

THE *DIVYA* OR THE ORDEALS

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Abstract

The article on *divyapramāna* or evidence by means of ordeals is culled out from the *Vyavahārikāṇḍa* of the *Yājñavalkya Smṛti* and also drawing ideas largely from *Nārada Smṛti*. It is observed that from the ancient time till the beginning of 20th Century, the practice of resorting to divine intervention in cases where sufficient human evidence was not available, was in vogue. This article brings out the different practices according to *Yājñavalkya Smṛti* and mentions of others from *Nārada Smṛti*. It also provides a few literary and historical evidences for the same.

The Judicial system of the Ancient India had almost evolved to its perfection even from early times. The treatises of the age old tradition were to the point and comprehensive of almost all types of social problems that human society faces. *Vyavahāra Kāṇḍa* of the Dharmaśāstras deals with all matters, legal and otherwise related to the life of human beings- both individually and the society at large. When legal problems were raised, the Dharmaśāstras provided solutions in the form of laws that were consulted by the Judiciary. When there were cases that were brought to the judiciary which did not have ample evidence, they had to resort to their faith in the Vedic tradition to find out the truth. The present article focuses on *Divya Pramāṇas* or the ordeals undergone by the accused in order to establish themselves innocent failing which they will be considered guilty. The early text *Arthaśāstra* of Kauṭilya does not refer to *divyas*. But the oath or *śapatha* appealing to direct imposition of the divine

power is mentioned in *Arthaśāstra*. *Manusmṛti* makes a passing reference to *divyas* in only three verses which is commented in detail by Medhātithi. Texts such as *Āpastambha Dharma Sūtra*, *Yājñavalkya Smṛti*, *Nārada Smṛti* and almost all later texts refer to *divyas*. This article has drawn quotations largely from *Yājñavalkya Smṛti* and *Nārada Smṛti*.

*Nārada Smṛti*¹ clearly states that ordeals are resorted to only in the absence of eyewitnesses or any documentary evidence or any other kind of direct evidence:

यदासाक्षी न विद्येत विवादेवदतां नृणाम् ।
तदादिव्यैःपरीक्षेत शपथैश्चपृथग्विधैः ॥

In other words, for the happenings that go on in the day time, in the town or in the village and in the presence of eye witnesses, the accused need not be tested by an ordeal²:

दिवाकृतेकार्यविधौ ग्रामेषुनगरेषुवा ।
संभवेसाक्षिणाच्चैवदिव्या न भवति क्रिया ॥

In case of sins that are not heinous, *śapatha* or oath is to be pronounced by the accused. The ordeals are imposed only if the crimes are heinous. It was taken care that those people who did smaller mistakes could very well pronounce an oath and get away with the accusation³:

महापराधेदिव्यानिदापयेत् तुमहीपतिः ।
अल्पेषु च नरःश्रेष्ठःशपथैःशापयेन्नरम् ॥

Ordeals were ordered to be undergone only in case of heinous crimes such as *brahmahatyā*, betrayal of the king and in case of loan involving a high amount. In case of betrayal of the royal family and the King, the King has every right to subject the accused to the ordeal even without announcing it⁴:

शिरोपस्थायिनिनरे अभियोवतर्गुपस्थिते ।
दिव्यप्रदानंविहितमन्यन्नृपहिंसनम् ॥

On this the commentator Asahāya adds that the man accused may be asked to take an oath and declare that he is ready to undergo the ordeal in case of committing heinous crime except treason. If he has committed treason, he can be immediately subjected to *divyapramāna*:

योऽसौ अभियोक्ता नरः तस्मिन् शिरोपस्थानस्थिते दिव्यप्रदानं विहितम् ॥ अन्यत्र नृपहिसनात् । यदा पुनर्नृपगेहे काचिद् हिंसा कृता भवति तदा शिरोपस्थानं विनापि दिव्यं दातव्यम् ॥

It is to be noted that ordeals are imposed on a person only when the accused and the accuser are willing to undergo the trial⁵:

उभयानुमते देयं दिव्यं सर्वप्रयत्नतः ॥

The *Yājñavalkya Smṛti* expounds the conditions that are to be followed by both the accused and the judge.

The chief justice is to execute all the ordeals at the bidding of the king. He and the accused i.e. *śodhya*, both are to observe fasting and bathe in the morning. The *śodhya* should have wet clothes on. The chief judge is to invoke the gods and in the presence of Vedic scholars and King's men or King himself. *Nārada Smṛti* mentions that the procedure should go on in the hall of justice or near the royal gate, or temple gate or where four roads meet⁶:

समाराजकुलद्वारे सुरायतनचत्वरे ।

The Five ordeals by balance (*tulā*), by fire (*agni*), by water (*āpah*), by poison (*visa*), and by chanted water (*kuśa*)⁷:

तुलाग्न्यापो विषंकाशोदिव्यानीहविशुद्धये ।
महाभियागेष्वेतानि शीर्षकस्थे अभियोक्तरि ॥

1. *Dhaṭa* or *Tulā*

The balance is constructed with the help of a strong wood like *Khadira* or *Udumbara* cut to the accompaniment of Vedic *mantras*.

The frame should be erected facing east and two beams are suspended by means of hooks. In the pan to the west the *śodhya* should be weighed against clay, bricks and stones placed in the other pan. The traders and gold smiths are brought to examine and help the process. When the weight of the person sitting on the balance is made equal to the materials on the other pan, a mark is made in the scales. After this, the *śodhya* prays to the balance invoking divine powers in it. Then, he is to alight the pan again. When the weight of the person has reduced obviously as shown by the previous mark on the balance, he is declared innocent. If there is no change in his weight and if he has become heavier, then he is termed guilty⁸.

तुलाधारणविद्वद्भिरभियुक्तस्तुलाश्रितः ।
 प्रतिमानसमीभूतो रेखां कृत्वाऽवतारितः ॥
 त्वं तुले सत्यधामासि पुरा देवैर्विनिर्मिता ।
 तत्सत्यं वद कल्याणि संशयान्मां विमोचय ॥
 यद्यस्मि पापकृन्मातस्ततो मां त्वमधो नय ।
 शुद्धश्चेद् गमयोर्ध्वं मां तुलामित्यभिमन्त्रयेत् ॥

2. Agni

Nine circles with cow dung can be drawn from east to west each of them signifying a god. Each circle has a diameter of 16 *āṅgulas* and space between them is also 16 *āṅgulas*. These circles are to be filled with *kuśa* grass. The *śodhya* is to put his feet on the grass. Oblations are given to the fire and he is given a fire red hot ball of iron to carry. He should carry this iron ball and walk on the eight circles slowly without hurry and throw the ball in the ninth circle. Then, the judge has to rub grains on his hand. If the hand is unhurt and the procedure is fully executed, the accused is declared innocent⁹

करौ विमृदितव्रीहेर्लक्षयित्वा ततो न्यसेत् ।
 सप्ताश्वत्थस्य पत्राणि तावत्सूत्रेण वेष्टयेत् ॥
 त्वमग्ने सर्वभूतानामन्तश्चरसि पावकम् ।

साक्षिवत् पुण्यपापेभ्यो ब्रूहि सत्यं कवे मम ॥
 तस्येत्युक्तवतो लौहं पञ्चाशत्पलिकं समम् ।
 अग्निवर्णं न्यसेत् पिण्डं हस्तयोरुभयोरपि ॥
 स तमादाय सप्तैव मण्डलानि शनैर्ब्रजेत् ।
 षोडशाङ्गुलकं ज्ञेयं मण्डलं तावदन्तरम् ॥
 मुक्त्वाग्निं मृदि तव्रीहिरदग्धः शुद्धिमाप्नुयात् ।
 अन्तरा पतिते पिण्डे सन्देहे वा पुनहरैत् ॥

3. *Udakam*

The accused prays to Lord Varuṇa and enters into the waters to trace and bring the arrow shot by the person on the bank ¹⁰:

सत्येन माऽभिरक्ष त्वं वरुणेत्यभिशाप्य कम् ।
 नाभिदघ्नोदकस्थस्य गृहीत्वोरुं जलं विशेत् ॥
 समकालमिषुं मुक्तमानीयान्यो जवी नरः ।
 गते तस्मिन्निमग्नाङ्गं पश्येच्चेच्छुद्धिमाप्नुयात् ॥

Elaborating on the same, *Nārada Smṛti* says that the judge should go near a water body and pay homage to God Varuṇa. The target is fixed at 150 *hastas* from an already erected *torāṇa* (Arch). From the foot of the pole three arrows are put in the water, If the *śodhya* is able to locate all three arrows, he is termed innocent.

4. *Viṣa*

Poison extracted from *sārṅga*, *vatsanābha* or *haimavata* can only be used for this type of ordeal ¹¹. *Yājñavalkya Smṛtis* peaks the poison from *sārṅga* grown on Himalayas. Praying to the poison to not to harm, the accused should drink it. If nothing serious happens, the *śodhya* is declared innocent ¹²

त्वं विष ब्रह्मणः पुत्रः सत्यधर्मे व्यवस्थितः ।
 त्रायस्वास्मादभिशापात् सत्येन भव मेऽमृतम् ॥
 एवमुक्त्वा विषं शाङ्गं भक्षयेद्धिमशैलजम् ।
 यस्य वेगैर्विना जीर्येच्छुद्धिं तस्य विनिर्दिशेत् ॥

5. *Kośa*

The *śodhya* is made to worship the deities. Then the judge asks the *śodhya* to consecrate the holy water by chanting. He is asked to sip the water. If nothing happens to the *śodhya* even after 14 days, he is declared innocent.¹³

देवानुग्रान्समभ्यर्च्य तत्त्वानोदकमाहारेत् ।
संस्त्रान्व्य पाययेत्तस्माज्जलं तु प्रसृतित्रयम् ॥
अर्वाक् चतुर्दशादहो यस्य नो राजदैविकम् ।
व्यसनं जायते घोरं स शुद्धः स्यान्न संशयः ॥

The other ordeals mentioned in *Nārada Smṛti* are— 1. *Taṇḍula*, 2. *Tapta Māṣa*, 3. *Phāla* and 4. *Dharma*.¹⁴

Literary References

1. *Chāndogya Upaniṣad* VI.16 refers *phāladivya* where Uddālaka Āruṇi, the father of Śvetaketu explains how truth covers the heated tip of axe to not to burn the accused when he holds it.
2. *Sītā's* ordeal is similar to the fire ordeal
3. *Mṛcchakaṭikam* refers to all four ordeals *Viṣa*, *Āpah*, *Agni* and *Tulā* in the monologue of *Cārudatta*¹⁵
विषसलिलतुलाग्निप्रार्थिते मे विचारे क्रकचमिह शरीरे वीक्ष्य दातव्यमद्य । ।
अथ रिपूवचनाद्वा ब्राह्मणं मा निहंसि पतसि नरकमध्ये पुत्रपौत्रैः समेतः ॥
4. कादमवारी रेडेरस तखालल डखुर खरदोलस ॥¹⁶
वनकरिणां वारिप्रवेशस्तैक्ष्ण्यमसिधारणं व्रतिनामग्निधारणम्
ग्रहाणां तुलाराहणम् अगस्त्योदये विषशुद्धिः ॥
5. *Puruṣa Parikṣā* of Vidyāpati refers to *Tapta Māṣa* ordeal :

The story of the ordeal of *Māṣakākarṣaṇa* being executed is presented here for the readers to get an idea of the same. Under the name *Veda VidyaKathā* (III.19) , the story about King Priyaśrngāra who was attracted to Mālatī, the wife of a Vaṇik who had gone to the other country for merchandise. Even by repeated requests and the love messengers, she was firm in refusing to yield to the King.

Hence, the King by paid men, accused her of adultery. She resorted to take up the ordeal of *Māṣakākarṣaṇa* with the help of a Priest Veda Śarmā to declare her chastity. This was successfully done by her and she was declared a Chaste woman.

But the King was insistent on demoralizing her, hence called Veda Śarmā and abused his steadfastness to the Vedic tradition and the underestimated the power of Vedas too. Veda Śarmā declared that the Vedas can never go wrong in discerning the faulty. He said:

पावको यत्र निर्णेता यत्राहं धर्मसामगः ।
क्व हानिस्तत्र शुद्धानां क्व जयो व्यभिचारिणाम् ॥

Hence, Veda Śarmā asked the King to send for a prostitute who can undergo the test. Unlike the *Māṣakākarṣaṇa* test, where the accused will have to pick up a golden article from boiling oil, the test imposed on the sinful lady was easy. She was asked to pick up the ring of Veda Śarmā consecrated with the chanting of the hymn *Dharma Sāman* from water.¹⁷ When the lady tried to do that, a fiery figure appeared out of the water and burnt down her hand proving the power of the Vedic Chants.

Historical References¹⁸

1. Yuan Chwang has mentioned four types of *divyas* Water, fire, balance and poison when he visited India.
2. In India there is epigraphic and other evidence to show that ordeals were resorted to till the end of 18th century. Kittur pillar inscription dated in Kaliyuga era 4289 in the reign of Kadamba King Jayakeśideva there is a description of *phāladiṅḍi* administered.
3. In Silimpur Stone inscription of the time of Jayapāladeva (E.I. vol. XIII. P. 291-2) there is a reference to the ordeal of balance (1200 A.D.) as:

सन्दिग्धनिर्णयं युक्त्या कुर्वतोऽपि सहस्रशः ॥ यस्यधर्मतुला नासीदलम्बितचुम्बका ।

4. In Indian Antiquary for 1931(Vol.60.p.79) an extract is cited from the archaeological Report for Travancore 1930 describes the balance ordeal undergone by a brahmana.
5. In 'Peshwa's Diaries' vol.2, p.150 mention is made of the *taptakaṭāha ordeal*.
6. 'Asiatic Researches' vol.1 gives the information that a magistrate Ali Ibrahim Khan at Benares tried by *Phāladivya* two cases and reported them to then Governor General, Warren Hastings.

Thus, in maintaining Law and order in the society, divine intervention was sought for wherever sufficient human evidence did not help. The historical facts recorded by Mm. P.V. Kane vouches for the above facts. Hence, this article is an attempt to bring forth the efficacy of the same.

Conclusion

The above article is a testimony as to how the Vedas and the chanting of the Vedas helped in the establishment of law and order in the society. Also, it is indicative of the fact that no case remained unsolved in the olden days. The cases that did not have direct evidences were solved by means of such divine evidences. This vouches for the excellence acquired by ancients in the Judiciary realm. Moreover, the historical evidences were observed till the beginning of 20th century, whether such a practice is in vogue in the present days remains a scope of further research.

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3. *Mrcchakatika of Sudraka*, Ed. by M.R. Kale, Motilal Banarsidass, Delhi, 1988
4. *Narada Smrti*, Dr. Braja Kishore Swain, Chawkhamba S.S.16.Chawkhamba Sanskrit Bhawan, Varanasi, 1928.
5. *Purusha Pariksha* of Vidyapati Thakur, ed. by Ramanath Jha, University of Pune, 1960.
6. *Yajnavalkya Smrti*, tr. by M.N. Dutt, Ed. & Rev. by K.L. Joshi, Parimal Publications, Delhi, 2005

Endnotes :

- 1 *Nār.*4.1.247
- 2 *Ibid.*, 2.29
- 3 *Ibid.*, 4.1.249
- 4 *Ibid.*, 4.1.269
- 5 *Ibid.*, 4.1.258cd
- 6 *Ibid.*, 4.1.265cd
- 7 *Yāj.*2.99; *cf. Nār.*4.1.252
- 8 *Ibid.*, 2.102-4; *cf. Nār.*4.1.261-84
- 9 *Ibid.*, 2.105-09; *cf. Nār.*4.1.285-303
- 10 *Ibid.*, 2.110-11; *cf. Nār.*4.1.304-17
- 11 *Nār.*4.1.322
- 12 *Yāj.*2.112-13; *cf. Nār.*4.1.318-30
- 13 *Yāj.*2.114-15; *cf. Nār.*4.1.322-36
- 14 *Nār.*4.1.337-48
- 15 *Mrcchakaṭikam*, IX.43
- 16 *Kādambarī*, purvabhāga, p.95
- 17 Referred to as *taptakaṭāha* ordeal in *History of Dharma śāstras*, p.377
- 18 See P.V. Kane, *History of Dharma Sastras*, II. 376-78