

‘A Son Procreated Anywhere,’ *yatrakvacanotpādita*, and Legitimate Marriage in Medieval Sanskrit Jurisprudence

TANIGUCHI Chikamitsu

Introduction

The early Dharmaśāstric literature generally counts twelve or thirteen kinds of sons, with significant variations in the types and hierarchy of sons enumerated in each text.¹⁾ This classification appears in the portion discussing the partition of inheritance, *dāyabhāga*, where these various types of sons are presented as heirs.

This paper provides an overview of the discussion in two medieval works and findings on the factors that complicated the theory regarding sons. Philological research on how these classifications developed will aid in better understanding problems such as widow remarriage in contemporary South Asia.

The method of classifying and arranging sons developed through commentarial works on the early Dharmaśāstric literature. For example, the *Mitākṣarā* (hereafter, *Mit*) by Viṇṇāneśvara (early 12th c.), a commentary on the *Yājñavalkyasmṛti*, lists fourteen different sons. This number is reached by adding two modifications to the classification by the *Yājñavalkyasmṛti*. First, the *Mit* interprets the compound word *putrikāsuta* as representing two categories: the son of the appointed daughter (*putrikāyāḥ sutaḥ putrikāsutaḥ*, *Mit* 2.128) and the daughter herself (*athavā putrikaiva sutaḥ putrikāsutaḥ*, *ibid.*).²⁾ Second, it adds to the list, in a rather sophisticated way, the biological son by an appointed pregnancy (*niyoga*).³⁾

On the other hand, the *Ujjvalā* (*Ujj*) by Haradattamiśra (ca. 1100–1300), the only extant commentary on the *Āpastambadharmasūtra* (*Āpdhs*), lists fifteen kinds of sons, saying “*putrākhyā daśa pañca ca*.”⁴⁾ Its method of classifying sons into fifteen kinds in fact bears a striking similarity with the only modification being the addition of the type termed *yatra kvacanotpādita* to the list by the *Mit*.

The difference between the *Mit* and the *Ujj* in all likelihood stems from their respective

understandings of legitimate marriage. We will present an overview of the discussion seen in these two works and then consider in the subsequent sections what made Haradattamiśra add the fifteenth kind of son and why Vijñāneśvara did not.

The connotations of *yatra kvacanotpādita*

The best starting point is to examine the meaning of *yatra kvacanotpādita*, because this is the only verbal conflict between the *Mit* and the *Ujj*. We will see that the latter uses this phrase in a more apparent meaning than in its first textual occurrence.⁵⁾

The *Ujj* quotes a sentence from the *Viṣṇusmṛti* (15.27), which is allegedly the first attestation of *yatra kvacanotpādita*, and states as follows (translation omitted):

atra

*aurasaḥ putrikā bījakṣetrajau putrikāsutaḥ | ... | yatra kva cotpāditaś ca putrākhyā daśa pañca
ca | ... |*

[...] (Definitions for fourteen types from *aurasa* to *apaviddhaka*)

sarva ete samānajātīyāḥ

sajātīyeṣv ayaṁ proktaś tanayeṣu mayā vidhiḥ ||

iti yājñavalkyavacanāt | viṣṇuḥ

yatra kva canotpāditaś tu dvādaśaḥ || *iti | (Ujj, pp. 297–299)*

The expression *sarva ete samānajātīyāḥ* seems to imply that the fourteen kinds of sons mentioned so far are all of the same class as the father (inheritee), while the *yatra kvacanotpādita* is deemed as a son from an interclass marriage.

We will now examine why the *Ujj* needed the category of *yatra kvacanotpādita* in the meaning of interclass sons and why the *Mit* did not.

Sons from interclass marriage and *dharmapatnī*

When we survey the arrangement of interclass sons in the *Mit* to find an answer to this question, we notice that this problem has some bearing on the argument for legitimate marriage and *aurasa*, that is, the son born from it.

The term *yatra kvacanotpādita* does not appear in the *Mit*. This does not mean, however, that this text was unaware of or did not assume the existence of interclass sons. The *Mit* makes the following interesting argument regarding the son called *sūdrāputra*.

[...] (Limitation on the rule that fourteen kinds of sons become heirs in the order of their

appearance.)

Furthermore, since sons from *anuloma* marriage (interclass marriage in which the man is of a higher class), such as the *mūrdhāvasikta* (son of a Brāhmaṇa male and a Kṣatriya female), are included in the legitimate son (*aurasa*), we should understand that a *kṣetraja* son and others are the heirs only in their absence.

Though the son of [a twice-born man and] a Śūdra woman, on his part, is [one of] the legitimate sons, he cannot claim the whole share, even if there are no other [sons with a twice-born woman].⁶⁾

According to the *Mit*, sons from *anuloma* marriage are subclassified as *aurasa*. Out of this subclass, *śūdrāputra* is segregated from other sons of *anuloma* marriage and allowed only a limited portion of his father's property.

Now, how does the *Mit* define *aurasa* or the broader concept of interclass sons? The requirement for a son being an *aurasa* depends on his biological mother: she should be a *dharmapatnī*. The conditions imposed on her to be a *dharmapatnī* are i) being of the same class as her husband and ii) the fact that the marriage is valid.⁷⁾ These two conditions can be translated into selective ones that make this rule consistent with the extension given in the previous quotation. The definition of *dharmapatnī* by the *Mit*, in this respect, stands in stark contrast to that by the *Ujj*, which will be discussed in the next section.

Revaluating the fifteen kinds of sons by the *Ujjvalā*

The *Ujj* similarly defines *aurasa* as sons from *dharmapatnī*.

An *aurasa* is one born of a legitimate wife (*dharmapatnī*). And it is said above,

A wife who belongs to the same class (*savarṇa*) as he and has not been married before, and whom he has married in the manner prescribed in the scriptures. (*Āpdhs* 2.13.1)⁸⁾

From this statement, we notice that Haradattamiśra looks on the requirements of *dharmapatnī* (and finally of *aurasa*) as explained in *Āpdhs* 2.13.1 upon which he comments as follows.⁹⁾

When a man has sexual intercourse with his wife during her season, a wife who belongs to the same class as he and has not been married before, and whom he has married in the manner prescribed in the scriptures—sons born to him have a claim to follow the occupations of his class. (*Āpdhs* 2.13.1)

[The word *savarṇāpūrvaśāstravihitā* is] a Karmadhāraya compound meaning that she belongs to

- (4) 'A Son Procreated Anywhere,' *yatrakvacanotpādita*, and Legitimate Marriage in Medieval Sanskrit Jurisprudence (TANIGUCHI)

the same class, has not been married before, and has been married in the manner prescribed in the scriptures. And the word *savarṇā* means women of the same *jāti* [as he], such as a Brāhmaṇa woman for a Brāhmaṇa man.

[...] (Interpretation of words of *apūrvā*, etc.)¹⁰⁾

The *Ujj* contrasts with the *Mit* in that it interprets the three conditions listed as requirements for *dharmapatnī* in a cumulative manner. Namely, the son Haradattamiśra sets down as *aurasa* can only include a son from a wife of the same class, thus providing a stricter criterion than the *Mit*.

Concluding Remarks

Differences in the interpretation of Hindu jurists across time have been pointed out in detail in previous research. This paper has explored possible reasons why Haradatta, possibly knowingly, deviates from the taxonomy as seen in the *Mit*. The *Ujj*'s addition of *yatra kvacanotpādita* as the fifteenth type of son appears to be due to its divergent understanding of *dharmapatnī* from the *Mit*. In other words,

1. In the *Ujj*, since being of the same class as the husband is an indispensable condition for being *dharmapatnī*, the concept of *yatra kvacanotpādita* became necessary to situate *anulomaja*, which overflowed from the connotation of *aurasa*.
2. In contrast, the *Mit* did not need such a concept because *anulomaja* such as *murdhāvasikha* and *śūdrāputra* is included in *aurasa*.

Notes

1) For further information, see Rocher 2018, 165–168; Kane 1962–1975 (3), 640–661 (especially, “Table of several kinds of sons” on p. 645). 2) A *putrikā* is a daughter appointed as and legally considered the “son” of a sonless father; cf. “*putrikā*” (Olivelle 2015, 253). 3) In the *Mit*, the term *dvyāmuṣyāyaṇa* corresponds to *niyogaja*, sons born of the appointed pregnancy. The expression *ṣetrajā*, mentioned by the *Yājñavalkyasmṛti*, is the name for this son from the viewpoint of his leviratic father. In addition to this, the *Mit* introduces *bījaja*, the name of the same son from his biological father's perspective, saying “*dvyāmuṣyāyaṇas tu janakasya*” (p. 234). 4) For the verses containing this phrase, see the quoted text in the next section. Kane (1962–1975 (3), 646, fn. 1229) reports that two other texts also quote these verses. See Olivelle 1999 and Taniguchi 2022 for a discussion of the textual history of the *Ujj*. 5) For scholarly conjectures about the meaning of *yatra kvacanotpādita* assumed in the *Viṣṇusmṛti*, see Olivelle 2009, 173 (“15.27”). 6) *tathānulomajānāṃ mūrdhāvāsiktādīnāṃ auraseṣy antarbhāvāt teṣāṃ apy abhāve ṣetrajādīnāṃ dāyaharatvaṃ buddhavyam | śūdrā-putras tv auraso 'pi kṛtsnaṃ bhāgam anyābhāve 'pi na labhate |* (*Mit*, p. 237) 7) *uraso jāta*

aurasaḥ putraḥ sa ca dharmapatnījaḥ | *savarṇā dharmavivāhoḍhā dharmapatnī* | *tasyāṃ jāta aurasaḥ putro mukhyaḥ* | (Mit, p. 234) 8) *auraso dharmapatnījaḥ* | “*savarṇāpūrvaśāstra-vihitāyām*” iti pūrvam uktāḥ | (Ujj, p. 297) 9) The *Ujj* does not seem to make any mention of *aurasa* or *dharmapatnī* elsewhere. 10) *savarṇāpūrvaśāstravivahitāyām yathartu gacchataḥ putrās teṣāṃ karmabhis sambandhaḥ* ||2.13.1|| *savarṇā cāsāv apūrvā ca śāstravivahitā ceti karmadhārayaḥ* | *savarṇā sajātīyā brāhmaṇasya brāhmaṇīyādi* | ... || (Ujj, p. 289)

Abbreviations and Primary Sources

- Āpdhs* *Āpastambadharmasūtra. Dharmasūtras: The Law Codes of Āpastamba, Gautama, Baudhāyana, and Vasiṣṭha*. Ed. Patrick Olivelle. Delhi: Motilal Banarsidass, 2000.
- Mit* *Mitākṣarā* of Vijñāneśvara. *Yājñavalkyasmṛti with the Commentary of Mitākṣarā of Vijñāneśvara*. Ed. N. R. Acharya. Bombay: Nirnaya Sagar Press, 1949.
- Ujj* *Ujjvalā* of Haradatta Miśra. *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. Kashi Sanskrit Series 93. Varanasi: Chowkhamba Sanskrit Series Office, 1969.

Secondary Sources

- Davis, Donald R. Jr. 2018. “Children: *putra*, *duhitṛ*.” In *Hindu Law: A New History of Dharmaśāstra*, ed. Patrick Olivelle and Donald R. Davis, Jr., 151–163. Oxford: Oxford University Press.
- Kane, Pandurang Vaman. 1962–1975. *History of Dharmaśāstra: Ancient and Medieval Religious and Civil Law in India*. 5 vols. Poona: Bhandarkar Oriental Research Institute.
- Olivelle, Patrick. 1999. “Sanskrit Commentators and the Transmission of Texts: Haradatta on *Āpastamba Dharmasūtra*.” *Journal of Indian Philosophy* 27(6): 551–574.
- , ed. 2009. *The Law Code of Viṣṇu: A Critical Edition and Annotated Translation of the Vaiṣṇava-Dharmaśāstra*. Cambridge: Harvard University Press.
- , ed. 2015. *A Sanskrit Dictionary of Law and Statecraft*. Delhi: Primus Books.
- Rocher, Ludo. 2012. “The Aurasa Son.” In *Studies in Hindu Law and Dharmaśāstra*, ed. Donald R. Davis, Jr., 613–622. London: Anthem Press.
- , 2018. “Inheritance: *dāyabhāga*.” In *Hindu Law: A New History of Dharmaśāstra*, ed. Patrick Olivelle and Donald R. Davis, Jr., 164–178. Oxford: Oxford University Press.
- Taniguchi, Chikamitsu. 2022. “Do Widows Have Spousal Inheritance Rights?: Rethinking the Textual History of the *Ujjvalā*.” *Journal of Indian and Buddhist Studies* 70(3): 1087–1090.

(This research was supported in part by JSPS KAKENHI Grant Number 22J11284)

Key words Hindu law, Dharmaśāstra, partition of inheritance, *dāyabhāga*, *Mitākṣarā*, *Ujjvalā*

(JSPS Research Fellow, The University of Tokyo)