

Laws for Musicians in Ancient India

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Abstract

This paper examines social laws governing performers and musicians in ancient India through texts such as Kautiliya Arthashastra, Samarangana Sutradhara, and Sutra texts, i.e. ancient Indian social law books such as Manu Smriti, Yājñavalkya Smriti, Nārada Smriti, Bṛhaspati Smriti, and Kātyāyana Smṛti. In this context, the paper comments on the social status of musicians in ancient India.

Keywords

Sociology of music, Musicians and economy in ancient India, Sutra texts, Ancient Indian Music.

Introduction

In ancient India, the music was stated to have two streams, namely ‘Marga Sangeet’ and ‘Deshi Sangeet’. Marga Sangeet was believed to be sacred, strictly followed with keeping the rules laid down by the doctrine; whereas Deshi Sangeet was considered to be the music utilised by the masses for entertainment’, i.e. ‘mundane music’. In the Vedic times, music was considered to be sacred when used in religious rituals; but at the same time, there was a rejection towards the use of music for entertainment, as it distracts and provokes the human mind towards

sensuousness.¹ This duality also reflected in the treatment given to the music and musicians in society.

Objectives

The paper aims to find the laws for musicians in ancient India. For this, a historical review of various ancient Indian lawbooks is taken, which state the social laws about performers and musicians in ancient times. With this review, one gets an insight about the socio-economic aspect of music-making in ancient India.

Methodology

The paper investigates the laws about musicians in ancient India, citing the references from various texts on social laws in a chronological order. While discussing the social laws about the musicians in ancient India, it must be clarified here that the references are taken only from ancient Indian lawbooks, and not from other literary sources. Also, here is a disclaimer that the author is a music practitioner and not a student of law; hence, the point of view is strictly musical, although it takes the legal dimension into consideration.

Laws about performers and musicians

In ancient Indian Sutra Granthas, we get several references to laws about performing communities. Sutra means a string and also a rule. Sutra Grantha is book of rules. As the term 'Dharma' signifies rights, duties and law; Dharma-Sutra-s are books of laws about rights and duties. They give rules and regulations of varṇāshrama, i.e. caste and life-phases and it

¹ G U Thite, 1973: pp. 91

concerns economic life, governance, civil and criminal law. Dharmashastra, i.e. ancient Indian law mentions the laws about performers while discussing social laws or civil law.

Arthaśātra (321-296 BCE)

The arthaśātra as the name explains, is a treatise on artha. Kautilya has defined it in the concluding i.e. fifteenth adhikaraṇa namely the methods of science of his work. Kautilya says that the source of livelihood of men is artha or the earth inhabited by men. Arthaśātra is the science which is the means of the acquisition and protection of the earth. The aim of the arthaśātra is to teach the ruler how to acquire and protect the kingdom.

M L Varandpande states², “Kautilya has treated performing artists as any other class of the King’s subjects and dispassionately discussed their duties and obligations towards the State. As a class he does extend them few special privileges, limited state patronage but at the same time he is shrewd enough to extract taxes from them to enable the State for these occasional favours. He entrusts the duty of entertaining people to the lowermost class of society. Kuśilava karma, the arts of acting, singing, dancing etc. is their dharma, sacred duty”.³

While giving the layout of the fortified city Kautilya says that courtesans (Rūpajīvā), dancers (Tālavachāra) etc. should live in the southern quarter of the city or to the south of the royal building. The implied meaning seems to be that they should live on the southern border of the city. Because at another place he states categorically that King must not allow the Bāhirika (gamblers, beggars, actors, dancers etc., outsiders, wandering tribes etc.) to settle in the city as they are harmful to Pura, Rāṣṭra and Janapada. ‘If at all they are to be accommodated they may

² Varandpande (1976) pg. 46

³ KA 1.3.8. Manu holds same opinion: Manusmriti 10.100. If Priest acts on the stage his position is downgraded: AZS 8.102. However, in difficult times, he may do so, for living: MS 10.116.

be settled on the border of the Janapada and like other citizens they may also be compelled to pay taxes to the king.’⁴

In the chapter concerning the salaries of the state employees, Bhṛtya-bharaṇyam, Kautilya says that Kuśilava should get 250 paṇa-s per year, but makers of musical instruments (Turyakāra) should get double the amount.⁵

In the Gaṇikādhyaṅga Prakaraṇa, Kautilya in details writes about Gaṇikās and various kinds of artists. A Gaṇikā, young, beautiful and adept in dancing, singing and acting (Rūpa yauvana śīla sampannā) should be appointed on the remuneration of 1000 paṇa-s per annum. If her son, at any stage, wanted to regain his liberty, he would be required to pay 12000 paṇa-s or he should serve the king for eight years as an actor (Kuśilava) in his court to acquire his freedom. The price of Ganika’s freedom from the service of the King is fixed at 24000 Panas. Various rules applicable to them are laid down in details and it is stated that same rules are applicable to Nata, Nartaka, Gayak, Vadak, Vagjivan, Kuśilava, Plavaka (rope dancer), Saumika (a juggler), Charana (bard).⁶

The State also extends protection to the class of performing artists in various ways. If his (Kuśilava’s) small articles (probably of makeup etc.) are stolen, the thief would be given a fine of 100 Panas and if they happen to steal their major articles (probably musical instruments, dress and ornaments to be worn on the stage etc.) the fine of 200 Panas is prescribed. People are warned against doing verbal injury to actors and their art. They should not slander the learning or art of Vagjivana nor they should indulge in making fun of the profession of Kuśilava.⁷

⁴ KA 2.4.32

⁵ Varadpande. *op.sit.* pg. 47

⁶ Varadpande. *op.sit.* pg. 48

⁷ Varadpande. *op.sit.* pg. 48

Tax is the basis of state treasury and Kautilya knows for certain the importance of tax. We have earlier seen that though the dancers, actors were given a place to live just on the boundary of the village, Kautilya treated them on par with the other classes of citizens as far as tax was concerned. The performing artists were required to pay tax to the king from their earnings. The tax collected from artists etc. was called Durga. Kautilya says, at difficult times, to fill the royal treasury, half of the income of prostitutes (Rupajiva) and actors (Kusilava) should be taken away as a state tax. Kautilya also imposes entertainment tax on shows. He says that the company of performing artists from foreign country performing in the state should pay entertainment tax (Preksha Vetana) of five Panas per show.⁸

He has allowed the actors (Kusilava) to perform at any place in the country and entertain the people but they must avoid making fun of country (Deśa), caste (Jāti), family (Gotra), a certain school of Vedic study, and copulation of men with women.⁹

In dharmasthīyam adhikaraṇa of kautiliya arthaśātra, the author deals with various sub-topics such as non-payment of debts, concerning deposits, law concerning slaves and labourers, undertakings in partnership i.e. sambhūya samutthāna are dealt with.¹⁰ Sambhūya Samutthāna is a general rule of any co-operative enterprise. Smṛiti literature states that “where merchants do merchandise, priests sacrifice, farmers - farming, artisans - crafts, actors - acting or dancing, and thieves - theft, by coming together, that collective work is known as sambhūya samutthāna, as it literally means ‘by this they prosper collectively’”.¹¹ Śukranīti gives the rules

⁸ Varadpande. *op.sit.* pg. 49

⁹ Varadpande. *op.sit.* pg. 50

¹⁰ The author is indebted to Dr Anagha Joshi, a Sanskrit scholar for generously giving valuable information about sambhūya samutthāna and the laws about musicians.

¹¹ Anagha Joshi (2011). pg. XV

for the artisans, dancers, singers, merchants, farmers and also thieves who work collectively. Similarly, in the 13th chapter of the third adhikaraṇa, Kautilya states about dāsakarmakarakalpaḥ as it means law concerning slaves and labourers. Kautilya states in 3.13.27-30 reads as follows -

यथा संभाषितं वेतनं लभेत, कर्मकालानुरूपमसंभाषितवेतनः । कर्षकः सस्यानां, गोपालकः सर्पिषां, वैदेहकः पण्यानामात्मना व्यवहृतां दशभागमसंभाषितवेतनो लभेत । संभाषितवेतनस्तु यथासंभाषितम् । कारुशिल्पिकुशीलवचिकित्सकवाग्जीवनपरिचारिकादिराशाकारिकवर्गस्तु यथाऽन्यस्तद्विधः कुर्याद् यथा वा कुशलाः कल्पेयुस्तथा वेतनं लभेत । ३.१३.३० ।

Tr.- Labourers should receive wages as agreed upon and if there is no agreement, it depends upon the work and time. A cultivator, a cowherd, and a trader should receive one tenth part of the crops, of butter and of the goods respectively if the wage is not agreed upon. But if the wage is agreed upon, then it should be as agreed upon. **The group of artisans, artists, musicians or minstrels, physicians, professional story-tellers, attendants and others who work in hope of remuneration should get the wages similar to others of their class or remuneration as per the fixation by the experts (*kusalāh*). Failure to pay wages shall be punished with a fine of ten times the amount of wages (*dasabandhah*), or 6 *panas*; misappropriation of wages shall be punished with a fine of 12 *panas* or of five times the amount of the wages (*panchabandho vá*). (Arthashastra, 3.13.33-34)**

Then Kautilya has explained labourers from unions.

He states - तेन संघभृता व्याख्याताः । (Tr.- By that are explained labourers from unions.)

Saṅghabhṛtāh means labourers or workmen which are members of a labour union. They get work and also their wages through the union, not directly from the employer.

In 3.14.18, Kautilya states:

संभूयसमुत्थानम् । संघभृताः संभूयसमुत्थातारो वा यथासंभाषितं वेतनं समं वा विभजेरन् ।

Tr.- In the co-operative enterprise, labourers from unions or the partners shall divide the wages or share of profit and loss as agreed upon or in equal proportions.

Manu Smriti, a social law-book during circa 100 century BCE, gives several laws related to musicians and artists. Manu Smriti, taking doubt on them as criminals or anti-socials, states that artists / musicians have no right to appear as witness (8/65). Also, the Brahmins who are professional musicians, are not considered eligible for pitrukarma (3/155).¹²

The student (Brahmachari) have to avoid music, i.e. singing, playing instruments and dancing -

Let him abstain from honey, meat, perfumes, garlands, substances (used for) flavouring (food), women, all substances turned acid, and from doing injury to living creatures. (2.177).

From anointing (his body), applying collyrium [kohl or stibnite] to his eyes, from the use of shoes and of an umbrella (or parasol), from (sensual) desire, anger, covetousness, **dancing, singing, and playing (musical instruments)**. (2.178).

A Brahmana who desires energy, must not -

Let him not dance, nor sing, nor play musical instruments, nor slap (his limbs), nor grind his teeth, nor let him make uncouth noises, though he be in a passion. (4.64).

A Brahmana must never eat (a dinner given) by -

Nor the food (given) by a thief, **a musician**, a carpenter, a usurer, one who has been initiated (for the performance of a Srauta sacrifice), a miser, one bound with fetters. (4.210).

Ten vices -

Hunting, gambling, sleeping by day, censoriousness, (excess with) women, drunkenness, (an inordinate love for) **dancing, singing, and music**, and useless travel are the tenfold set (of vices) springing from love of pleasure. (7.47).

¹² From 'Manusmriti in Sanskrit with English translation', a translation is by anonymous author (probably Ganganath Jha), published on

https://archive.org/details/ManuSmriti_201601/mode/2up

Singers as śudra -

Brahmanas who tend cattle, who trade, who are mechanics, **actors (or singers)**, menial servants or usurers, the (judge) shall treat like śudras. (8.102).

Let no man converse with the wives of others after he has been forbidden (to do so); but he who converses (with them), in spite of a prohibition, shall be fined one suvarna. (8.361).

This rule does not apply to the wives of actors and singers, nor (of) those who live on (the intrigues of) their own (wives); for such men send their wives (to others) or, concealing themselves, allow them to hold criminal intercourse. (8.362).

Let the king corporally punish all those (persons) who either gamble and bet or afford (an opportunity for it), likewise śudras who assume the distinctive marks of twice-born men). (9.224).

Gamblers, **dancers and singers**, cruel men, men belonging to a heretical sect, those following forbidden occupations, and sellers of spirituous liquor, let him instantly banish from his town. (9.225).

Yājñavalkya

After Manu, the most eminent law-giver is **Yājñavalkya**. The period of Yājñavalkya Smṛti is 100 CE to 300 CE. Yājñavalkya Smṛiti belongs to Śukla Yajurveda. Yājñavalkya's views are more open and more advanced than Manu's. The arrangement of subject matter is more concise, clear and systematic. The contents of the work (Yāj.Smr.) are divided into three heads: customs (Ācāra), laws (vyavahāra), expiations (prayaścitta).¹³

In the 2nd division namely the vyavaharādhyāya, Yājñavalkya gives us titles of law. They are- civil judicature, recovery of debts, deposit, witnesses, non-payment of wages, concern among partners, theft etc. Sambhūya Samutthāna is one among them.

¹³ Anangha Joshi. *op.sit.* pg. 56

Let us look at the verses Yājñavalkya has stated in this context. The first verse is:

समवायेन वणिजां लाभार्थं कर्म कुर्वताम् । लाभालाभौ यथाद्रव्यं यथा वा संविदा कृतौ ॥2.259॥

Tr.- When a number of traders or merchants (actors, artisans etc.,) come together for carrying on a trade of enterprise for making profit, they shall share the profit or loss, according to their respective shares or according to the agreement which has taken place among themselves. It is a general rule of any co-operative enterprise.

The commentary Vivādaratnākara also says-

यथाद्रव्यं समवायेन येन तेन स्वस्वद्रव्यानुसरे यथा वा समविदा समवायेन ।

That means in the absence of an agreement, the shareholders shall receive profit or bear loss according to their respective shares in the stock. Where an agreement exists, the business shall be carried on, on the basis of the agreement.¹⁴

Nārada

Nārada is generally seen as a law-giver of advanced views and theories, as he is later than Manu and even Yājñavalkya. The period of Nārada Smṛti is 100 CE to 400 CE.¹⁵

Nārada states:

प्रतिग्रहो द्विजातीनां धनं रङ्गोपजीविनाम् । स्कन्धवाह्यं च यद् द्रव्यं न तद्युक्तं प्रदापयेत् ॥4.15॥

Tr.- (Apart from the household articles some other articles also are exempted from duty.) The alms received by the brāhmaṇas, the property of actors, singers, etc. who earn their livelihood through stage performances; and that what is capable of being carried on one's shoulders

¹⁴ Anangha Joshi, *op.sit.* pg. 57

¹⁵ Anangha Joshi, *op.sit.* pg. 59

should be free from any taxes. To comment upon this verse, asahāya bhāṣya, states that brāhmaṇa, performing artists and the ordinary people should not pay taxes to the king.¹⁶

Brhaspati

Brhaspati, one of the prominent ancient law-givers, was probably the first jurist to make a clear distinction between civil and criminal law. According to P. V. Kane, the period of Brhaspati Smṛtī (Brha.Smṛ.) is 300 CE to 500 CE.¹⁷

Brhaspati states the remuneration or profit of artisans and artists as follows -

हेमकारादयो यत्र शिल्पं संभूय कुर्वते । कर्मानुरूपं निर्वेशं लभेरंस्ते यथांशतः ॥Smr.Ca.187॥

When goldsmith and other artists practice their art jointly, they shall share the profit in due proportion, corresponding to the nature of their work.

This is the basic principle of co-operative enterprise or joint venture. From the jaiminiya pūrvamīmāṃsā sūtra, this rule has been ordained by all Smṛtikāra-s. When people come together and start a new enterprise, according to the nature of their work, the share should be distributed among them. The same rule has been ordained in the case of dance and music.

Brhaspati says -

नर्तकानामेष एव धर्मः सद्भिरुदाहृतः । तालाज्ञो लभतेऽर्धं गायनास्तु समांशिनः ॥Smr. Ca. 188॥

Tr.- The same rule has been declared by virtuous men for musicians, he who know the rhythm (tala) shall take a share of a half and the singer should have equal share.¹⁸

Kātyāyana

¹⁶ Anangha Joshi. *op.sit.* pg. 66

¹⁷ Anangha Joshi. *op.sit.*

¹⁸ Anangha Joshi. *op.sit.* pg. 74

Kātyāyana Smṛti (400 to 600 CE) states the equal distribution of profit or gains among the joint artisans, artists, merchants -

समवेतास्तु ये केचिच्छिल्पिनो वणिजोऽपि वा । अविभज्य पृथग्भुतैः प्राप्तं तत्र फलं समम् ॥ Smr. Ca. 184 ॥

Tr.- Those traders or merchants and artisans who jointly carry on business shall share the profit equally.¹⁹

Further Katyayana states a rule for artisans. It reads as follows:

शिक्षकाभिज्ञकुशला आचार्याश्चेति शिल्पिनः । एकद्वित्रिचातुर्भागान् हरेयुस्ते यथोत्तरम् ॥ Smr. Ca. 189 ॥

Tr.- The artisans namely a young apprentice, experienced scholar, a good artist and a teacher work together or be jointly employed, they shall receive one, two, three and four shares of the pay or profit, respectively. (śikṣakaḥ = young apprentice or pupils, abhijñāḥ = men of experience, kuśalaḥ = thoroughly skilled or experts in arts, ācharyaḥ = teacher.)²⁰

To sum up the above-mentioned references, one can find that Kautiliya Arthaśātra and Manu Smṛti are harsh towards the performers and musicians regarding the social status and taxation, but later Smṛti texts prominently mention the equal economic share distribution amongst the artists. Here are the textual evidences in the outer layer -

Kautiliya Arthaśātra (circa 321-296 BCE) commends the duty of performing community to the lowermost class of society. The performing artists were required to pay Durga, i.e. tax to the king from their earnings. Kautilya also imposes entertainment tax on shows.

Manu Smṛti (circa 100 century BCE), taking doubt on performing artists as criminals or anti-socials, states that artists and musicians have no right to appear as witness. Also, the Brahmins

¹⁹ Anangha Joshi, *op.sit.* pg. 77

²⁰ Anangha Joshi, *op.sit.* pg. 78

who are professional musicians, are not considered eligible for pitrukarma. The student has to avoid music. A Brahmana must never eat a dinner given by a musician. Dancing, singing, and music is counted in the list of 10 vices. Brahmanas who are actors or singers shall treat like śudras.

Yājñavalkya Smṛti (100 CE to 300 CE), **Bṛhaspati Smṛti** (300 CE to 500 CE) and **Kātyāyana Smṛti** (400 to 600 CE): The musician's group shall share the profit or loss, according to their respective shares or according to the agreement among themselves.

Nārada Smṛti (100 CE to 400 CE): The property of actors, singers, etc. who earn their livelihood through stage performances should be free from any taxes.

Conclusion

In ancient India, the musicians connected with Marga Sangeet were kept on a high pedestal, but the musicians related to Deshi Sangeet were not sanctioned the same social status. The 'entertainers' were looked down upon, and the social laws forbade them to be a part of higher social strata. This might have contributed in diminishing the social status of musicians in ancient India, which ultimately declined in medieval times.

The ancient texts such as Kautiliya Arthashastra and Samarangana Sutradhara state that the class of performers such as actors, dancers, singers and instrumentalists, shall reside in the city where the rich Vaiśyas live, i.e. south part of the city. That means they were given an important position in the culture of urban elites of that time. But later Smṛti texts mention that musicians should not reside in the city, but they should be places near the outskirts of the city. This shows a certain change in the social laws about musicians, and indicates the social downgrading.

Bibliography:

Joshi, Anagha. (2011). *Sambhuya Samutthana: An ancient Indian form of co-operative enterprise*. Delhi: New Bharatiya Book Corporation.

Kangle, R P. (1960). *The Kautiliya Arthasastra: Part 1 - A critical edition with a glossary*. Mumbai: University of Bombay.

Kangle, R P. (1972, second edition). *The Kautiliya Arthasastra: Part 2 - An English translation with critical and explanatory notes*. Mumbai: University of Bombay.

Kangle, R P. (1975, seventh reprint). *The Kautiliya Arthasastra: Part 3 - A study*. Motilal New Delhi: Banarsidas Publishers.

Thite, G. U., 1973. *Dvisvabhava (Double-Natured) Music*. Pune: University of Poona.

Varadpande, M L. (1976). Performing arts and Kautiliya's Arthasastra. In *Sangeet Natak*, issue no. 41, 1976 (pg. 46-54). New Delhi: Sangeet Natak Akademi.