Hinduism and Law:
An Introduction

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FINAL TYPESCRIPT AS OF 11 Nov. 2009 (with corrected index)

Cambridge University Press
Cambridge, England
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Introduction

Śūradharma, literally, dharma for the Śūdra, is an old topic in the Dharmaśāstra, part of standard list of topics in dharma texts from the earliest period. From 1350–1700 CE we find a number of texts in the genre of the dharma-nibandha (digest on dharma), devoted wholly and solely to the topic of śūradharma. We are able to locate several of these texts, especially those produced within the span 1550–1680 CE, a period conventionally designated as late medieval, though it is increasingly referred to as early modern. I call this corpus the “Śūdra archive” (Vajpeyi 2004). The dharma-nibandha was a genre of text produced profusely, with much royal patronage, all across Deccan India from the early twelfth to the late sixteenth centuries (Figure 1). As the name of the genre indicates, these texts were compendia of earlier materials on various topics in dharma. The śūradharma-nibandha is a sub-genre within this larger category of text.

The Śūdra archive is interesting for many reasons. It is produced in a limited period of time, and that, too, relatively late in the history of the Sanskrit literature on dharma (Figure 2). Unlike most of the early works on dharma, for this corpus we are
able to find historical authors, and to tell where the texts were written. This level of historicity is simply not available for the bulk of the Dharmaśāstra. Second, we see here one of a long list of topics gain salience and become the subject of book-length treatments. Questions arise: Why śūradharma? Why did this topic suddenly become so important as to merit entire digests, and why at this time and not earlier or later? What do the choice of subject matter, and the choice of textual genre in which to process it, tell us about the Śūdra archive? Why were late medieval Brahmins (and Brahmins alone) writing legal digests about the Śūdra?

A third reason that makes the Śūdra archive intriguing, besides its unprecedented historicity and its novelty, is one of its authors, and possibly its last great exponent, Gāgābhaṭṭa. This man not only wrote in the genre of the śūradharma-nibandha, he also wrote about rājadharma, the dharma of the king, kāyasthādharma, the dharma of the Kāyasthas (a caste of scribes and accountants), and about jātinirṇaya, the adjudication of matters pertaining to jāti. He performed the rājyābhiseka or the royal consecration of the first Maratha ruler, Shivaji (1630–80 CE), in 1674 CE. Shivaji was a Śūdra warlord who had to be made into a Kṣatriya king, and it was Gāgā who improvised the rituals and composed the justificatory texts necessary for this transformation (Vajpeyi 2005).

In addition, since his scholarly and ritual work made him an authority on dharma as it was to be determined and apportioned according to varṇa and jāti, throughout his life Gāgā presided over legal disputes between members of different
castes. The personality and activity of Gāgābhaṭṭa, no doubt one of the most important intellectuals of the Sanskrit world at the end of the medieval period, enlivens the history of the Śūdra archive. Singling out this arcane topic from the plenitude of Sanskrit textuality, Gāgā brings it to our notice more than three centuries later. If the eighteenth century brings us to the death of Sanskrit, as Pollock (2001b) describes it, then the work of Gāgābhaṭṭa is surely one of the dying breaths of this knowledge tradition.

**Philology**

The śūdradharma-nibandha texts, especially the longer and more elaborate ones, by Kṛṣṇaśeṣa, Kamalākarabhaṭṭa, Dinakarabhaṭṭa and Gāgābhaṭṭa, tend to follow a certain pattern in terms of topics covered. Since śūdradharma means “dharma pertaining to the Śūdra,” the broadest questions to be addressed in these texts and providing their organizational logic are: (a) Who is a Śūdra? (b) What is his dharma? Answering (a) means asking:

(i) What is varṇa and who has it?

(ii) What is Śūdra-varṇa and who has it?

To answer these questions, the texts generate long lists of types of persons who do not have varṇa: these are the antyaja category (last-born or outcaste), some of whom count as equivalent to Śūdra (śūdra-samāna), while others are inferior. Women,
notably, are śūdra-samāna across the board, on account of the a priori parity between the woman and the Śūdra (strī-śūdra-samānatā). Positive answers to (i) and (ii) above entail a discussion of what varṇa is (varṇatva), and of the essence of the four varṇa categories, i.e., of brāhmaṇatva, kṣatriyatva, vaiśyatva and śūdratva.

Rules governing marriage (vivāha), endogamy (savarṇa-vivāha), hyper- and hypo-gamy (anulomā/ pratiloma), miscegenation (saṃkara/ varṇasaṃkara / jātisamkara), sexuality and the status of women, as the constitutive elements of a patriarchal caste system, must then be thoroughly explicated and debated. Taxonomies of mixed castes, together with their male and female parentage, their alternative names, their proper as well as optional professions, and any other typical characteristics are set out, usually in the very beginning of the śūdradharma text. The taxonomies of miscegenation have a generative aspect (utpattī) as well as a determinative or classificatory aspect (nirṇaya). The mechanical mixture of mixed castes produces an almost uncontrollable proliferation of subgroups (saṃkīrṇasaṃkara). Like women, those of mixed caste also have either parity or inferiority with respect to the Śūdra, and are designated śūdra-samāna, ati-śūdra, antyaja, sat-śūdra / asat-śūdra, and other micro-classifications.

Most śūdradharma digests are devoted to question (b) above: What is the dharma of the Śūdra? The answer lies in numerous dos and don’ts associated with the rituals a Śūdra must perform. In this sense, “dharma” becomes synonymous with “saṃskāra,” and the minutiae of the various daily, monthly, annual, periodic, and
life-cycle rituals prescribed for the Śūdra extend into pages and pages of text. These portions of the Śūdra archive are curiously static. On the one hand, we cannot tell if we are looking into the seventh or the seventeenth century, so suspended is this discourse in the timeless ether of Brahmīn normativity. On the other hand, it is marked historically, because modern Indians know immediately that what they are looking at is the past, not the present. Apart from a few rites associated with major life-events—birth, naming, marriage and death—few Indians of almost any caste inhabit any longer a living, coherent social world wherein these rituals make sense.

To attempt to write the history of dharma in the narrow sense of life-cycle rites (saṃskāra) is premised on the apprehension of a lapse in cultural memory that is disquieting. Some epistemological break has occurred in our history to inhibit us, indeed debar us, from entering in our imagination the universe where it might have mattered to someone whether or not he had the capacity to perform a certain ritual of śūdra-dharma in a certain way. Of course, one may question whether the discourse of Dharmaśāstra ever, at any point in time, had a strong and demonstrable relationship to how people lived, thought and acted. But suffice it to say that from the vantage of the present, the sections of our texts dealing with śūdra-saṃskāra appear archaic, if not altogether fantastic. Recently Sarma’s quasi-fictional autobiography, The Last Brahmin (2007) explores the aporia that characterizes our relationship to this once vibrant world of Brahmanical rituals.
In an exhaustive treatment of the Śūdra archive, I focus on the place of language in these texts, in order to elucidate what I call their “poetics of contempt.” Language is key in two ways: one, the Śūdra is defined as a person who stands at a particular, exactly measured and strictly enforced distance from Sanskrit; and two, the language used to describe, police, revile, punish, and exclude the Śūdra from realms of upper-caste privilege is startling in its force. It should be noted that both these uses of language in the hierarchical world of varṇāśramadharma (the dharma of caste and life-stage)—as a measure of lowliness and as a weapon of humiliation—are as old as all of the phenomena under study: the category of the Śūdra itself, the language of Sanskrit, and the system of Dharmaśāstra. There is no respite to be had from the contempt characteristically associated with the Śūdra when the new digests are written between the fourteenth and the seventeenth centuries. Rather, they become reiterations of very ancient, sedimented forms of social inequality that are inscribed into language itself.

One may investigate the language through which dharma is differentially apportioned to the twice-born and to the Śūdra in a variety of genres. However, the relationship of the Śūdra to Sanskrit and thence to entire realms of social prestige and political power, is metonymically and most clearly figured in the relationship of the Śūdra to the Veda. If we diagram a paradigmatic speech situation, the Śūdra appears as a silent listener and indirect addressee, never as a speaker or a direct addressee: a perfect image of the Śūdra’s exclusion from or marginal status with respect to caste
society as a whole. In the social world that we can project from the speech situation sketched in Sanskrit texts, the Śūdra, mostly shut out altogether, is, at best, the designated eavesdropper. The historical depth of this contempt for the Śūdra in the long life of Sanskrit, is revealed in the sources cited by the digest authors, primarily a small set of stories from the upaniṣads and interpretations of these stories in major Vedānta commentaries (see Vajpeyi in press). It turns out that the figure of the Śūdra haunts the Brahminical literature from some of its earliest phases, and always at the heart of the othering of the Śūdra lies a set of maneuvers whose locus is language.

In the context of current scholarship on India, the topic of the Śūdra and, more specifically, of the relationship between the Śūdra and language, immediately calls to mind the school of Indian historiography we know as Subaltern Studies. Historians of this school have worked almost exclusively on colonial India, particularly on peasant groups and their politics from the late eighteenth to the early twentieth centuries. While śūdradharma as a subject of Sanskrit systematic thought is strictly speaking a precolonial phenomenon, the Śūdra should be thought of as a kind of subaltern. The question to ask of the Śūdra archive is: “Can the subaltern speak?” in or through these texts (Spivak 1988). The answer, for the seventeenth century as for the twentieth, appears to be the same—“No.” The śūdradharma digests do not reveal anything about either the Śūdra as a historical agent or the constitution of any given Śūdra collectivity as a class in a feudal society, nor do they entextualize what Guha would describe as “subaltern mentality” (Guha 1998 [1977]). Rather, because
Brahmins, even when they write about the Śūdra, appear to write exclusively for other Brahmins, the śūradharma digests they compose embody and convey “elite mentality” par excellence.

Śūradharma-śāstra as an elite discourse successfully represses all traces of the subaltern it takes as its principal object. We may read and re-read the Śūdra archive to try and find in it the historical conditions to which it responds; it remains almost completely unyielding. There is a complex story behind why and how Sanskrit discourses, especially those in the śāstra mode, achieved this near-perfect repression of subalternity or indeed alterity of any kind, i.e., what the linguistic, epistemological and ideological features of Sanskrit discursivity are that make it so perfectly an idiom of domination. Suffice it to say that the elision of historicity from Sanskrit discourse is related to its repression of subalternity—the two reinforce one another to produce the total absence of subaltern speech, even in our texts that are entirely about the Śūdra.

In the study of precolonial India, the trace of subaltern subjectivity has traditionally been sought in bhakti poetry and other sorts of radical texts, usually in the vernaculars rather than in Sanskrit for obvious reasons. But records of legal disputes too, when these disputes were between subalterns and elites—here, Śūdra groups and twice-born groups—ought to provide some insight into Śūdra mentality. A dispute, no matter how skewed its historical record, must necessarily capture two (or more) sides in a given disagreement. Unfortunately, to the extent that the
modality of legal dispute resolution (= law) in cases involving jātinirnaya, jātidharma and varnāśramadharma was tied to legal disputation, precolonial caste disputes too show a tendency to assimilate to the Brahminical repression of Śūdra speech that characterizes the theory and practice of all śāstra. In this sense, the moment the Śūdra comes into the purview of dharma, whether in śāstra texts (disputation) or in Marathi grāmanyā records (disputes), the answer to the question “Can the subaltern speak?” goes into the negative.

The evidence preserved in the documents recording the judgments given (vyavasthā-patra) indicates only that the Śūdra disputants wanted to be recognized as not really being Śūdra at all, but instead as being Brahmin, Kṣatriya, Vaiśya, or Kāyastha. This is perhaps the most successful elision of Śūdra subjectivity: supposedly at the hands of the Śūdra agents themselves, as it were. It would appear from the legal record that all the Śūdra ever wants is not to be one. The dispute then becomes a contest between the presence and absence, or the assertion versus the denial, of Śūdra subjectivity, not a contest between Śūdra subjectivity and twice-born subjectivity over a set of rights and privileges. Even worse, the positive assertion—“This group here consists of Śūdra individuals”—comes from the Brahmin side, while the denial—“We are not Śūdras”—comes from the Śūdra litigants themselves. Thus even the body of legal disputes we can recover in a fragmentary fashion from sixteenth and seventeenth century Varanasi and in a more complete fashion from
eighteenth and nineteenth century Maharashtra does not assist us in moving from the philology of oppression to the practice of subaltern history.166

History

Even as the Śūdra fails to speak through or in the dharma-nibandha archive, the elephant in the room, as it were, is caste. It does not matter whether we translate varṇa as caste, or jāti as caste, or both, or if the meaning of “caste” alternates between these two indigenous terms. The question of how to translate “caste” in this context is beside the point. The fact is that within the sphere of Sanskrit intellectual production in the sixteenth and seventeenth centuries, prior to the colonial period, Gāgābhaṭṭa and others like him were reflecting very deeply on the meanings of the category of the Śūdra, and a variety of related categories that had to do with the place as well as the relative ranking of individuals and groups in a social structure. This structure—with its axes of ritual status, occupation, endogamy, power, etc.—cannot be understood except as caste society. Reflection on the subject of the Śūdra,

166 Ch. 5 of Vajpeyi 2004 deals with the history of caste disputes in detail, building on N.K. Wagle. Madhav Deshpande, Christopher Minkowski, Rosalind O’Hanlon and Lawrence McCrea have been incrementally extending the work on caste disputes.
fittingly, was going on within the discourse of *dharma*, and that too within the ambit of legal and juridical literature, the Dharmaśāstra.\(^{167}\)

In reframing the large and variegated body of the Dharmaśāstra within the relatively narrow genre of the *dharma-nibandha*, and in taking the Śūdra as the overarching topic of discussion, jurists and scholars from 1550 to 1680 CE were engaging, precisely, in legal treatments of caste. Gāgābhaṭṭa himself presided over and conducted caste-related rituals, for both royals as well as laypersons; further, he adjudicated caste disputes between Brahmins and non-Brahmins. We could say that he was active in the theory, practice, and politics of caste, in his capacity as both a

\(^{167}\) Dharmaśāstra is traditionally only one of many loci for the entextualization of *dharma* in Sanskrit knowledge systems, but it became the preferred locus at this time. In remoter phases of pre-modernity, the discourse of *dharma*, and specifically, of śūdradharma, was not confined to the Dharmaśāstra. I have followed the discussion on śūdradharma in a number of genres of text: Veda, Mīmāṃsā, Vedānta, Itihāsa etc., at least in so far as those discussions are referred to in the Śūdra archive (Vajpeyi 2004). From the Puruṣa Śūkta (“Hymn to the Cosmic Man”) in the *Ṛg Veda* (10.90), to stories in the Upaniṣad texts, to the treatises of Śaṅkara and Rāmānuja, to episodes in the *Mahābhārata*, the problem of the Śūdra is a very old one in the Sanskrit discourse on *dharma* (Vajpeyi, in press).
scholarly expert on and a respected practitioner of the law. Ĝagā was, undoubtedly, a pre-colonial figure, and as such he dramatizes the centrality of caste to pre-colonial intellectual life, legal practice, polity and statecraft. He was not alone in his interest in both caste and the law (via the disciplines of Dharmaśāstra and Mīmāṃsā)—he came from a family of scholars and jurists, the Bhaṭṭas of Banaras. His father Dinakarabhaṭṭa began writing a text titled Śūdradharmaṇdyota (“Elucidation of the Dharma of the Śūdra”) that Ĝagā himself completed. His uncle Kamalākarabhaṭṭa wrote possibly the most important nibandha about the Śūdra, titled Śūdrakamalākara (“Kamalākara’s Digest on the Śūdra”) sometime between 1610 and 1640 CE, a text still taught in Sanskrit pedagogical environments today.

The Bhaṭṭas had moved to Banaras from Paithan, in Maharashtra, in the fifteenth century. Paithan used to be a centre of Brahmin learning during Yādava rule, but upon the fall of the Yādava capital of Devagiri between 1295/6 and 1325 CE, its intellectuals began to migrate north to Banaras. By Ĝagā’s lifetime, Banaras had entirely replaced Paithan as the headquarters, in northern India, of Brahmin intellectualism, much of it diasporic. Besides his own family, the Śeṣas of Banaras, another family of migrants from Paithan, were also famous as legal scholars. Ĝagā’s uncle Kamalākara’s older contemporary Śeṣakṛṣṇa wrote yet another significant digest on the Śūdra, titled Śūdrākaraśiromaṇī (“Crest Jewel of Śūdra Conduct”) sometime in the late sixteenth or early seventeenth century.
Gāgābhaṭṭa participated in the institution of the *brahmasabhā*, a council of Brahmins called to adjudicate various sorts of disputes, including caste disputes. Both late medieval Banaras and, before that, early medieval Paithan knew this institution, and it appears that local rulers, whether Hindu or Muslim, would often direct disputing parties to these learned assemblies in order to have their issues settled according to the rules of the Dharmaśāstra.  

On matters of *dharma*, including *varṇa* and *jāti*, non-specialist administrative and legal functionaries of regional courts, lacking in Sanskrit knowledge, deferred to specialist Brahmins living in places like Paithan and later Banaras. Dalmia describes Banaras as a “supra-regionally recognized” locus of juridical authority (Dalmia 1996: 322–3). The *brahmasabhā* would issue a decision, recorded in a document called a *vyavasthā-patra* (‘document (*patra*) bearing the decision (*vyavasthā*)’) or *vijaya-patra* (‘document spelling out the victory (*vijaya*) (of the authoritative claim

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168 Telang in Ranade (1966 [1961, 1900]: 126–7) has an account of how, when a group of disputing CKPs and Brahmins from coastal Maharashtra went before the Muslim law officer of Bijapur for redress, he referred them to the Banaras pandits, saying he was ignorant of the *dharma* texts and therefore not competent to judge this particular case.
The disputants would carry out the injunctions of this document, and their local political authority would not object.

Gāgābhaṭṭa’s ancestor Rāmeśvara migrated from Paithan to Banaras in the early sixteenth century. Pollock records the names of several prominent Marathi scholars resident in seventeenth century Banaras (2001 a and b). Gāgā lived in Banaras, but nonetheless, probably because he spoke Marathi and had family ties with his ancestral homeland, he became involved in a number of cases surrounding the ritual status of a caste belonging to coastal Maharashtra, the Cāndrasenīya Kāyastha Prabhu (CKP). This caste, today referred to in Maharashtra’s caste politics as CKP, was traditionally a highly literate group associated with scribal and

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169 We find reference to two vyavasthāpatra documents, of 1583 and 1658 CE, signed by councils of scholars resident in Banaras but originating from different parts of the subcontinent: Maharashtra, the Deccan, the South, Gujarat, etc. The second of these documents is a judgment about the actual caste status of a jāti called the Devarṣi, who were, in their own estimation, Brahmin (Pollock 2001a: 21 and 21n).

170 In 1663 Gāgā adjudicated a dispute about the ritual status of one of the Brahmin communities of this same region, coastal Maharashtra, called the Sārasvata (Wagle 1970; Bayly 1999).
accountancy work, and connected, therefore, with royal courts and their administrative divisions. One of Shivaji’s closest ministers, Bālāji Citnis, was a CKP.

The CKP is one of a group generically referred to in the dharma literature as Kāyastha, a caste, as already mentioned, of scribes and accountants. Like Brahmins, historically Kāyastha communities can be found in many parts of the subcontinent, and in different places they have distinct jāti names, as well as localized stories about their origins, their proper work, their true status, their position relative to other local castes, etc. In Shivaji’s reign the CKP were politically powerful, and Gāgā was enlisted to establish, textually as well as through his judgments on particular cases, that the CKP shared characteristics with the Brahmin as well as the Kṣatriya, both high castes, but not with the lowly Śūdra. Sometime between 1669 and 1672 CE he presided over a case involving the CKP (Bendrey 1960). Probably in this same period, Gāgā wrote Kāyasthadharmadīpa (“Elucidation on the Dharma of the Kāyastha”), which is a nibandha text about kāyasthadharma. It closely resembles, in purpose as well as form, the digests about śūdradharma written by Gāgā and other authors.

While Gāgā was clearly a caste expert, living in Banaras (then a late medieval university town), and regularly traveling to his hereditary place of origin, Maharashtra, to pronounce on legal matters there, the biggest case of his long and illustrious career, surely, was that of Shivaji. To crown Shivaji king was quite a complicated legal problem, and one that Gāgā was given very little time—though
rather a lot of money!—to solve to his patron’s satisfaction. In a scarce few days in
the summer of 1674 CE, he had to make one argument from genealogy, another one
from ritual, and yet another one from textual authority, to be able to transform
Shivaji, a Maratha chieftain of the Bhosale clan, heretofore deemed a Śūdra, into
Chatrapati Shivaji Maharaj, a Kṣatriya king (Vajpeyi 2005). In June 1674 CE Gāgā
hurriedly composed a Sanskrit text titled Śrīśivarājābhisekaprayoga, “Manual for the
Royal Consecration of Shivaji.”

Gāgā’s interest and expertise in jātinirṇaya (the adjudication of caste)
notwithstanding, rājadharma, dharma for kings, and rājyābhisekapaddhati, technique
for royal consecration were nonetheless areas that he knew relatively less about, and
perhaps never expected to have to know for any practical purpose. Banaras at the
time fell within the vast sweep of Aurangzeb’s Mughal Empire, and most of what is
today Maharashtra was portioned out to the various Deccan Sultanates. It was only
when Shivaji presented the actual historical possibility of establishing in Maratha
country a kingdom that is today, retrospectively characterised as “Hindu,” did the
need arise for Gāgā to research the precedents for Kṣatriya kingship in the dharma
texts of the Brahmin traditions. In order to write Śrīśivarājābhisekaprayoga he had to
hurriedly consult his friend and fellow Maharashtrian scholar Anantadevabhaṭṭa, who
directed Gāgā’s attention to the Viṣṇudharmottarapurāṇa (“Viṣṇu’s Lore on the
Higher Dharma”), the locus classicus of discourse about royal dharma, as well as to
his own work on the same subject, Rājadharmakaustubha (“Crest Jewel of Royal

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Dharma”). There is evidence to suggest that Anantadeva joined Gāgā in presiding over the caste disputes involving Kāyastha and Brahmin groups in coastal Maharashtra.

The legacy of men like Gāgā and Anantadeva carried on through the unstable years of Maratha rule following Shivaji’s death in 1680 CE, and continued well into the Peshwa period in the eighteenth century, when caste disputes and their settlement became routine affairs in Maharashtra. Examining the Peshwa archives, collectively called the Daftar, N.K. Wagle has documented these disputes about the ritual status of a variety of groups (a monumental task that is ongoing even today). These include Brahmin, non-Brahmin, and Kāyastha litigants. In 1827 CE the CKP cited an old Banaras vyavasthā-patra to bolster their claims to high-caste ritual privileges.

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171 Anantadeva, who was a great-great-grandson of the Marathi saint-poet Eknāth, lived in Banaras but was patronized by the Cānd king of Almora, Bāj Bahādur. Ananta’s great-grandfather Haripaṇḍita migrated to Banaras from Paithan. Gāgā also had a kinsman—Kamalākarabhaṭṭa’s son and his first cousin—Anantabhaṭṭa, who may have assisted Gāgā in his scholarly and legal work. We find traces of both men with the name “Ananta” in connection with Gāgā in the historical sources of the period. Lawrence McCrea has suggested to me that the best way to distinguish them is to think of one as Anantadeva (Eknāth’s descendant) and the other as Anantabhaṭṭa (Gāgā’s relative).
specifically, the permission to recite Vedic mantras during certain ceremonies, a privilege called *vedokta* (literally: the enunciation of Vedic syllables). Ultimately, by 1830 CE, even the descendant and heir of Shivaji, the Chatrapati Bhosale of Satara, Pratāpsiṃha, was having to (re)-claim and (re)-establish his Kṣatriya credentials in the face of opposition that sought to demote him and his family back to the very Śūdra status that Shivaji had hired Gāgābhaṭṭa to consign to the past a good 150 years earlier.

Right from the first texts of the Śūdra archive, as early as 1350 CE, through to the difficulties of the Satara Chatrapati in 1830 CE, for 500 years before the establishment of the rule of the British Crown in India in 1857 CE, both before and after the arrival of the colonial powers on the subcontinent, caste, especially *śūdradharma*, was the subject of intense intellectual, legal and political activity. I have traced this history of the legal treatment of caste, along with related intellectual and political developments, only in Banaras and in Maharashtra, through the figure of Gāgābhaṭṭa who lived in both places and traveled constantly between them in connection with his work. But similar histories can be discovered for medieval and late medieval Mithilā, Bengal, and large parts of the peninsular south, all of which had long-running traditions of Dharmaśāstra scholarship, plenty of Sanskrit intellectuals, a range of high, low and middling castes in fluctuating relationships with structures of political power, and historical memories if not continuing experiences of “Hindu” rule of one sort or another.
True, it is difficult to find a monarch as charismatic as Shivaji in any part of the subcontinent during or immediately after the high era of Mughal rule (ending with Aurangzeb’s death in 1707 CE), or during Britain’s slow ascendancy, first through the Company in the eighteenth century, and then through the Crown in the nineteenth century. But Shivaji, as pointed out earlier, was an exception, even for his personal pandit, Gāgābhaṭṭa. Apart from the individual and exceptional case of Shivaji, the larger trend that I have tried to sketch here, of treating caste as a matter of law, can and must be generalized over many parts of the subcontinent, throughout the medieval, late medieval and early colonial periods. I say: “must be generalized” by historians, because there is every reason to believe that the Śūdra archive, which was generated along the full swathe of the Gangetic Plain—from areas close to Delhi in the west, to Almora in the Himalayan foothills, via Banaras and Mithila, to Bengal in the east—both reflected pan-regional concerns about the place of jātidharma in intellectual discourse, and fed back into legal practice as well as political activity on the ground.¹⁷²

¹⁷² D. Davis’s work on deśamaryādā or locally valid customs and conventions that were made authoritative (which means “prescribed”, though still not “enforceable”, unlike modern laws) by translating them into the idiom of Dharmaśāstra, indicates that more empirical work is necessary to see whether the śūdradharma texts of the late medieval period were intended to authorize local practices connected to the Śūdra (D. Davis 1999). What would be the relevant deśa
Whether or not Śūdra warlords had to be made into Kṣatriya potentates, the status claims of a plethora of powerful or aspirant groups—entrenched Brahmin elites as well as on-the-make Kāyastha, Śūdra and other castes—had to be adjudicated. When canonical Dharmaśāstra texts did not provide specific enough indications, specialist nibandha texts were written to address problems concerning the absolute and relative ritual status, marriage, inheritance, property, occupations, nomenclature, diet, dress, worship, punishments, expiations, duties etc. of the Śūdra, as well as other castes. It is noteworthy that these śūradharma-nibandha texts were produced entirely before the Orientalizing and essentializing gaze of the European colonists encountered India with its numerous cultures, and set out to comprehend caste society through the multiple operations of Indology, linguistics and the ethnographic state. The legal treatment of caste was by no means the outcome exclusively of India’s long engagement with the colonizing Other.

or locality, if the new were conceived as an instance of deśamaryādā? What independent evidence can we garner of local customs with regard to the Śūdra—in say, Banaras, Mithila, Bengal or Maharashtra, where our texts were produced and circulated—which we could then argue were fixed into the śāstra idiom via these texts?
Figure 1: Dharma-nibandha and Smṛti-bhāṣya Texts in the Deccan: Early 12th- Late 16th Centuries

These digest texts treat a variety of topics within the broad rubric of dharma (from Ranbaore 1974)

<table>
<thead>
<tr>
<th>Text</th>
<th>Author</th>
<th>Title</th>
<th>Court/Dynasty</th>
<th>Place</th>
<th>Time (century)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mitākṣarā</td>
<td>Vijñāneśvara</td>
<td>–</td>
<td>Cālukya</td>
<td>Kalyāṇī</td>
<td>1st qtr 12th</td>
</tr>
<tr>
<td><em>Bhāṣya on the</em></td>
<td>Aparāditya</td>
<td>King</td>
<td>Silāhāra</td>
<td>Kokaṇa</td>
<td>1st qtr 13th</td>
</tr>
<tr>
<td><em>Yājñavalkya Smṛti</em></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Smṛticandrikā</td>
<td>Devānabhaṭṭa</td>
<td>–</td>
<td></td>
<td></td>
<td>13th</td>
</tr>
<tr>
<td>(SmC)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Caturvargacintāmaṇī</td>
<td>Hemādri</td>
<td>Minister</td>
<td>Yādava</td>
<td>Devagiri</td>
<td>Late 13th</td>
</tr>
<tr>
<td>Sarasvatīvilāsa</td>
<td>Pratāparudradeva</td>
<td>King</td>
<td>Kākaṭiya /</td>
<td>Warangal</td>
<td>Early 14th</td>
</tr>
<tr>
<td>(SarVil)</td>
<td></td>
<td></td>
<td>Gajapati</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parāśaramādhaviya</td>
<td>Mādhavācārya</td>
<td>–</td>
<td>Vijayanagara</td>
<td>Vijayanagara</td>
<td>Late 14th</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nṛsimhaprasāda</td>
<td>Dalapati</td>
<td>Minister</td>
<td>Nizām Shāhī</td>
<td>Ahmadnagar</td>
<td>16th</td>
</tr>
<tr>
<td>Ujjvalā</td>
<td>Haradaṭṭa</td>
<td>–</td>
<td>–</td>
<td></td>
<td>Late 16th</td>
</tr>
</tbody>
</table>
Figure 2: Śūradharmā Nibandha Texts in Northern India: Mid-12th–17th Centuries

These texts take the Śūdra as their organizing topic (from Vajpeyi 2004).

<table>
<thead>
<tr>
<th>Text</th>
<th>Author</th>
<th>Author’s Place of Origin</th>
<th>Place of Composition</th>
<th>Date</th>
<th>Author’s Patrons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acāracandrīkā[^1^]</td>
<td>Śrīnāthācārya-cūḍāmaṇī</td>
<td>–</td>
<td>–</td>
<td>–</td>
<td>–</td>
</tr>
<tr>
<td>Śūradharmabodhinī or Smṛtikaumudī</td>
<td>Viśveśvarabhaṭṭa</td>
<td>South India</td>
<td>Delhi environs / Banaras</td>
<td>1360-1390</td>
<td>Madanapāla of Kātha, Vassal of Delhi Sultan</td>
</tr>
<tr>
<td>Śrīdharaṇa pādhatī or Śūdrīpādhatī</td>
<td>Kṛṣṇatanaṇa Gopāla “Udāsa”</td>
<td>–</td>
<td>–</td>
<td>1442</td>
<td>–</td>
</tr>
<tr>
<td>Śūdrācāracintāmaṇī</td>
<td>Vācaspatimiśra</td>
<td>Mithilā</td>
<td>Mithilā</td>
<td>1450-1480</td>
<td>Kāmeśvara kings: Hari-nārāyaṇa, Rūpanārāyaṇa</td>
</tr>
<tr>
<td>Śūdrakṛtyavivāraṇatattva</td>
<td>Raghunandana Bhaṭṭācārya</td>
<td>Vandhyagāthī, Bengal</td>
<td>Bengal</td>
<td>1510-1565</td>
<td>–</td>
</tr>
<tr>
<td>Śūdrācārāśiromanī</td>
<td>Ṣeṣakṛṣṇa</td>
<td>Maharashtra Deccan</td>
<td>Banaras</td>
<td>1520-1590</td>
<td>Pilāji; Kalyāṇa of Antarvēdi; Narottama of Tāṇḍava</td>
</tr>
<tr>
<td>Śūdrakamalākara or Śūradharmatattva(prakāśa)</td>
<td>Kamalākaraḥbhāṭṭa</td>
<td>Paithan, Maharashtra</td>
<td>Banaras</td>
<td>1610-1640</td>
<td>–</td>
</tr>
<tr>
<td>Smṛtikaumudī</td>
<td>Rāyamadanaṇapāla</td>
<td>–</td>
<td>Aurangabad</td>
<td>1681</td>
<td>–</td>
</tr>
</tbody>
</table>

[^1^]: No details are available; note that ‘śūdra’ does not appear in its title.
This text is noted in the Anup Sanskrit Library Catalogue. I suspect it is just a late copy of Viśveśvarabhaṭṭa’s text by the same name that was in fact produced in the mid-fourteenth century under the patronage of the king Madanapāla (see entry 2 in the same table above). Calling someone “Rāyamadanapāla” is just the same as saying “King (= Rāya) Madanapāla,” and I would hazard that the original author and original patron have been conflated in the later copy.