

Do Widows Have Spousal Inheritance Rights?

Rethinking the Textual History of the *Ujjvalā*

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The *Ujjvalā* (henceforth, *Ujj*), the only surviving commentary on the *Āpastamba-dharmasūtra* by Haradatta (ca. 1100–1300), informs us of the conflicting statements on widows' inheritance right. In most previous studies like the HDhŚ, these statements have explained the date of the text formation and the author's activities as internal evidence. My research demonstrates two things—i) that the positive statements on widows' right in the *Ujj* is a relatively late insertion, and ii) that a composer inserted that in line with the *Haradattamitākṣarā* (a commentary on the *Gautamadharmasūtra* allegedly attributed to the same Haradatta). This attempt will modify the conventional chronology and question the same-authorships between the *Ujj* and *Haradattamitākṣarā*. Because of space limitations, this paper focuses on the only partial but more suggestive statements seen in the context discussing the cases where *sapiṇḍa* relatives, etc., come to be heirs.

Positive Opinion on the Widows' Right

The *Ujj* begins a section that favors the widows' rights, refuting the negative opinion immediately before it. The discussion here includes recognizing the widows' rights based on the *Gautamadharmasūtra* 28.21 and determining the rank among heirs. For simplicity, I go into detail only about the former discussion.¹⁾

[Quotation A] But, Gautama says that in the case of a sonless decedent, his wife (i.e., widow) shall have an equal share with the *sapiṇḍa* relatives, etc.

When the decedent is sonless, those related to him through riceball, lineage, or a common seer, and his wife should share his estate. (*Gautamadharmasūtra* 28.21)

The meaning of this sūtra is: *sapiṇḍa* relatives (i.e., relatives through riceball) should share the estate in order of proximity to him. If they are not present, *sagotra* relatives (i.e., relatives through lineage); if the latter also are not, *samānapravara* relatives (i.e., relatives having a common seer as an ancestor); and his wife. Here, because his wife is individually designated [as one of the heirs] (*striyāḥ prthānnirdeśāt*), and because of the word *ca* in the sūtra, when the

sapiṇḍa relatives divide the estate, then his wife should also get a share along with them. ... We also prefer this very view.²⁾

The final words, showing the author's approval, suggest that the interpretation given above for the *Gautamadharmasūtra* 28.21 is quoted or borrowed from somewhere else. The close resemblance with the *Haradattamitākṣarā*, especially on the expression “striyāḥ pṛthānnirdeśāt,” allows us to guess the reference source as this text.³⁾ If this is the case, it follows that the *Ujj* refers to and signifies its agreement with the *Haradattamitākṣarā*. Therefore, the authors of both texts are unlikely the same person.

Opposite Opinions and *jīvanamātra*

The part preceding quotation A states that *sapiṇḍa* relatives, etc., are expected to inherit the property and protect the widow if the deceased has no son, but widows have no inheritance rights.⁴⁾ Then the *Ujj* quotes some *smṛtis* to make his argument as follows:

[Quotation B] As to the case where there are no *sapiṇḍa* relatives and others, Bṛhaspati says, But this [i.e., the preceding rule in the original work] applies only to other than Brahmin. A righteous king should provide sustenance (*jīvana*) to the decedent's wives. The above is the law of inheritance. ... (not in *DhK*; cf. *Nāradaśmṛti* 13.49)

And Vyāsa says,

At most, the inheritance share of two thousand paṇa is to be given to the widow out of his property. And, she may have as she wishes what her [deceased] husband has given. (*DhK*, p. 1460)

... This [provides for] the case where the property is enormous, and there is a doubt whether the relatives might not protect her. Like “wife and daughter” (*Yājñavalkyaśmṛti* 2.135) etc., those which are designated for widows' acquisition of inheritance, should be seen in the same way.⁵⁾

Two interpretations—i) to allow up to two thousand paṇa (so, favoring exceptional widows' inheritance rights), or ii) to guarantee only living expenses up to the same amount (thus, negate it in effect)—are possible on the argument here. But, the latter seems more probable.

The *Mit*, favoring the widows' rights, quotes the same verse as attributed to Bṛhaspati here (underlined) in reciprocating an assumed refutation that this verse prohibits the widows' inheritance rights. The former defends the widows' rights by interpreting this verse as prohibiting concubines' (*avaruddhastṛī*) inheritance rather than regular wives'

(*patnī*).⁶ Given that both the assumed opponent and *Mit* interpret the verse as prohibiting widows' inheritance, it also seems more reasonable for here to take the second meaning—to guarantee only living expenses.

Lastly, the part shown below (quotation C) is unaware of the affirmative opinion in quotation A, though the former immediately succeeds the latter.

[Quotation C] According to the precedence of proximity, a father is the only [authentic successor of his deceased son]. This is the teacher's opinion. If no, whole blood brothers, their sons [i.e., nephews of the dead], paternal half-brothers, uncles, and the like are to be seen [as heirs] in this order. Also, mothers and other women shall get living expenses only (*jīvanamātra*).⁷

And, the expression *jīvanamātra* serves to summarize the texts in quotation B.

Discussion and Concluding Remarks

The negative opinion (C) has been shown to succeed the positive one (A) while the latter ends with the words “we also prefer this very view.” And, more strangely, the former serves to summarize the text (B) which precedes A. The later insertion of the texts in A will reasonably explain this inconsistency. Therefore, the accepted chronology based on the alleged fact that the *Ujj* favors the widows' rights is no longer persuasive.

And, we have gained textual proof for the different authorships of the *Ujj* and *Haradattamitākṣarā*—the same suggestion by Olivelle (1999; 2000, 16) through the difference of commentarial styles. This can be reinforced by comparing the verses cited in both texts, which are often read differently while quoted under the same names.

Notes

1) The latter part also presupposes widows' inheritance rights as follows: *atra pitari bhrātari sodarye ca jīvati sodaryo bhrātā grhṇīyād ity eke manyante* | ... | *devalaḥ tato dāyam aputrasya vibhajeran sahodarāḥ* | *kulyā duhitāro vāpi dhriyamāṇaḥ pitāpi ca* || *savarṇā bhrātāro mātā bhāryā ceti yathākramam* || *iti* | ... | *atra sodarya iti viśeṣavacanāt patnī duhitāraś ceti atra bhrātṛgrahaṇam bhinnodaraviṣayam iti* (p. 302). 2) *gautamas tu putrābhāve patnyās sapinḍādibhis samāṁśam āha pinḍagotrārṣisambandhā rikthaṁ bhajeran strī cānapatyasyeti* | *asyārthaḥ* | *anapatyasya rikthaṁ pinḍasambandhās* (emended from *pinḍasambandhāt*) *sapinḍāḥ pratyāsattikrameṇa bhajeran* | *tadabhāve gotrasambandhās sagotrāḥ* | *tadabhāve ṛṣisambandhās samānapravarāḥ*, *strī ca patnī ca* | *atra striyāḥ prthānnirdeśāt caśabdāc ca yadā sapinḍā bhajeran tadā strī saha tair ekam aṁśam grhṇīyāt* | ... | *vayam apy etam eva pakṣam rocayāmahe* (p. 302). The lack of this section in some manuscripts used in the editions also confirms my conclusion. 3) *sapinḍābhāve sagotrās*

tadabhāve samānapravarāḥ | strī tu sarvaiḥ sagotrādibhiḥ samuccīyate | yadā sapinḍādayo gḥṇanti tadā taiḥ saha patny apy ekam aṁśam haret | tathā pitur ūrdhvaṁ vibhajatāṁ mātāpy aṁśam samaṁ haret | iti | ata ekam strī prthānirdiṣṭā | sapinḍādayaḥ samānena (Haradattamitākṣarā, p. 280).

4) *tadabhāve tu mṛtasya yaḥ pratyāsannaḥ sapinḍaḥ, sa kim | dāyaṁ hareteti vakṣyamāṇena sambandhaḥ | ... | teṣu yo yaḥ pratyāsannaḥ sa sa grhṇīyād iti | bhāryāṁ tu rikthagrāhiṇas sapinḍādyaḥ rakṣeyuḥ na tu dāyagrahaṇam ity ācāryasya pakṣaḥ (pp. 301–302).* 5) *atra sapinḍadyabhāve brhaspatiḥ anyatra brāhmaṇāt kiṁ tu rājā dharmaparāyaṇaḥ | tatstrīṇaṁ jīvanam dadyād eṣa dāyavidhis smṛtaḥ | ... | vyāsāḥ dviśāhasraḥ paro dāyaḥ striyai deyo dhanasya tu | yac ca bhartrā dhanam dattaṁ sā yathākāmam āpnuyāt | iti | ... | etat prabhūte dhane | jñātayaḥ ca na rakṣeyur iti śaṅkāyām | evaṁ patnī duhitaraś cetyādīni yāni patnyā dāyaprāptiparāṇi tāny evam eva draṣṭavyāni (p. 302).*

6) *nāradavacanam ca anyatra brāhmaṇāt kiṁ tu rājā dharmaparāyaṇaḥ | tatstrīṇaṁ jīvanam dadyād eṣa dāyavidhiḥ smṛtaḥ | ity avaruddhastrīviśayam eva | strīśabdagrahaṇāt | iha tu patnīśabdād ūdhāyāḥ samyatāyā dhanagrahaṇam aviruddham (Mit, p. 241).*

7) *pratyāsattiyatīśayāt pītaivety ācāryasya pakṣaḥ | tadabhāve sodaryaḥ tadabhāve tatputraḥ, tadabhāve bhinnodarāḥ, tadabhāve pītṛvyā ityādi draṣṭavyam | mātṛādayo 'pi striyo jīvanamātraṁ labherann iti (p. 302).*

Abbreviations and Primary Sources

- DhK *Dharmakośa*. Ed. Laxmanshastri Joshi. Satara: Prajnapathashala Mandal, 1937–1941.
- Ujj *The Āpastambadharmasūtra with the Ujjvalā Commentary of Śrī Haradatta Miśra and Notes by Śrī A. Chinnaswāmī Śāstrī and Pandit A. Rāmanātha Śāstrī*. Ed. Umeśa Chandra Pāṇḍeya. Varanasi: Chowkhamba Sanskrit Series Office, (1932) 1969.
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- HDhŚ *History of Dharmaśāstra*. Ed. Pandurang Vaman Kane. 5 vols., 10 parts. Poona: Bhandarkar Oriental Research Institute, 1962–1975.
- Mit *Mitākṣarā. Yājñavalkyasmṛti with the Commentary of Mitākṣarā of Vijñāneśvara*. Ed. N. R. Ācharya. Bombay: Nirnaya Sagar Press, 1949.

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