

# APASTAMBA PRASNA II, PATALA 6, KHANDA 14.

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1. He should, during his lifetime, divide his wealth equally amongst his sons, excepting the eunuch, the mad man, and the outcast.

2. On failure of sons the nearest Sapinda (takes the inheritance).

[14. 1. The last Sutra of Khanda 13 and the first of Khanda 14 are quoted by Colebrooke, Digest, Book V, Text xlii, and Mitakshara, Chap. I, Sect. iii, Par. 6. Colebrooke translates givan, 'during his lifetime,' by 'who makes a partition during his lifetime.' I think that this is not quite correct, and that Apastamba intends to exhort householders to make a division during their lifetime, as later they ought to become ascetics or hermits. Haradatta introduces into his commentary on this Sutra the whole chapter on the division of a father's estate amongst his sons, supplementing Apastamba's short rule by the texts of other lawyers. No doubt, Apastamba means to lay down, in these and the following Sutras, only the leading principles of the law of inheritance, and he intends that the remaining particulars should be supplied from the law of custom or other Smritis.

2. Haradatta gives in his commentary a full summary of the rules on the succession of remoter relations. One point only deserves special mention. He declares that it is the opinion of Apastamba, that widows cannot inherit. In this he is probably right, as Apastamba does not mention them, and the use of the masculine singular 'sapindah' in the text precludes the possibility of including them under that collective term. It seems to me certain, that Apastamba, like Baudhayana, considered women, especially widows, unfit to inherit.]

3. On failure of them the spiritual teacher (inherits); on failure of the spiritual teacher a pupil shall take (the deceased's wealth), and use it for religious works for the (deceased's) benefit, or (he himself may enjoy it);

4. Or the daughter (may take the inheritance).

5. On failure of all (relations) let the king take the inheritance.

6. Some declare, that the eldest son alone inherits.

7. In some countries gold, (or) black cattle, (or) black produce of the earth is the share of the eldest.

8. The chariot and the furniture in the house are the father's (share).

[4. 'Some say "on failure of sons," others that the rule refers to the preceding Sutra (i.e. that the daughter inherits on failure of pupils only).'-Haradatta. The latter seems to be the correct interpretation.

5. 'Because the word " all " is used, (the king shall take the estate) only on failure of Bandhus and Sagotras, i.e. gentiles within twelve degrees.'--Haradatta.

6. 'The other sons shall live under his protection.'--Haradatta. Colebrooke, Mitakshara, Chap. I, Sect. iii, Par. 6.

7. "Black produce of the earth," i.e. black grain, or according to others black iron.'--Haradatta. Compare for this and the following Sutras Colebrooke, Mitakshara, Chap. I, Sect. iii, Par. 6, and Digest, Book V, Text xlvi.

8. The translation given above agrees with what I now recognise to be Haradatta's explanation, and with Colebrooke, Mitakshara, Chap. I, Sect. iii, Par. 6. Both the P. U. and Mr. U. MSS. of the Uggvala read rathah pituramsogrihe yatparibhandam upakaranam pithadi tadapi, 'the chariot (is) the father's share; the furniture which (is) in the house, that also.' To this reading Mahideva's Uggvala on the Hiranyakesi Sutra points likewise, which gives pitur antah. The N. U. MS. of the Uggvala, according to which I made the translation given in the Appendix to West and Biffiler's Digest (1st edition), leaves out the word amsah, and therefore makes it necessary to combine this Sutra, with the preceding one, and to translate, 'The father's chariot and the furniture in the house (are) also (the share of the eldest).' This latter translation agrees nearly with that given by Colebrooke, Digest, Book V, Text xlvi, where this and the preceding Sutra have been joined; but the chariot is not mentioned. A further variation in the interpretation of this Sutra occurs in Colebrooke's Digest, Book V, Text lxxxix, and Mitakshara, loc. cit., where the words 'the furniture in the house' are joined with Sutra 9, and the furniture is declared to be the wife's share. Considering that Sutra 9 is again quoted in Colebrooke's Digest, Book V, Text ccclxxii, and is not joined with the latter part of Sutra 8, it is not too much to say that Gagannatha has not shown any greater accuracy than his brethren usually do.]

9. According to some, the share of the wife consists of her ornaments, and the wealth (which she may have received) from her relations.

10. That (preference of the eldest son) is forbidden by the Sastras.

11. For it is declared in the Veda, without (marking) a difference (in the treatment of the sons): Manu divided his wealth amongst his sons.

12. Now the Veda declares also in conformity with (the rule in favour of the eldest son) alone: They distinguish the eldest by (a larger share of) the heritage.

[9. The Mitakshara, loc. cit., apparently takes the words 'according to some' as referring only, to property received from relations. I follow Haradatta. The former interpretation is, however, admissible, if the Sutra is split into two.

10. The Sastras are, according to Haradatta, the Vedas.

11. Taittiriya Samhita III, 1, 9, 4.

12. 'Athapi (now also) means "and certainly." They distinguish, they set apart the eldest son by wealth: this has been declared in the Veda in conformity with (the rule regarding) one (heir, Sutra 6). He denies (Sutra 13) that a passage also, which agrees with the statement that the eldest son alone inherits, is found in the Veda.'--Haradatta. See Taittiriya Samhita II, 5, 2, 7.]

13. (But to this plea in favour of the eldest I answer): Now those who are acquainted with the interpretation of the law declare a statement of facts not to be a rule, as for instance (the following): 'Therefore amongst cattle, goats and sheep walk together;' (or the following), 'Therefore the face of a learned Brahmana (a Snataka) is, as it were, resplendent;' (or), 'A Brahmana who has studied the Vedas (a Srotriya) and a he-goat evince the strongest sexual

desires.'

14. Therefore all (sons) who are virtuous inherit.

15. But him who expends money unrighteously, he shall disinherit, though he be the eldest son.

16. No division takes place between husband and wife.

[13. Those who are acquainted with the interpretation of the law are the Mimamsakas. The translation of the second Vedic passage is by no means certain, as the root *ribh*, translated by 'to be resplendent,' usually means 'to give a sound.' Haradatta thinks that Apastamba means to show that the passage 'Manu divided his wealth among his sons' is likewise merely a statement of facts, and cannot be considered a rule. This is probably erroneous, as Sutras 10 and 11 distinctly state, that the practice to allow the eldest alone to inherit, is forbidden by the abovementioned passage of the Veda.

15. Compare for this Sutra and the following one Colebrooke's Digest, Book V, Text cccxv. The translation of *pratipadayati*, 'expends,' by 'gains,' which is also proposed by Gagannatha, is against Apastamba's usage, see II, 5, 11, 17, and below, II, 8, 20, 19.

16. According to Haradatta, this Sutra gives the reason why, in Sutra i, no share has been set apart for the wife. Compare Colebrooke's Digest, Book V, Text lxxxix, for this Sutra and the following two.]

17. For, from the time of marriage, they are united in religious ceremonies,

18. Likewise also as regards the rewards for works by which spiritual merit is acquired,

19. And with respect to the acquisition of property.

20. For they declare that it is not a theft if a wife spends money on occasions (of necessity) during her husband's absence.

[20. See below, II, 11, 29, 3.]