Petitions were presented to the king or the Prime Minister by all those who had a grievance and these were disposed of according to the principles of Hindu Law. Punishments were very severe. Torture was used to find out the truth from the alleged culprit. Death sentence, mutilation of the limbs of the body and confiscation of property were the deterrent punishments for the criminals. In the villages, panchayats dispensed justice for ordinary crimes.

Military organization:

The army consisted of infantry, cavalry, artillery and camels. The rulers of the Vijayanagar a empire neglected naval power. The rulers recruited Turkish archers in the army. The military organisation was rather weak and its primary weakness was artillery.

According to Domingos Paes, a foreign traveller, Krishna Deva Raya's army included 703,000 infantry, 32600 cavalry and 551 elephants, besides an unaccounted host of camp followers. Chariots had gone out of use. The efficiency of the huge army was not proportionate to the number of force.

Splendour of the court:

The court of the rulers of Vijayanagara was known for its grandeur and splendour. It was attended by nobles, priests, scholars, musicians and astrologers.

Orders of the rulers:

No written orders were issued by the rulers. The royal words were carefully noted down by secretaries, whose record was the sole evidence of the commands issued.

iii) MUGHAL STATES

From his exile in Burma in 1857, the last Mughal Emperor penned these famous words of defiance: As long as there remains the least trace of love of faith in the heart of our heroes, so long, the sword of Hindustan shall flash even at the throne of London.

The last emperor of India, Bahadur Shah, was forced into exile inBurma by Britain during the so-called "Sepoy Rebellion," or First Indian War of Independence. He was deposed to make space for the official imposition of the British Raj in India.

It was an ignominious end to what was once a glorious dynasty, which ruled the Indian subcontinent for more than 300 years.

Founding of the Mughal Empire

The young prince Babur, descended from Timur on his father's side and Genghis Khan on his mother's, finished his conquest of northern India in 1526, defeating the Delhi Sultan Ibrahim Shah Lodi at the First Battle of Panipat.

Babur was a refugee from the fierce dynastic struggles in Central Asia; his uncles and other warlords had repeatedly denied him rule over the Silk Road cities of Samarkand and Fergana, his birth-right. Babur was able to establish a base in Kabul, though, from which he turned south and conquered much of the Indian subcontinent.

Babur called his dynasty "Timurid," but it is better known as the Mughal Dynasty - a Persian rendering of the word "Mongol."

- Babur's Reign

Babur was never able to conquer Rajputana, home of the warlike Rajputs. He ruled over the rest of northern India and the plain of the Ganges River, though.

Although he was a Muslim, Babur followed a rather loose interpretation of the Quran in some ways. He drank heavily at his famously lavish feasts, and also enjoyed smoking hashish.

Babur's flexible and tolerant religious views would be all the more evident in his grandson, Akbar the Great.

In 1530, Babur died at the age of just 47. His eldest son Humayan fought off an attempt to seat his aunt's husband as emperor, and assumed the throne. Babur's body was returned to Kabul nine years after his death, and buried in the Bagh-e Babur.

Height of the Mughals under Akbar the Great:

Humayan was not a very strong leader. In 1540, the Pashtun ruler Sher Shah Suri defeated the Timurids, deposing Humayan. The second Timurid emperor only regained his throne with aid from Persia in 1555, a year before his death, but at that time he managed even to expand on Babur's empire.

When Humayan died after a fall down the stairs, his 13-year-old son Akbar was crowned. Akbar defeated the remnants of the Pashtuns, and brought some previously unquelled Hindu regions under Timurid control. He also gained control over Rajput through diplomacy and marriage alliances.

Akbar was an enthusiastic patron of literature, poetry, architecture, science and painting. Although he was a committed Muslim, Akbar encouraged religious tolerance, and sought wisdom from holy men of all faiths. He became known as "Akbar the Great."

- Shah Jahan and the Taj Mahal:

Akbar's son, Jahangir, ruled the Mughal Empire in peace and prosperity from 1605 until 1627. He was succeeded by his own son, Shah Jahan.

The 36-year-old Shah Jahan inherited an incredible empire in 1627, but any joy he felt would be short lived. Just four years later, his beloved wife, Mumtaz Mahal, died during the birth of their fourteenth child. The emperor went into deep mourning and was not seen in public for a year.

As an expression of his love, Shah Jahan commissioned the building of a magnificent tomb for his dear wife. Designed by the Persian architect Ustad Ahmad Lahauri, and constructed of white marble, the Taj Mahal is considered the crowning achievement of Mughal architecture.

The Mughal Empire Weakens

Shah Jahan's third son, Aurangzeb, seized the throne and had all of his brothers executed after a protracted succession struggle in 1658. At the time, Shah Jahan was still alive, but Aurangzeb had his sickly father confined to the Fort at Agra. Shah Jahan spent his declining years gazing out at the Taj, and died in 1666.

The ruthless Aurangzeb proved to be the last of the "Great Mughals." Throughout his reign, he expanded the empire in all directions. He also enforced a much more orthodox brand of Islam, even banning music in the empire (which made many Hindu rites impossible to perform).

A three-year-long revolt by the Mughals' long-time ally, the Pashtun, began in 1672. In the aftermath, the Mughals lost much of their authority in what is now Afghanistan, seriously weakening the empire.

The British East India Company

Aurangzeb died in 1707, and the Mughal state began a long, slow process of crumbling from within and without. Increasing peasant revolts and sectarian violence threatened the stability of the throne, and various nobles and warlords sought to control the line of weak emperors. All around the borders, powerful new kingdoms sprang up and began to chip away at Mughal land holdings.

The British East India Company (BEI) was founded in 1600, while Akbar was still on the throne. Initially it was only interested in trade, and had to content itself with working around the fringes of the Mughal Empire. As the Mughals weakened, however, the BEI grew increasingly powerful.

The Last Days of the Mughal Empire

In 1757, the BEI defeated the Nawab of Bengal and French company interests at the Battle of Palashi (Plassey). After this victory, the BEI took political control of much of the subcontinent, marking the start of the British Raj in India. The later Mughal rulers held on to their throne, but they were simply puppets of the British.

In 1857, half of the Indian Army rose up against the BEI in what is known as the Sepoy Rebellion or the Indian Mutiny. The British home government intervened to protect its own financial stake in the company, and put down the so-called rebellion.

Emperor Bahadur Shah Zafar was arrested, tried for treason, and exiled to Burma. It was the end of the Mughal Dynasty.

The Mughal Legacy in India

The Mughal Dynasty left a large and visible mark on India. Among the most striking examples of Mughal heritage are the many beautiful buildings that were constructed in the Mughal style - not just the Taj Mahal, but also the Red Fort in Delhi, the Fort of Agra, Humayan's Tomb and a number of other lovely works. The melding of Persian and Indian styles created some of the world's best-known monuments.

This combination of influences can also be seen in the arts, cuisine, gardens and even in the Urdu language. Through the Mughals, Indo-Persian culture reached an apogee of refinement and beauty.

List of Mughal Emperors and Their Reigns:

- Babur (1526-1530)

- Humayun (1530-1540, 1555-1556)

- Akbar (1556-1605)
- Jahangir (1605-1627)
- Shah Jahan (1627-1658)
- Aurangzeb (1658-1707)
- Bahadur Shah (1707-1712)
- Jahandar Shah (1712-1713)
- Furrukhsiyar (1713-1719)
- Rafi ul-Darjat (1719-1719)
- Rafi ud-Daulat (1719-1719)
- Nikusiyar (1719-1743)
- Mohammed Ibrahim (1720-1744)
- Mohammed Shah (1719-1720, 1720-1748)
- Ahmad Shah Bahadur (1748-1754)
- Alamgir II (1754-1759)
- Shah Jahan III (1759-1759)
- Shah Alam II (1759-1806)
- Akbar Shah II (1806-1837)
- Bahadur Shah II (1837-1857)

MANSABDARI SYSTEM

The mansabdari system introduced by Akbar was a unique feature of the administrative system of the Mughal Empire. The term mansab (i.e. office, position or rank) in the Mughal administration indicated the rank of its holder (mansabdar) in the official hierarchy. The

mansabdari system was of Central Asian origin. According to one view Babur brought it to North India.

But the credit of giving it an institutional framework goes to Akbar who made it the basis of Mughal military organization and civil administration. The mansabdars formed the ruling group in the Mughal Empire. Almost the whole nobility, the bureaucracy as well as the military hierarchy, held mansabs.

Consequently, the numerical strength of the mansabdars and their composition during different periods materially influenced not only politics and administration but also the economy of the empire.

Since the mansabdars of the Mughal empire received their pay either in cash (naqd) or in the form of assignments of areas of land (jagir) from which they were entitled to collect the land revenue and all other taxes sanctioned by the emperor, the mansabdari system was also an integral part of the agrarian and the jagirdari system.

Basic Features

The mansabdars belonged both to the civil and military departments. They were transferred from the civil side to the military department and vice versa. The Mughal mansab was dual, represented by two members, one designated zat (personal rank) and the other sawar (cavalry rank). The chief use of zat was to place the holders in an appropriate position in the official hierarchy.

In the early years of Akbar's reign the mansabs (ranks) ranged from command of 10 to 5,000 troops. Subsequently the highest mansabs were raised from 10,000 to 12,000; but there was no fixed number of mansabdars.

From the reign of Akbar to Aurangzeb their number kept on increasing. In or about 1595 the total numbers of mansabdars during the reign of Akbar was 1803; but towards the close of Aurangzeb's rein their number rose to 14,449.

In theory all mansabdars were appointed by the emperor, who also granted promotions on the basis of gallantry in military service and merit. The mansabdars holding ranks below 500 zat were called mansabdars, those more than 500 but below 2,500 amirs and those holding ranks of 2,500 and above were called amir-i-umda or amir-i-azam or omrahs. The mansabdars who received pay in cash were known as naqdi and those paid through assignments of jagirs were called jagirdars.

The jagirs were by nature transferable and no mansabdar was allowed to retain the same jagir for a long period. The watan-jagirs were the only exception to the general system of jagir

transfers. The watan-jagirs were normally granted to those zamindars who were already in possession of their watans (homelands) before the expansion of the Mughal empire.

The mansab was not hereditary and it automatically lapsed after the death or dismissal of the mansabdar. The son of a mansabdar, if he was granted a mansab, had to begin afresh. Another important feature of the mansabdari system was the law of escheat (zabti), according to which when a mansabdar died all his property was confiscated by the emperor. This measure had been introduced so that the mansabdars did not exploit the people in a high-handed manner.

B. Bhakti- Sufi Tradition in relation with state and Reconfiguration of identity

The Child Saint Sambandar, Chola dynasty, Tamil Nadu. from Freer Gallery of Art, Washington DC, He is one of the most prominent of the sixty-three Nayanars of the Saiva bhakti movement.

The Bhakti movement refers to the theistic devotional trend that emerged in medieval Hinduism It originated in the seventh-century Tamil south India (now parts of Tamil Nadu and Kerala), and spread northwards. It swept over east and north India from the fifteenth-century onwards, reaching its zenith between the 15th and 17th century CE

The Bhakti movement regionally developed around different gods and goddesses, such as Vaishnavism (Vishnu), Shaivism (Shiva), Shaktism (Shakti goddesses), and Smartism The movement was inspired by many poet-saints, who championed a wide range of philosophical positions ranging from theistic dualism of Dvaita to absolute monism of Advaita Vedanta.

The movement has traditionally been considered as an influential social reformation in Hinduism, and provided an individual-focussed alternative path to spirituality regardless of one's caste of birth or gender Postmodern scholars question this traditional view and whether Bhakti movement ever was a reform or rebellion of any kind. They suggest Bhakti movement was a revival, reworking and recontextualization of ancient Vedic traditions.

Scriptures of the Bhakti movement include the Bhagavad Gita, Bhagavata Purana and Padma Purana.

Terminology

The Sanskrit word *bhakti* is derived from the root *bhaj*, which means "divide, share, partake, participate, to belong to". The word also means "attachment, devotion to, fondness for, homage, faith or love, worship, piety to something as a spiritual, religious principle or means of salvation".

The meaning of the term *Bhakti* is analogous but different than Kama. Kama connotes emotional connection, sometimes with sensual devotion and erotic love. Bhakti, in contrast, is spiritual, a love and devotion to religious concepts or principles, that engages both emotion and intellection. Karen Pechelis states that the word Bhakti should not be understood as uncritical emotion, but as committed engagement. Bhakti movement in Hinduism refers to ideas and engagement that emerged in the medieval era on love and devotion to religious concepts built around one or more gods and goddesses. One who practices *bhakti* is called a *bhakta*.

Ancient Indian texts, dated to be from the 1st millennium BCE, such as the Shvetashvatara Upanishad, the Katha Upanishad and the Bhagavad Gita mention Bhakti.

Shvetashvatara Upanish

The last of three epilogue verses of the Shvetashvatara Upanishad, 6.23, uses the word Bhakti as follows,

यस्य देवे परा भक्तिः यथा देवे तथा गुरौ तस्यैते कथिता ह्यर्थाः प्रकाशन्ते महात्मनः ॥ २३ ॥

He who has highest Bhakti (love, devotion[1] of *Deva* (God),
just like his *Deva*, so for his *Guru* (teacher),
To him who is high-minded,
these teachings will be illuminating.

—Shvetashvatara Upanishad

This verse is notable for the use of the word *Bhakti*, and has been widely cited as among the earliest mentions of "the love of God".Scholars have debated whether this phrase is authentic or later insertion into the Upanishad, and whether the terms "Bhakti" and "God" meant the same in this ancient text as they do in the medieval and modern era Bhakti traditions found in India. Max Muller states that the word *Bhakti* appears only in one last verse of the epilogue, could have been a later insertion and may not be theistic as the word was later used in much later *Sandilya Sutras*. Grierson as well as Carus note that the first epilogue verse 6.21 is also notable for its use of the word *Deva Prasada* (देवप्रसाद, grace or gift of God), but add that *Deva* in the epilogue of the Shvetashvatara Upanishad refers to "pantheistic Brahman" and the closing credit to sage Shvetashvatara in verse 6.21 can mean "gift or grace of his Soul".

Doris Srinivasan states that the Upanishad is a treatise on theism, but it creatively embeds a variety of divine images, an inclusive language that allows "three Vedic definitions for personal deity". The Upanishad includes verses wherein God can be identified with the Supreme (Brahman-Atman, Self, Soul) in Vedanta monistic theosophy, verses that support dualistic view of Samkhya doctrines, as well as the synthetic novelty of triple Brahman where a triune exists as the divine soul (Deva, theistic God), individual soul (self) and nature (Prakrti, matter Tsuchida writes that the Upanishad syncretically combines monistic ideas in Upanishad and self development ideas in Yoga with personification of Shiva-Rudra deity. Hiriyanna interprets the text to be introducing "personal theism" in the form of Shiva Bhakti, with a shift to monotheism

but in henotheistic context where the individual is encouraged to discover his own definition and sense of God.

Bhagavad Gita

The *Bhagavad Gita*, a post-Vedic scripture composed in 5th to 2nd century BCE, introduces *bhakti marga* (the path of faith/devotion) as one of three ways to spiritual freedom and release, the other two being *karma marga* (the path of works) and *jnana marga* (the path of knowledge). In verses 6.31 through 6.47 of the Bhagavad Gita, Krishna as an avatar of deity Vishnu, describes *bhakti yoga* and loving devotion, as one of the several paths to the highest spiritual attainments.

Sutras

Shandilya and Narada are credited with two Bhakti texts, the *Shandilya Bhakti Sutra* and *Narada Bhakti Sutra*.

Meerabai is considered as one of the most significant sants in the Vaishnava bhakti movement. She was from a 16th century aristocratic family in Rajasthan.

The Bhakti movement originated in South India during the seventh-century CE, spread northwards from Tamil Nadu through Karnataka and Maharashtra, and gained wide acceptance in fifteenth century Bengal and northern India.

The movement started with the Saiva Nayanars and the Vaisnava Alvars. Their efforts ultimately help spread *bhakti* poetry and ideas throughout India by the 12th-18th century CE. The Alvars, which literally means "those immersed in God", were Vaishnava poet-saints who sang praises of Vishnu as they travelled from one place to another. They established temple sites such as Srirangam, and spread ideas about Vaishnavism. Their poems, compiled as Alwar Arulicheyalgal or Divya Prabhandham, developed into an influential scripture for the Vaishnavas. The Bhagavata Purana's references to the South Indian Alvar saints, along with its emphasis on *bhakti*, have led many scholars to give it South Indian origins, though some scholars question whether this evidence excludes the possibility that *bhakti* movement had parallel developments in other parts of India

Like the Alvars, the Saiva Nayanar poets were influential. The *Tirumurai*, a compilation of hymns on Shiva by sixty-three Nayanar poet-saints, developed into an influential scripture in Shaivism. The poets' itinerant lifestyle helped create temple and pilgrimage sites and spread spiritual ideas built around Shiva. Early Tamil-Siva bhakti poets influenced Hindu texts that came to be revered all over India.

Some scholars state that the Bhakti movement's rapid spread in India in the 2nd millennium, was in part a response to the arrival of Islam and subsequent Islamic rule in India and Hindu-Muslim conflicts This view is contested by some scholars with Rekha Pande stating that singing ecstatic bhakti hymns in local language was a tradition in south India before Muhammad was born. According to Pande, the psychological impact of Muslim conquest may have initially

contributed to community-style bhakti by Hindus. Yet other scholars state that Muslim invasions, their conquering of Hindu Bhakti temples in south India and seizure/melting of musical instruments such as cymbals from local people, was in part responsible for the later relocation or demise of singing Bhakti traditions in the 18th century.

According to Wendy Doniger, the nature of Bhakti movement may have been affected by the "surrender to god" daily practices of Islam when it arrived in India. In turn it influenced devotional practices in Islam such as Sufism and other religions in India from 15th century onwards, such as Sikhism, Christianity, and Jainism

Bhakti movemen witnessed a surge in Hindu literature in regional languages, particularly in the form of devotional poems and music. This literature includes the writings of the

Several writers developed different philosophies within the Vedanta school of Hinduism, which were influential to the Bhakti tradition in medieval India.

Social impact

The Bhakti movement was a devotional transformation of medieval Hindu society, wherein Vedic rituals or alternatively ascetic monk-like lifestyle for moksha gave way to individualistic loving relationship with a personally defined god. Salvation which was previously considered attainable only by men of Brahmin, Kshatriya and Vaishya castes, became available to everyone Most scholars state that Bhakti movement provided women and members of the Shudra and untouchable communities an inclusive path to spiritual salvationSome scholars disagree that the Bhakti movement was premised on such social inequalities

Poet-saints grew in popularity, and literature on devotional songs in regional languages became profuse. These poet-saints championed a wide range of philosophical positions within their society, ranging from theistic dualism of Dvaita to absolute monism of Advaita Vedanta. Kabir, a poet-saint for example, wrote in Upanishadic style, the state of knowing truth:

There's no creation or creator there,
no gross or fine, no wind or fire,
no sun, moon, earth or water,
no radiant form, no time there,
no word, no flesh, no faith,
no cause and effect, nor any thought of the Veda,
no Hari or Brahma, no Shiva or Shakti,
no pilgrimage and no rituals,
no mother, father or guru there...

—Kabir, Shabda 43, *Translated by K Schomer and WH McLeod*

The impact of Bhakti movement in India was similar to that of the Protestant Reformation of Christianity in Europe. It evoked shared religiosity, direct emotional and intellection of the divine, and the pursuit of spiritual ideas without the overhead of institutional superstructures Practices emerged bringing new forms of spiritual leadership and social cohesion among the medieval Hindus, such as community singing, chanting together of deity names, festivals, pilgrimages, rituals relating to Saivism, Vaishnavism and Shaktism Many of these regional practices have survived into the modern era.

Seva, daana and community kitchens

The Bhakti movement introduced new forms of voluntary social giving such as *Seva* (service, for example to a temple or *guru* school or community construction), *Dāna* (charity), and community kitchens with free shared food. Of community kitchen concepts, the vegetarian Guru ka Langar introduced by Nanak became a well established institution over time, starting with northwest India, and expanding to everywhere Sikh communities are found.[70] Other sants such as Dadu Dayal championed similar social movement, a community that believed in Ahimsa (non-violence) towards all living beings, social equality, and vegetarian kitchen, as well as mutual social service concepts. Bhakti temples and matha (Hindu monasteries) of India adopted social functions such as relief to victims after natural disaster, helping the poor and marginal farmers, providing community labor, feeding houses for the poor, free hostels for poor children and promoting folk culture.

Sikhism and Bhakti movement

A *Bhagti* (Bhakti) in progress using an Aarti plate in a Sikh Gurdwara. *Bhagti* is an important tradition within Sikhism, and some scholars call it a Bhakti sect of Indian traditions.

David Lorenzen states that *Bhakti* is important idea within 15th century religion Sikhism, just like Hinduism. In Sikhism, *Bhakti* of *nirguni* (devotion to divine without attributes) is emphasized Guru Nanak, the first Sikh Guru and the founder of Sikhism, was a Nirguni Bhakti saint

In contrast to *nirguni* focus of Sikhism, Hinduism developed both *saguni* and *nirguni* bhakti (devotion to divine with or without attributes) as well as alternate paths to spirituality, with the options left to the choice of a Hindu

Buddhism, Jainism and Bhakti movement

Bhakti has been a prevalent practice in various Jaina sects, wherein learned Tirthankara (*Jina*) and human *gurus* are considered superior beings and venerated with offerings, songs and Āratī prayers. John Cort suggests that the *bhakti* movement in later Hinduism and Jainism may share roots in *vandan* and *pujan* concepts of the Jaina tradition.

Medieval era bhakti traditions among non-theistic Indian traditions such as Buddhism and Jainism have been reported by scholars, wherein the devotion and prayer ceremonies were dedicated to an enlightened guru, primarily Buddha and Jina Mahavira respectively, as well as

others. Karel Werner notes that *Bhatti* (Bhakti in Pali) has been a significant practice in Theravada Buddhism, and states, "there can be no doubt that deep devotion or *bhakti / bhatti* does exist in Buddhism and that it had its beginnings in the earliest days".[82]

Controversy and doubts in postmodern scholarship

Postmodern scholars question whether the 19th and early 20th century theories about Bhakti movement in India, its origin, nature and history is accurate. Pechilis in her book on Bhakti movement, for example, states

Scholars writing on bhakti in the late nineteenth and early twentieth centuries were agreed that bhakti in India was preeminently a monotheistic reform movement. For these scholars, the inextricable connection between monotheism and reform has both theological and social significance in terms of the development of Indian culture. The orientalist images of bhakti were formulated in a context of discovery: a time of organized cultural contact, in which many agencies, including administrative, scholarly and missionary – sometimes embodied in a single person – sought knowledge of India. Through the Indo-European language connection, early orientalists believed that they were, in a sense, seeing their own ancestry in the antique texts and "antiquated" customs of Indian peoples. In this respect, certain scholars could identify with the monotheism of bhakti. Seen as a reform movement, bhakti presented a parallel to the orientalist agenda of intervention in the service of the empire.

—Karen Pechilis, *The Embodiment of Bhakti*

Madeleine Biardeau states, as does Jeanine Miller, that Bhakti movement was neither a reform nor an sudden innovation, but the continuation and expression of ideas to be found in Vedas, Bhakti marga teachings of the Bhagavad Gita, the Katha Upanishad and the Shvetashvatara Upanishad

John Stratton Hawley describes recent scholarship which questions the old theory of Bhakti movement origin and "story of south-moves-north", then states that the movement had multiple origins, mentioning Brindavan in north India as another center. Hawley describes the controversy and disagreements between Indian scholars, quotes Hegde's concern that "Bhakti movement was a reform" theory has been supported by "cherry-picking particular songs from a large corpus of Bhakti literature" and that if the entirety of the literature by any single author such as *Basava* is considered along with its historical context, there is neither reform nor a need for reform.

Sheldon Pollock writes that the Bhakti movement was neither a rebellion against Brahmins and the upper castes nor a rebellion against the Sanskrit language, because many of the prominent thinkers and earliest champions of the Bhakti movement were Brahmins and from upper castes, and because much of the early and later Bhakti poetry and literature was in Sanskrit. Further, states Pollock, evidence of Bhakti trends in ancient southeast Asian Hinduism in the 1st millennium CE, such as those in Cambodia and Indonesia where Vedic era is unknown, and where upper caste Tamil Hindu nobility and merchants introduced Bhakti ideas of Hinduism, suggest the roots and the nature of Bhakti movement to be primarily spiritual and political quest instead of rebellion of some form

John Guy states that the evidence of Hindu temples and Chinese inscriptions from 8th century CE about Tamil merchants, presents Bhakti motifs in Chinese trading towns, particularly the Kaiyuan Temple (Quanzhou). These show Saivite, Vaishnavite and Hindu Brahmin monasteries revered Bhakti themes in China.

Scholars increasingly are dropping, states Karen Pechilis, the old premises and the language of "radical otherness, monotheism and reform of orthodoxy" for Bhakti movement. Many scholars are now characterizing the emergence of Bhakti in medieval India as a revival, reworking and recontextualization of the central themes of the Vedic traditions.

C. Peasant Zamindars And The State: Reforms of Akbar

When Akbar got the rein of government in his hand he introduced drastic changes in the administration of the country. He adopted to some extent the reforms initiated by Sher Shah, but set up the judicial machinery under a new name and style. The designa- tion of some of the judicial officers was also changed. Similarly, changes were also made in the administra- tive machineries. As they are inter-connected it is necessary that some notice should be taken of them.

Sher Shdh divided the provinces of his Empire into sarhttrs which were again subdivided into parganax. Akbar divided the whole empire into tiubahs or provinces. The Subahs comprised more than 100 sarkars or districts, and each sarkar was an aggregate of parganas called mahals. 1 Sher Shah placed the Chief Shiqdtir in charge of each aarkdr. Akbar appointed Subalidars in the provinces. In the time of Sher Shah the Chief Munsif (Munsij-i-Muusifdn) was responsible for civil administration ; Akbar appointed Mtr-i-'Adl for the same purpose. Sher Shah entrusted the criminal justice to the Shiqd&r ; Akbar to the Subahddr and

The predecessors of Akbar employed a number of Muftis and Muhtasibs for the administration of justice ; lie retained them, and added to the state- machinery the offices of the Wakil, the Wazir, the Diwdn-i-Kul, the Mir-i-Saman, the Bayutdt, the Sadr-i-Jahdn, the Bakhshi, the Sadr, the Mustajy, the Amin, the 'Amil, the Tepukchi, the Mushrif, the Mir-i-Mahal, the Mir-i-Bahr, the Mir-i-Bar and many other officials whom the author of the 4 'yin-i-A kbari has mentioned in the preface of his work. These offices will be explained in their proper places.

Akbar's Idea of Justice

Speaking of this Emperor Mr. Vincent Smith quotes from the A'yin-i-Akbari the saying of Akbar, " If I were guilty of an unjust act, I would rise in judgment against myself," and then observes" The saying was not merely a copy-book maxim. He honestly tried to do justice according to his lights in the summary fashion of his age and country. Peruchi following the authority of Monserrate declares that 'as to the administration of justice, he is most zealous and watchful In

inflicting punishment he is deliberate and after he has made over the guilty person to the hands of the judge and court to suffer either the extreme penalty or the mutilation of some limb, he requires that he should be three times reminded by messages before the sentence is carried out.

From the above quotation one need not run away with the idea that the Emperor used to inflict only two kinds of punishments, ufe., of death and mutilation of some limbs. For we find in the A'yin-i-Akbari the following instructions to the Subahddr (Provincial governor) : "He should strive to reclaim the dis- obedient by good advice. If that fails, let him punish with reprimands, threats, imprisonment, stripes or even amputation of limbs; but he shall not take away life till after the most mature deliberations.

Those who apply for justice let them not be inflicted with delay and expectation. Let him ' shut his eyes against offences and accept the excuse of the penitent.

Let him object to no one on account of his religion or sect."

Elphinstone points out that " a letter of instructions to the governor of Gujrat preserved in a separate history of that province, restricts his punishments to putting in irons, whipping and death; enjoining him to be sparing in capital punishments, and, unless in cases of dangerous sedition to inflict none until he has sent the proceedings to court and received the emperor's confirmation ; capital punish- ment is not to be accompanied with mutilation or other cruelty.""

The judicial officers such as the Chief Q&zi, the Qazi and the Mir-i-'Adl

According to the Muhammadan law as far as it was applicable to Muslims and non-Muslims respectively ; and in conformity with the Common law, i.e., edicts, ordinances and instructions issued by the Emperor. These officers as usual with them followed the procedure laid down in the books of Fiqah

MODE OF TRIAL

The Subahdar and the Foujdar being lay-judges used to take the help of the Qazi and the Mufti, and follow the rules laid down for their guidance in the Shdhi Farmdns. The Revenue officers were guided solely by the rules framed by the authority for their guidance. The A'yiii gives the following directions to the Qazi and the Mir-i-'Adl fortrial of cases: " He shall begin with asking the circumstances of the case and then try it in all its parts. He must examine each witness separately upon the same point, and write down their respective evidence. Since these objects can only be effectually obtained by deli- berateness, intelligence and deep reflection, they will sometimes require that the cause should be tried again from the beginning and from the similarity or disagreement, he may be enabled to arrive at the truth."

Akbar used to decide suits and hear appeals at Trial by the Em his Daulat-khdnah (the Chamber peror in person. of Audience in the p a l ace "generally after 9 o'clock in the morning when all people are admitted." But " this assembly is sometimes held in the evening and sometimes at night. He also frequently appears at a window which opens into the Daulat-khanah and from thence he receives petitions without the intervention of any person, and tries and decides upon them. Every officer of government represents to His Majesty his respective wants, and is always instructed by him how to proceed. He considers an equal distribution of justice, and the happiness of his subjects as essential to his own telicity, and never suffers his temper to be ruffled whilst he is hearing cases."

It appears from the records of history that when the Emperor sat in the Daulat-khdnah to hear cases, the nobles, the law officers of the Crown, the Darogha- i-adaiat (Superintendent of the Court), the clerks and scribes used to attend the Emperor's court. Cases were decided and decision pronounced in consultation with the law-officers and the wazirs. His order and decrees were communicated to the proper authori- ties for execution under the seal of the Court. The scribe used to take down notes, and the Mir-Muiishi to draw up proper order under the direction of the Mir-i-Adl. When the judgment and order were to be despatched to the Subahdar or the Provincial Governor for execution, they were fair-copied and sent under the Imperial sea

As to the mode of hearing cases by the Emperor in person, Mr. Smith has made the following absurd observations :

"The Emperor occasionally called up civil suits of importance to his own tribunal. No record of proceedings, civil or criminal, were kept, everything being done verbally, and no sort of code existed, except in so far as the persons acting as judges thought fit to follow Quranic rules. Akbar and Abul Fazl made small account of witnesses and oath. The governor of a province was instructed that in judicial investigations, he should not be satisfied with witnesses and oaths, but pursue them by manifold inquiries

RECORDS OF PROCEEDINGS.

study of physiognomy and the exercise of forethought nor laying the burden of it on others, live absolved from solicitude."

The observation of Mr. Smith is very astounding. If everything was done verbally how were the Emperor's orders communicated to the authorities either at the capital or in the Subdh for execution ? In deciding appeals often had he to reverse the decision of the lower court, or of the provincial governor. How could the decision of the Emperor have been com- municated unless it was reduced to writing. As to "the Quranic rules '' the learned historian ought to have known that Al-Qurdn does not contain the rules of procedure and the law of evidence. They

were propounded and elaborately worked out by the Muslim jurists. All these have been embodied in the books of Fiqah. The Qdzis and other judicial officers whom Mr. Smith refers to as " the persons acting as judges," were bound by the Shard to follow the prescribed procedure and prepare Mazdli ir and Sijildt , i.e., records of proceedings and decrees in proper forms (vide, Chapter IX). As to his remark that no sort of code existed, it is not at all correct. Quite a large number of legal treatises, digests and com- mentaries did exist at the time of Akbar and have been in existence all along since the foundation of the four schools of Muslim jurisprudence. In addition to these there were the " Institutes " of Tainmr, B&bar, and Akbar, and they contain the edicts, ordinances and farmans of those sovereigns. The judicial officers ! used to decide cases with the aid of those books and farmans. The strange part of Mr, Smith's remark is that he has not cited any authority in support of his quaint views. His observations are as absurd as they are incredible. Moreover, they are contrary to the facts of history.

Akbar adopted sometimes the ancient method of trial by ordeals.

In the Capital.

Tribunals

1. The Roy ul Court

2. Diwdn i-'Addlat or thi 1 Court of the Diwdn.

3. The Court of the Chief Judge

4. The Chief Court of Justice

6 The Court of Canon Law

7. The Office of the Muhtasib who held no regular court but exercised the quasi-judicial power of the Police and the Municipal Officer (vide Chapter XII, Muhlasib)

Presiding Officers.

The Emperor

The High Diwan

or the Chancellor.

The Qdzi-ul-Qu/dt

The Mir-i-'Adl.

The Qd/i.

The 'Adi.

In the Provinces.

Tribunals.

Compare this observation of Bai Bhara Mai who lived during the Mughal period and used to attend the Royal Court with the remarks of Prof. Sarkar :

"Every provincial capital had its Qazi appointe by the Supreme Qazi of the Empire (the Qdzi-ul-Quzj'it) ; but there were no lower or primary courts under him and therefore no provincial court of appeal"

Further, " the Indian villager in the Mughal Empire was denied the greatest pleasure of his life in our own times, viz., facility for civil litigation with government courts of first instance close at his doors and an abundance of courts of appeal rising up to the High Court at the Capital." "

UNIT-IV: THE CONCEPT OF JUSTICE AND JUDICIAL INSTITUTIONS IN ANCIENT AND MEDIEVAL INDIA

A. Sources of law in Ancient India

Shruti

Shruti means "what is heard". It is believed that the rishis and munis had reached the height of

spirituality where they were revealed the knowledge of Vedas. Thus, shrutis include the four vedas - rig, yajur, sam, and athrava along with their brahmanas. The brahmanas are like the apendices to the Vedas. Vedas primarily contain theories about sacrifices, rituals, and customs. Some people believe that Vedas contain no specific laws, while some believe that the laws have to be inferred from the complete text of the Vedas. Vedas do refer to certain rights and duties, forms of marriage, requirement of a son, exclusion of women from inheritance, and partition but these are not very clearcut laws.

During the vedic period, the society was divided into varns and life was divided into ashramas. The concept of karma came into existence during this time. A person will get rewarded as per his karma. He can attain salvation through "knowledge". During this period the varna system became quite strong. Since vedas had a divine origin, the society was governed as per the theories given in vedas and they are considered to be the fundamental source of Hindu law. Shrutis basically describe the life of the Vedic people.

The vedic period is assumed to be between 4000 to 1000 BC. During this time, several pre-smriti sutras and gathas were composed. However, not much is known about them today. It is believed that various rishis and munis incorporated local customs into Dharma and thus multiple "shakhas" came into existence.

Smriti

Smrit means "what is remembered". With smrutis, a systematic study and teaching of Vedas started. Many sages, from time to time, have written down the concepts given in Vedas. So it can be said that Smrutis are a written memoir of the knowledge of the sages. Immediately after the Vedic period, a need for the regulation of the society arose. Thus, the study of vedas and the incorporation of local culture and customs became important. It is believed that many smrutis were composed in this period and some were reduced into writing, however, not all are known. The smrutis can be divided into two - Early smritis (Dharmasutras) and Later smritis

DHARMASUTRAS

The Dharmansutras were written during 800 to 200 BC. They were mostly written in prose form but also contain verses. It is clear that they were meant to be training manuals of sages for teaching students. They incorporate the teachings of Vedas with local customs. They generally bear the names of their authors and sometime also indicate the shakhas to which they belong. Some of the important sages whose dharmasutras are known are : Gautama, Baudhayan, Apastamba, Harita, Vashistha, and Vishnu.They explain the duties of men in various relationship. They do not pretend to be anything other than the work of mortals based on the teachings of Vedas, and the legal decisions given by those who were acquainted with Vedas and local customs.

Gautama - He belonged to Sam veda school and deals exclusively with legal and religious

matter. He talks about inheritance, partition, and stridhan.

Baudhayan - He belonged to the Krishna Yajurved school and was probably from Andhra Pradesh. He talks about marriage, sonship, and inheritance. He also refers to various customs of his region such as marriage to maternal uncle's daughter.

Apastamba - His sutra is most preserved. He also belonged to Krishna Yajurveda school from Andhra Pradesh. His language is very clear and forceful. He rejected prajapatya marriage.

Vashistha - He was from North India and followed the Rigveda school. He recognized remarriage of virgin widows.

Dharmashastras were mostly in metrical verses and were based of Dharmasutras. However, they were a lot more systematic and clear. They dealt with the subject matter in three parts

Aachara: This includes the theories of religious observances,

Vyavahar: This includes the civil law.

Prayaschitta: This deals with penance and expiation.

While early smrutis deal mainly with Aachara and Prayaschitta, later smrutis mainly dealt with Vyavahar. Out of may dharmashastras, three are most important.

DHARMA SUTRAS

The Dharma Sutras are manuals on correct behavior inspired by the Vedas and which exist in a number of different formats and styles. Many of the numerous verses within the Dharma Sutras consider such topics as appropriate dietary behavior, the duties and rights of kings and rulers, and suitable forms of behavior or people of different ranks in various circumstances. Some sutras were developed and codifi ed into shastras, which are more established frameworks of rules that were used to create Hindu laws.

The principal Dharma Sutra is considered to be the Manu-smrti (The Laws of Manu), which was created around 200 c.e. (although probably begun earlier) and consists of 12 chapters with a total of 2,694 verses. The contents range from practical prescriptions for funerary and dietary practices to legal systems and religious strictures. This sutra acted as the law that governed the societies of much of India for a number of centuries. This led to the four-caste conception of society and the social structure that underlay the whole of Hindu society. The fundamental

structure of society, therefore, has integrated within it the notions of hell, heaven, and the proper behavior of the individual as a member within a designated caste.

Another sutra of great infl uence and prestige was written by Yajnavalkya and has just over 1,000 verses arranged in areas relating to the law, expiation, and methods of good conduct. This makes the canon rather lengthy in nature, and it contains disparate elements that would seem irrational from the Western point of view. However, the Hindu conception of the universe is able to reconcile these elements, so far as they are fully aware of them, into a coherent whole

The Dharma Sutras are combined with the Srauta Sutras (dealing with sacrifi cial rituals) and the Grhya Sutras (dealing with domestic rituals) to make up the Kalpa Sutra, which is a manual of religious practice written in a short and aphoristic style that facilitates committing the material to memory. Each school of the Vedas had its own Kalpa Sutra, and each Kalpa Sutra is one of the six vedangas, the canon of religious and philosophical literature, descended from the Vedas. They are created by humans and hence have the name smrti, or “tradition.”

MANUSMRITI

This is the earliest and most important of all. It is not only defined the way of life in India but is also well know in Java, Bali, and Sumatra. The name of the real author is not known because the author has written it under the mythical name of Manu, who is considered to the the first human. This was probably done to increase its importance due to divine origin. Manusmriti compiles all the laws that were scattered in pre-smriti sutras and gathas. He was a brahman protagonist and was particularly harsh on women and sudras. He holds local customs to be most important. He directs the king to obey the customs but tries to cloak the king with divinity. He gives importance to the principle of 'danda' which forces everybody to follow the law.

a.Manusmriti was composed in 200 BC.

There have been several commentaries on this smruti. The main ones are: Kalluka's Manavarthmuktavali, Meghthithi's Manubhashya, and Govindraja's Manutika.

b. Yajnavalkya Smriti

Though written after Manusmruti, this is a very important smruti. Its language is very direct and clear. It is also a lot more logical. He also gives a lot of importance to customs but hold the king to be below the law. He considers law to be the king of kings and the king to be only an enforcer of the law. He did not deal much with religion and morality but mostly with civil law. It includes most of the points given in Manusmriti but also differs on many points such as position of women and sudras. He was more liberal than Manu.

This was composed in around 0 BC.

Vijnaneshwar's commentary 'Mitakshara' on this smruti, is the most important legal treatise followed almost everywhere in India except in West Bengal and Orissa.

Narada Smriti

Narada was from Nepal and this smriti is well preserved and its complete text is available. This is the only smriti that does not deal with religion and morality at all but concentrates only on civil law. This is very logical and precise. In general, it is based on Manusmriti and Yajnavalkya smriti but differ on many points due to changes in social structure. He also gives a lot of importance to customs.

This was composed in 200 AD.

COMMENTARIES AND DIGEST

After 200 AD, most the of work was done only on the existing material given in Smrutis. The work done to explain a particular smriti is called a commentary. Commentaries were composed in the period immediately after 200 AD. Digests were mainly written after that and incorporated and explained material from all the smruitis. As noted ealier, some of the commentaries were, manubhashya, manutika, and mitakshara. While the most important digest is Jimutvahan's Dayabhag that is applicable in the Bengal and Orissa area. Mitakshara literally means 'New Word' and is paramount source of law in all of India. It is also considered important in Bengal and orissa where it relents only where it differs from dayabhaga. It is a very exhaustive treaties of law and incorporates and irons out contradicts existing in smritis.

The basic objective of these texts was to gather the scattered material available in preceeding texts and present a unified view for the benefit of the society. Thus, digests were very logical and to the point in their approach. Various digests have been composed from 700 to 1700 AD.

CUSTOMS

Most of the Hindu law is based on customs and practices followed by the people all across the country. Even smrutis have given importance to customs. They have held customs as transcendent law and have advised the Kings to give decisions based on customs after due religious consideration. Customs are of four types:

Local Customs - These are the customs that are followed in a given geographical area. In the case of *Subbane vs Nawab*, Privy Council observed that a custom gets it force due to the fact that due to its observation for a long time in a locality, it has obtained the force of law.

Family Customs - These are the customs that are followed by a family from a long time. These are applicable to families where ever they live. They can be more easily abandoned that other customs. In the case of Soorendranath vs Heeramonie and Bikal vs Manjura, Privy Council observed that customs followed by a family have long been recognized as Hindu law.

Caste and Community Customs - These are the customs that are followed by a particular cast or community. It is binding on the members of that community or caste. By far, this is one of the most important source of laws. For example, most of the law in Punjab belongs to this type. Custom to marry brother's widow among the Jats is also of this type.

Guild Customs - These are the customs that are followed by traders.

Requirements for a valid custom

Ancient : Ideally, a custom is valid if it has been followed from hundreds of years. There is no definition of ancientness, however, 40yrs has been determined to be a ancient enough. A custom cannot come into existence by agreement. It has to be existing from long before. Thus, a new custom cannot be recognized. Therefore, a new form of Hindu marriage was not recognized in Tamil Nadu.
In the case of Rajothi vs Selliah, a Self Respecter's Cult started a movement under which traditional ceremonies were substituted with simple ceremonies for marriage that did not involve Shastric rites. HC held that in modern times, no one is free to create a law or custom, since that is a function of legislature.

Continuous: It is important that the custom is being followed continuously and has not been abandoned. Thus, a custom may be 400 yrs old but once abandoned, it cannot be revived.

Certain: The custom should be very clear in terms of what it entails. Any amount of vagueness will cause confusion and thus the custom will be invalid. The one alleging a custom must prove exactly what it is.

Reasonable: There must be some reasonableness and fairness in the custom. Though what is reasonable depends on the current time and social values.

Not against morality: It should not be morally wrong or repugnant. For example, a custom to marry one's granddaughter has been held invalid.
In the case of Chitty vs. Chitty 1894, a custom that permits divorce by mutual consent and by payment of expenses of marriage by one party to another was held to be not immoral. In the case of Gopikrishna vs. Mst Jagoo 1936 a custom that dissolves the marriage and permits a wife to remarry upon abandonment and desertion of husband was held to be not immoral.

Not against public policy: If a custom is against the general good of the society, it is held invalid. For example, adoption of girl child by nautch girls has been held invalid. In the case ofMathur vs Esa, a custom among dancing women permitting them to adopt one or more girls was held to be void because it was against public policy.

Not against any law: If a custom is against any statutory law, it is invalid. Codification of Hindu law has abrogated most of the customs except the ones that are expressly saved. In the case of Prakash vs Parmeshwari, it was held that law mean statutory law.

Proof of Custom

The burden of proving a custom is on the person who alleges it. Usually, customs are proved by instances. In the case of Prakash vs Parmeshwari, it was held that one instance does not prove a custom. However, in the case of Ujagar vs Jeo, it was held that if a custom has been brought to notice of the court repeated, no further proof is required.
existence of a custom can also be proved through documentary evidence such as in Riwaz-i-am. Several treaties exist that detail customary laws of Punjab.

Usage and Custom

The term custom and usage is commonly used in commercial law, but "custom" and "usage" can be distinguished. A usage is a repetition of acts whereas custom is the law or general rule that arises from such repetition. A usage may exist without a custom, but a custom cannot arise without a usage accompanying it or preceding it. Usage derives its authority from the assent of the parties to a transaction and is applicable only to consensual arrangements. Custom derives its authority from its adoption into the law and is binding regardless of any acts of assent by the parties. In modern law, however, the two principles are often merged into one by the courts.

ARTHASHASTRA

Arthashastra remains unique in all of Indian literature because of its total absence of specious reasoning, or its unabashed advocacy of realpolitik, and scholars continued to study it for its clear cut arguments and formal prose till the twelfth century. Espionage and the liberal use of provocative agents is recommended on a large scale. Murder and false accusations were to be used by a king's secret agents without any thoughts to morals or ethics. There are chapters for kings to help them keep in check the premature ambitions of their sons, and likewise chapters

intended to help princes to thwart their fathers' domineering authority. However, Kautilya ruefully admits that it is just as difficult to detect an official's dishonesty as it is to discover how much water is drunk by the swimming fish.

Kautilya helped the young Chandragupta Maurya, who was a Vaishya, to ascend to the Nanda throne in 321 BC. Kautilya's counsel is particularly remarkable because the young Maurya's supporters were not as well armed as the Nandas. Kautilya continued to help Chandragupta Maurya in his campaigns and his influence was crucial in consolidating the great Mauryan empire. He has often been likened to Machiavelli by political theorists, and the name of Chanakya is still reminiscent of a vastly scheming and clever political adviser. In very recent years, Indian state television, or *Doordarshan* as it is known, commissioned and screened a television serial on the life and intrigues of Chanakya.

A strong foundation is the key to any successful business. Your vision, your commitment, your purpose - all form the basis for an organisation. They are the all-important pillars, the most essential part of any building. In his groundbreaking *Arthashastra*, Chanakya a.k.a. Kautilya (c. 350 - 283 BCE) lists seven pillars for an organisation.

"The king, the minister, the country, the fortified city, the treasury, the army and the ally are the constituent elements of the state" (6.1.1)

Let us now take a closer look at each of them:

1. THE KING (The leader)

All great organisations have great leaders. The leader is the visionary, the captain, the man who guides the organisation. In today's corporate world we call him the Director, CEO, etc. Without him we will loose direction.

2. THE MINISTER (The manager)

The manager is the person who runs the show - the second-in-command of an organisation. He is also the person whom you can depend upon in the absence of the leader. He is the man who is always in action. An extra ordinary leader and an efficient manager together bring into existence a remarkable organisation.

3. THE COUNTRY (Your market)

No business can exist without its market capitalisation. It is the area of your operation. The place from where you get your revenue and cash flow. You basically dominate this territory and would like to keep your monopoly in this segment.

4. THE FORTIFID CITY (Head office)

You need a control tower - a place from where all planning and strategies are made. It's from here that your central administrative work is done. It's the nucleus and the center of any organisation.

5. THE TREASURY

Finance is an extremely important resource. It is the backbone of any business. A strong and well-managed treasury is the heart of any organisation. Your treasury is also your financial hub.

6. THE ARMY (Your team)

When we go to war, we need a well-equipped and trained army. The army consists of your team members. Those who are ready to fight for the organisation. The salesmen, the accountant, the driver, the peon - all of them add to your team.

7. THE ALLY (friend / consultant)

In life you should have a friend who is just like you. Being, in the same boat, he can identify with you and stay close. He is the one whom you can depend upon when problems arise. After all, a friend in need is a friend in deed.

Look at these seven pillars. Only when these are built into firm and strong sections can the organisation shoulder any responsibility and face all challenges.

And while building them, do not forget to imbibe that vital ingredient called values, speaking about which, in his book 'Build to last', Jim Collins has said, "Values are the roots from where an organisation continuously gets its supply as well as grounding - build on them!"

Brāhmanas

The *Brāhma a*s are part of the Hindu *śruti* literature. They are commentaries on the four Vedas, detailing the proper performance of rituals.

Each Vedic *shakha* (school) had its own Brahmana, and it is not known how many of these texts existed during the Mahajanapadas period. A total of 19 Brahmanas are extant at least in their entirety: two associated with the Rigveda, six with the Yajurveda, ten with the Samaveda and one with the Atharvaveda. Additionally, there are a handful of fragmentarily preserved texts. They vary greatly in length; the edition of the Shatapatha Brahmana fills five volumes of the *Sacred Books of the East.*

The Brahmanas are glosses on the mythology, philosophy and rituals of the Vedas. Whereas the Rig Veda expressed uncertainty and was not dogmatic, the Brahmanas express confidence in the infallible power of the mantras. The Brahmanas hold the view that, if expressed correctly,

the texts will not fail. They were composed during a period of urbanisation and considerable social change. During the first millennium BCE the people who composed the Veda gradually abandoned their nomadic lifestyle and began to build. During this time the rituals became more complex, giving rise to developments in mathematics, geometry, animal anatomy and grammar.

The Brahmanas were seminal in the development of later Indian thought and scholarship, including Hindu philosophy, predecessors of Vedanta, law, astronomy, geometry, linguistics (Pāini), the concept of Karma, or the stages in life such as brahmacarya, grihastha and eventually, sannyasi. Some Brahmanas contain sections that are Aranyakas or Upanishads in their own right.

The language of the Brahmanas is a separate stage of Vedic Sanskrit, younger than the text of the samhitas (the *mantra* text of the Vedas proper) but for the most part older than the text of the Sutras. It dates to 900 - 700 BC. with some of the younger Brahmanas (such as theShatapatha Brahmana), dating to about the 6th century BC. Historically, this corresponds to the emergence of great kingdoms or Mahajanapadas out of the earlier tribal kingdoms during the later Vedic period.

TYPES OF COURTS

COURTS OF CANON AND COMMON LAW

RETROSPECT: JUDICIARIES AND TRIBUNALS

From the description given in the previous sections, it has been seen that during the pre-Mughal period the judiciaries and their designations were not always the same. They were different with different designations under different ruonarchs. But the Qdzi, Mufti and Muhtasib were the permanent limbs of the judicial machinery. In addition to these judicial officers, India had Mir-i-'Adl, Shiqrtdr,Munsif,Di!,d-bdk,niwan, and Qfai-ul-Quzdt who were included within the offi- cial category of Arkdn-i-Daulat. Similarly, the judicial tribunals were not the same during the pre- Mughal period. It appears that two kinds of tribunals

As regards non-Muslims Hindus, Buddhists, etc., they were subject to the tribunals of the country, but the cases which involved their personal law, were decided by the Court of Common Law assisted by the learned men of their respective community, just as the Court of Canon Law was assisted by the Mufti.

During the reign of Sher Shah the two kinds of tribunals assumed a distinct character. The judicial reforms introduced by him had a marked effect upon the constitution of the courts. It appears that Sher Shah did not much favour the old system of administration of justice by the Qdzis only. He issued com- prehensive instructions for the constitution of the court and guidance of the judicial officers. His far- mans led to the differentiation of the two classes of courts. As pointed out by Al-Badayuni his Begulations concerning religious matters and civil

admini- stration " were written in these documents (farmdns) whether agreeable to the Eeligious Law or not ; so that there was no necessity to refer any such matter to the Qazi or Mufti, nor was it proper to do so. " * Thus the functions of the two sets of tribunals were made distinct, and the administration of Muslim law was greatly modified. Further, the powers and jurisdiction of the Court of Canon Law were restricted to particular classes of cases. From the farmdns it also appears that Sher Shah used to select talented rnen as judges whether they were Ulamds or not. Consequently, the civil judges of this period were not necessarily Canon Lawyers.

The judicial reforms were first initiated by Sultan Sikandar Lodi. They were given effect to by Sher Shah. But Sher Shah had his own scheme ofadmini- strative and judicial reforms, and he took bold steps to carry them out. .We shall sec in the next chapter how the judicial machinery was further improved during the Mughal period.

I give below in a tabular form the name of the tribunals and the designation of the presiding officers so that the reader may see at a glance what sort of judicial machinery existed before the Mughal period.

A. During the Reigns of the Slave, Khalji, Tuyhlaq and Lodi Dynasties. Tribunal. Presiding Officer.

1. The Eoyal Court ... The Sultan.

2. The Chief Court of The Mir-i-'Adl. Justice.

3. The Court of the Chief The Q&zi-ul-QuzAt. Qdzi.

4. The Subordinate Court of The Q6zi. Canon Law.

5. The Subordinate Court of The 'Adi or Q4?i. Common Law.

B. During the Reign of Sher Shdh.

Tribunal. Presiding Officer.

1. The Court of the Sultdn The Sovereign.

2. The Chief Civil Court ... The Munsif -i-Munsif an (Chief Munsif).

3. The Chief Criminal The Shiqdar-i-Shiqddr- Court. an (Chief Shiqddr).

4 The Civil Court of Com- The Munsif.

5. The Criminal Court of The Shiqdar.

6. The Court of Canon Law The Q&zis.

Appeal lay from the Subordinate Courts to the Chief Civil and Criminal Courts res- pectively and therefrom to the Royal Court

The period of the Great Mugals was the Golden Age of India. It was the period of pomp, power and glory, when the prosperity of the country rose to the zenith. The general features of the Mughal Administration had several characteristics of which four may be noticed : First, a strong and well-organized Government contributing to peace and order ; secondly, a highly centralized form of Government with an extensive administrative machinery ; thirdly, an age of Renaissance in Art and Literature ; and fourthly, an Empire of Unity in which different racial elements were more or less reconciled and contributed their skill, ability and wisdom to make the Government prosperous. Volumes can be written on each of these points, but as the scope of this book is limited, I am obliged to confine myself only to the judicial administration of the period.

In the previous chapters I have given some details of the administration of justice preceding the Mughal period. The machinery through which justice was administered has also been noticed. Now let us turn to the characteristics and the mode of administration of justice during the Mughal period. For the purpose of my inquiry I have divided the Mughal period and discussed the topic under three heads: (1) the admini- strative and judicial system during the reign of Akbar; (2) the administration of justice under his successors ; and (8) the judicial machinery which was found to exist on the breakdown of the Mughal Empire.

B. Legal Thinkers of Ancient India : Manu and Yajajnavaikya

MANUSMRITI

This is the earliest and most important of all. It is not only defined the way of life in India but is also well know in Java, Bali, and Sumatra. The name of the real author is not known because the author has written it under the mythical name of Manu, who is considered to the the first human. This was probably done to increase its importance due to divine origin. Manusmriti compiles all the laws that were scattered in pre-smriti sutras and gathas. He was a brahman protagonist and was particularly harsh on women and sudras. He holds local customs to be most important. He directs the king to obey the customs but tries to cloak the king with divinity. He gives importance to the principle of 'danda' which forces everybody to follow the law.

a.Manusmriti was composed in 200 BC.

There have been several commentaries on this smruti. The main ones are: Kalluka's Manavarthmuktavali, Meghthithi's Manubhashya, and Govindraja's Manutika.

b. Yajnavalkya Smriti

Though written after Manusmruti, this is a very important smruti. Its language is very direct and clear. It is also a lot more logical. He also gives a lot of importance to customs but hold the king to be below the law. He considers law to be the king of kings and the king to be only an enforcer of the law. He did not deal much with religion and morality but mostly with civil law. It includes most of the points given in Manusmriti but also differs on many points such as position of women and sudras. He was more liberal than Manu.

This was composed in around 0 BC.

Vijnaneshwar's commentary 'Mitakshara' on this smruti, is the most important legal treatise followed almost everywhere in India except in West Bengal and Orissa.

Narada Smriti

Narada was from Nepal and this smriti is well preserved and its complete text is available. This is the only smriti that does not deal with religion and morality at all but concentrates only on civil law. This is very logical and precise. In general, it is based on Manusmriti and Yajnavalkya smriti but differ on many points due to changes in social structure. He also gives a lot of importance to customs.

This was composed in 200 AD.

COMMENTARIES AND DIGEST

After 200 AD, most the of work was done only on the existing material given in Smrutis. The work done to explain a particular smriti is called a commentary. Commentaries were composed in the period immediately after 200 AD. Digests were mainly written after that and incorporated and explained material from all the smruitis. As noted ealier, some of the commentaries were, manubhashya, manutika, and mitakshara. While the most important digest is Jimutvahan's Dayabhag that is applicable in the Bengal and Orissa area. Mitakshara literally means 'New Word' and is paramount source of law in all of India. It is also considered important in Bengal and orissa where it relents only where it differs from dayabhaga. It is a very exhaustive treaties of law and incorporates and irons out contradicts existing in smritis.

The basic objective of these texts was to gather the scattered material available in preceeding texts and present a unified view for the benefit of the society. Thus, digests were very logical and to the point in their approach. Various digests have been composed from 700 to 1700

AD.

C. Legal Tradition in medieval india

SOURCES OF ISLAMIC LAW

In the eighth century, a difference in legal approach arose amongst Islamic thinkers in two prevailing schools of legal thought. The traditionalists (ahl al-hadith) relied solely on the Quran and the sunna (traditions) of the Prophet as the only valid sources for jurisprudence, such as the prevailing thought emanating from Medina. The non-traditional approach (ahl al-ra'y) relied on the free use of reasoning and opinion in the absence of reliable ahadith, which was heralded in Iraq. The reason for the difference in technique is that in Medina, there was an abundance of reliable ahadith that scholars could depend on for forming legislation, since the Prophet lived the last ten years of his life during a period of legislation in the young Muslim community. In Iraq, the sources that were available were not as reliable as in Medina and so the jurists had to turn to analogy because of their circumstances. Therefore, a hadith may have been accepted by Malik (from Medina) and not by Abu Hanifa (from Iraq) who had to use analogy in the absence of reliable hadith. A challenge that jurists had to reconcile was which of the Prophet's actions and decisions were religiously binding and which were merely a function of personal discretion of the Prophet? In general, ahl al-hadith eventually lent legislative significance to much of the Prophet's decisions, whereas other schools tended to distinguish between the various roles that the Prophet played in his life.

Muhammad ibn Idris al-Shafi'i (d. 819) was concerned about the variety of doctrine and sought to limit the sources of law and establish a common methodology for all schools of Islamic law.3 His efforts resulted in the systemization of usul al-fiqh, the following four sources of Islamic law:

The Quran;

The sunna or tradition of the Prophet;

Qiyas or analogies;

Ijma or unanimous agreement.

Throughout history these sources were used in descending order by Muslim jurists in determining the legality of an issue. If the legality was not based on an explicit command in the Quran, then the jurists turned to look for explicit commands in the hadith, and so on. Unfortunately, as we shall discover, not all aspects of the methodology were unanimously

agreed upon; the Quran could be interpreted differently, some traditions of the Prophet were questioned for their authenticity and to what extent they were religiously imperative, the use of analogies was greatly debated and there was little unanimous agreement among scholars in Islamic history about inexplicit issues.

The Qur'an

Here is a plain statement to mankind, a guidance and instruction to those who fear God (3:138) God revealed the Quran in Arabic through the Angel Gabriel to Prophet Muhammad over a period of 23 years. For ten years in Mecca and 13 years in Medina the Quran taught the oneness of God and guided believers to the path of morality and justice. As the Muslim community grew and its needs became more complex, the Quran addressed those issues and tried to replace old tribal customs with more just reforms. For example, the Quran outlawed prevalent customs such as idolatry, gambling, liquor, promiscuity, unbridled polygamy, usury, etc. It also improved the status of women by proclaiming women's equality to men and providing women with decreed rights in the areas of marriage, divorce and inheritance.

The shari'a, foundations of Islamic law, are derived from verses from the Quran. "The bulk of Quranic matter consists mainly of broad, general moral directives as to what the aims and aspirations of Muslims should be, the 'ought' of the Islamic religious ethic." 4 Because many of the directives in the Quran are so broad, interpretation takes on such a significant role. There have been so many different interpretations of the Quran, claims widely read and revered Islamic thinker Abul A'ala Maududi, that "there is hardly to be found any command with an agreed interpretation." 5 And that doesn't just refer to modern scholars, but also includes the founding schools of thought and even the companions of the Prophet, who "did not all agree in every detail in regard to Commands and Prohibitions."6 Nevertheless, the authenticity of the Quran has never been questioned by any Muslim scholar or institution.

Sunna of the Prophet

You have indeed in the Apostle of God a beautiful pattern of conduct for anyone whose hope is in God and the Final Day (33:21). As the last messenger of God, Muhammad (570-632) brought the Quranic teachings to life through his interpretation and implementation as leader of the Muslim community. The sunna of the Prophet generally means "tradition" and includes the following three categories: sayings of the Prophet; his deeds; and his silent or tacit approval of certain acts which he had knowledge of. The record of the Prophet's words and deeds were recorded in narrative ahadith, reports that were transmitted before finally being compiled in authoritative collections decades after the death of the Prophet. (For more discussion about hadith, see next section, "The Role of Hadith.") In the first centuries of Islam, "it should finally be stressed that there was no suggestion, at this stage, that the Prophet was other than a human interpreter of the divine revelation; his authority lay in the fact that he was the closest, in time and spirit, to the Quran and as such was the ultimate starting-point of the Islamic sunna."7

Qiyas or analogy

The third source of law, qiyas, is reasoning by analogy. In order to apply qiyas to similar cases, the reason or cause of the Islamic rule must be clear. For example, because the Quran clearly explains the reason that consumption of alcohol is prohibited (because it makes the user lose control of his actions), an analogy can be drawn to drugs which induce the same affect. But because the Quran does not specifically state the reason why pork is prohibited, Muslims cannot justify banning another meat product with a similar cholesterol level, etc. The use of analogies greatly varied among scholars; for example, Spain's Ibn Hazm (10th century) who was formidable proponent of the Zahiri school, rejected the use of qiyas, whereas Imam Abu Hanifa of the Hanafi school (8th century) applied them extensively.

Ijma or unanimous agreement

Ijma constitutes the unanimous agreement of a group of jurists of a particular age on a specific issue and constitutes the fourth and final source of law in Shafi'i's methodology. If questions arose about a Quranic interpretation or an issue where no there no guidance from either the Quran or sunna, jurists applied their own reasoning (ijtihad) to come to an interpretation. Through time, "one interpretation would be accepted by more and more doctors of law. Looking back in time at the evolved consensus of the scholars, it could be concluded that an ijma of scholars had been reached on this issue." 8 Unfortunately, unanimous agreement rarely happened among intellectual elite and since there were always diverse opinions, one could always find several scholars of the day who concurred on an issue. Also, the definition of ijma and which ijma would be considered valid was a point of contention, because ijma is not simply the consensus of all past jurists. Besides, using the concept of ijma poses the problem of having to look to the past to solve the problems of the future, and scholars of yesteryear didn't wrestle the same issues that are challenging Muslims today.

What is halal and haram?

The concepts of halal, permittable, and haram, prohibited, play a major role in deciding the legality of acts. Scholars have created classifications of acts that span the difference between halal and haram, such as makruh, which is an act that is not recommended, but clearly not prohibited. No matter the classification, scholars agreed that if a certain action was not categorically prohibited, then it was permissible.

Historical background on hadith

Difference between sunna and hadith

"The majority of the contents of the hadith corpus is, in fact, nothing but the Sunna-Ijtihad of the first generations of Muslims, an ijtihad which had its source in individual opinion but which in course of time and after tremendous struggles and conflicts against heresies and extreme

sectarian opinion received the sanction of Ijma, i.e. the adherence of the majority of the Community. In other words, the earlier living Sunnah was reflected in the mirror of the Hadith with the necessary addition of chains of narrators. There is, however, one major difference: whereas Sunnah was largely and primarily a practical phenomenon, geared as it was to behavioral norms, Hadith became the vehicle not only of legal norms abut of religious beliefs and principles as well." (Rahman, p. 45)

The hadith constitute the recording in writing everything that Prophet Muhammad was to have said, such as his opinions or decisions on issues, his responses to Muslims' questions or requests, as well as his silent or tacit approval of acts he had knowledge of. "The hadith sayings are in fact a veritable panorama of daily life in the seventh century, a vivid panorama, extremely varied because there are various versions of the same event. Finally, one also finds side by side subjects as different as 'how to perform one's ablutions,' 'how to behave on one's wedding night,' and 'what is to be done in case of civil war.'" (Mernissi, 35)

Just as during his life, Muslims could go the Prophet for answers; after his death, they looked to the hadith for Prophetic guidance, a means of searching out what was or not acceptable in areas where the Quran had not left specific rulings. However, many scholars believe that ahadith were not compiled in authoritative collections until the middle of the ninth century, "by which time a great mass of diverse ahadith reflected the variety of legal opinion developed over the past two centuries of juristic reasoning in the legal schools. Recognition that the hadith literature included many fabrications led to a concerted effort to distinguish more clearly authentic traditions." (Esposito, 6)

The sunna of the Prophet differs from the hadith in that the development of the science of hadith

In order to verify the authenticity of hadith narrations, painstaking attempts were made by Muslim scholars to apply a science of hadith criticism. Judging the trustworthiness of the narrator was the first criteria; for example, his or her having a good memory and a sound reputation in the community, etc. Based on the chain of narrators (isnad), ahadith were classified by the following categories:

Mutawatir – "continuous" chain consists of a large group of transmitters in each generation, sufficient in and of itself to dispel suspicion of fabrication.

Mashhur – "well-known" constitutes a widely disseminated hadith with individual narrators that could be traced back to the time of the Prophet.

Ahad – "isolated" refers to ahadith where the last link (sanad) in the chain was only one authority.

Morsil – "not connected" refers to ahadith where the last link in the chain is unnamed.

The second criteria was judging the hadith for its content or matn. Did the hadith contradict the Quran or another verified tradition or the consensus of the community? Did it have the "light" of the Prophet in them? Were they consistent with his style and speech? After the ahadith were judged for their chain and content, they were labeled to their degree of strength or authenticity: sahih (authentic), hasan (good), da-if (weak). Of the six major collections of the hadith, that of Bukhari (d. 870) and Muslim (d. 875) have enjoyed an especially high reputation among Muslim scholars. Despite this, questions regarding the authenticity of some ahadith still remain.

Talk more about what sahih really means? It is not mutawatir, etc.

Collection by Bukhari

So revered is Bukhari's work, it "is generally considered by [a large number of]the Muslims as an authority second only to the Qur'an." (Hadith lit, p. 53) Bukhari stated that he collected 600,000 ahadith and confirmed around 7,000 (including duplications) as authentic. Although later scholars agree that Bukhari had stringent requirements to verify the chain of narration, his concentration was to verify the chain itself, and not the subject matter. "Al-Bukhari confines his criticism to the narrators of traditions, and their reliability, and pays little attention to the probability or possibility of the truth of the actual material reported by them. In estimating the reliability of the narrators, his judgment has in certain cases been erroneous, and the Muslim traditionists have not failed to point this out." Quoted are scholars such as al-Daraqutni, Abu Masud of Damascus and Abu Ali al-Ghassani who have pointed out weak traditions or those that do not technically fulfill the requirements. "Despite this, all the Muslim traditionists, including those who have criticized the Sahih, have paid unanimous tribute to the general accuracy, scrupulous care, and exactitude of the book's author." (Hadith Literature, p. 58)

Human influences in hadith collection

Scholars have unsatisfactorily answered the legitimate concerns everyday Muslims have about legitimate human factors in hadith collection. The possibility of error, bias or evil intent is often refuted by traditionalists who believe that the science of hadith had been perfected to reject the many fabrications and that the sincerity and piety of the early narrators and compilers outshine the "rubbish heap of false traditions." (Hadith Lit, p. 32) But one cannot help but ask how human vices, political agendas and simple imperfections could not have played some role in the collection of ahadith. Fazlur Rahman in Islamic Methodology in History sorts through and explains how political and social factors in early Islamic history could not be easily isolated from the outproduct, namely the hadith and ultimately legal decisions. "The majority of the contents of the Hadith corpus, is, in fact, nothing but the Sunna-Ijtihad of the first generations of Muslims." (Rahman, p. 45)

Many practical issues dealing with the collection and authenticity of hadith were formidable challenges affecting their integrity. For example, it was difficult to question a reporter of hadith,

as a legal witness could, on the ground that his evidence was biased (Coulson, 63); some ahadith (such as predictive ones about political troubles in Bukhari and Muslim) were labeled authentic because they had excellent isnads (chains), but could not be accepted "if we are historically correct," supporting the theory that verification of isnads is not a foolproof guarantee of authenticity (Fazlur Rahman, Islamic Methodology in History, Karachi: Central Institute of Islamic Research, 1965, p. 72); at one time there were hundreds of thousands of ahadith to sift through, an enormous amount against the human odds that could not have perfectly sifted though all the fabricated ones; "selective" memory, mishearing, making bona fide mistakes in relaying a tradition or other human factors are also not often reconciled with the enormous weight given to ahadith.

A good example of how a modern writer explains how this human factor comes into play with ahadith on women is Moroccan feminist, Fatima Mernissi. In a section of The Veil and the Male Elite, she delves into the biographical background, dissenting biographies and refuting opinions on several ahadith and their narrators to prove that in many instances, sexist ahadith have been, deliberately or not, attributed to companions' narrations of the Prophet. Analyses of these ahadith show inconsistencies, historical impossibilities and clear bias, leading her to believe that many may have in fact been fabricated, labeled as authentic and used to further certain political agendas. Here is a shortened exercise in questioning a questionable hadith:

"Those who entrust their affairs to a woman will never know prosperity" is reported in Bukhari. The "authenticity" of this hadith is shaded by the following facts Mernissi's research indicates:

This hadith is narrated by a slave who converted to Islam, Abu Bakra, (not to be confused with the Caliph Abu Bakr) whose genealogy was difficult to trace, which is considered an important part of a hadith narrator's biography. More importantly, he recalled this hadith apparently decades after the death of the Prophet, coincidentally at the time that Aisha’s army was defeated by Ali's forces at the Battle of the Camel, the first civil war.

In Bukhari's chapter about the first Muslim civil war, "al-Fitna", where all other ahadith on the same subject were assembled, Abu Bakra's narration is a solitary hadith justifying political neutrality by the gender of one of the leaders, Aisha.

A biography of Abu Bakra claims that he was one of the four witnesses who was flogged for slander by Omar ibn-al-Khattab. Abu Bakra falsely accused a well-known companion of adultery.

"Abu Bakra remembered other hadith just as providential at critical moments." For example, after the assassination of Ali, Mu’awiya thought he could have legitimate claim to the caliphate if only Hassan, Ali's son and Muhammad's grandson, would renounce in writing his rights to that claim. At this historic moment, Abu Bakra recalled a hadith that Hassan will be the man of reconciliation between the two divisions of the Muslim community, even though Hassan would

have only been a baby when the Prophet was supposed to have predicted that. (Mernissi, 49-61)

Many may wonder why Mernissi so zealously questions the general use of this hadith when it can be easily be explained by its circumstance: The Prophet responded to news of the death of a Persian king who was to be replaced by his daughter. Therefore, the Prophet's response was not meant as a general rule of an Islamic teaching revealed from God, but a personal response to a political incident. To Mernissi, the explanation to this hadith doesn't completely explain why if the hadith was meant as a general rule--as Abu Bakra may have intended it--wasn't it relayed sooner? And why did Abu Bakra wait decades later to suddenly introduce it? If it was the Prophet's personal response to a specific incident, why was it relayed in the context of Aisha's leadership? Even though it was classified as a "sahih" hadith by Bukhari, Mernissi says that it was still hotly debated by many scholars. "Al-Tabari was one of those religious authorities who took a position against it, not finding it a sufficient basis for depriving women of their power of decision making and for justifying their exclusion from politics." (Mernissi, p. 61)

Mernissi also looks at Abu Hurayrah, the most prolific narrator (over 5,300 ahadith) in the three years he knew the Prophet. (Siddiqi, Hadith Literature, p. 18). Although Abu Hurayrah narrates twice as many ahadith as the next prolific narrator, rarely is his huge number of narrations questioned. One author simply states that "the fact that he narrated a uniquely large number of traditions itself did make inventing ahadith in is name an attractive proposition." (Siddique, p. 20) What Mernissi calls to task is several ahadith that Abu Hurayrah may have wrongly narrated, mostly dealing with sex, purification and other female issues. She also mentions confrontations between Aisha and Abu Hurayrah, and a story that some of the companions caught Abu Hurayrah reporting a hadith he later confessed was not heard directly from the Prophet. (Mernissi, p. 73) It appears that Mernissi's intent is to bring out all these incidents, inconsistencies and human agendas out from the woodwork and into our understanding of the anatomy of ahadith today.

Many scholars on hadith have told us how scrupulous narrators were in remembering hadith correctly, yet on the other hand, Aisha, for example was known to have refuted ahadith of some companions. How could she have been touted for her refutations if all the companions are touted for their scrupulous memory? She wouldn't have had anything to refute if no one's memory failed or there was no misunderstanding. For example, when Ibn Umar related that the Prophet had said that the dead are punished in their graves on account of the wailing of their relatives, Aisha pointed out that the Prophet had actually said that while the dead are punished in their graves for their sins, their relatives wept for them. (Siddiqi, p. 21)

There is no doubt that the companions of the Prophet and hadith scholars such as Bukhari were highly scrupulous and righteous individuals, but to admit to their human imperfections is not by any means the same as to admit that they willingly and carelessly recorded traditions. In the minds of many Muslims, there is no middle ground. The gray area is the most difficult to deal

with because we have to exert effort, investigate for ourselves, question and probe, as opposed to being given a handbook of exact definitions, beliefs and sources. Understanding the hadith is not as simple as opening up Sahih al-Bukhari and believing every word in it as if it were the Quran. Unfortunately, this is the understanding of many Muslims who fear that having a gray area dilutes the true message. What Mernissi tries to do is to boldly examine this gray area and ask questions few have delved before. In many cases, she brings together opinions from past scholars in hopes of shedding light on the taboo subject of questioning the origin and meaning of questionable ahadith.

SALIENT FEATURES OF ISLAMIC CRIMINAL LAW

Islamic criminal law is criminal law in accordance with Islamic law. Strictly speaking, Islamic law does not have a distinct corpus of "criminal law," as sharia courts do not have prosecutors, and all matters, even criminal ones, are in principle handled as disputes between individuals.

As opposed to other legal systems, in which crimes are generally considered violations of the rights of the state, Islamic law divides crimes into four different categories depending on the nature of the right violated:

Hadd: violation of a boundary of God.

Ta'zir: violation of the right of an individual.

Qisas: violation of the mixed right of God and of an individual in which the right of the individual is deemed to predominate.

Siyasah: violation of the right of the state.

Hudud

Hudud, meaning "limits", is the most serious category and includes crimes specified in the Quran.

These are:

Drinking alcohol (sharb al-khamr,

Theft (as-sariqah,

Highway robbery (qat`a at-tariyq,

Illegal sexual intercourse (az-zinā',

False accusation of illegal sexual intercourse (qadhf,

Apostasy (irtidād or ridda, - includes blasphemy.

The Shafi'i school of Islamic jurisprudence does not include highway robbery. The Hanafi school does not include rebellion and heresy.

Except for drinking alcohol, punishments for all hudud crimes are specified in the Quran or Hadith: stoning-Hadith, amputation and flogging.

Amputation

The punishment for stealing is the amputation of the hand and after repeated offense, the foot (Quran 5:38). This practice is still used today in countries like Iran, Saudi Arabia, and NorthernNigeria. In Iran, amputation as punishment has been described as "uncommon", but "not unheard of, and has already been carried out at least once" during 2010.

Qisas

Qisas is the Islamic principle of an eye for an eye. This category includes the crimes of murder and battery.

Punishment is either exact retribution or compensation (Diyya).

The issue of qisas gained considerable attention in the Western media in 2009 when Ameneh Bahrami, an Iranian woman blinded in an acid attack, demanded that her attacker be blinded as well.

Diyya

Diyya is compensation paid to the heirs of a victim. In Arabic the word means both blood money and ransom.

The Quran specifies the principle of Qisas (i.e. retaliation), but prescribes that one should seek compensation (Diyya) and not demand retribution.

We have prescribed for thee therein ‘a life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and for wounds retaliation;’ but whoso

remits it, it is an expiation for him, but he whoso will not judge by what God has revealed, these be the unjust.

Tazir

Tazir includes any crime that does not fit into Hudud or Qisas and which therefore has no punishment specified in the Quran. These types of crimes range from homosexuality to perjury totreason.

JUDICIAL SYSTEM UNDER THE MUSLIM LAW

The Quranic text quoted at the top has a deeper significance. The commentators in explaining the passage where the verse occurs, point out that it refers to the Divine plan of Creation in ordaining things in their relation to one another. The Divine Design is without a model, but the whole of the Divine plan and the underlying principles of actions are based on justice and equity. It is for men in their mutual dealings to act up to the Divine plan which serve for them as amodel and an ideal.

Another verse gives the following direction : " When you decide between people, give your decision with justice."

It may be said that the text contains an injunction which relates to the administration of justice between Muslims only. But it is not so. The verse is of general application. Any doubt or dispute regarding its implication has been set at rest by the Prophet himself. With reference to the cases and concerns of the Jews, he enunciated the following rule: "And when you give your decision, decide between them (i.e., the Jews) with justice : surely God loves those who do justice."

Al-Quran lays great stress on Justice. It goes so far as to hold that the Creation is founded on justice. It says, " We have not created the heavens and the earth, and whatever is (contained) between them, otherwise than in justice" (15:55). This is the starting point. We also find in the Quran thatone of the Divine attributes of God (which are called asmd-i-hwsna, "the excellent attributes") is "just." Consequently, justice is regarded as a part and parcel of the Divine nature of God, and the administration of justice as a divine dispensation.

Another point on which stress is laid is that the administration of justice must be without a tinge of bias or partiality. This point has greatly been emphasized in the Quran. It says:

"O true believers, observe justice when you appear as witnesses before God, and let not hatred towards any induce you to do wrong : but act justly ; this will approach nearer unto piety, and fear God, for God is fully acquainted with what you do." Quran 5:8.

"O you who believe, be maintainers of justice when you bear witness for God's sake although it be against yourselves, or your parents, or your near relations ; whether the party be rich or poor, for God is most competent to deal with them both, therefore do not follow your low desire in bearing testimony so that you may swerve from justice, and if you swerve or turn aside then surely God is aware of what you do." (4 :135.)

The Muslim Canon Law has also laid down strict rules for the guidance of the Qazis in administering justice without distinction of race and creed, friend and foes. The second Caliph ('Urnar) issued a farmdn to the governor of Kftfa containing instructions for the administration of justice. One of the instructions is " Treat all men justly and on equal footing when they appear before you in the court." l Another far- mdnoi his contains the following instruction: " in dealing justice regard all men as equal, and treat the near and the remote on equal footing, and keep your- self free from corruption."

The Quran has set up an ideal of justice by referring to the Divine Balance "the Balance of Justice." It says:

"And He appointed the Balance that ye should not transgress in respect to the

The Divine Balance balance; wherefore observe a just of Justice weight and diminish not the balance (55 : 7-9).

"Certainly we sent Our Apostles with clear arguments and sent down with them the Book and the Balance (i. v., measure of justice) that men may conduct themselves with equity " (57 : 25)\

Balance stands for justice Cadi). " It does not signify in the Quran a pair of material scales, but a measure as signifying any standard of comparison, estimation or judgment.

Hence the Divine Balance is the symbol of justice and equity; observing "a just weight without diminishing the balance'* signifies administering even- handed justice without partiality. It also means "doing justice and equity in mutual dealings." The implication is that God himself has set up a Balance in which good and evil are weighed and justice is done not arbitrarily but according io a just measure. Here an ideal standard has been set up before mankind for doing justice and equity in their dealings with one another.

This ideal has not been kept confined within the domain of abstract theory. The Muslim monarchs tried to imitate it and act up to the Divine Plan. The Emperor Shiih Jahan had a balance and a pair of scissors engraved in a " luminous " stone, and set it up on the arch of the door of Diwdn-i-' Am , the " Hall of Public Audience." This was the symbol of justice of the Mughal Emperors. It conveyed the idea that justice would be weighed in the balance, after pruning the extraneous matters from the claims of the parties with the scissors of equity.

The Emperor Jahiingir adopted another device to bring justice within the easy reach of every person without the intervention of the court officials. He ordered to make a chain of gold thirty yards in length containing sixty bells. One end of the chain was fastened to "the battlements of the Shah Burj of the fort at Agra and the other to a stone-post fixed on the bank of the river" (Jumna). 1 The Emperor generally held the royal court to hear complaints. 2 The aggrieved parties used to pull the chain. The sound of the bells apprised the Emperor that the pullers of the chain wanted redress. They were ushered into the royal presence, and the Emperor used to personally hear their grievances and redress their wrongs.

The above instances tend to show how the ideals of justice and equity held up in the Quran, have influenced the mind of the Muslim monarchs of India.

One of the noteworthy features of the administration of justice is that at the begin-

Administration of justice was administered Justice in the name of God or of the Commutered in the name of God, or of the Caliphate representing the entire Muslim community, but not in the name of the Caliph, or Sultan, or Emperor. The author of Minhdj)in points out that "the entire Muslim community is responsible for the administration of justice." 1 It was administered with reference to the laws of the Quran, the traditions handed down from the Prophet (Hadiths), and general concordance among the followers especially of the first four Caliphs (Ijmd-i-Ummat). The doctrine of Qiyds, "Exercise of private judgment," was gradually introduced. Thus it is clear that the fountain-head of justice was God, and not the Caliph or the King. After tlie first four Caliphs when the republican form of the Islamic Com- monwealth came to an end,

justice was administered in the name of the ruling monarch. In India, "the Mughal emperor loved to pose as the fountain of justice and followed the immemorial eastern tradition that the King should try cases himself in open court'

In the beginning justice was ad- ministered in the mosque of the Prophet (Masjid-un- Nabi). Even after his death mosques were selected for deciding cases till the establishment of Ddr-ul-Qa?d (the court of justice). Eeason for selecting mosques as the place for administering justice was that they were open to the public, and none could object to entering the public place of worship. 1 When the separate buildings for holding courts were con- structed during the Caliphate of Hazrat 'Umar, Qdyis used to hear cases there. But the Ddr-ulQafd was regarded as a public place and was open to all. Besides Drir-ul-Qazd, the Muslim kings and emperors used to hold royal courts (Diwdns) at their palaces. But such Diwdns were also open to litigants and the public in general. Such was also the case with the Caliphs of Iraq, Egypt, and Spain.

When the Muslim monarchs established themselves in India, they followed the examples of the Caliphs. A number of courts of justice were established in towns and provinces. These courts were open to the public, and the judges and magistrates (A'dils and Qdtis) used to administer justice m open courts. The emperors used to hear cases in the Diwdn-i-'Am (the Hall of Public Audience), and sometimes in the Diwdn-i-Khds (the Hall of Private Audience). These magnificent Diwdns were attached to the palaces where litigants and public had free access.

Of the most important duties assigned by the Shari'at (Canon Law') to the Caliph two ma y be mentioned here one was to lead personally the congregational prayer on Friday at Jehu a 9 Musjid (public mosque), and the other to administer justice personally in a public place. The first four Caliphs (Khulafd 9 i-Rdshidin, "the rightly- guided Caliphs' 1) strictly performed these duties during the Islamic Commonwealth. Afterwards when the boundaries of the Caliphate were extended far and wide, it became impossible for the Caliphs to attend to these duties in person. They, therefore, charged the governors (Amirs) to perform those duties in their name in distant provinces. But in the capital the Caliphs, with the exception of a few, discharged those duties faith- fully. The Muslim Emperors in India acted up to this ideal. They used to decide cases personally with the assistance of the Qazis and the Muftis who were the law-officers of the Crown (vide Description of the Mughal Emperor's Court,

This is not a peculiar feature of the Islamic system of the administration of justice. Hindu idea of Justice. The Code of Manu (Manu-Samhitd) and other legal treatises of the ancient Hindus assigned to the king the duty of administering justice in person. This has been the hoary tradition of the East. It has been regarded as a religious duty in all Eastern countries and kingdoms. According to the Hindu idea of the admini- stration of justice " the king was the fountain-head of justice."

Hanafi School of Thought

The Hanafi school is one of the four religious Sunni Islamic schools of jurisprudence (fiqh). It is named after the scholar Abū Ḥanīfa an-Nuʿman ibn Thābit (d. 767), a tabiʿi whose legal views were preserved primarily by his two most important disciples, Abu Yusuf and Muhammad al-Shaybani. The other major schools of Sharia in Sunni Islam are Maliki, Shafi'i and Hanbali.

Hanafi is the fiqh with the largest followers among Sunni Muslims. It is predominant in the countries that were once part of the historic Ottoman Empire and Sultanates of Turkic rulers in the Indian subcontinent, northwest China and Central Asia. In the modern era, Hanafi is prevalent in the following regions: Turkey, the Balkans, Syria, Lebanon, Jordan, Palestine, Egypt, parts of Iraq, the Caucasus, parts of Russia, Turkmenistan, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, Afghanistan, Pakistan, parts of India and China, and Bangladesh.

Sources and methodology

Map of the Muslim world. Hanafi (light green) is the Sunni school predominant in Turkey, the Western Middle East, Western and Nile river region of Egypt, Central Asia, Afghanistan, Pakistan, Bangladesh, and parts of Southeast Europe, India, China and Russia An estimated one-third of all Muslims worldwide follow Hanafi law

The sources from which the Hanafi madhhab derives Islamic law are, in order of importance and preference: the Quran, and the hadiths containing the words, actions and customs of the Islamic prophet Muhammad (narrated in six hadith collections, of which Sahih Bukhari and Sahih Muslim are the most relied upon); if these sources were ambiguous on an issue, then the consensus of the Sahabah community (Ijma of the companions of Muhammad), then individual's opinion from the Sahabah, Qiyas (analogy), Istihsan (juristic preference), and finally local Urf (local custom of people).

Abu Hanifa is regarded by modern scholarship as the first to formally adopt and institute analogy (Qiyas) as a method to derive Islamic law when the Quran and hadiths are silent or ambiguous in their guidance.

The foundational texts of Hanafi madhhab, credited to Abū Ḥanīfa and his students Abu Yusuf and Muhammad al-Shaybani, include *Al-fiqh al-akbar* (theological book on jurisprudence), *Al-fiqh al-absat* (general book on jurisprudence), *Kitab al-athar* (thousands of hadiths with commentary), *Kitab al-kharaj* and *Kitab al-siyar* (doctrine of war against unbelievers, distribution of spoils of war among Muslims, apostasy and taxation of dhimmi).

History

As the fourth Caliph, Ali had transferred the Islamic capital to Kufa, and many of the first generation of Muslims had settled there, the Hanafi school of law based many of its rulings on the earliest Islamic traditions as transmitted by first generation Muslims residing in Iraq. Thus, the Hanafi school came to be known as the Kufan or Iraqi school in earlier times. Ali and Abdullah, son of Masud formed much of the base of the school, as well as other personalities such as Muhammad al-Baqir, Ja'far al-Sadiq, and Zayd ibn Ali. Many jurists and historians had lived in Kufa including one of Abu Hanifa's main teachers, Hammad ibn Sulayman.

In the early history of Islam, Hanafi doctrine was not fully compiled. The fiqh was fully compiled and documented in the 11th century.

The Turkish rulers were some of the earliest adopters of relatively more flexible Hanafi fiqh, and preferred it over the traditionalist Medina-based fiqhs which favored correlating all laws to Quran and Hadiths and disfavored Islamic law based on discretion of jurists. The Abbasids patronized the Hanafi school from the 10th century onwards. The Seljuk Turkish dynasties of 11th and 12th centuries, followed by Ottomans adopted Hanafi fiqh. The Turkic expansion spread Hanafi fiqh through Central Asia and into South Asia, with the establishment of Seljuk Empire, Timurid dynasty, Khanates and Delhi Sultanate

Views

Suleiman the Magnificent, known in the East as "The Lawgiver" for his complete reconstruction of the Ottoman legal system according to Hanafi law.

Apostasy

Hanafi madhhab consider apostasy, that is the act of leaving Islam or converting to another religion or becoming an atheist, as a religious crime.[14][15][16] A male apostate must be put to death, if he does not repent and return to Islam, in Hanafi law; a female apostate must be imprisoned in solitary confinement and punished until she reverts to Islam Hanafi scholars recommend three days of imprisonment for male apostates before execution, although the delay before killing the former Muslim is not mandatory. Apostates who are men must be killed, states the Hanafi Sunni fiqh, while women must be held in solitary confinement and beaten every three days till they recant and return to Islam.

Hanafi school, as with other Muslim fiqhs, considers apostasy as a civil liability as well. Therefore, (a) the property of the apostate is seized and distributed to his or her Muslim relatives; (b) his or her marriage annulled (*faskh*); (c) any children removed and considered ward of the Islamic state. In case the entire family has left Islam, or there are no surviving Muslim relatives recognized by Sharia, the apostate's property is liquidated by the Islamic state (part of *fay*, الْفيء). Women apostates, in Hanafi school, loses all inheritance rights Hanafi Sunni school of jurisprudence allows waiting till execution, before children and property are seized; other schools do not consider this wait as mandatory.[1]

Blasphemy

Hanafi law views blasphemy as synonymous with apostasy, and therefore, accepts the repentance of apostates. Those who refuse to repent, their punishment is death if the blasphemer is a Muslim man, and if the blasphemer is a woman, she must be imprisoned with coercion (beating) till she repents and returns to Islam. If a non-Muslim commits blasphemy, his punishment must be a tazir (discretionary, can be death, arrest, caning, etc.)

The sixth Mughal Emperor Aurangzeb reading Quran, in early 18th century. He commissioned the Fatawa-e-Alamgiri that expanded Islamic law within Hanafi fiqh boundaries. Composed by 500 Medina, Iraqi and Mughal Muslim scholars, the fatwa created social stratification of Muslims, where one's status determined the person's legal rights and unequal treatment under Islamic law.

Hanafi jurists have held that the accused must be a *muhsan* at the time of religiously disallowed sex, to be punished by *Rajm* (stoning). A *Muhsan* is an adult, free, Muslim who has previously enjoyed legitimate sexual relations in matrimony, regardless of whether the marriage still exists. In other words, stoning does not apply to someone who was never married in his or her life (only lashing in public is the mandatory punishment in such cases) For evidence, Hanafi fiqh accepts the following: self-confession, or testimony of four male witnesses (female witness is not acceptable), or contested pregnancy. In cases of self-confession, the accused is neither bound nor partially buried and allowed to escape during stoning. In other two, according to Hanafi legal texts, the accused is bound and partially buried inside a bit in standing position so he or she cannot escape, and then stoning must be performed till he or she dies.

Hanafi scholars specify the stone size to be used for *Rajm*, to be the size of one's hand. It should not be too large to cause death too quickly, nor too small to extend only pain.

Violence

Hanafi legal school has discussed violence and its appropriateness. This discussion has been controversial and with disagreements. Some modern Hanafi scholars state the requirement of peaceful methods while some insist that neither self-defense nor action against oppression is terrorism. Historical Hanafi scholars have stated that all violence is justified when it benefits Muslims and Islam. For example, the 18th-19th century Hanafi jurist Ibn Abidin supported violence, and his argument has been explained by other Hanafi scholars as follows:

The attacker's purpose should not be suicide. He should have the impression (*guman*) that he would succeed, or that damage would be inflicted on the enemy, or that the Muslims would be emboldened. The effects of the attack are to be measured either by the attacker himself or by his commander. The purpose of the attack is the elevation of religion or of God's word, not personal ambition, pride, or tribal or national sentiment.

– Mujib al-Rahman

In early Islamic era, another Hanafi scholar al-Jassas states that pre-emptive killing is justified when reprimands fail and before the enemy or individual commits a deed that is evil in Islam; however, the enemy or likely wrongdoer should not be killed if one's own life is likely to be lost in the effort. Other Hanafi and other fiqh scholars, such as the Shafi'i scholar Wahba Zuhayli suggest peaceful methods are necessary when Muslim community faces an oppressive government and unjust laws.

Theory of perennial war

The 11th century Hanafi scholar Sarakhsi adopted Shafi'i doctrine of war which was first to justify, in Islamic theory, that the proper reason to wage war, jihad, on unbelievers, was their

disbelief (kufr) War must be waged, Shafi'i scholars stated, not merely when the unbelievers attacked or actively started a conflict with Muslims, but the unbelievers must be attacked "wherever Muslims may find them", because they are unbelievers. Hanafi scholars, such as Sarakhsi in his *Kitab al-Mabsut*, accepted this theory and ruled that Muslims must fight the unbelievers as "a duty enjoined permanently until the end of time". Similarly, Hanafi texts such as Al-Hidayah based on Al-Quduri's *Mukhtasar* states,

Fighting unbelievers is obligatory, even if they do not initiate it against us.

– Aḥmad ibn Muḥammad Qudūrī, 11th century Hanafi scholar

The rationale for holy war against unbelievers set by early Hanafi scholars continued for many centuries. For example, Ebussuud Efendi of 16th century, provided ideological framework to Ottoman Sultans to raid and attack non-Muslim territories for holy war. However, this historical interpretation and justification for *jihad* and unprovoked war from Quran and Hadiths, has been challenged by some modern Islamic scholars.

Slavery

Hanafi scholars derived slave law statutes for the numerous domestic and agricultural slaves in Ottoman Empire.[1] These included, like other fiqhs, laws on master's ownership rights, lack of property rights for the slaves, right of male masters to have sex with female slaves, hereditary slavery for children of slaves, as well as procedures for manumission of slaves who convert to IslamHowever, a distinct feature of Hanafi slave code was the grant of special rights to soldier slaves of Sultan, who were called *Mamluks* and *Janissaries*. These special slaves served as governors, officials and army commanders on the behalf of Ottoman Empire rulers

Sultan's slaves, unlike common slaves, had separate rights, were awarded a large portion of the booty collected during raids on and war with unbelievers (Ghanima). Some of these ruler's slaves later founded their own dynasties and Islamic Sultanates in Egypt, Iraq and India

Other views

- The Hanafi school permits a man or a woman, after puberty, to marry without getting permission of a wali (guardian); the permission is a requirement for adult Muslim women in other Islamic fiqhs such as Maliki, Shafii, Fatimid Shias, Daudi and Bohras. However, Hanafi school grants a guardian the right to arrange and give away in marriage, a minor girl before puberty, without anyone's consent

- Abu Hanifa, the founder of Hanafi school, states that a divorced wife loses her right to dower property (brideprice) in *khula* and *mubaraa* forms of divorce. Later Hanafi scholars partially or wholly disagreed with Hanifa, and left it to sharia courts the discretion to decide. In either case, this dispute is limited to rights relating to dower (mahr), the divorced wife has no rights in the wealth her divorced husband gained during marriage.

- Hanafi school considers the marriage of a person, even if it was coerced, as valid, a position a few Hanafi scholars disagreed with. Hanafi sharia is also more restrictive, than other Islamic fiqhs, in the rights it gives a Muslim woman to terminate her marriage. She can ask a sharia court to annul the marriage on the grounds that her husband is impotent and unable to consummate the marriage, or that her husband is missing and presumed dead. In the second case, Hanafi law requires her to wait for very long periods, often till the natural age of missing man is over, sometimes four years, or at the discretion of the court

- Hanafi scholars consider a child born within two years of a husband's death or a woman's divorce, as legitimate and from her dead/previous husband. This Hanafi law was upheld in 20th century by influential muftis.

- Hanafi jurists allow Muslim scholars to charge money for anyone wanting to learn Quran. Many Hanafi law interpretations also allowed people to charge interest for any loan they give, a practice that is not supported in other Islamic legal schools for sharia-compliant finance.

- The Hanafi school forbids any alcohol containing drinks that were produced from date or vine (grapes). However, it permits consumption of alcoholic beverages from non-date and non-vine sources, under the conditions that it is not consumed in vain, or to a point where it will intoxicate.[1] Intoxication from any sources is considered religiously unlawful and that must be punished

- Painting of a picture of any living thing (*taswir*), as well as sculpture of human beings or animals (anything with a head) from any material, was forbidden and declared unlawful by Hanafi scholars

- Music, dancing and singing was stated to be unlawful under sharia by Hanafi scholars, a religious position shared by most other Sunni fiqhs

- The Hanafi school teaches that the time of the Asr prayer starts when the length of the shadow is twice as long as its original objects, while all other schools view that Asr prayer starts when length of the shadow is as long as its original object.

- The Hanafi school permits appointing female judges.

- Women are not permitted to pray next to men, or lead men in prayer, with the Hanafi school's justification that "men have a degree of precedence over women" from Quranic verse 2:228 By 13th century, Hanafi scholars did not allow Muslim women, of any age, to go to mosques, because noted 'Abd Allah al-Mawsili, "of the corruption of the times and the open commission of obscene acts. This view was later adopted by other Islamic fiqhs such as Maliki in 14th century and Shafi'i in 15th century. In

contemporary times, Hanafi scholars allow Muslim women to go to mosques, but cannot lead prayers by men, and are permitted but considered makruh (disliked) to lead prayers by other women.

- The Hanafi school considers admission in a court of law to be divisible; that is, a plaintiff could accept some parts of a defendant's testimony while rejecting other parts. This position is also held by the Maliki school, though it is opposed by the Zahiris and the majority of the Hanbalis

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