

Gutama 13

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GUATAMA CHAPTER XIII.

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1. In disputed cases the truth shall be established by means of witnesses.
2. The (latter) shall be many, faultless as regards the performance of their duties, worthy to be trusted by the king, and free from affection for, or hatred against either (party).
3. (They may be) Sudras even.
4. But a Brahmana must not be forced (to give evidence) at the word of a non-Brahmana, except if he is mentioned (in the plaint).
5. (Witnesses) shall not speak singly or without being asked,
6. And if, (being asked,) they do not answer, they are guilty of a crime.
7. Heaven is their reward, if they speak the
[XIII. I. Manu VIII, 45; Yagnavalkya II, 22.
2. Apastamba II, 11, 29, 7. 'Many means at least three.'--Haradatta.
3. Manu VIII, 63. I.e. Sudras endowed with the qualities mentioned above.
4. Manu VIII, 65. 'A Brahmana means here a Srotriya. If a man other than a Brahmana says: "This Brahmana is a witness of this fact," then the (Srotriya) shall not be forced to become, i.e. not be taken as a witness, provided he has not been mentioned, i.e. he has not been entered in the written plaint (as one of the witnesses). But if he has been entered in the plaint, he certainly becomes a witness.'--Haradatta.
5. Manu VIII, 79; Macnaghten, Mitakshara VI, 1, 21. In the Mitakshara the Sutra is read nasamavetah prishtah prabruyuh, 'witnesses need not answer if they are examined singly.' Mitramisra in the Viramitrodaya says that Haradatta's reading of the text is the same, and that his explanation does not agree with it.
6. Manu VIII, 107; Yagnavalkya II, 76-77.
7. Apastamba II, 11, 29, 9-10.]
truth; in the contrary case hell (will be their portion).
8. (Persons) not mentioned (in the plaint), must also give evidence.
9. No objection (can be raised against witnesses) in a case of (criminal) hurt,
10. Nor if they have spoken inadvertently.
11. If the sacred law or the rules (referring to worldly matters) are violated,. the guilt (falls) on the witnesses, the assessors, the king, and on the offender.
12. Some (declare, that the witnesses) shall be charged on oath to speak the truth.
13. In the case of others than Brahmanas that (oath shall be sworn) in the presence of the gods, of the king, and of Brahmanas.
14. By false evidence concerning small cattle a witness kills ten,
15. (By false evidence) regarding cows, horses, men, or land, in each succeeding case ten times as many (as in the one mentioned before),
[9. Manu VIII, 72; Yagnavalkya II, 72.

10. 'Negligence, i.e. inadvertence. If anything has been spoken at random by a witness in a conversation referring to something else (than the case), no blame must be thrown on him for that reason.'--Haradatta.

11. Manu VIII, 18. The translation follows Haradatta. Perhaps it would, however, be as well to take dharmatantra, 'the sacred law and the rules referring to worldly matters,' as a Tatpurusha, and to translate, 'If there is a miscarriage of justice, the guilt,' &c.

12-13. Apastamba II, 11, 29, 7.

14-22. Manu VIII, 98-100. 'By speaking an untruth regarding them, the witness kills ten. Ten what? Even ten (of that kind) regarding which he has lied. His guilt is as great as if he actually killed ten of them, and the punishment. (is the same). 'Equal penances must also be prescribed for both cases.'--Haradatta.]

16. Or (by false evidence) regarding land the whole (human race).

17. Hell (is the punishment) for a theft of land.

18. (By false evidence) concerning water (he incurs) the same (guilt) as (for an untruth) about land,

19. Likewise (by false evidence) regarding (criminal) intercourse.

20. (By false evidence) regarding honey or clarified butter (he incurs) the same (guilt) as (by an untruth) about small cattle,

21. (By false evidence) about clothes, gold, grain, and the Veda, the same as (by an untruth) about kine,

22. (And by false evidence) regarding a carriage (or a beast of burden) the same as (by an untruth) about horses.

23. A witness must be reprimanded and punished for speaking an untruth.

24. No guilt is incurred by giving false evidence, in case the life (of a man) depends thereon.

25. But (this. rule does) not (hold good) if the life of a very wicked (man depends on the evidence of a witness).

26. The king, or the judge, or a Brahmana learned in the Sastras (shall examine the witnesses).

27. (The litigant) shall humbly go to seek the judge.

[23. Manu VIII, 119-123; Yagnavalkya II, 81. 'Yapyah (literally "must be turned out") means "must be reprimanded" in the presence of the whole audience, lest anybody have intercourse with him.'--Haradatta.

24-25. Manu VIII, 104-105; Yagnavalkya II, 83.

26. Manu VIII, 8-9, 79; Yagnavalkya II, 1, 3, 73.

27. Manu VIII, 43. The meaning of the Sutra is that the judge shall not promote litigation, and incite people to institute suits. If litigants do not humbly appear before him, he is not to send for them.]

28. If (the defendant) is unable to answer (the plaintiff) at once, (the judge) may wait for a year.

29. But (in an action) concerning kine, draught oxen, women, or the procreation (of offspring), the defendant (shall answer) immediately,

30. Likewise in a case that will suffer by delay.

31. To speak the truth before the judge is more important than all (other) duties.

[28. See also Narada I, 38, 41.

29. Yagnavalkya II, 12. Haradatta explains *praganana*, 'the procreation (of offspring),' to mean 'marriage.']

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