



MONOGRAPH

No. 2

CENSUS OF INDIA 1961

VOLUME-I

MONOGRAPH SERIES

Part VII-A

THE LAWS GOVERNING CRAFTSMEN AND
THEIR CRAFTS FROM ANCIENT DAYS
TILL TO-DAY IN INDIA

Atul Chandra Patra
Advocate,
Supreme Court of India

OFFICE OF THE REGISTRAR GENERAL, INDIA
MINISTRY OF HOME AFFAIRS
2-A, MANSINGH ROAD
NEW DELHI-11

FOREWORD

A comprehensive survey of handicrafts of India was organised as part of the Census of India 1961 and begun in the first half of 1960. In June 1960 I issued a request to a dozen distinguished scholars to undertake monographs on different types of handicrafts based on different raw materials like stone, fibres, ceramics, metals, beads, bone including ivory, horn and shells, terra cotta, painting, jewellery, musical instruments, reeds and cane, wood and wall-paintings. In May 1960 I wrote to Sri A. C. Patra, Advocate at the Supreme Court of India to request him to write a monograph on 'The Laws Governing Craftsmen and their Crafts from Ancient Days Till Today in India'.

To my great pleasure, Sri Patra responded very readily and applied himself to the task. His work completed in July 1965 for which he has earned our gratitude, will serve not only as a valuable contribution to the subject but will enable us to look into the future.

New Delhi
19th November, 1965.

A. Mitra
Registrar General, India

THE OBJECT OF LIFE

With the Hindus, dharma was a mode of life preparing the follower for the highest fulfilment of the life's mission through *karma* and *jnana* (acts and wisdom).¹ Righteous and unrighteous acts (*dharmadharmau*) were learnt from the Vedas; and wealth and non-wealth from the texts on economics and politics.²

The duties prescribed under *srauta*, *smarta*, *sistachara* as well as the *sadharana* or *samanya dharma* had to be performed. The four objects of life (*purusartha*) were : *dharma* (right conduct), *artha* (economic interest), *kama* (satisfaction or desire in sexual, emotional and artistic life) and *moksa* (liberation of the spirit). Pleasures not opposed to *dharma* were considered worth having.³ In order to obtain the optimum good, the lower instincts had to be subdued.⁴

According to Vedic traditions, the community consisted in four castes, that is, the Brahmanas, the Kshatriyas, the Vaisyas, and the Sudras. According to these traditions, the duty of a Brahmana was study, teaching, performance of sacrifice, officiating in other's sacrificial performances, and the giving and receiving of gifts. The duty of a Kshatriya was study, performance of sacrifice, giving gifts, military occupation, and protection of life. The duty of a Vaisya was study, performance of sacrifice, giving gifts, agriculture, cattlebreeding, and trade. The duty of a Sudra was the serving

of the twiceborn (*dvijati*), that is, the immediately mentioned three foregoing classes, agriculture, cattlebreeding, trade, and the profession of artisans and courtbards (*karukusilavakarmas*). According to the Vedic traditions, the king could never allow people to swerve from their duties, for, it was said, whoever upheld his own duty, ever adhering to the customs of the *Aryas*, and following the rules of castes and divisions of religious life, would surely be happy both here and hereafter. It was further believed that the world when maintained in accordance with Vedic injunctions would surely progress and would never perish.⁵

The various castes or *varnas* and *asramas* had had their peculiar *dharmas* or duties. In addition, there were the *samanya dharmas*, that is, virtues common to all. These *sadharana* or *samanya dharmas* stood for the characteristics expected in common of all ideal members of the community. They were not confined to any particular caste (*varna*) or stage of life (*asrama*).⁶ According to Mahatma Yudhishtira, "Those who have seen the truth regard character as the principal thing desired."⁷ Truth and character were considered as two of the greatest virtues that should be cultivated by mankind.⁸

Truth,⁹ straightforwardness (*arjava*),¹⁰ and righteousness¹¹ were some of the cardinal and common virtues

1. Kane : *History of Dharmasastra*, Vol. II, Part I (1941), 2. For details see Patra and Parekh, *Law And Its Interpretation* Ch. I (Dharma) (in press).
2. Kautilya : *Arthasastra*, Book I, Chap. II.
3. Apastamba Dharmasutra, II. 8.20. 22-23; Bhagavadgita, VII. 11; Kautilya, I. 7; Manu II. 224; IV. 176; Visnudharmasutra 71. 84; Mahabharata, Anusasanaparva, III. 18--19; Svargarohanaparva, 5. 62; Salyaparva, 60.22; Dronaparva, 151. 37; Visnupurana, III. 11. 7; Bhagavata, I. 2.9; Vatsyayana : Kamasutra I. 2. 7-15; Gautama IX 46-47.
4. Manu, II. 4; V. 56; Udyogaparva, 124. 34-38; Santiparva, 167. 8-9; 288.20; and 330.13; Gautama, IX, 46-47; Kausitaki Brahmanopanisad, III. 1.
5. Kautilya : *Arthasastra*, Book I, Chap. III.
6. Mitaksara on Yaj. I. 1; Vasisthadharmasutra, IV. 4; X. 30; Manu, IV. 175; X. 63; VI. 62; Yajnavalkya, I. 122; III. 66; Gautama, X. 52; Santiparva, 60. 7-8; 297. 24-25; Vamanapurana, 14. 1-2; Brahmapurana, 114. 16-18; Visnudharmasutra, II. 16-17; Apastambadharmasutra, I. 8. 23. 26.
7. Vanaparva, 180. 31-33.
8. Vanaparva, 181. 42-43, 216. 14-15; 180. 21; 313. 108-111. Santiparva, 189. 4 and 8; Udyogparva, 43-49; Yaj. I. 200; Arthasastra, Book I, Chap. III.
9. Rigveda, VII. 104. 12; Satapatha Brahmana, I. 1. 1. 1.; I. 1. 1. 5; Taittiriyaopanisad, I. 1. 11; Chandogyopnisad. III. 17; Brihadaranyakopanisad, I. 4. 14; I. 3. 28; Santiparva, 162. 7; 189, 4 and 8; Asramavasikaparva, 28. 9; Anusasana, 120. 10; Visnupurana, III. 8. 35-37; Gautamadharmasutra, VIII. 24-26; Vasisthadharmasutra, X. 30; XXX. 1; Vanaparva, 181, 42-43; 180-21; 216. 14-15; 313. 108-111; Yaj. I. 200; Udyogparva, 43. 49; Manu IV. 175; Arthasastra, Book I, Ch. III.
10. Chandogya, III. 17; Yajnavalkya Smriti, I. 122; Santiparva, 60. 7-8, Visnudharmasutra, II. 16-17.
11. Manu, IV. 239.

eulogised in all texts. Empathic fundamentals were not unknown.¹ Harmlessness, purity, freedom from spite, abstinence from cruelty and forgiveness, among others, were regarded as common virtues.² The various common virtues, that is, the characteristics that are accepted as virtues, on the basis of a universal standard, were given a higher place than the various *sanskaras*.³ These virtues were expected of all as essential to all castes, communities, and asramas. Asoka adopted these common virtues for his inscriptions in the third century before Christ. They were the minimum expectations of all the people including those who could not fit in the fourfold system of castes. In spite of this appreciation of common virtues by the seers of truth, the several castes in the community avoided as far as practicable intermixture of blood. Thus, for the purpose of marriage and other vital social affairs, including inter-dining, the rigidity of the caste-system retained all its rigours till today. It could be safely observed that for all practical purposes, of caste and character, consideration of caste prevailed over that of character. The edifice of character was to be built on the basis of caste.⁴

THE LAWS IN OPERATION

It should be remembered that while speaking of a period stretching over thousands of years, one can attempt at giving only a sense of the law rather than the law itself prevailing at any particular part of Bharat at a particular period. From the standpoint of civilization or from the standpoint of time, our ancestors for hundreds of generations must have passed their lives under varying laws and customs. The books that are extant can but give only a sense of the law our ancestors lived under.⁵

The epigraphic records alone can be safely relied on as a sure guidance for the law in operation at a particular place and at a particular time. The laws in operation must have varied from time to time and from place to place in spite of the rigours or leniency of the legal texts. For the factual operativeness of the legal

texts, traditions alone as embodied in the texts in question will not be an infallible guide. The law for a given space-area for a given time or for a given civilization-area for a given time was the law as factually administered at the bar of the court or the community and not always as 'piously' adumbrated in the texts. Kautilya can be safely taken as one of the moderns among the ancients. *Artha eva pradhanam, Arthamulau hi dharmakamaviti*—wealth alone counts, it is the sole means for the fulfilment of sacred duties and achievement of earthly pleasures—says Kautilya.⁶ Even such a practical statesman says that he made his Arthashastra a compendium of almost all the Arthasastras; which, in view of acquisition and maintenance of the earth, had been composed by ancient teachers.⁷ The practical statesman however did not shun all that was considered irrational for the purpose of their incorporation in his treatise. Traditions were 'borne', if not followed in the day to day life of the community. Subject to this, it may be observed that the tradition-loving and custom-abiding Indian Community stuck to the social precedents as far as possible in matters of marriage, succession, mores and morals. It was because of this orthodoxy of Indian life that the Smriti texts even in course of centuries did not become all a dead letter. The epigraphic records go to show that the legal texts were for centuries living laws. Moderation of sanctions as actually applied having been the rule of the Hindu community, the textual prescription of the law of *talionis* seems to have obtained even as early as the pre-Christian era only as a mere tradition of the past. This was so in spite of a faithful preservation of the ancient texts however outmoded, retaliatory or repressive some of such texts might appear to the later generations whether as administrators or philosopher-compilers of texts. To cite Kautilya. Kautilya while retaining the ancient traditions of *talionis* observes in his Arthashastra, Book III, chapter I. that "sacred law (*dharm*), evidence (*vyavahara*), history (*charitra*), and edicts of kings (*rajasasana*) are the four legs of law. Of these four in order, the latter is superior to the one previously

1. Daksa, III. 22; Devala, *cited*, Kritiyaratnakara; Apastamba Smriti, X.12; Anusasanaparva, 113. 8-9; Santiparva, 260. 20-25; 167. 8-9.
2. Arthashastra, Book I, Ch. III.
3. Gautamadharmasutra, VIII. 24-26; Smritichandrika, I; Apastambadharmasutra, I, 8. 23. 3-6.
4. Parasaramadhaviya, II, Part 2.
5. The author of the present essay in this context regrets that he could not in every case go to the *fontes* for the collection of materials. Some of the original sources are not easily accessible. In addition to this non-accessibility, a verification of the references is rendered all the more difficult by the variant readings as well as the differences in the arrangements of the texts in their chapters as well as verses or *sutras*.
6. *Arthashastra*, Book I, Ch. 7. *see* Patra and Parekh, *Op. Cit.*, Ch. III (Rajadharm).
7. *Ibid.*, Book I, Ch. 1.

named..... It is power and power alone which only when exercised by the kings, with impartiality and in proportion to guilt, either over his son or his enemy, maintains both this world and the next whenever sacred law (*sastra*) is in conflict with rational law (*dharmanyaya*,¹ King's law), then reason shall be held authoritative; for there the original text (on which the sacred law has been based) is not available." The same philosopher—statesman observes in Chapter IV of Book I that whoever imposes severe punishment becomes repulsive to the people; while he who awards mild punishment becomes contemptible. But whoever imposes punishment as deserved becomes respectable. For, punishment (*danda*), when awarded with due consideration, makes the people devoted to righteousness and to works productive of wealth and enjoyment; while punishment when ill-awarded under the influence of greed and anger owing to ignorance, excites fury even among hermits and ascetics dwelling in forests, not to speak of householders.

As noted before, the king was enjoined in virtue of his duty and power to uphold the observance of the respective hereditary duties of the four castes and of the four divisions of religious life, and in virtue of his duty and power to guard against the violation of the dharmas. The King was the fountain of justice (*dharmapravartaka*).² According to the tenets of the sacred texts, a King who did not protect his people or upset the social order wielded his royal sceptre in vain. Subject to the pious wish that the several castes should stick to their respective occupations, the cultivation of the common virtues (*sadharana* or *samanyadharmia*) was the aim of the community. Light was prayed for in favour of the Brahmanas, the Ksatriyas, the Vaisyas as well as the Sudras.³ Vedas however could not be studied by Sudras. Vedic sacrifices could not be made by the Sudras. Some *risis* however would allow even Sudras to per-

form Vedic sacrifices. Sudras were sometimes allowed to prepare food for the gods under the supervision of the Brahmanas. *Rathakaras* or *saudhanvas* though not belonging to any of the three upper castes were entitled to consecrate sacred fires with Vedic mantras.⁴ They were not Sudras, but superior to the latter. The *nisadasthapati* (a *nisada* chieftain) could perform sacrifices to Rudra.⁵

The belief was that the observance of one's own duty would lead one to *svarga* and infinite bliss (*anantya*). When it was violated, the world would come, it was apprehended, to an end owing to the confusion of castes and duties. The people (*loka*) consisting of four castes and four orders of religious life would keep to their respective duties and occupations only when they were governed by the King with his sceptre.⁶ The pious wish of the followers of the Vedas that the several castes should unflinchingly stick to their prescribed avocations could not achieve its dream of an ideal static social order consistently for the whole of the Hindu period. A few Ksatriya Kings⁷ became Brahmanas⁸ and a few Brahmanas Ksatriyas because of their changed vocations.⁹ Even at a very early date we find Brahmanas practising a lower profession. Brahmanas of those days, as of these, were compelled, because of economic pressure to work as artisans and craftsmen. Even a man of an inferior caste could employ as a hired servant a man of a higher caste. Wealth conferred dignity while poverty took it away.¹⁰

The intermingling of the castes and sub-castes was disapproved and punishable.¹¹ One's hereditary duties had to be followed.¹² But necessities of life would know no law. It had to be recognised that though particular avocations and activities were prescribed for the four varnas, each *varna* might in time of difficulty follow the occupation peculiar to

1. Vrihaspati. See Varadarajiya Vyavaharanirnaya, vyavaharamatrika, manusapramanakandam, 1942 edn, 139.
2. Arthasastra, Book III, ch. I, Gautama, XI. 9-10; Vasishtha. 19. 7-8; Visnudharmasutra, III. 3; Yaj. I. 361; Markandeyapurana. 27; Matsyapurana, 215. 63; Narada, stripumsa, 113, prakirnaka, 2-6.
3. Taittiriya Samhita, VII. 1. 1. 6.
4. Purvamimansasutra, VI. 1. 44-50; Visvarupa on Yaj., 1. 10; Bau. Gri. II. 5-6; Bharadvajagrihyasutra, I. 1; Apastamba Srutasutra, V. 3. 18; Katyayanasrauta, I. 1. 9-10.
5. Purvamimansasutra, VI. 1. 51-52; Katyayanasrautasutra, I. 1. 12-14; Satyasadhakalpa, III. 1.
6. Arthasastra, Book I, Ch. III.
7. Anusasanaparva, 30.
8. Manu, II. 32; Salyaparva, 39. 36-37.
9. Parasaramadhaviya, I, Part 2.
10. Mahabharata, III. 192. 21.
11. Gautama, XI. 9-10.
12. Gautama, XI. 9-10; Vasishtha, 19. 7-8; Visnudharmasutra III. 3; Yaj. I. 361; Markandeyapurana, 27; Matsyapurana, 215. 63. Narada, stripumsa, 113; prakirnaka, 2-6.

the caste immediately below it, but should not follow the avocations peculiar to the higher *varnas*.¹ The person with changed avocation was expected to revert to his proper avocation when the difficulty was over. If the reversion did not take place in course of a few generations, the original caste would be lost and a new one adopted or presumed.² Apart from the necessity of an avocation, the animal propensities of man became responsible for intermingling on a large scale in the community. The wishes of the law-givers or the sanctions of the Kings could not prevent it. In course of time it became very difficult to ascertain the castes of human beings on account of the confusion of all *varnas*. All sorts of men were begetting offsprings from all sorts of women.³ It can be said that in the realm of crafts and avocations though an attempt had been made to build up a manifold functional caste system, it was always tending to crumble down. It can be presumed that for a given period the crystallisation of the functional caste system went *pari passu* with its disintegration, the latter process having ultimately overcome the former. The societal changes were a force stronger than the prescriptions of the Smriti and other didactic literature. It has to be admitted however that it was because of the great reverence on the part of the Hindus for the old traditions of social life, that the patterns of their social life did not change as rapidly as it could. Megasthenes found that no one was allowed to marry out of his own caste or to exercise any calling or art except his own. But history had its own course to run. Various mixed castes had grown up. These mixed castes, though considered undesirable, had to be recognised and their respective avocations acknowledged.⁴ So much so, that the origins of the

different sub-castes became in course of time untraceable, and sometimes a group's sub-caste had to be ascertained from its occupation.⁵

CASTES AND CRAFTS

In course of time about a hundred castes grew up because of the respective avocations, inter-caste marriages or inter-caste unions, marriages within prohibited degrees and deviations from the duties peculiar to one's *varna* or caste. Wealth, greed, desires, uncertainty about the *varna* or ignorance of one's own *varna*⁶ were also responsible for the large number of sub-castes. No attempt had been made to count the number of the sub-castes that grew up because of the intermingling of the different castes or sub-castes.⁷ Different names were acquired even for the same sub-caste.⁸ Different localities witnessed the different names for the same sub-caste.⁹ Castes were named also after countries of domicile. Functional groups became distinct castes.¹⁰ You are what you do. It is no wonder, therefore, if Megasthenes observed that "The seventh caste (during the Maurya period) consisted of the counsellors and assessors of the king. To them belong the offices of State, the tribunals of justice and the general administration of public affairs."

In the earliest days, sale consisted in barter.¹¹ Garments (*dursa*), coverlets (*pavasta*), and goatskins (*ajina*) are mentioned as objects of commerce in Atharvaveda.¹² Price was called *sulka*¹³ or *vasna*;¹⁴ merchants were called *vanij*.¹⁵ Haggling of the market is mentioned in Rigveda,¹⁶ and the traders were noted for their greed. Cows, *krisnala*, mana, *niska* (necklets) and *urdara* were standard of value, or weights or media of exchange and measure of grain respectively.¹⁷ For

1. Vasistha, II. 22-23.
2. Vasistha, II. 19-23; Visnudharmasutra, II. 15; Yaj. I. 118-120; Gautama, X. 1-7.
3. Vanaparva, 180. 31-33; Vedantasutra, I, 3. 33.
4. Manu, X; Usanas, and Visnudharmasutra, XVI.
5. Manu, X, 40; Vasistha, 18. 7; Anusasanaparva, 148. 29. See also Kane, History of Dharmasastra, 1941 edn., Vol. II. Part I, 44.
6. Anusasanaparva, 48.1; Bhagvadgita, I, 41-43.
7. Manu, X. 40; X. 12 and 24.; V, 89; Gautama, VIII. 3; Narada, Stripumsa, 102; Baudhayanadharmasutra, I. 8. 13-14; 1. 9. 16; Mitaksara on Yajnavalkya, 1. 96; Medhatithi on Manu, V. 88; Manu, X. 24, 25; 64 and 65; Vrihaspati and Yama, cited in Krityakalpataru; Gautama, IV. 18-19; Yaj. I. 96.
8. Manu, X- 22 and 23.
9. Visvarupa on Yaj., I. 92-93; Parasaramadhaviya, I. Part 2.
10. See also Kane History of Dharmasastra (1941 edn.). Vol. II, Part I, 41-44.
11. Rigveda, iv, 24. 10.
12. Atharvaveda, iv, 7. 6.
13. Rigveda, viii, 1. 5.
14. Rigveda, i, 33, 3.
15. Rigveda, i, 33, 3; Macdonell and Keith, *Vedic Index of Names and Subjects*, Vol. I, 196; Vol. II, 237, 238.
16. Rigveda, iv, 24,9.
17. See Macdonell and Keith, *Vedic Index of Names and Subjects*, London, 1912, Vols. I and II.

sale (*kraya*) in Samhitas and Brahmanas, see Macdonnell and Keith, *Vedic Index of Names and Subjects*, London, 1912, vol. 1, 196.¹

Crafts are as old as civilisation. Crafts were thus older than castes. Laws governing craftsmen and their crafts have been recorded in legal literature in India from time immemorial. Even assuming that the sources of the recorded laws governing craftsmen and their crafts are untraceable, it has to be admitted that the impact of caste-system had its stabilising force for the community. To quote, Meredith Townsend, *Asia and Europe*, 1901, page 72, "I firmly believe caste to be a marvellous discovery, a form of socialism which through ages has protected Hindoo society from anarchy and from the worst evils of industrial and competitive life- it is automatic poor-law to begin with, and the strongest form known of trades union".² The institution of castes among the Hindus is regarded by some as the happiest effort (*chefd' oeuvre*) of their legislation. If the people of India never sunk into a state of barbarism, and if, when almost all Europe was plunged in that dreary gulf, India kept up her head, preserved and perfected the arts and sciences of civilization, it was wholly, according to some, to the distinction of castes that she is indebted for that high celebrity.³ According to Sidney Low,⁴ there is no doubt that it was the main cause of the fundamental stability and contentment by which Indian society had been braced for centuries against the shocks of politics and the cataclysms of Nature. It provided every man with his place, his career, his occupation, his circle of friends. It made him, at the outset, a member of a corporate body; it protected him through life from the canker of social jealousy and unfulfilled aspirations; it ensured him companionship and a sense of community with others in like case with himself. The caste organisation was to the Hindu his club, his trade union, his benefit society, his philanthropic society. There were no workhouses in India, and none were—as yet—needed.⁵

The rights and privileges attaching to one's allegiance to one's caste became justiciable in a court of law or at the bar of the community. During the Maho-

medan period the Brahmin *pundits* continued as natural determiners of caste. The Administration of the East India Company at Fort William asked the "supravisors",—the predecessors of the collectors of the districts—to inspect in 1769 as to whether the Brahmin judges as dispensers of justice among the Hindus had their enabling *sunnuds*. These *pundits*, it was found, had not been equipped with *sunnuds* from the Mahomedan ruler *qua* judges of caste. It was also learnt by the Company's Administration that though the Brahmin *pundits* as natural triers of caste could determine the forfeiture of caste they could not restore a person to his caste.⁶ Restoration of caste was a jurisdiction reserved for the Muslim Ruler. The Company's Administration, too, assumed the jurisdiction of restoration. In course of time, however, the jurisdiction of caste had been taken away from the Brahmin *pundits* and was assimilated to the jurisdiction of the civil courts determining civil rights of the citizens. During the Mahomedan period, the rigidity of castewise avocations could not be encouraged or recognised. Under the influence of Islam, avocations might mean castes but not castes avocations. Megasthenes observed, as we have seen, that the officialdom during the Maurya period constituted the seventh caste of the community. Abu'L-Fazl Allami in his preface to the *Ain-i-Akbari* likewise thought that the people of the world could be divided into four classes, namely, (a) warriors, (b) artificers and merchants, (c) the learned and (d) husbandmen.

While speaking of the Land Tenures of Lower Bengal, it could be observed: "There is no clear line of division between the Hindu and the Mahomedan times,—the two periods overlap each other. The Mahomedan system is quite non-hereditary or even anti-hereditary. On the other hand, the Hindu system was a distinct contrast in this respect in all its grades, from the hereditary *rajah* to the hereditary village dancing girl." The pattern of land tenure had its reflex also in the matter of adoption of avocations by the people.⁷ The caste-system of the Hindus had been left operative only *qua* castesystem and not beyond. The equalising force of Islam established the

1. For *tula* (scales). See *ibid.*, vol. I, 317, 318.

2. Also cited, Kane, *History of Dharmasastra*, Vol. II, Part I (1941), 21.

3. Abbe Dubois : *Character, Manners and Customs of the People of India*, London, 1817, cited, Kane, *ibid.*, 20; see now Abbe J. A. Dubois : *Hindu Manners, Customs and Ceremonies*, 3d ed., (1953-reprint), 28, 33,

4. Sidney Low : *Vision of India* (2nd edn. 1907), 262-63, cited Kane, *ibid.*, 20; see also Sidney Low, *ibid.*, 1906, chap. xviii, *Hinduism and the Castes*, 253-273.

5. Low, *op. cit.*, 263.

6. Extract of Proceedings of the President and Select Committee, on the 16th August, 1769.

7. Phillips : *Land Tenures of Lower Bengal*, Tagore Law Lectures, 40.

Mahomedan law of contract, barter, sale and trade for all the subjects except to the extent that the personal law of the Hindus had been kept operative in their personal causes of marriage, succession, adoption and the like.

The East-India Company's Administration being itself preoccupied with trade and crafts exercised its influence in favour of freedom of avocations rather than their restriction. But the castewise avocations continued, where they did, not only by the *inertia* of habits but also by the force of traditions and texts. Under the non-Hindu regime, there was no bar to one's taking to a trade of one's choice; and the rigidity of castewise avocation began to give in during the Mahomedan period. But the process of dissolution could not be complete even while India had been undergoing social reforms while still under the Crown. It was for the Constituent Assembly of India to strike a death-blow to the caste-system. The framers of the Constitution categorically provided that there should be equality before the law for all the citizens that there shall be no discrimination against any citizen on grounds of religion, race, caste, sex or place of birth. The Constitution affords equal opportunity for all citizens in matters relating to employment or appointment to any office under the State. Untouchability has been abolished and its practice in any form is forbidden.¹ The Constitution has also given all the citizens the right to practise any profes-

sion, or to carry on any occupation, trade or business.²

India has been the home of arts and crafts. Her specialised industries were sold throughout the world even as early as the pre-Christian era. Seric skins, cotton cloth, silk yarn silk cloths were among the Indian exports to Rome. The word craft has been sometimes used to mean *karma* or work. In this sense there had been hundreds of jobs for our ancestors as there are for ourselves to-day.³ Crafts were mostly but not invariably hereditary. A basket-maker could also weave a mat. Even the potter might have his apprentices from outside his community. A *rathakara* (chariot builder) could make his living by learning the art of taming horses, of making chariots and building houses. He could also tend and drive horses and carts. A section of the *rathakara* caste began working also with leather.⁴

The social position of craftsmen had been recognised as early as the vedic times. *Napita*⁵ or *Vapta*⁵ (barber), *tasta*⁶ (carpenter or maker of chariots) *tvasta*⁷ (carpenter), *bhisak*⁸ (medicine man), *karmara*⁹ (iron-smith), and *charmara*¹⁰ (tanner) are found to have their distinctive positions recognised in the sacred rites and literature of the Hindus of the Vedic times. *Rathakara*,¹¹ *karmara*,¹² *suta*,¹³ *stapatisajata*, *taksan*¹⁴ (carpenter), *kaulala*,¹⁵ *kulala*¹⁶ (potter), *isukrit*¹⁷ (maker of arrows), *dhanvakrit* (maker of bows), *manikara*,

1. Articles 14-17 of the Constitution.
2. Article 19 (g), *ibid*.
3. Craft meant only avocation. Ajatasatru, King of Magadha, in his conversation with Lord Buddha, mentioned 25 crafts. Immediately, he was concerned with the craftsmen that surrounded him as the King at the time. See T. W. Rhys Davids; *Buddhist India*, 1st ed., 5th impression, 1917, page 88. See also Macdonell and Keith, *Vedic Index of Names and Subjects*, Vols. I & II.
4. See Atindranath Bose : *Social and Rural Economy of Northern India Cir. 600 B. C.—200 A. D.*, Vol. II (1945) 456-57; see also Richard Fick : *The Social Organisation in North East India in Buddha's Time* (Translated by Shishirkumar Maitra) University of Calcutta, 1920, Chap. xi, Casteless Professions.
5. Rigveda, x. 142. 4; Atharvaveda, viii, 2.17; Taitt. Br. I. 5, 6, 3; Macdonell and Keith, *Vedic Index of Names and Subjects*, (1912) Vol. I, 441-42; Vol. II, 242.
6. Rigveda, I. 61.4; vii. 32. 20 - ix. 112. 1; x. 119.5; Macdonell and Keith, *op cit.*, Vol. I (1912), 302.
7. Rigveda VIII. 102.8; Atharvaveda, xii, 3.33; Macdonell and Keith, *op. cit.*, Vol. I, 834.
8. Rigveda IX. 112. 1 and 3; Macdonell and Keith, *op. cit.*, Vol. II (1912, 91, 104-06, 112.
9. Rigveda, x. 72.2; IX. 112.2; Macdonell and Keith, *op. cit.*, Vol. I (1912), 140, 141, 246; Vol. II, 265, 266.
10. Rigveda, VIII. 5.38; Macdonell and Keith, *op. cit.* ; Vol. I, 257; Vol. II. 266. *White Yaj.* XVI. 27 ; XXX, 13, 14, 21.
11. Atharvaveda, III. 5.6; Macdonell and Keith, *op. cit.*, Vol. I, 06, 140; Vol. II, 201—203.
12. Atharvaveda, III. 5.6; Macdonell and Keith, *op. cit.*, Vol. I, 140, 141, 246; Vol. II, 265-66.
13. Atharvaveda, III. 5.7; Macdonell and Keith, *op. cit.*, Vol. II 266.
14. Macdonell and Keith, *op. cit.*, Vol. I, 196, 246 297, 401; Vol. II, 69, 70, 200, 266.
15. Macdonell and Keith, *op. cit.*, Vol I, 193.
16. Macdonell and Keith, *op. cit.*, Vol. I, 171; Vol. II, 176.
17. Macdonell and Keith, *op. cit.*, Vol. I, 82.

*jjakara*¹ (maker of bow-string), *rajjusarga*, *ayastapa* (heater of iron or copper), *kantakakara*, weaver,² *suchika*, *sauchika* or *suchi* (tailor), *lohakara* (iron or coppersmith),³ *varuda* (worker in bamboo), and *bidalakara*⁴ (splitter of bamboo, working in wicker-work,) or *bidalakari*⁵ are among the craftsmen mentioned in the early literature of the Hindus.⁶ Ivory-workers, workers in woollen goods,⁷ braziers, workers in gold, silver and other metals and precious stones, workers in bone, stone-dressers, rope-makers, comb-makers, arms-makers,⁸ makers of fancy-fans from peacock feathers, borers of pearls and specialised workers in pottery were there. *Ayogava* was a carpenter or net-maker. Washermen or dyers were also there in the days as old as those of the Vedas.⁹

SOCIAL POSITION OF THE SEVERAL CASTES

Till very recently, caste for the Hindus meant much. Crafts gave bread to the craftsmen. Forfeiture of one's caste or deterioration of one's caste meant almost a forfeiture of one's right to work in the hereditary or castewise means of livelihood. The non-alignment of the erstwhile castemen as co-workers meant loss of goodwill, customs, co-operation and credit to the prejudice of the outcaste. In case of an extreme necessity, a person was allowed to adopt, as we have seen, the profession of a caste lower than his own, and not that of a higher caste. Members of the several castes as borrowers of money were subject, it will be seen later, to different rates of interest. This

differential rate of interest appearing unusual to us in these days was recognised for some time as binding in a court of law under the Company's regime. The Sudder Dewanny Adawlut at Calcutta applied, by way of revival, the law of differential rate of interest on the ground of its being the personal law of Hindus. Regulations were also passed restricting the rate of interest.¹⁰

In course of law the caste of the parties had in certain cases been an important factor in determining the punishment to be awarded. For certain offences a Brahman might be punished more rigorously than a non-Brahmin. In certain other cases, the punishment of a Brahmin might be lesser than that of a person belonging under an inferior caste. When people of several castes had thronged a Court of law with their respective complaints, the causes might be called up in order of the castes of the complainants and not serially. Vrihaspati, Manu, and Taittiriya Samhita enjoined that the King should take up the causes of the litigants in the order of the varnas.¹¹ Such and other factors conclusively show that the castewise status of a person had its incidents that were legal in their nature.¹²

Rathakara or chariotmaker was in the Atharva-Veda one of those who were subject to the King.¹³ *Takshan*(carpenter)and *rathakara* were, among others, in the King's entourage at the royal consecration. It was a caste-name in the *Yajurveda Samhitas*¹⁴ and in

1. Macdonell and Keith, *op. cit.*, Vol. I, 291.
2. Macdonell and Keith, *op. cit.*, Vol. I, 123-24. Vol. II, 243; 305 (plaited work).
3. Macdonell and Keith, *op. cit.*, Vol. II, 234.
4. Macdonell and Keith, *op. cit.*, Vol. I, 81, 182; and Vol. II, 68, 170, 392.
5. Macdonell and Keith, *op. cit.*, Vol. II, 170.
6. Tait. Samhita. IV. 5, 4. 2; Vajasaneyasamhita, 16. 26-28; 30. 5—13; Kathakasamhita, 17. 13; Tai. Br., III. 4. 1; Tait. Samhita, I. 8. 9. 1—2. Tait. Br., 1. 7. 3; Tandy Brahmana, 19, 1. 4; Sat. Br., XIII. 4. 1—5; XIII. 2. 2. 18; V. 4. 4. 15-19 Tait. S., III. 4. 5. 1; Vaj. S. 30.8; Mahabhasya on Panini, IV. 1. 97.
7. Macdonell and Keith, *op. cit.*, vol. II, 372-73.
8. *Ibid.*, *op. cit.*, Vol. II, 271—72; 417.
9. *Ibid.*, Vol. I, 481; vol. II, 138, 198, 291.
10. Rai Balgovind v. Sheikh Gholam Ali, (1805) 1 S. D. A. Rcp. 93; Baboo Motee Chund v. Mooftee Ubdoollah (1823) 3 S. D. A. Rep. 261; Khedoo Lal Khatri v. Rattan Khatri (1830) 5 S. D. A, Rep. 10; Besamber Ade v. Kalim Udden (1831) 5 S. D. A. Rep. 81.
11. Manu, VIII. 24; Taittiriya Samhita, IV.5. 11. 9. *White Yaj XXX* 13.
12. *Smritis* and *Nibaandhas* preferred human trials to those that were *divine*, such as ordeals. Ordeals were considered as of less weight than inference. Here, again, ordeals were selected according to the persons subjected to them; all ordeals were not to be administered to all the castes. See Vachaspati Misra, *Vyavahara Chintamani*, Gent 1956. Apart from the criterion of caste, the accused person's trade, occupation, character, faith, bodily condition; the season of the year; the nature of the crime; and various other factors were responsible for the particular ordeal selection of the that was to be administered in a particular fact-situation. See Patra and Parekh, *Op. Cit.*, Ch. II (Ordeals).
13. *Ibid.*, III, 5. 6.
14. Kath., XVII. 13; Mait., II 5; Vaj., XVI. 17; XXX. 6.

the Brahmanas.¹ In the *Arthasastra*, the *rathakara's* was a profession prescribed for the mixed caste of Vainya.² It was also a caste-name in the *Arthasastra*.³ In course of time some of the *rathakaras* began working with leather. When the *rathakaras* became sometimes also leather-workers, another expression *yanakara* was applied to the *rathakaras* who confined themselves to the work of chariot-building alone. *Charmakara* and *rathakara* ultimately became two distinct castes with two distinct crafts. The worker in leather had a lower status in the community. Even trading in iron and leather was censurable.⁴ Dealers in weapons, smiths, carpenters, *rathakaras*, weavers, artisans, mechanics, architects, superintendents of workers in mines and factories, engineers, and tailors were treated in the Smritis as practitioners of inferior arts and crafts.⁵ The stigma to some of these castes and craftsmen was only relative to the religious caste who was ordained to devote the whole of their life in culture of religion. Sometimes *nalakara* was treated as equivalent to *vena*, and sometimes they were shown as different castes though following the same craft. Similarly, *rathakara* and *charmakara* were sometimes treated alike and sometimes as different castes.

The *nisada*, the *vena*, and the *rathakara* were aboriginal tribes⁶ who were hereditary craftsmen in the three crafts. The *vena* or bamboo-worker and the carriage-builder meant castes following those particular crafts. The *vena*, *vaina*, *venukara* or *velukara* was thus a functional caste. The *vena* worked with venu, willows, bamboos or reeds. Basket-making and flute-making were his crafts. They also played drums.⁷ The craft of making baskets and allied things with cleft bamboos was also practised by other castes, *pandusaupaka* caste for example.⁸ It will be interesting to note that the bamboo-craftsmen, too, were and till date are divided into several sub-castes not capable of establishing marital connections one with the other. When the

author of the present essay visited a village, namely, *Bara Kadam*, in the district of Purulia, West Bengal, he found that even as late as 1964 one sub-caste of the bamboo-craftsmen, namely, *Mailis*, would not take to the manufacture of commodities like *khoongi*, *tookki*, *toka*, *toopa*, etc., whose production has been left to another sub-caste for centuries. Even to-day it is considered inauspicious for one sub-caste to produce articles whose production has been reserved for another.

Takshaka or the joiner was also a low caste. King Yudhishthira was instructed to exact labour from artisans only with the payment of food.⁹

The above-mentioned relative position of the different castes and classes of craftsmen was so only from an objective point of view. Apart from this objectivity, a defamation of even one's own caste or assembly was punishable with the middlemost amercement.¹⁰ Contemptuous expressions such as 'a bad artisan' was punishable with fines.¹¹

In Jataka literature, the King's scribes and other clerks doing accountancy and allied work were held superior to the basket-maker, potter, weaver or cobbler.

LOCALISATION OF CRAFTS

The weaver, *sutar* (carpenter), *lohar* (iron-smith), *kumbhar* (potter), *chambhar* (leather-worker), and *potdar* (gold and silver smith) played each an important role in village and city life of the community. Some of the arts and crafts were localised in particular villages here and there. Blacksmiths working in iron, steel, copper and brass were often grouped in exclusive settlements of their own. Goldsmiths were mostly settled in the cities. The craftsmen supplied their craft goods to the consumers in the neighbouring towns and villages and executed the orders

1. Tait., I. 1. 4. 8; III. 4. 2. 1; Sat., XIII. 4. 2. 17.

2. *Ibid.*, III. 7.

3. *Ibid.*, III. 6.

4. Manu, X. 36. 49; Mahabharata, XII. 37. 31; XII. 295. 5; XIII. 48, 26.

5. Manu, III. 150. 63; IV. 84, 210-20; VIII. 65; XI. 64; XII. 45; Apas., I. 6. 14; Gaut., XVII. 17; Vas., III. 3; XIV. 2; Baudh., I. 6. 10; 24; II. 1. 2. 13; Vrihaspati, XXII. 3; Vis., XXXVII, 22. 32; LI. 8. 10. 13-15; LXXXII. 7. 9.

6. See also Richard Fick: *The Social Organisation in North-East India in Buddha's Time*, chap. xii.

7. Manu, X. 49.

8. Mahabharata, XIII. 48. 26; Manu X. 37.

9. Mahabharata, XIII. 95. 39.

10. As to what is a middlemost amercement see below.

11. *Arthasastra*, Book III, ch. XVIII.

from such consumers jointly or severally.¹ They were sometimes localised in particular cities also. Such localisation was the result of their natural growth. As constituents of urban life, particular crafts, arts and industries had been, by planning, localised in particular parts of the planned city. The *Arthashastra* ordained that artisans manufacturing worsted threads, cotton threads, bamboo mats, skins armours, weapons and gloves and the Sudras were to settle to the west inside the city; smiths and workers in precious stones and rahmanas in the north. The guilds and corporations of workmen had to reside in the several corners.² According to Agnipurana, goldsmiths were to be in the south-west corner of the town. Persons dealing in cars and chariots, weapons and cutlery were to settle in the west. According to the *Mayamata*,³ the weavers should settle to the south, wheelwrights and carters to the north. Crafts of basins and pottery, brass and bronze and tailoring were to occupy the outermost sites of the city. Artisans and manual workers were placed in the outer-most zone of the city; potters, barbers and other craftsmen to the east or north; architects to the south-east or north-west.⁴

SOCIAL CONTROL

From the extant legal literature of India it appears that state control of crafts and industries preceded the state management or state monopoly thereof. *The Code of Hammurabi* shows that state control was a very ancient institution in human civilisation. The recorded traditions available in Indian sacred, didactic, or secular texts point to the same direction.⁵ During the Mahomedan rule too the concept of social control of prices and wages had had its actual application. The newspapers of the period of the East-India Company's Administration also reveal that the wages of domestic servants, tailors, etc., at the settlement at Fort William in Bengal was sought to be controlled. A demand for higher rates was punishable in the police courts. The prices of utensils, firewood and food however could not be retained static. When the Grand Jury at Fort William by their presentments repeatedly drew the attention of

the Sessions Court there to the menace of a rising price level, the Administration explained that the increasing population at the Company's settlement led to an increasing demand for the commodities consumed with the result that prices was also increasing in response to the law of demand and supply.⁶ Under the Crown the policy of *laissez-faire* was pursued in the matter of wages and prices of craftsmen and their crafts. The free trade outlook of the Government at 'Home' permeated the Administration here. Where laws were passed they were passed in order to protect or foster crafts and industries and not to control them in the interests of consumers. The spirit of patronage has been extended to all grades of craftsmen and their crafts in the welfare state of India of to-day.

Free bargain must have preceded, in the history of any civilisation, conventional rates of exchange or barter. "And because they first bargain and afterwards come to terms (the priest and the King over the soma juice in terms of cow-payment), therefore, about any and everything that is for sale here, people first bargain and afterwards come to terms."⁷—was the tradition before the need of social control could be felt in the community. The Smritis, the *Arthashastra*, the *Mahabharata*, the *Jataka* literature and the epigraphic inscriptions record the introduction of social control in the matter of fixation of the prices of various commodities and services in the various places and for the various times. It was observed in *Sukraniti* that weights and measures varied from country to country. Even for different commodities the *ratios* between different measures were not the same. The traditions being respected, change *qua* change was considered an evil. It was because of the inherent aversion for unnecessary changes that the several Smritis and the *Arthashastra* could record almost the same type of weights and measures.

Deceit by means of false weights and measures, false and counterfeit coins, passing off of the base metals for genuine and high class things—all these channels of dishonest transactions were checked. *Arthashastra* authorised the State to derive some profit

1. Vrihaspati, XVII. 11.

2. *Ibid.*, Book, II Ch. IV.

3. Cited, Atindranath Bose: *Social and Rural Economy of Northern India, Cir. 600 B. C.—200 A. D.*, Vol. II, (1945), 234-35.

4. Every layout plan has some advantages and some disadvantages. Hence the difference of opinion among the different sages. Layout plans also depended on *sizes*.

5. See Kautilya, *Arthashastra*, Book 4, Ch. 1.

6. The Proceedings of His Majesty's Justices in and out of Sessions for the years 1750-1755 (Manuscript).

7. Sat. Br., III, iii. 3. 1-4.

by using different weights and measures from those current in the market. That is to say, the State was advised to use higher weights and measures for royal purchases and levies and lower ones for sales of royal merchandise.¹ During the Maurya period, both internal and external trade received the attention of the State. The municipalities also controlled trade and commerce. Some of the great officers of the Chandragupta's State had had the charge of the market. The municipality of Pataliputra had six bodies or councils each of five members. The members of a given body or council looked after everything relating to the industrial arts. Another council superintended trade and commerce. Its members had charge of weights and measures. They would see that products in their season were sold by public notice. No one was allowed to deal in more than one kind of commodity unless he paid a double tax. Another council supervised manufactured articles, which they sold by public notice. The new articles were sold separately from what was old, and there was a fine for mixing the two together. The sixth body collected the tenths of the prices of the articles sold. All the bodies in their collective capacity had had charge also of matters affecting the general interest such as the regulation of prices, and the care of markets, harbours and temples.

The *sannidhatri* of the Arthasastra had to observe the fluctuations in demand and in the prices of internal products and foreign imports in order to revise the scale of duties periodically. Import of foreign goods was to be encouraged. Foreign merchants coming by water or by land were to be favoured with remission of taxes so that they might keep some margin. They could not be sued for debts. These were concessions under special circumstances. Apart from these concessions under special circumstances, the visiting merchant had to pay *sulka* (toll or customs), road cess, conveyance cess, levies at the military stations, ferry charges, subsistence to the merchants and his followers, and a share of profit. Some goods were not allowed to be exported. All these heavy duties were not mere burdens on the merchants. The *antapals* (boundary officers) had to compensate for the goods stolen, robbed or lost within their respective jurisdictions in case the lost goods could not be recovered from the stealer. It will be recalled with interest that the properties of the subjects during the Hindu period were state-insured in the sense that

any loss of them by theft or robbery had to be made good by the State.² The same traditions were continued during the Mahomedan rule. The zamindars as lessees had to give the guarantee to the Nizam as the lessor that any theft or robbery or loss of life on the part of the subjects due to non-vigilance on the part of the zamindar would be compensated for by them. The leases granted by the Mahomedan rulers at Delhi and Moorshedabad in favour of the zamindars all contained clauses of protection of the subjects. According to the *sunnuds*, *muchalkas* and *zamins* the zamindars were bound to compensate for the stolen goods in case of their failures to recover them from the stealer. Even the East-India Company as the zamindar in respect of Chittagong, Burdwan, Nuddeah and other districts of Bengal, Bihar and Orissa undertook to compensate for the loss of property on the part of the subjects living or sojourning in their zamindari. For the first few years the East India Company carried out the obligation but soon discontinued its fulfilment. Social insurance by the State being foreign to the genius of the then British people, one of the finest institutions of the Hindus had thus been allowed to be obliterated from Hindusthan without any objection from 'Home'. The credit no doubt went to the Mahomedan rulers for maintaining the institution of state-insurance throughout the Mahomedan regime.

Prices were tried to be kept in equilibrium. What is now known as black-marketing was not tolerated in the Hindu and Mahomedan periods. Before the advent of the East-India Company's administration, the supply of goods had no invariably fixed connections with their price, or the price with their supply. Fixed rates of wages and prices had been the Indian traditions. Only in the long run prices or wages could fluctuate and not day-to-day according to the caprices of the producers or dealers. Generally, a few customary rates were there. Different prices for different localities or times were however not unnatural. Supply and demand also must have tended to influence the price or wages. In spite of a craving for stability of prices on the part of the community, things would not stay put. The value of money as well as the ratio between the different coins would vary from time to time. Kautilya observed that traders united in causing rise and fall in the value of articles and lived by making profits cent. per cent.³ To meet the evil, merchants

1. A replenished treasury was the goal of a prosperous State. The State as a purchaser or seller had been allowed this privileged position by Kautilya as an open market policy.
2. See Bhavabhuti, *Uttararamacharitam*, for Ramchandra as the guarantor of every loss accruing to his subjects. See also the *Smritis*, and *Nivandhas*.
3. Arthasastra, VIII. 4.

who conspired either to prevent the sale of merchandise or to sell or purchase commodities at higher prices would be fined.¹ Yajnavalkya, too, would impose the highest fine on traders combining to maintain price to the prejudice of labour and artisans although knowing the rise or fall of prices and on traders tending to obstruct the sale of a commodity by demanding a wrong price, or for selling it.² Visnu sanctioned the same punishment for a company of merchants who prevented the sale of commodity by selling it under its price and also for those of a company who sold an article for more than its worth.³ The sale or purchase was to be conducted at the price which was fixed by the King, the surplus made therefrom being understood as the legal profit of traders. The court-valuer also sometimes settled the prices. The Arthasastra laid down that various factors would have to be taken account of while fixing the prices of commodities. The King could revise the price. Thus control of prices did not necessarily mean the operation of an unchangeable price. In Manu, too, the King was to settle prices publicly with the merchants every fifth or fourteenth day, fixing the rates for the purchase and sale of all marketable goods after consideration of the expenses of their production. "Let (the King) fix (the rates for) the purchase and sale of all marketable goods, having (duly) considered whence they come, whither they go, how long they have been kept, the (probable) profit and the probable outlay. Once in 5 nights, or at the close of each fortnight, let the king publicly settle the prices for the merchant. All weights and measures must be duly marked and once in six months let him re-examine them."⁴ The Superintendent of Commerce in Arthasastra would fix a profit of five per cent. over and above the fixed price of local commodities, and ten per cent. on foreign produce. Merchants who enhanced the price or realised profit even to the extent of half a *pana* more than the schedule rate in the sale or purchase of commodities would be punished, according to the *Arthasastra*,⁵ with a fine of from five *panas* in case of realising 100 *panas* up to 200 *panas*. This rigorous enforcement of price control was meant for the

subjects *inter se*. The State of the Arthasastra, as owner and controller of vast state manufactures, was advised in case of necessity to corner the goods and raise their prices by artificial means in order to increase the profit. The Administration was advised by the *Arthasastra* to get centralised the merchandise which was widely distributed and the price enhanced. When the enhanced rate became popular, another rate could be declared.⁶ The State was also advised to take freely the advantage of the rise in prices of its own merchandise due to bidding among buyers.⁷ Coming down to a period as late as that of Akbar we find that prices were sometimes fixed by the Emperor for the crafts on the *Khusroz* or day of fancy bazar held on the first day of the month. Abu'L-Fazl Allami says that the merchants of the time were eager to attend the bazar inasmuch as the profits made by tradesmen on such occasion was very great.

Apart from the rates on the *Khusroz* the traditions of Islam would not tolerate exploitation of man by man. It is profitable to remember the *Hedaya*⁸ in this context. It was abominable to monopolise the necessaries of life, and food for cattle in a city where such monopoly was likely to prove detrimental. Likewise it was abominable to forestall or laying up of goods with a view to enhancing the price. Such an act was abominable where the effects of it extended to the people.

Aboo Yoosal said that the hoarding of anything, the detention of which from circulation produced bad consequences although it was of such articles as gold, silver, or cloth, came equally within the definition of monopoly. Regard was paid to the actual detriment in determining the monopoly, as that was the cause of its being abominated. Regard was paid to the particular detriment by Haneefa. A person might monopolise the product of his own goods or what he brought from a distant place. Subject to this, it was not considered as the duty of the sovereigns to establish fixed prices to be paid by the community. The price was the right of the merchant, it was thought. The sovereigns were not entitled to invade any such

1. Arthasastra, IV. 2.

2. II. 249.

3. V. 125.

4. Manu, VIII. 401-403.

5. Book IV, ch. II.

6. Book II, ch. 16.

7. Book II, ch. 6.

8. *Hedaya* was in great use in the administration of justice in India, See Patra, *Administration of Justice under the East-India Company in Bengal, Bihar and Orissa, Bombay*, 1961, New York. and London, 1962, 21, 22, 23, 24, 25, 27, 28, 29, 170, 177, 195.

right except where the welfare of the community was concerned. A monopoliser, upon information, was required to sell his superfluous provisions. A combination to raise the price of provisions would be remedied by the magistrate fixing a rate. Arms could not be sold to seditious persons.¹

STATE OWNERSHIP AND MANAGEMENT

The Revenue Collector of the Arthashastra would not only register the total number of the inhabitants of all the four castes in each village, but would also keep an account of the exact number of cultivators, cowherds, merchants, artisans, labourers, and slaves, biped and quadruped animals, fixing at the same time the amount of gold, free labour, toll, and fines that could be collected from each house. The houses would be numbered as tax-paying or non-tax-paying.²

No ascetic other than *vanaprastha* (forest-hermit), no company other than one of local birth (*sajatadanyassangha*) and no guilds of any kind other than local co-operative guilds (*samuthayikadanyassamayanubandha*) would be allowed entrance into the villages of the kingdom. Nor would there be in villages buildings (*salah*) intended for sports and plays. Nor, in view of procuring money, free labour, commodities, grains, liquids in plenty, would actors, dancers, singers, drummers, buffoons (*vagjivana*) and bards (*kusilava*) be allowed to make any disturbance to the work of the villagers; for, the helpless villagers were always dependent and bent upon their fields.³

It was the duty of a city superintendent of the Arthashastra to take notice of the travellers and strangers coming to the city. Artisans and other handicraftsmen might, on their own responsibility, allow others of their own profession to reside at the place of business or in their own houses. Civil officers were appointed by the Maurya State to superintend the occupations of artisans like wood-cutters, carpenters, blacksmiths and miners at the place of business or in their own houses. For the sake of safety, persons working by fire (blacksmiths, for example), had to live together in a single locality of the city. As a precaution against fire, a houseowner was required to have ready with him five waterpots, a *kumbha* (water vessel), a *drona* (water tub made of wood), a ladder, an axe, a winnowing basket, a hook, pincers, and a

leather bag. In default, the houseowner would be fined one-fourth of a pana.⁴

For the defence of the State as well as for the prosperity of the economic life of the community artisans were considered indispensable for a civilised life. Blacksmiths because of their manifold utility were subsidised by the Maurya State and also exempted from taxation.

Chapter XVIII of Book II of the Arthashastra says that the superintendent of the armoury shall employ experienced workmen of tried ability to manufacture, in a given time and for fixed wages, wheels, weapons, mail armour, and other accessory instruments for use in battles, in the construction or defence of forts, or in destroying the cities or strongholds of the enemies. The various weapons, instruments and paraphernalia for war are mentioned in detail in chapter XVIII of Book II of the Arthashastra. These artisans would also prepare ornaments for elephants, chariots and horses as well as goats and hooks to lead them in battlefields and various other accessory things. New inventions of expert workmen were also to be encouraged. Similarly, State management of horses, elephants and chariots was indispensable for the King.⁵ The state goldsmith of a Maurya King employed artisans to manufacture gold and silver coins from the bullion of citizens and country people. The artisans employed in the office would do their work as ordered and in time. When under the excuse that time and nature of the work had not been prescribed, they spoiled the work, they would not only forfeit their wages, but also pay a fine of twice the amount of their wages. When they postponed work, they would forfeit one-fourth of the amount of their wages. The goldsmith of the mint had to return to the owners coins and ornaments of the same weight and of the same quality as that of the bullion which they had received. When the quality of a coin less than the standard of a *masha* was lowered, the artisans concerned would be punished with the first amercement. When its weight was less than the standard weight, they would be punished with the middlemost amercement. Deception in balance or weights would be punished with the highest amercement. Deception in the exchange of manufactured coins would also be punished with the highest amercement.

1. *Hedaya Farsee*, Book XLIV.
2. *Ibid*; Book II, Chap. XXXV.
3. *Ibid*; Book II, Chap. I.
4. *Ibid*; Book II, Ch. XXXVI.
5. *Manu*, X. 47; *Visnu*; XIV. 13.

Whoever caused gold or silver articles to be manufactured in any place other than the mint or without being noticed by the state goldsmith would be fined with 12 *panas*, while the artisan who did that work would, if found out, be punished with twice the above fine. If the culprit was not found out, measures such as were described in Book IV would be taken to detect him. When thus detected he would be fined 200 *panas* or would have his fingers cut off.

With exception of those coins which had been worn out or which had undergone diminution, the state goldsmith would receive the same coins back into the mint even after the lapse of a number of years.¹

Weighing balance and counterweights would have to be purchased during Maurya period, from the superintendent in charge of them. Otherwise, a fine of 12 *panas* would be imposed. The various kinds of artisan work (*karukarma*) in gold and silver are mentioned. Fines were imposed for deception. State goldsmiths can be presumed to have worked for kings throughout the past. During the Marahattas the *potdar*, goldsmith by caste, used to check the genuineness of coins.

Narada advised Yudhisthira to subsidise merchants and craftsmen as a matter of state policy.² The king was advised to give artisans under his employ raw materials and wages with strict regularity.³ The king maintained skilled artisans of all varieties for construction of forts, ships, armaments and the like and for the working of mines, fisheries and other royal industries. The *Mahabharata*, the *Arthasastra*

and the *Jataka* literature support the fact of the king maintaining artisans. This was in fact a necessity. The weapons as shown in the plates in the *Ain-i-Akbari* are not less than 62 in number.⁴ Purdahs, tents, boats, and thrones were among the various crafts. Akbar took special interest in the manufacture of shawls, stuffs and other things. His Majesty believed that it was from the labours and travels of artificers and merchants that God's gifts became universal and the breeze of contentment nourished the rose-tree of life.⁵

Observations in a Mahomedan text of law had had the force of law for the orthodox followers of Islam. A reference to the *Hedaya* on the subject of a few crafts will not therefore be considered, it is hoped, irrelevant. According to the *Hedaya*, it was not allowable either to men or women to use a vessel of gold or silver in eating, drinking or in keeping perfumes, because the prophet had said, with respect of any person who drank out of a vessel of silver or gold, that "the fire of hell shall enter into his belly."⁶ Using oil from such vessels was also prohibited. So also the use of bodkins for drawing antimony along the eyelids or of boxes for holding antimony, or any other thing, made of those metals.⁷ There was difference of opinion as to the use of vessels or saddle or seat upon a chair or *sopha* ornamented with gold or silver. Opinions differed as to the use of ornaments of gold and silver. So also as to the garments trimmed with silk or a ring with a piece of gold set in it; so also of swords, mosques, frames of glasses and books, when ornamented either with gold or silver; so also of stirrups, bridles, or cruppers of that description. Women might dress in silk, but men

1. Arthasastra, Book II, Ch. XIV.

2. Mahabharata, II. 5. 71.

3. *Ibid*; II. 5. 118.

4. In Hiuen TSiang's time India had spears, shields, bows, arrows, swords, sabres, battle-axes, lances, halberds, long javelins, and various kinds of slings. All these the Indians had used for ages. See Samuel Beal, *Buddhist Records of the Western World* (Translated from the Chinese of Hiuen TSiang (A. D. 629), Trubner's Oriental Series, Vol. I, page 83.

5. At Hiuen TSiang's time, Indians used vessels made of dried clay, wooden and stone vessels, also vessels of gold, silver, copper or iron (as utensils), uncut clothes of cotton (coarse and fine), hemp (*kshauma*), wild silkworms (*kauseya*), fine goat-hair (*kambala*), fine hair of wild animals (*karala*). See Beal, *op. cit.*, Vol. I, 75, 89. As to Hindu and Buddhist Art in sculpture, painting, architecture, metal work, enamels jewellery, woodwork, ivory, stone, earthenware, gesso, lac, textiles, embroidery, costume, etc., and Mughal Art in architecture, painting, calligraphy, and minor mughal Arts see Ananda K. Coomaraswamy, *Arts & Crafts of India & Ceylon*, London & Edinburgh, 1913.

6. Charles Hamilton : *Hedaya*, London, 1791, IV, 86. For the use of ornamented mats, thrones, adorned with precious gems, extremely fine drapery, footstools adorned with gems, artfully painted and enriched seats, etc., caps, flower-wreaths, jewelled necklets, gemdecked caps, necklaces, bracelets etc., by Indian people and the nobles and the Kings, see Beal, *op. cit.* Vol. I, 75, 96. It will be noted that George Watt's *Dictionary of Economic Products of India*, Calcutta (1889-93) 10 vols., was mainly based on animals, plants, and minerals and not crafts; but the reader of this Essay will be advised to refer to the *List of Works Consulted* (by George Watt) in the preparation of the said Dictionary, which includes many works on Art, Manufacture and Crafts in India.

7. Hamilton : *Hedaya*, Vol. IV, 87.

could not.¹ A small quantity of silk such as three or four fingers breadth used as a tinge or border to a garment or applied to any such purpose was allowable.² Pillows of silk were allowed; silken dresses for warriors were allowed, though opinions differed. Men were not to use ornaments of gold or silver except on signet rings, girdles and swords. The setting of a ring might be of gold. The keeping of handkerchiefs was not encouraged though opinions differed. Children were allowed silk dress.³

Mines and salt centres were State monopolies during the various periods of Indian history. This is testified by literature⁴ as well as epigraphic records. Commerce in commodities manufactured from mineral products would be, in Maurya State, centralised. The king prescribed punishments for manufacturers, sellers and purchasers of the like commodities outside the prescribed locality. The superintendent of mint (*laksanadhyaksa*) under the Arthasastra carried on the manufacture of silver and copper coins.⁵

Kautilya's State ran large industries like weaving mills under its own capital and management.

Foreign ships touching at a port had to pay port dues. Duties were however remitted for cargo spoilt by water in a sea-beaten boat.⁶ According to both the Arthasastra and Megasthenes, the Maurya State would let out its ships to merchants on hire. Both Manu and the Arthasastra held the owners of the ship collectively responsible for the damage caused by their fault to the passengers' goods.⁷

The *Karmantika* (superintendent of manufactories) was an important officer in Pali literature and used to draw 12,000 panas per year. The carpenter

(*yardhaki*) used to get 2,000 panas per year; skilled artisans (*karusilpinah*) 120 panas per year. The high salaries were meant for keeping the respective incumbents as loyal and powerful supporters of the king's cause.⁸

THE KING'S DUES

During the Maurya period, with a few exceptions, external (*bahyam* i.e. arriving from countryside), internal (*abhyañtaram*, i.e. manufactured inside the fort or city), and foreign (*atithyam* i.e. imported from foreign countries) merchandise was all liable to payment of toll alike when exported or imported⁹. As the *bhaga* was the customary revenue on land, the *sulka* was the toll on merchants levied for the protection they received from the state.¹⁰ In the Rig Veda *sulka* is found to have been used in the sense of price.¹¹ So also in the Dharma Sutras.¹² In the *Srimadbhagavata*, tenth canto, *sulka* has been used in the sense of wages or price. Macdonell and Keith are of the opinion that *sulka* meant tax in the Atharva Veda.¹³ According to the Arthasastra, commodities had to be weighed, measured, or numbered, and stamped before they were let off for the sale. Import of weapons (*sastra*), armours (*varuna*), *kavacha*, and *ratha* was forbidden under the Arthasastra. Smuggling was prohibited in the Arthasastra, Manu,¹⁴ Visnu,¹⁵ and Yajñavalkya.¹⁶ The tax on internal industries, according to Santiparva, was to be fixed after taking into account the outturn, receipts and expenditure, and the state of the arts in question. Sukraniti fixed a share of the profits to be made out of the sale of different metals.

Import duty is mentioned also in the Agnipurana. Haradatta on Gautama and Visnu also mentions it. According to Visnu, the import duty was generally

1. *Ibid.*, 92.
2. *Ibid.*, 92.
3. *Ibid.*, 93.
4. Santiparva, 69. 29; Arthasastra, Book II, Ch. XII.
5. *Ibid.*, Book II, Ch. XII.
6. Arthasastra, II, XXVIII.
7. Manu, VII, 408; Arthasastra, II, XXVIII.
8. See Atindranath Bose : *Social and Rural Economy of Northern India Cir. 600 B. C.—200 A. D.* Vol. II (1945), 377-78.
9. Arthasastra, Book II, Ch. XXII.
10. Mahabharata, XII, 71. 10 (Santiparvan).
11. Rigveda, VII, 82, 6; viii., 195.
12. See Macdonell and Keith, *Vedic Index of Names and Subjects*, Vol. II, 1912, 387.
13. Vedic Index, Vol. II, 387; Atharva Veda, III, 29. 1. See Griffith, *Hymns of the Atharva-Veda*, Vol. 1, 124.
14. Manu, VII, 400.
15. Visnu, III, 31; 399; V, 130.
16. Yaj; II, 261.

fixed at 10 per cent.¹ and the export duty at 5 per cent. of the price of the articles.²

Within the *sulka*, the Arthasastra included also gate dues which were one-fifth of the toll. The gate dues might also be excused. The epigraphic records also show the actual fixation of tolls. Road cess was also payable.³

The scheduled rates of import duty were as follows:—

It was one-fifth of the value of common goods; one sixth in case of flower, fruit, vegetables, roots, bulbs, seed, dried fish and dried meat, and the like stuff.

On conch-shells, diamonds, jewels, pearls, corals and necklaces the rate of import duty was to be fixed by experts acquainted with time, cost and finish.

Fibrous garments, cotton cloths, silk, mail armour, avarana, ivory, skins, raw materials for cotton cloths and fibrous garments, carpets, curtains, and wool of goats and sheep were chargeable one-tenth to one-fifth of the value.

Cloths, cotton, wood, bamboo, fibres, raw hides, and clay pots were chargeable one-twentieth to one-twentyfifth of value.⁴

The Agnipurana and some of the Smritis agree with one-sixth taxation in case of commodities covered by the Arthasastra under that scale.⁵ The Agnipurana and the Smritis also include skins, wicker work, stone-work in the one-sixth taxation group. According to Manu and Gautama, the King was to take one-twentieth of the profits to be made out of gold.⁶

The Arthasastra authorised the King to levy

duties at a higher rate in case of an extreme necessity of the State. This higher duty was known as '*pranaya*' or benevolence. Book V, chap. II, of the Arthasastra enables the King to levy *pranaya* to replenish a depleted treasury on the sale of, among other things, cotton, wool, silk and bamboo at the rate of one-sixth of the value; one-half of ivory and skin. A licence had to be obtained for the sale of these articles. Internal dealers in gold, silver, diamond, precious stones, corals; cotton threads, clothes, copper, brass, bronze, metals, carts, glass, stones, earthen pots and the like would be taxed at various fixed rates. So also skilled artisans as well as inferior artisans. The Arthasastra lays down that the toll on inferior commodities should be fixed and exemptions considered by experts.⁷ Manu charges small dealers with some trifle to be paid as the annual tax.⁸

Moderation in taxation was the key-stone of a King's popularity.⁹ The sacred texts also enjoined the king to be moderate in his imposts. "After due consideration", says Manu, "the King shall always fix in his realm the duties and taxes in such manner that both he himself and the man who does the work receive their due reward."¹⁰ "Let him not cut up his own root (by levying taxes) nor the root of other men by excessive greed; for by cutting up his own root (or theirs) he makes himself or them wretched."¹¹ "Having well considered (the rates of) purchase and (of) sale, (the length of the road, (the expense for) food and condiments, the charges of securing the goods, let the King make traders pay duty."¹² *Sukraniti* enjoins that a duty is levied only when the buyer or seller is a gainer.¹³ "Let him also lay just duties on other marketable goods according to their intrinsic value without oppressing the traders."¹⁴ Narada admonished Yudhisthira that it should be his anxious care to see that only such dues as prescribed in the canon (*yathoktam*) and no arbitrary imposts were

1. Visnu, III. 29; Baudh; 1, 10, 18, 14.
2. Visnu, III. 30.
3. Arthasastra, VIII. 4; Sukraniti IV. ii, 213, 258.
4. Arthasastra, Book II.
5. Gaut., X. 27; Manu, VII. 130-132; Visnu, III. 24
6. Manu, VIII. 398; Gaut., X. 26.
7. *Ibid.*, Book II, Ch. XX.
8. Manu, VII. 137.
9. See also K. P. Jayaswal : *Hindu Polity*, 1924, Part II, Taxation (chap, xxxiii) see Patra and Parekh, *Op. Cit.*, Ch. III. (Exemption from Taxation).
10. Manu, VII, 128,
11. *Ibid.*, VII. 139.
12. Manu, VII. 127; Mahabharata, XII. 87, 13 (Santiparvan).
13. *Ibid.*, IV, ii, 218.
14. Baud; 1. 10, 18, 15.

realised from the merchants who came to his territories from distant land impelled by the desire of gain.¹ The sage advised the King that a King was not only to treat merchants with consideration in his capital and kingdom but also see that buyers or his officers in the zeal to encourage import did not tempt merchants with hopes or false pretexts to buy their goods.² The same spirit was enjoined in the Jataka literature.³

On festive occasions there could be remission of duties. On the occasion of Mahavira's birth prince Siddhartha released customs, taxes, confiscation and fines.⁴ Rare products useful for the interests of the State might be freed from duties to encourage their import.

The 'srenis'⁵ had also militia at their command. Heads of guilds (*ganamkhyah*) were important persons of the State.⁶ They could not be taxed arbitrarily. Their disaffection meant a grave calamity for the King.⁷

CRAFTSMEN AND CORPORATIONS

Caste being a socially self-contained cohesive body and craft being mostly a concomitant of caste, corporations grew up in India from very ancient days.⁸ Many of the crafts had their respective craftsmen organised into corporate bodies.⁹ Such bodies were formed comprising particular classes of craftsmen working in particular areas. After formation, the juridic personality of the corporation continued as it does to-day even where a corporation might have shifted elsewhere and even when some of the original members might have died or even

left the organisation in search of higher transfer earnings in other crafts or occupations.

As Vrihaspati points out, anarchy and insecurity in business were the earliest impulse to combination.¹⁰ Conditions of market as well as the rigours of the civil law were, among others, the causes of combination. Co-operation was found necessary for acquiring wealth.¹¹ Wage-earners as well as merchants, craftsmen and military races could combine for the betterment of their prospects.

The corporations had been known by various names. Vrihaspati, Katyayana and Smritichandrika observe that the various *samuhās* or *vargas* or groups came into being as a result of the castewise vocations. The groups were guilds known as *sreni*, *puga*, *gana*, *vrāta*, *sangha*, *samuha*, *varga*, *samiti*, *gama*, *nigama* or *kula*. These respective appellations had not always had any fixed connotation. *Kaiyata* and *Tattvabodhini* explained that by *sreni* Panini¹² meant an assembly of persons following a common craft or trading in a common commodity (*eken silpen panyena va ye jivanti tesam samuha sreni*). Commentators on Manu¹³ and Narada¹⁴ understood 'sreni' in the same sense. In the Arthasastra, *sreni* meant either a guild of workmen¹⁵ or a military class¹⁶ of communities like those of Kambojas, Saurastras and Ksatriyas who subsisted by agriculture, trade and military service. The *Mitaksara* on *Yajnavalkya* meant by 'sreni' a guild of sellers of betel leaves and the like. The *Mitaksara*, on *Yajnavalkya* II, 30, explained that 'puga' was an association of people of different castes and different occupations that stayed in a

1. Mahabharata, II. 5. 114. (lokhapala sabhakhyanaparvnn of sabhaparvan).
2. Mahabharata, II. 5. 115.
3. At the time of Hiuen Tsiang, India produced gold, silver, teoushih (native copper), white jade, fire pearls (amber ?) as the natural products of the country. Besides these, there were abundance of rare gems and various kinds of precious stones of different names, which were collected from the islands of the sea. These were exchanged for the goods; barter was in use in commerce; there was no use of gold or silver coins, pearl shells or little pearls as the media of exchange. See Beal, *op. cit.*, 89-163.
4. Jaina Kalpataru, 102.
5. See below.
6. Mahabharata, III. 248. 16 (Vanaparvan).
7. *Ibid.*, 107. 10-32.
8. See K. P. Jayaswal: *Hindu Polity*, 1924 Part I pp. 20-21 See also Ramesh Chandra Majumdar, *Corporate Life in Ancient India*, 1922, Chap. I, Corporate Activities in Economic Life.
9. See Richard Fick : *The Social Organisation in North-East India in Buddha's Time*, Chap. X.
10. *Ibid.*, XVII. 5.
11. Br. Up., 1, 4. 12
12. Panini, II. i. 59.
13. Manu, VIII. 41.
14. Narada, I. 7
15. Book II, Chap. IV.
16. Book VIII, Chap. 16. see Patra and Parekh, *Op. Cit.*, Ch. II (Corporations).

particular locality while a *sreni* was a group of people of different castes that subsisted by the occupation of one caste. The Vriamitrodaya agreed with this view of the Mītsara. *Hedabukas* (horse-dealers) *tambulikas* (betel-sellers), *kuvindas* (weavers) and *charmakaras* (shoemakers) were examples of *srenis*. *Puga* was an association of traders. It was a craft or trade guild according to the commentators of Narada¹ and Yajnavalkya.²

By the days of Panini the different trade or occupation groups were well established.³ Katyayana, Vīvadaratnakara, Smritichandrika, Virmitrodaya, and Parasaramadhaviya, among others, tried to explain the connotations of the respective terms in the following way. *Naigama* was an association of citizens of the same city. *Vrata* was a company of soldiers. *Gana* was a group of Brahmanas. Sometimes Vaisyas were also referred to as '*ganasya*' in distinction from the Brahmanas and Ksatriyas. *Samgha* was a body of Bauddhas or Jainas. '*Gulma*' was a band of *chandalas* and *svapakas*.

Guilds grew up centering around almost every craft.⁴ Different localities produced different guilds even for the same craft. There might be more than one guild of the craft even at one place. Vrihaspati enumerates guilds of goldsmiths, silversmiths, workers in other base metals, carpenters, stonedressers (*samskarta*) and leather-workers.⁵ Inscriptions refer to guilds of weavers, potters (*kulalika*) bamboo-workers, and braziers (*kasakara*). In the Jataka literature we get mention of 18 industries organised into guilds. Carpenters (*Vaddhaki*), smiths (*Kammara*), and leather-dressers (*chammara*) had their guilds. There were also guilds of watermen (*udayantrins*). So also (*tantuvayas*) (weavers), *tamvopajivins*, *tunnavayas* (tailors), and *tailikas* (oilmen).

By the time of Chandragupta, municipalities had assumed the juridic personality of corporations.

According to Megasthenes's account about Pataliputra, those who had charge of the city were divided into six bodies of five each. The first body of five members looked after everything relating to industrial arts; the second to the care of foreigners; the third to the registration of births and deaths; the fourth to the control of trade; the fifth to sale and auction; and the sixth to the collection of the tithes. Collectively, all the six bodies attended to matters of general interest such as the keeping of public buildings in proper repair, the regulation of prices, and the care of markets, harbours, and temples.

When not under the direct control of a powerful King, the autonomous or semi-independent municipalities each developed a police and military force of their own to defend the cities against attacks either from within or without. Life of the city had to be defended against robbers and rogues.⁶ Sometimes these city councils became so powerful that they could harass kings.⁷

The civic affairs of the *nigama* (corporation or municipal council) were dominated by powerful trade and craft guilds. Sometimes craft guilds and trade guilds controlled the administration of the cities. Sometimes the guilds existed independent of the city corporations. Inscriptions have been discovered depicting the names of the members of town corporations.

The guilds had their respective distinguishing colours.⁸ The flags sometimes represented the implements and emblems of the respective crafts.⁹ The corporations had their own seals. The guilds and their heads had a considerable influence on social affairs. In Jataka literature the '*mahasethi*' represented the industrial guilds to the court and assisted the king in the formulation of his industrial, commercial and fiscal policies. The leaders of the *gamas* or *senis*

1. Narada, X. 2.

2. Yaj., II. 31.

3. Kausitaki Br., 16. 7; Apastamba Dharmasutra, I. 1. 3. 26; Panini, V. 2-21; V. 2. 52; Vas. Dharmasutra, XVI. 15; Visnu Dharmasutra, V. 167; Manu, VIII. 219.

4. See Ramesh Chandra Majumdar: *Corporate Life in Ancient India*, 1922, Introduction, pp. 1-2. On the basis of inscriptions, Smritis, Jatakas, and T. W. Rhys Davids's *Buddhist India*, Dr. Majumdar gives a list of no less than 27 types of guilds, formed craftwise. Barbers and shampooers, butchers, garland-makers and flower-sellers, including robbers and free-booters, are among those mentioned as constituents of the said guilds. See *ibid.*, pp. 18-19; see also T. W. Rhys Davids: *Buddhist India*, 1st ed., 5th impression, 1917, pp. 90-96.

5. *Ibid.* XIV. 27.

6. Vrihaspati, XVII. 5, Narada, III. 4, X, 5.

7. Vrihaspati, XIV. 31; Arthasastra, Book V. Chap. 3.

8. Mahabharata, III. 256. 6 (Vanaparvan).

9. Harivamsa, 86, 5.

were known as *jetthakas*. The guilds of carpenters, smiths and weavers had their respective *jetthakas*. The guilds or the heads thereof (*srenimukhyah*) were invited to all the state functions and ceremonies.¹

Coins were known in India even in Vedic times. Barter as well as sale for money continued side by side throughout the recorded history of India. Barter like sale was prevalent also in foreign trade. Kautilya's State goldsmith employed artisans to manufacture gold and silver coins on account of the State as well as from the bullions of the citizens and the country people. The State superintended the weights and purity of the coins.² Like the State, individual traders, guilds³ municipal bodies and other local authorities sometimes struck coins.

The different corporations had to be controlled by the King where their control had been found necessary or necessary and possible. Good lineage, knowledge of the Vedas, self-control, administrative acumen, purity of body and mind and freedom from avarice were prescribed as the qualifications for the executive officers of the assembly who were called *samuhahitavadinah* and *karyachintaka*.⁴ The power of appointing and punishing these executive officers was exercised by the municipal body.⁵ The guilds had been governed by the general law of the land. In addition, they sometimes had their special rules of conduct. The rules of the guilds were meant to regulate distribution of profits and liabilities, investments and dividends among the members. These rules, like the general law of the land, could not be violated with impunity⁶. The property of the corporation could not be abused. The *kulas*, castes, *srenis* and *ganas* were to be punished if they transgressed their rules.⁷ The King used to prevent the breach of the conventions of the *sreni*, *naigama*, *puga*

vrata and *gana* and to conform them in their traditional occupations.⁸

Laws of the districts, castes, and families, when not opposed to sacred texts, were an authority, and ploughmen, merchants, herdsmen, money-lenders and artisans also were authorities for their respective classes.⁹ The village panchayats were considered the best judges of the merits of the case who lived in the place where the accused person resided and where the subject-matter of the dispute had arisen.¹⁰ In disputes among merchants, artisans, or the like persons subsisting by agriculture or as dyers, it was impossible for the outsiders, it was thought, to pass a sentence. The passing of the sentence was to be therefore entrusted to persons acquainted with the matter. In the Jataka literature, the head of the treasury was known as the *bhandagarika* having judicial jurisdiction over the guilds of merchants. While Gautama was an advocate of local usage and the law of caste, Manu reckoned guild laws on a par with those of the castes and localities. A king would settle, according to Manu, the laws only after a careful examination of the laws of the castes, districts, guilds (*sreni*), and families.¹¹

Vrihaspati even went further and enjoined that the king must approve of whatever the guilds did to other people in accordance with their rules whether those rules were cruel or kind.¹² The king himself respected the guild laws and also saw that members thereof followed the guild laws.¹³ Penal sanctions were there of fine and banishment at the behest of the king for the enforcement of guild laws. In the case of a dispute between a guild and its head, the king shall arbitrate and he should restrain when a whole guild boycotted a member from hatred.¹⁴ The king

1. Ramayana, VI. 129. 4; in some edition VI. 130. 3. VI. 130, 17;
2. Manu, VIII. 403; Vas., XIX. 13; See Surendra Kisor Chakraborty: *A Study of Ancient Indian Numismatics*, 1931 Chap. VI, The State in Relation to Coinage.
3. According to E. J. Rapson: *Indian Coins*, 1898, page 3, Art. 6, the earliest specimens of the guild tokens are probably as early as the beginning of the 4th cent. B. C. see *ibid* Plate I, 2; See also Georg Buhler: *Indian Studies*, No. III, 1895, page 47, for money-tokens of the guilds.
4. Vrihaspati, XVII. 9, Yaj. II. 191.
5. Vrihaspati, XVII. 17-20.
6. Visnu Dharmasutra, V. 167, Manu VIII. 219.
7. Yaj., I. 361 (Nitaksara).
8. Yaj., II. 192 Narada, *Samayasyanapakarma*, 2.
9. Gautama, XI. 20; Vas. I. 17; XIX. 7.
10. Sukraniti, IV. 24.
11. Manu, VIII. 41; Yaj. I. 360; Narada, X, 2.
12. Vrihaspati, XVII. 18.
13. Manu, VIII. 219-220, Yaj., I. 361, II. 192, Vis., III. 2, V. 168, Narada, X. 2.
14. Vrihaspati, XVII. 19-20.

received appeals against the disposal of a law-suit by the tribunal of the guild. The king would subsidise a guild when necessary. He also had the prerogative of taxing it to his pleasure.

The utility of law and order had been felt at the very dawn of human civilisation. The lawgivers saw that when the law of punishment was kept in abeyance, it gave rise to such order as was implied in the proverb of "fishes" (*matsyanyayamudbhavayati*); for in the absence of a magistrate (*dandadhara bhava*), the strong would swallow the weak; but under his protection the weak would resist the strong.¹

As has been seen before, Kautilya held that punishment should be proportional to the gravity of the crime. Both Kautilya and Vrihaspati observed that in case of conflict between sacred literature and reason, reason or 'yukti' should prevail. The sacred text embodying reason was presumed to have been lost. Moderation in punishment was the distinguishing feature of judicial and legal administration in ancient India.² The provision of indeterminate sentences in Europe is said to have been one of the results of French Revolution. In India, however, provision of indeterminate sentences has been as old as the sacred as well as the sacred *cum* secular texts of law. The Arthashastra³ as well as the different Smritis provided for three grades of amercement, namely, the first the middlemost, and the highest.

The following was the first amercement :⁴

(a) Fines ranging from 12 to 24 *panas* for the robbery of articles of small value such as skins, bamboos, etc.

(b) Fines ranging from 24 to 48 *panas* for the robbery of articles of great value such as iron, cloth, etc.

(c) Fines ranging from 48 to 96 *panas* for the robbery of articles of still greater value such as copper, brass, bronze, glass, ivory, vessels, etc.

The middlemost amercement was the indeterminate fine ranging from 200 to 500 *panas* for the robbery of gold, gold coins, fine fabrics, etc.

The highest amercement was the indeterminate fine ranging from 500 to 1,000 *panas* for keeping or causing to keep by force either men or women in prison, etc.

The *Arthashastra* enjoined that the judges should settle disputes free from all kinds of circumvention, with mind unchanged in all modes or circumstances, pleasing and affable to all. So did the *Smritis*, *Nivandhas*, *Hedaya*, and *Futawa Alumgri* (*adul-ul-lazee*).

The present is not the place to give a comparatively comprehensive picture of the laws and law-courts of ancient or medieval India.⁵ Some reference to the court atmosphere seems however relevant in the context of the laws governing craftsmen and their crafts inasmuch as the community had in those days much to do with the administration of justice. To begin with, it can be asserted that for the whole of the Indian history preceding the advent of the British rule, the social atmosphere was surcharged with a spirit of theism. The judge, the jury as well as the lawgiver aimed at the dispensation of justice which meant *dharma* manifested in a concrete fact-situation. Justice was concerned with truth and not with form alone. Substance rather than form had been the aim. Megasthenes and other Greek memoirists in the Macedonian army observed Indians to have been habitual totalitarians and conspicuous for truthfulness and honesty. According to these eyewitnesses, Indians were not litigious. Witnesses and seals were unnecessary when a man made a deposit. He acted in trust. The houses were usually unguarded. One is tempted to hazard the statement that the spirit of truthfulness and theism continued to permeate the community till very recently. The reports from the Judges of the Courts of Appeal and Circuit and the Zillah Magistrates that were submitted in the year 1802 in answer to the *Interrogatories* circulated by Lord Wellesley asking information on about forty heads pertaining to the administration of the country in its judicial, civil and revenue aspects described the difficulties of the Company's administration of justice in the Presidency of Fort William in Bengal. The judges remarked that the introduction of the British Government had caused further moral degeneration of the people governed and that education was considered as a necessary corrective. Sir Henry Strachey with all his authority of experience explained the point of view that the administration of justice was the least capable of a satisfactory execution

1. Arthashastra, Book I, Chap. IV.

2. See Patra and Parekh, *Op. Cit.*, Ch., III (Rajadharma); Ch. V (Role of Punishment; Individualisation of Punishments).

3. *Ibid.*, Book III. Chap. XVII.

4. For amercement, see also Patra and Parekh, *Op. Cit.*, Ch. V. (Classes of Punishments).

5. See K. P. Jayaswal : *Hindu Polity*, 1924, Part II, Law and Administration of Justice (chap. xxxii).

by a batch of foreign judges, whether learned in jurisprudence or not when they had no knowledge of the mind, the manners and the mores of the people under their jurisdiction. He would like to see the Indians installed in almost all the very high positions in the Government so long as they from those offices did not intend to subvert the British authority in India. He found the procedure adopted by the native commissioners satisfactory, and they could work, it was found, undisturbed by the heat or the crowd sitting under a peepul tree.¹ Mr. Forbes, too, in Bombay worked as a judge for sometime in Goozrat, about the year 1780, himself presiding, with the representatives of several communities as co-adjutors, and found the type of court working very satisfactory. He was glad to note that no witness was ever accused of perjury, and no co-adjutor of his found or suspected guilty of corruption or partiality.² The parties and witnesses habitually and religiously adhered to truth, the native judges, too, having had the power of discernment as opposed to the judges of the Anglo-Indian Courts labouring in the dark.³ Under the impact of the Western civilisation the people in India no longer considered the laws as part of their religion. Law and right morality ceased to have much connection. The dread of the punishments denounced both in this world and in a future state for the commission of acts of immorality was no longer there. In the circumstances, education on Hindu and Islam patterns was considered as the only panacea for the evils.⁴ Indianisation of the judiciary was also advised. T. L. Strange, as a judicial commissioner and puisne judge of the Sudder and Foujdaree Adalat, Madras, collected⁵ evidences on the superiority of the Indian judges.⁶ The said judge in his Letter to the Government of Fort St. George on *Judicial Reform*, Madras, 1860,

further collected⁷ a volume of extracts of opinions held by authoritative persons all to the effect that by abolishing the native judicial system in India and introducing the British, the British administration had wrought much ill among the people here. In this context it has also to be remembered that the introduction of the Mahomedan law of crimes, evidence and procedure during the Mahomedan period superseding those of the Hindus had resulted in some discrimination between Hindus and Mahomedans as suitors to the prejudice of the Hindu community which discrimination was removed at the very first opportunity by the British Administration in India. It will be also recalled that the unreasonable peculiarities of the Mahomedan law of crimes, evidence and reparation had been sought to be removed in Bengal, Bihar and Orissa as early as 1773.⁸

The corporations of the guilds had not been concerned with their own personal advancement alone. They had also taken up much philanthropic works. Epigraphic records show that guilds of craftsmen had themselves made donations for various public works. They also worked as trustees for trusts made by the citizens. Collectively, a guild might be a donor or a trustee fulfilling the object of a private trust. Endowments were made by private citizens as well as kings. The guilds worked as the executors of the endowments. The guild banks were the trustees. The terms of the endowments were sometimes announced in the town-hall and recorded in the register of the record office of the municipality or inscribed in caves and stones or copper plates. The modern concepts of trusts and trustees find their recognition in Valmiki's *Ramayana*,⁹ Kalidas's *Abhijnana Shakuntalam*¹⁰ and *Yajnavalkya-smriti*.¹¹ The expression 'nyasa' or 'nikshepa' was

1. Henry Strachey's report, dated 30-1-1802, to the Secretary to Government in the Judicial Department, Henry Strachey's Report, dt. 24-1-1803, to Registrar, Sudder Nizamut Adawlut, Fort William.
2. Oriental Memoirs, Vol. II, page 2.
3. Lt. Col. Sir William Henry Sleeman : *Veracity : Rambles and Recollections of an Indian Official*, London, 1844, Vol. II, Ch. IX
4. Secretary Dowdeswell's Report on the General State of Police in Bengal, Extract, Bengal Judicial Consultations, dt: 29-9-1809.
5. T. L. Strange's Letter to the Government of Fort St. George on *Judicial Reform*. Madras, 1860, Appendix iv, p. xxix.
6. *Ibid.*, pages 20, 21, 22, 32, and 33.
7. *Ibid.*, Appendix I, pp. i. xii.
8. As to details see Patra, *The Administration of Justice under the East India Company in Bengal, Bihar and Orissa*, Asia Publishing House, Bombay, 1961, London, 1962, New York, 1962, Section I.
9. Bharata was holding the kingdom of Ramachandra in trust for the latter and handed it over to him on his return from the exile. "This kingdom that I received in trust, I now render back to thee in its entirety", said Bharata to Rama. See *Valmikiya Ramayana*, Book VI, Yuddha Kanda, Ch. 130, V. 54. with accretions, the treasury, etc., were returned tenfold; see *loc. cit.*, vv. 55 & 56.
10. After Shakuntala had left the hermitage of Kanva to join with her husband at his capital, Kanva, her foster-father, had that sense of satisfaction which comes to one who has been able to return the deposit lying with one for long; *Ibid* Act IV. Yudhisthira, too, entrusted the care of his mother Kunti, Vidura, Dhritarashtra, and Gautama to the citizens of the capital, when the Pandavas were going on the exile.
11. Yajnavalkya, vyavaharadhyaya upanidhiprakaranam; Mitakshara: Narads 2. 14.

used for the trust or deposit made in a good faith. The trust property was also called 'rakshita' or 'upanidhi'. See also Monier-Williams, *Sanskrit-English Dictionary*, 1936, 572. It will also be noted incidentally here that like the concept of trust, the concept of agency, too, was not unknown in ancient India.¹

Public could donate money to the guilds with specific charitable purposes.² Endowments were made for the purpose of feeding and clothing Bhiksus, Brahmanas, or even for planting trees. The beneficiary might well be as indeterminate as the "destitute hungry" without any risk on the part of the author of the endowment or the *cestui que trust* of the trust being declared vague and uncertain and therefore unenforceable. Money as well as real property like a cornfield could be the trust property. An endowment in a guild bank was reputed to be permanent so long as the guild retained its entity even if it had moved to a different locality. Even where some of the individual members left the original craft, the corporation could maintain its existence and continue its functions. The guilds as banks received deposits from the king and the public. The guilds sometimes received fixed deposits. Only very respectable persons could keep the money on behalf of the guild. According to the *Arthashastra*, Book IV, chapter I, only those who could be expected to relieve misery, who could give instructions to artisans, who could be trusted with deposits, who could plan artistic work after their own design, and who could be relied upon by guilds of artisans, could receive the deposits of the guilds. The guilds could receive their deposits in time of distress. In the south, village unions also received fixed deposits. The rate of interest on fixed deposit, *i.e.*, 'where the *kahapanas*' were not to be repaid, but only their interest was to be enjoyed", was 9, 12 or even 12.5 up to 50 per cent. per annum. Interests, of course, differed from time to time, place to place and from guild to guild. The *puga* could raise money for charity, for public worship or to raise a monastery. The aldermen who were in charge of these funds had to give accounts of expen-

diture under different heads. If these people were purchased by bribe or public money misappropriated under false pretences, sacred literature meant punishment for them both here and hereafter. According to Katyayana, if any loan raised for public purposes was consumed or employed for one's own self, it would have to be restored by him.³

The finances of the guild consisted of individual earnings and contributions, fines and confiscations on delinquent members, King's subsidy⁴ and profits from execution of orders.⁵ The guilds of craftsmen sometimes used to levy tolls upon themselves and assign the revenue thus raised to benevolent causes. The incomes of a guild were distributed as (a) dividend among the members, (b) charity, and (c) fresh investment.⁶

The Nasik cave inscription records the bestowal of the cave on the *Samgha* generally and also the gift of a perpetual endowment of 3,000 *kahapanas* serving as cloth money and money for outside life for the members of the *Samgha* of any sect and any origin dwelling in the cave. "These 3,000 *Kahapanas* had been invested in guilds dwelling in Govardhana, 2,000 in a weavers' guild, interest one *pratika* (monthly) for the hundred, (and) 1,000 in another weavers' guild, interest three quarters of a *pratika* (monthly) for the hundred; and those *kahapanas* were not to be repaid; their interest only was to be enjoyed. Out of them, the two thousand 2,000-at one *pratika* per cent. were the cloth money; out of them to every one of the twenty monks who kept the 'vassa' in the said cave, a cloth money of 12 *kahapanas* was to be paid. As to the thousand which had been invested at an interest of three quarters of a *pratika* per cent., out of them the money was for kusana. All these terms had been proclaimed and registered at the town's hall, at the record office according to custom."⁷ The donor was one king Usavadata. He made donations also in favour of Brahmanas. This latter endowment also was recorded and registered at the record office according to custom.⁸

1. See, *Shrimaddvaipayanapraniṭa-Brahmasutrani Anandagirikritikasanvalita Sankarabhashyasametani*, Anandashrama Sanskritagranthavali, Book No. 21 (1900 A. D.). Vol. I., page 215, for the application of the *srauta maxim, ya karayati sa karatyeva. Facit per alium facit per se, per Anandagiri* on 1.2.21 of Brahmasutrani. Cited also, Kishori Lal Sarkar. *The Mimamsa Rules of Interpretation as applied to Hindu Law*, Tagore Law Lectures, 1905, 355.
2. See Kane : *History of Dharmasastra*, Vol. II, Part I (1941), 68-69.
3. Visnu, V. 167; Yaj., II. 187.
4. Vrihaspati, XVIII. 24.
5. Yaj., II. 190.
6. Vrihaspati, XVIII. 23.
7. See Atindranath Bose : *Social and Rural Economy of Northern India*, Cir. 600 B. C. to 200 A.D., vol. II (1945), 334-35, 348-50.
8. For investments in various guilds, See Ramesh Chandra Majumdar : *Corporate Life in Ancient India*, 1922, chap. i, 34-39, and 65; for the powers and functions of the guilds, see *ibid.*, 57-65.

APPRENTICESHIP

The occupations in ancient India became mostly hereditary. A family having stuck to the same craft, the father could hand down to his son his capital, credit and experience. The heredity or caste however could not, as we have seen, always rigidly determine one's occupation. An energetic youngman could thus be an apprentice to a master craftsman. Rules of apprenticeship were consequently developed. The apprentice lived with the master, worked for him and was fed and taught by him.¹ Narada also laid down the same rule. For the full term of the apprenticeship the learner's work and learning were his master's.² Only when special conditions were there, the apprentice would be rewarded by his master. For Apprentices Acts, 1850 and 1961, *see post*.

PARTNERSHIP

Business deeds or documents recording a description of the property purchased and the price paid for it were known among merchants.³ Sale by public auction after notification was witnessed by Strabo.⁴ Partnership in common was not rare in India. Sukraniti says that a *samayikapatra* or business deed is one which individuals frame after combining their shares of capital for some business concern.⁵

The elaborate rules of Narada and Vrihaspati on *sambhuya samutthanam* or joint transaction of business relate to trade guilds as well as to craft guilds. According to Narada⁶ and Vivadaratnakara, partners had to share all legitimate expenses of business such as incurred by (a) purchase and sale of merchandise, (b) provision for necessary travelling, (c) wages of labourers, (d) realisation of dues, (e) freight, and (f) care of treasures. The loss, expenses, and profit of the business were to be shared by each partner according to the share contributed by him to the joint stock. A partner was responsible for any loss due to his want of care or

any action without the assent or against the instructions of his co-partners.⁷ Similarly, he was entitled to a special remuneration for special profit gained through his individual action.⁸ The master craftsman was entitled to a double share of the profits. So also the head of an engineering firm building a house or temple or digging a tank.⁹ According to the Arthashastra, guilds of workmen (*sanghabharita*) and those who carried on co-operative work (*sambhuyasamutthatarah*) would divide their earnings (*vetanam*) either equally or as agreed upon among themselves.¹⁰ In the Arthashastra, interest on stock was fixed at one-half of profit payable every year, and accountable up to a sum twice the principal (*mulyadviguna*).¹¹ In certain transactions, in case of capitalist employer and a hired hawker, for example, the share of profit might be different. According to Santiparva, the share for capital in such cases might be as high as six-sevenths or fifteen-sixteenths of the profit.

According to Narada and Vrihaspati, he who disobeyed the laws or injured the joint stock was to be banished. A member who failed to implement an agreement entered into by his association was to be banished and his property confiscated. According to Yajnavalkya, dishonesty was punished by expulsion from the guild and forfeiture of share in the profits. A disabled partner might, however, appoint a substitute to do his part of the work.¹²

The threat of expulsion for indiscipline and dishonesty was the sanction of the guild laws. Accordingly, the association had complete judicial authority over its members. Vrihaspati says that the partners are to be the judges and witnesses in deciding their own disputes.¹³ The disputes in question did not necessarily relate to affairs of business; they might also be strictly personal. Later law books emphasised the jurisdiction of local, popular courts like the *kula*, *sreni*, *gana* and *puga* graded in ascending order of superiority.¹⁴ This judicial power of the

1. Vrihaspati, XVI. 6.
2. Yaj., II. 187.
3. Vrihaspati, VIII. 7; Sukraniti, III. 378.
4. *Ibid.*, XV. I. 50-52; Arthashastra, Book II, ch. XXI.
5. *Ibid.*, II. II. 627.
6. *Ibid.*, III. 4.
7. Narada, III. 5; Vrihaspati, XIV. 9.
8. Narada, III. 6; Vrihaspati, XIV. 10.
9. Vrihaspati, XIV. 29.
10. *Ibid.*, Book III., Ch. XIV.
11. *Ibid.*, Book III, Ch. II.
12. *Ibid.*, II. 265.
13. *Ibid.*, XIV. 6.
14. Narada, Intr. 7; Vrihaspati, I. 28-30; XVIII-10; Yaj., II. 30.

association was also recognised in Buddhistic literature.

The Arthasastra laid down the rules governing the agents of wholesale dealers. Merchants belonging to trade guilds or who were trustworthy and were not condemned by the King had been allowed some advantages over the ordinary agents.

As to the law of partnership under the Mahomedan law of contract reference may be made to the *Futawa Alumgiri*, and the *Hedaya*. According to the *Hedaya*,¹ 'shirkat sinnai' or partnership in arts signified a case where two 'taylors' or two dyers, for instance, became partners, by agreeing to work and to share their earnings in partnership. Such a partnership was lawful according to the Muslim jurists. Unity of trade and place of residence of the individual partners was not essential for the formation of a 'shirkat sinnai' (partnership in arts). In a partnership of arts whatever work one partner agreed to was incumbent upon him, and also upon the other partner. Partnership was not lawful in wood.²

Partnership by reciprocity was one where two men, being the equals of each other, in point of property, privileges and religious persuasion entered into a contract of co-partnership. This species of partnership was an universal partnership in all transactions, where each partner reciprocally committed the business of the partnership to the other, without limitation or restriction. A contract of reciprocity was lawful between two adults who were free, whether they were both Mussulmans or both Zimmeees, since, in either case, an equality existed between the parties. If one of them, also, was a scriptural zimzee (*i. e.*, a Jewish or Christian subject of the Mussalman Government), and the other a Pagan, the contract was lawful. A contract of reciprocity was not lawful between a slave and a freeman or between an infant and an adult, because equality did not exist in those instances. A contract of reciprocity was not lawful between a Mussulman and an infidel, according to Haneefa and Mohammed. Aboo Yoosal thought it was lawful. But in spite of this view of Yoosal, for the purposes of legal administration under the Mahomedan period, a

contract of reciprocity between a Mussulman and a Zimzee was considered abominable on the basis of the views of Haneefa and Mohammed. A contract of reciprocity was not valid between two slaves, or two infants.³

WAGES

Coins were in use in India for centuries before Christ. The Jataka literature makes frequent references to coins. But historically, kine are older than coins as media of exchange or the measure of one's wealth. In the history of media of exchange in trade and commerce or purchase and sale or transacting of debts there has hardly been any property or commodity in use which has not been used as a medium of exchange. Confining ourselves to the Indian traditions it may be observed that slaves, cows, horses, rice and other food grains, cowries, pearls, cow's tail, pieces of cloth, garments, coverlets and goat-skins were among the commodities or properties that were used in India as media of exchange.⁴ Barter was very common.⁵ Barter continues even till to-day to a great extent in Indian economic life.

The village artisans mostly got their wages in kind. The dues of the village smith, carpenter, etc., continued to be paid in terms of paddy, rice, cloth etc. till very recently. Even now such a system continues in the Indian villages to some extent. The blacksmith, the carpenter, the potter, the washermen, and the silversmith were recognised as some of the several officials and received their share of the grain crop taken from the threshing-floor before that of either the king or the cultivator was removed. They also received money fees.⁶ The traditional system of remuneration in kind received the notice of the Select Committee of the House of Commons submitting its Fifth Report in 1812.

Vrihaspati distinguished between servants engaged on pay and servants engaged on a share of the grain.⁷ Slaves as well as free labour worked in the fields, mines and factories. King's slaves served in the industrial and agricultural establishments of the State.⁸ Similarly, private slaves worked in big and

1. Charles Hamilton : *Hedaya*, Vol. II, London, 1791, Book XIV, pp. 321-323.

2. *Ibid.*, *Hedaya Farsee*, Book XIV; Hamilton, Vol. II, p. 326.

3. *Hedaya Farsee*, Book XIV; Hamilton : Vol. II, pp. 298-299.

4. *Mahabharata*, III, 195, 9; v. 106, 11.

5. *Gautama*, VII. 61; *Vasistha*, II. 37.

6. Phillips : *Land Tenures of Lower Bengal*, Tagore Law Lectures, pp. 38-40.

7. *Ibid.*, XVI. 8.

8. *Arthasastra*, Book II. Ch. XXIV.

small agricultural estates and industrial enterprises. Thus, hired labour worked side by side with slave labour also in spinning, weaving or other manufactories whether in state establishments or with private owners. Instances of state enterprises are furnished in the Arthashastra.¹ Jataka literature also illustrates the fact. Even a potter could have his hirelings. The hired labourer had greater responsibilities than a slave labourer. Any deficit out of the estimated output from the quantity of raw materials supplied had to be made good by the hired labourer from his wages. The law governing textile labour as given in the Arthashastra is very precise. Where fines were remitted in special cases, considering accident, disease, etc., the loss incurred by the employer had to be compounded by extra work.² Payment might be withheld if circumstances changed since the employment and if the workmanship was below the employer's satisfaction.³ A workman who abandoned his work before the expiry of the term would forfeit his whole wages and had to pay a fine of 100 *panas* to the King.⁴ The workmen were responsible for the implements of the work and whatever else might have been entrusted to them for their business.⁵

Generally, the rule was that artisans would be provided with wages and provision in proportion to the amount of work done by them.⁶ In its regulations on textile labour, the Arthashastra laid down that wages were to vary according to the quality and quantity of the yarn produced. Only artisans who could turn out a given amount of work in a given time might be engaged on fixed wages.⁷ According to Kautilya, wages were to be paid for work done, but not for the work that was not done. If an employer, having caused his labourer to do a part of work, would not cause him to do the rest for which the latter might certainly be ready, then the unfinished portion of the work was to be regarded as finished.⁸ But owing to consideration of changes that had occurred in time and place or owing to bad workmanship of the labourer, the employer might not be pleased with what had already been turned out by the labourer. Also, the workman might, if

unrestricted, do more than agreed upon and thereby cause loss to the employer.⁹ The same rules applied, according to Kautilya, to guilds of workmen and workmen employed by guilds or companies.

Artisans, musicians, physicians, buffoons, cooks, and other workmen, serving of their own accord, would obtain as much wages as similar persons employed elsewhere usually got or as much as experts (*kusalah*) would fix.

Goldsmiths' wages was prescribed in the *Arthashastra* at different rates for the different jobs. Skill as well as the nature of the work determined the wages. Stolen gold or silver articles could not be purchased by them with impunity. In case of a suspicious sale, the Government had to be informed by the goldsmith. The more valuable the article or metal, the greater was the punishment for an irregular conduct.

Vedas advised preservation of gold. It was gold and not silver that could be offered on the occasion of a vedic sacrifice. In medieval India treatises were composed on the art of manufacture of ornaments. They were known as *alankara sastras* as distinguished from works on rhetoric.

Gold is a precious metal because of its divisibility, indestructibility, scarcity, hoardability, cognisability, utility, and portability and other virtues. Consumers of handicrafts in gold in India have had attachment for such crafts because of the general purchasing power of the metal used as well as of the artistic works wrought on it. The national emergency because of the Chinese invasion of Indian territories was responsible for the insertion by Parliament of a new Part XII-A containing Rules 126-A to 126-X in the Defence of India Rules, 1962, relating to gold control¹⁰. Under Rule 126-X read with sub-rule (3) of Rule 126-C, after 31 August, 1963, every manufacturer or seller of primary gold would have to put a stamp on such piece of gold certifying its purity and identification mark of the maker or manufacturer.¹¹ Subsequently, the Gold (Control) Act, 1965, has been passed. The Provisions of Part XII-A of the Defence of India Rules, 1962, shall stand repealed from the commencement of the Gold (Control) Act, 1965, which shall come into force on such date as the Central Government may, by notification in the *Official Gazette*, appoint, and upon such repeal of the provisions of Part XII-A of the Defence of India

1. *Ibid.*, Book II, Ch. XXIII.
2. Arthashastra, Book III, Chap. XXIII.
3. Arthashastra, Book III, Chap. XIV; Yaj., II, 195.
4. *Vis.*, V, 153.
5. Narada, VI. 4.
6. Arthashastra, Book II. Chap. XXIV.
7. *Ibid.*, Book II, Chap. XXIII.
8. Arthashastra, Book III. Chap. XIV; *Visnu*, V, 153-157.
9. Arthashastra, Book III. Chap. XIV; Yaj., II, 195.
10. Defence of India (Amendment) Rules, 1963. *Gazette of India*, 9 January, 1963, Part II, S. (i), *Extra ordinary*, 15.
11. *Gazette of India*, 3 August, 1963; Part II, S. 3 (ii), 2429.

Rules, 1962, Section 6 of the General Clauses Act, 1897, shall apply as if the said Part were a Central Act.

To the prejudice of the handicrafts in gold and their craftsmen, the Gold (Control) Act, 1965, had to be passed to provide, in the economic and financial interests of the community, for the control of the production, supply, distribution, use and possession of, and business in, gold and ornaments and other articles of gold and for matters connected therewith. The said Act extends to the whole of India and it applies also to citizens of India outside India.

Under Section 4 of the Act, no person or dealer¹ could make or manufacture any article of gold of a purity exceeding fourteen carats. Before the Gold Control Act, 1965, came into force, Government of India by order GSR 1676, dated 1 November, 1966, allowed ornaments to be made of gold of any purity. See *Gazette of India*, Extraordinary, Part III, section 3 (i).

As noted before, an attempt at price control was a normal feature for the community prior to the advent of the British rule in India. Emperor Akbar also fixed wages for various kinds of labourers.²

The weavers of linen or silk or woollen clothes were required to faithfully carry out the work entrusted to them. Any deviation from the quality or weight, etc., was punishable. Artisans had to fulfil their engagements in accordance with their agreement as to time, place, and form of work. Those who postponed their engagements under the excuse that no agreement as to time, place, and form of work had been entered into, would, except in troubles and calamities, not only forfeit one-fourth of their wages, but also be punished with a fine equal to twice the amount of their wages.³

Guilds, like individual workers, took contracts for work. The Arthasastra lays down the rules governing the parties.⁴ A contract executed by one was binding on all.⁵ Deserters were punished.⁶ Guilds of workmen were entitled to a grace of seven nights over and above the period agreed upon for the fulfil-

ment of their engagement. Beyond that time they would have to find substitutes and get the work completed. Without taking permission from their employers, they could not leave out anything undone nor carry away anything with them from the place of work. They would be fined 24 *panas* for taking away anything and 12 *panas* for leaving out anything undone.

Guilds of workmen as well as those who carried on any co-operative work (*sambhuyasamutthatarah*) would divide their earnings (*vetanam* or wages) either equally or as agreed upon among themselves.⁷

Merchants would either at the end or in the middle of their manufacture pay to their labourers as much of the latter's share as was proportional to the work done.⁸ If the labourers, giving up work in the middle, supplied substitutes, they would be paid their wages in full. When commodities were being manufactured, wages would be paid out according to the amount of work turned out.

A healthy person who deserted his company after work had been begun would be fined 12 *panas*,⁹ for none was entitled to desert his company capriciously. A person found to have neglected his share of work by stealth could be shown mercy (*abhayam*) for the first time, and given a proportional quantity of work anew with promise of proportional share of earnings as well. In case of negligence for a second time or of going elsewhere, he would be thrown out of the company (*pravasanam*). If he was guilty of a glaring offence (*mahaparadhe*) he would be treated as the condemned.¹⁰

The Superintendent of Weaving in Kautilya's State¹¹ would employ qualified persons to manufacture threads, coats (*varma*), cloths and ropes. Various kinds of garments, blankets and curtains used to be manufactured. Mail armours were manufactured by experts. Widows, crippled women, girls, mendicant or ascetic women, women compelled to work in default of paying fines, mothers of prostitutes, old women servants of the King, and prostitutes (*devadasi*) who had caused to attend temples on service would be

1. For definition of 'dealer', see Section 2 (d) of the Gold (Control) Act, 1965. For 'Gold' see Section 2 (e), *Ibid.*

2. H. Blochmann: *Ain-i-Akbari*, Calcutta, Madrasa, 2d edn. 1927, pp. 235-236.

3. *Arthasastra*, Book IV, Ch. I, Yaj., II. 193-195, Manu, VIII. 179.

4. *Ibid.*, Book II, Chap. IV.

5. *Vrihaspati*, XIV. 5.

6. *Arthasastra*, Book III, Ch. XIV.

7. *Arthasastra*, Book III, Ch. XIV.

8. *Narada*, VI, 2.

9. *Manu*, VIII. 215.

10. *Arthasastra*, Book III, Ch. XIV.

11. *Arthasastra*, Book II, Ch. XXIII.

employed to cut wool, fibre, cotton, panicle, hemp and flax. Those women who did not stir out of their houses (*anishkasinya*), those whose husbands had gone abroad, and those who were crippled or girls might, when obliged to work for subsistence, be provided with work of spinning out threads in due courtesy through the medium of maid servants of the weaving establishment. Those women who could present themselves at the weaving house would at dawn be enabled to exchange their spinings for wages. Only so much light as was enough to examine the threads was to be kept. If the superintendent looked at the face of such women or talked about any other work, he would be punished with the first amercement. Delay in paying the wages would be punished with the middlemost amercement. Likewise, when wages were paid for work that was not completed. The lawgiver threatened that a woman who having received wages did not turn out the work would have her thumb cut off.

Wages would be fixed according as the threads spun were fine, coarse, or of middle quality, and in proportion to a greater or less quantity manufactured, and in consideration of the quantity of thread spun, those who turned out a greater quantity would be presented with oil and dried cakes of myrobalan fruits. They might also be made to work on holidays (*tithisu*) by payment of special rewards. Those who manufactured fibrous cloth, raiments, silk cloths, woollen cloths and cotton fabrics would be rewarded by presentations, such as scents, garlands of flowers, or any other prizes of encouragement.

Wages would be cut short if, making allowance for the quality of raw material, the quantity of the threads spun out of it was found to fall short. Those who misappropriated, stole or ran away with the raw material supplied to them would be severely dealt with. Weavers, when guilty, would be fined out of their wages in proportion to their offences.

Weaving might also be done by those artisans who were qualified to turn out a given amount of work in a given time and for a fixed amount of wages.

The *Arthashastra's* Superintendent would closely associate with those who manufactured ropes and

mail armours, and used to carry on the manufacture of straps and other commodities. Ropes would be manufactured from threads and fibres, and straps from cane and bamboo bark. The straps were used to train or tether beasts of draught.

The Superintendent of Chariots would attend to construction of chariots. He used to attend to the accounts of provision and wages paid to those who were either permanently or temporarily employed to prepare chariots and other things. Like the Superintendent of Weaving, the superintendent of chariots, too, used to take steps to maintain the employed contented and happy by adequate rewards.¹

Disputes regarding wages used to be decided on the strength of evidences furnished by witnesses. In the absence of witnesses, the master who had provided his servant with work would be examined. Failure to pay wages would be punished with a fine ten times the amount of wages (*dasabandha*), or six *panas*. Misappropriation of wages would be punished with a fine of twelve *panas* or of five times the amount of wages (*panchabandho va*).²

Mechanics and artisans as well as sudras who subsisted by manual labour might be required to work for the King one day a month free of wages.³ The merchants might obtain commutation of *rajakarya* by selling one article per month to the King at a discount rate.⁴ The system of occasionally exacting labour free of wages continued in India throughout the centuries. During the British period, wageless labour was occasionally exacted by the economically stronger class or by the class which was socially influential, only by request and not because of any convention having the force of law. The equal treatment of the subjects before the law during the British Administration did not leave any opportunity in the hands of any class of the subjects to exploit any labourer.

Article 23(1) of the Indian Constitution prohibits forced labour. The Article, among other things, lays down that *begar* (wageless labour) and any other similar forms of forced labour are prohibited. Any contravention of this provision is punishable.

1. *Ibid.*, Book II, chap. XXXII.

2. *Arthashastra*, Book III, chap. XIII.

3. *Manu*, VII. 138, *Gautama*, X. 31, *Vas.*, XIX. 28, *Visnu*, III. 32.

4. *Gautama*, X. 35.

SALE

The *Arthashastra's* Superintendent of Commerce used to supervise weights and measures and prevent deception with false weights and scales.¹ Megasthenes witnessed that the fourth of the six bodies (of five members each) of the City Council of Pataliputra superintended trade and commerce, its members having charge of weights and measures. A merchant who concealed the blemish of an article which he was selling, or mixed bad and good articles together after repairing them would be compelled to give the double quantity to the purchaser and to pay a fine equal in amount to the value of the article.² The sale of inferior articles as superior was punishable.³ Iron, jewels, robes, skins, earthenwares, threads, fibrous garments (*valka*), and woollen clothes of an inferior quality could not be sold as goods of a superior quality. The various cities of the country had attained proficiency in particular arts and crafts. Reputation of an article might thus depend on the reputation of the city that produced it. Such was also the case with particular commodities of particular origins. Commodities of one place could not be sold for commodities of another place.

INTEREST

It has been seen before that the principle of *laissez faire* was not favoured by the ancients. Transactions between creditors and debtors were not left as the concern of adults and adults. It was felt that the welfare of the kingdom depended on the reasonableness of the transactions of debt between subject and subject. It was the duty of the State to scrutinise the nature of transactions between creditors and debtors.⁴

The rates of interest were laid down by the lawgivers. Fifteen per cent. per annum was the rate sanctioned by Manu⁵, Vasistha,⁶ Baudhayana,⁷

Narada,⁸ Vrihaspati,⁹ and the *Arthashastra*.¹⁰ Gautama allowed interest at the rate of 5 *masas* a month for 20 *karsapanas*.¹¹

According to Commentators Narayana, Raghavananda and Nandana and also according to Yajnavalkya,¹² the rate of 15 per cent. was for debt secured by a pledge. For unsecured loans the rates were 2, 3, 4 or 5 in 100 per month according to varnas. That is to say, the rate of interest for unsecured loans for a Brahmana debtor was 24 per cent. per annum; that for a ksatriya was 36; for a vaisya it was 48; and for a sudra it was 60.¹³

Differential customary rates were given also in the *Arthashastra*, but not on the basis of caste distinctions. According to the *Arthashastra*, apart from the just or reasonable rate (*dharmya*) of $1\frac{1}{3}$ per cent. per month, the differential rates could be 5, 10, 20 respectively. That is to say, for example, the commercial rate (*vyavahariki*) was 60 per cent. per annum; the rate prevailing in forests was 120 per cent. per annum; and the rate among sea traders was 240 per cent. per annum. In the words of the *Arthashastra*, "an interest of a pana and a quarter per month per cent. is just. Five panas per month per cent. is commercial interest (*vyavahariki*). Ten *panas* per month prevails among the foresters. Twenty *panas* per month per cent. prevails among sea traders (*samudranam*). Persons exceeding, or causing to exceed, the above rate of interest shall be punished with the first amercement; and bearers of such transaction shall each pay half of the above fine.¹⁴

We have already noted how the castewise variations in interest were recognised, by way of the revival of Hindu law of contract, in the Sudder Dewanny Adawlut for Bengal, Bihar and Orissa¹⁵. The various debt laws passed by the Union Government as well as the State Governments have rendered any much reference to the history of the rate of interest

1. *Ibid.*, Book II, Ch. XIV.

2. Yaj., II. 244, Vrihaspati, XXII. 7. 13.

3. Yaj., II. 245.

4. Yaj., II. 61.

5. VIII. 140.

6. II. 51.

7. I. 5. 10. 22.

8. I. 99.

9. XI. 3.

10. Book III. ch. XI.

11. XII. 29.

12. II. 37.

13. Manu, VIII. 141, Visnu, VI. 7, Narada, I. 100.

14. *Ibid.*, Book II, Ch. XI. Manu, VIII. 140-152, Yaj., II. 38.

15. See Patra, *Indian Contract Act, 1872*, New York, and London 1966, Historical Background.

in India unuseful to-day. It may also be mentioned in this context that there were in India various kinds of interest. Interests might be compound, periodical, or stipulated beyond the legal, corporal, that is, an interest payable with bodily labour either of the debtor or of a pledged animal or slave, daily interest and the use of a pledge (*bhogalabha*) in which last case no interest was claimed.¹ The high rates of interest were each accompanied with one redeeming feature. Generally, interest could grow up to an amount equal to the principal. In case of grains, etc., the interest could not grow exceeding four times; in some countries it could grow three, four or eight times; in case of gold the maximum was two times; in case of cloth, the interest could grow up to four times. As to the prohibition of interest in Mahomedan law see the Hedaya. A pious Mahomedan could however invest money in crafts and with craftsmen on a profit-sharing basis. The usury laws under the British Administration were general laws and not particularly concerned with crafts and craftsmen.

THE LAW TO-DAY

The following few paragraphs will give the reader an idea of some of the laws that govern craftsmen and their crafts in India to-day. In these days of fast changing laws, to be accurate one has to consult the India Codes as well as the several State Codes for the latest developments, additions, and amendments of the laws. For precision, there cannot be any law for the layman. What can be termed as the law for the layman will fail to satisfy the inquisitiveness of a student of law; it can at best furnish materials for a sociological study of a given community for some of the aspects of its life at a particular time.

During the East-India Company's regime laws governing craftsmen and their crafts had been static and custom-ridden and thus had a leaning in favour of the consumers. During the Crown Rule, the laws

regulating labour had a bias in favour of the employers. From 1919 onward the laws had a tendency to harmonise the conflicting interests of labour and its employers. From 1937, they became pro-labour. The laws to-day in the independent India have had a tendency to become pro-workmen *cum* pro-producers and thus tend to operate to the prejudice of the consumers.

Under "the Government of India Act", which expression means not a separate parliamentary enactment but a properly certified version of the Government of India Act 1915, as amended by the Government of India (Amendment) Act, 1916, and the Government of India Act, 1919, certain subjects were placed under Schedule II to the Government of India Act as forming the list of provincial subjects for transfer. Co-operative societies;² development of industries including industrial research and technical education;³ and factories, settlement of labour disputes, welfare of labour⁴ were allotted as provincial subjects. Development of industries, in cases where such development by central authority would be declared expedient in the public interest,⁵ inventions and designs;⁶ and copyright⁷ formed central subjects under the said Government of India Act.

Under the Government of India Act, 1935, co-operative societies formed a provincial subject.⁸

Contracts, including partnership, agency, contracts of carriage, and other special forms of contract, but not including contracts relating to agricultural land,⁹ factories,¹⁰ welfare of labour, conditions of labour;—employers' liability and workmen's compensation;¹¹ trade unions, industrial and labour disputes¹² were placed in the Concurrent Legislative List. Import and Export across customs frontiers as defined by the Federal Government;¹³ copyright, inventions, designs, trade-marks and merchandise marks;¹⁴ regulation of labour;¹⁵ duties of customs, including export duties¹⁶,

1. Gautama, XII. 34, Manu, VIII. 153, Narada, I. 102-104, Vrihaspati, XI. 4-11.
2. Entry 13 of Part II of Schedule I — Provincial Subjects—Devolution Rules; see also entry 25, *Ibid.*
3. Entry 16, *Ibid.*
4. Entry 26, *Ibid.*
5. Entry 20 of Part I of Schedule I—Central Subjects—Devolution Rules.
6. Entry 27, *Ibid.*
7. Entry 28, *Ibid.*
8. Entry 33 of List II — Provincial Legislative List - Seventh Schedule to the Government of India Act, 1935.
9. Entry 10 of List II.
10. Entry 26 of List II — Part II.
11. Entry 27, *Ibid.*
12. Entry 29, *Ibid.*
13. Entry 19 of List I — Federal Legislative List.
14. Entry 27, *Ibid.*
15. Entry 35, *Ibid.*
16. Entry 44, *Ibid.*

were placed in List I - Federal Legislative List of the Seventh Schedule to the Government of India Act, 1935, Co-operative Societies were excluded from the Federal List.

Labour under the Government of India Act, 1935, became a provincial subject, subject to legislation by the Indian Legislature. Development of industries, generally was a provincial subject, and only under certain circumstances a central subject. Technical education relating to industries was a provincial subject.

Under the Constitution of India, industries declared by Parliament by law to be necessary for the purpose of defence or for the prosecution of war,¹ trade and commerce with foreign countries, import and export across customs frontiers, definition of customs frontiers,² inter-state trade and commerce,³ incorporation, regulation and winding up of trading corporations,⁴ but not including co-operative societies;⁴ incorporation, regulation and winding up of corporations, whether trading or not with object not confined to one State, but not including universities;⁵ patents, inventions and designs, copyright, trade-marks and merchandise marks;⁶ industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest;⁷ duties of customs including export duties;⁸ and duties of excise on goods manufactured in India⁹ have been placed in the Union List.¹⁰ Industries subject to the provisions of entries 7 and 52 of List I - Union List;¹¹ trade and commerce within the State subject to the provisions of entry 33 of List III - Concurrent List;¹² production, supply and distribution of goods subject to the provisions of entry 33 of List III - Concurrent List;¹³ incorporation, regulation and winding up corporations, other than those specified in List I - Union List;

unincorporated trading, co-operative societies;¹⁴ taxes on the entry of goods into a local area for consumption, use or sale therein¹⁵ have been placed in the State List of the Seventh Schedule to the Constitution. Contracts, including partnership and agency;¹⁶ trade unions, industrial and labour disputes;¹⁷ and welfare of labour¹⁸ have been placed in the Concurrent List of the Seventh Schedule to the Constitution.

SOCIAL CONTROL OF LABOUR

In the greater interest of the community, the State to-day seeks to control and condition the employment of labour at the various levels. The policy of *laissez-faire* is not considered as one worth pursuing on the part of the modern welfare State.

The Acts governing employment of labour are too many. In the present essay only Central Acts of general application have been made use of. Even where Central Acts have been mentioned, the extent of the application of the individual Acts will have to be ascertained by the reader from a Code rendered up to date. In order to leave the essay readable, the Acts have been referred to without any mention of the exact extent of their respective application whether territorial or subjectwise.

The modern State is not only a controller of industries but is also an enterpriser in the field of production. Of late, the welfare State of India has started many heavy and small-scale industries. The Industries (Development and Regulation) Act, 1951, was moreover passed to provide for the development and regulation of certain industries. Under this Act the Union, in the public interest, takes under its control the industries that are specified in the First Schedule to the Act. Textiles including those dyed, printed or

1. Entry 7 of List I - Union List—of the Seventh Schedule to the Constitution of India.
2. Entry 41, *Ibid.*
3. Entry 42, *Ibid.*
4. Entry 43, *Ibid.*
5. Entry 44, *Ibid.*
6. Entry 49, *Ibid.*
7. Entry 52, *Ibid.*
8. Entry 83, *Ibid.*
9. Entry 84, *Ibid.*
10. See also The Industries (Development and Regulation) Act, 1951.
11. Entry 24 of List II - State List - of the Seventh Schedule to the Constitution.
12. Entry 26, *Ibid.*
13. Entry 27, *Ibid.*
14. Entry 33, *Ibid.*
15. Entry 52, *Ibid.*
16. Entry 7 of List III-Concurrent List-of the Seventh Schedule to the Constitution.
17. Entry 22, *Ibid.*
18. Entry 24, *Ibid.*

otherwise processed; paper and pulp including paper products; soaps, cosmetics and toilet preparations; rubber goods, footwear; leather, leather goods and pickers; and timber products are examples of industries included in the said Schedule.

Of the Acts aiming at controlling the human element as a factor of production, the most important is the Factories Act, 1948. This is an Act to consolidate and amend the law regulating labour in factories. This Act defines factory as meaning any premises including the precincts thereof (i) whereon *ten or more* workers are working, . . . , and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, or (ii) whereon *twenty or more* workers are working, . . . , and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on.¹

Power under the Factories Act, 1948, means electrical energy, or any other form of energy which is mechanically transmitted and is not generated by human or animal agency.

In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of the Factories Act, 1948, except under Section 67, for such period and subject to such conditions as it may think fit; provided that no such notification shall be made for a period exceeding three months at a time.²

The laws of the welfare State of India to-day are anxious for the preservation of the health and morals of its citizens working in factories. Thus adults, adolescents, children as well as young persons of to-day benefit from benevolent laws on a scale not considered feasible in a *laissez-faire*.

“Adult”, under the Factories Act, 1948, means a person who has completed his eighteenth year of

age. “Adolescent” means a person who has completed his fifteenth year of age but has not completed his eighteenth year. “Child” means a person who has not completed his fifteenth year of age. “Young person” means a person who is either a child or an adolescent. For the safety of women and young persons *see* Section 22(2) of the Act. For the safety of young persons, *see* Section 23; and for the safety of women and children, *see* Section 27.

The hours of work in a factory have been limited. Under Section 51 of the Act, no adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week. Subject to the provisions of Section 51, no adult worker shall be required or allowed to work in a factory more than nine hours in any day: provided that, subject to the previous approval of the Chief Inspector, the daily maximum specified in Section 54 may be exceeded in order to facilitate the change of shifts.³ Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.⁴ No adult worker shall be required or allowed to work in any other factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.⁵ Under Sections 64 and 65 respectively, the State Government has power to make exempting rules and exempting orders.

Apart from the provisions for safety of women working in factories, there are further restrictions on employment of women.⁶

No child who has not completed his fourteenth year shall be required or allowed to work in any factory.⁷ A child who has completed his fourteenth year or an adolescent shall not be required or allowed to work in any factory unless (a) a certificate of fitness granted with reference to him under Section 69

1. Broadly speaking, it may be said that an industrial labourer is only one of the means of the large scale production, where—as a craftsman is the author of his production. Craftsmen may, in view of the modern factory legislations, in many cases, be governed by the factory and labour legislation. The Census Reports, 1961, show that the household industries in India employ a considerable number of children of an age whose employment in registered factories is prohibited under the laws in force. See Census of India, 1961, Vol. I, Part II-B (2) Table B, *General Economic Tables*.

2. § Section 5, *ibid.*

3. Section 54, *ibid.*

4. For details *see* Section 59.

5. Section 60.

6. Section 66.

7. Section 67.

is in custody of the manager of the factory, and (b) such child or adolescent carries while he is at work a token giving reference to such certificate.¹ As to the effect of certificate of fitness granted to adolescent, see Section 70. No child shall be employed or permitted to work, in any factory (a) for more than four and a half hours in any day or (b) during the night.²

The provisions of Chapter VII of the Factories Act, 1948, are in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.³ For leave and wages of workers see Chapter VIII of the Factories Act, 1948.

The State Government may, by notification in the Official Gazette, declare that all or any of the provisions of this Act shall apply to any place wherein a manufacturing process⁴ is carried on with or without the aid of power or is so ordinarily carried on, notwithstanding that

(i) the number of persons employed therein is less than ten, if working with the aid of power and less than twenty if working without the aid of power, or

(ii) the persons working therein are not employed by the owner thereof but are working with the permission of, or under agreement with such owner;

Provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

After a place is so declared, it shall be deemed to be a factory for the purposes of this Act, and the owner shall be deemed to be the occupier, and any person working therein, a worker.

For the purposes of Section 85, "owner" includes a lessee or mortgagee with possession of the premises.⁵

The State Government may exempt, subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing

process is carried on and which is attached to a public institution maintained for the purposes of education, training, or reformation, from all or any of the provisions of this Act :

Provided that no exemption shall be granted from the provisions relating to hours of work and holidays, unless the persons having the control of the institution subject, for the approval of the State Government, a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the persons employed in or attending the institution or who are inmates of the institution, and the State Government is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions of this Act.⁶

The Apprentices Act, 1850, was passed for better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they came to full age, they might gain a livelihood. Under this Act, any child, above the age of ten, and under the age of eighteen years, might be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as was set forth in the contract of apprenticeship, not exceeding seven years, but it could not be prolonged beyond the time when such child should be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage.⁷ The said Apprentices Act, 1850, has been repealed and replaced, with effect from 1 March, 1962, by the Apprentices Act, 1961.⁸ The Apprentices Act, 1961, is more comprehensive than the Act of 1850. As to the employer's liability for compensation for personal injury caused to an apprentice by accident arising out of and in course of his training as an apprentice, see Section 16 of the Apprentices Act, 1961. The Workmen's Compensation Act, 1923, subject to the modifications as specified in the Schedule to the Apprentices Act, 1961, governs the determination and payment of the compensation. See also the Central Apprenticeship

1. Section 68.

2. Section 71.

3. Section 77.

4. For definition of "manufacturing process", see Section 2(k).

5. Section 85.

6. Section 86.

7. Section 1.

8. Notification No. G. S. R. 246, dated, 12 February, 1962, *Gazette of India*, Part II, Section 3 (i), p. 218.

Council Rules, 1962 and the Apprenticeship Rules, 1962.¹

The Children (Pledging of Labour) Act, 1933; prohibits the pledging of the labour of children. "Child" under the Act means a person who is under the age of fifteen years; and "guardian" includes any person having legal custody of or control over a child.

"An agreement to pledge the labour of a child" means an agreement, written or oral, express or implied, whereby the parent or guardian of a child, in return for any payment or benefit received or to be received by him, undertakes to cause or allow the services of the child to be utilised in any employment. An agreement, however, made without detriment to a child, and not made in consideration of any benefit other than reasonable wages to be paid for the child's services, and terminable at not more than a week's notice, is not an agreement within the meaning of the Act.² Under Section 44 of the Children Act, 1960, too, whosoever ostensibly procures a child for the purpose of any employment and withholds the earnings of the child or uses such earnings for his own purposes is punishable with fine which may extend to one thousand rupees.³

The Employment of Children Act, 1938, regulates the employment of children in certain industrial employments. See Sections 3 (3), 3A, and 3B, and the Schedule, items 2, 4, 8 and 9, of the List of Processes. Carpet-weaving; cloth-printing, dyeing and weaving; soap manufacture; and tanning have been covered by the Act.⁴

The Employer's Liability Act, 1938, lays down that certain defences shall not be raised in suits for damages in respect of injuries sustained by workmen. Thus the defence of common employment has been barred in certain cases. The workmen's benefits thus accrued cannot be contracted out.⁵

The Industrial Employment (Standing Orders) Act, 1946, as amended in 1961,⁶ requires employers in industrial establishments formally to define conditions of employment under them. The Act applies to every industrial establishment wherein one hundred or more workmen are employed provided that the Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of the Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.⁷ "Standing Orders" under the Act means rules relating to matters set out in the Schedule to the Act. As to the matters to be provided in Standing Orders under the Act, see Schedule to the Act.

The Weekly Holidays Act, 1942, provides for the grant of weekly holidays to persons employed in shops and some other institutions.⁸ The workers thus benefit from the holidays without any deduction or abatement to be made from their wages.⁹

The Industrial Disputes Act, 1947, makes provision for the investigation and settlement of industrial disputes and for certain other purposes. "Industry" under the Act means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. As to what is an "industrial dispute" see Section 2(k) of the Act. For reference of disputes to Boards of Conciliation or Courts of Inquiry or Industrial Tribunals under the Act, see Section 10.¹⁰

The Workmen's Compensation Act, 1923, provides for the payment by certain classes of employers to their workmen of compensation for injury by accident. As to who is a workman under this Act, see Section 2(n). As to an employer under the Act, see Section 2(e). As to the dependants of a deceased workman, see Section 2(d). As to the employer's

1. Notification No. G. S. R. 1134, dated, 27, August, 1962, Gazette of India, Extraordinary, Part II, S. 3 (i), dated, New Delhi, 27 August, 1962, for the trades specified as designated trades. See G.S.R. 247, dated, 12 February, 1962, for the industries (in the areas in which the provisions of the Apprentices Act, 1961, have been brought into force) specified as the industries to which the provisions of the Apprentices Act, 1961, shall apply with effect from 1 March, 1962.
2. Section 2.
3. The Children Act, 1960, extends to the Union Territories alone.
4. These trades may equally belong under the categories of industrial products as well as handicrafts.
5. Section 3A.
6. The Industrial Employment (Standing Orders) Amendment Act, 1961.
7. As to the extent and application of the Act, see Section 1(2) and (3), *ibid*.
8. See also Section 5.
9. Section 6.
10. See also the Industrial Disputes (Amendment and Temporary Provisions) Act, 1951.

liability for compensation, *see* Sections 3 and 12. As to the distribution of compensation, *see* Section 8. The Act, under Section 17, disallows contracting out. That is to say, any contract or agreement whether made before or after the commencement of the Act, whereby a workman relinquishes any right of compensation from the employer for personal injury arising out of or in the course of the employment, will be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under the Act.

The Payment of Wages Act, 1936, regulates the payment of wages to certain classes of persons employed in industry. The Act applies to the payment of wages to persons employed in any factory or industrial establishment where "industrial establishment" includes workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale. As to the extent and application of the Act, *see* Section 1 of the Act.

The Minimum Wages Act, 1948, as amended in 1954, 1957 and 1961,¹ provides for fixing minimum rates of wages in certain employments. The employments to be covered by the Act are to be found in the Schedule thereto. The State Governments have the power, under Section 27, to add to the Schedule any employment in respect of which they are of opinion that minimum rates of wages should be fixed under the Act. As to what is wages, *see* Section 2(h). As to overtime work *see* Section 14. As to the fixing of minimum rates of wages, *see* Sections 3-5. An employee cannot relinquish or reduce his right to a minimum rates of wages or any privilege or concession accruing to him under the Act. He cannot contract out the rights conferred on him by the Act. As to exemptions and exceptions, *see* Section 26.

Employment in any woollen carpet making or shawl weaving establishment forms item No. 1 of Part of the Schedule to the Act.

The Employees' State Insurance Act, 1948, provides for certain benefits to employees in case of sickness, maternity and employment injury and makes provision for certain other matters in relation thereto. The Act applies to all factories other than seasonal

factories. The Government may however extend the provisions of the Act or any of them to any other establishment or class of establishments, industrial, commercial, agricultural or otherwise. For the definition of "factory" under the Act, *see* Section 2(12) of the Act.

The Employees' Provident Funds Act, 1952, as amended subsequently, provides for the institution of provident funds for employees in factories and other establishments. As to the extent of the operation of the Act, *see* Sections 1 (3), (5): 2A, and 16 (1), *ibid*.

JOINT ENTERPRISES

For management and administration of cultural, vocational, industrial or business enterprises, necessity has been felt for conferring juridical capacity on associations of persons interested in particular enterprises. This juridical capacity is the creature of law and is distinct from the persons forming a given association. As early as 1860, the Societies Registration Act (Act 21 of 1860), amended in 1927 and also subsequently, was passed with the object of improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, the diffusion of political education or for charitable purposes. The Act has since been amended in its application in the States by various State Acts. Its scope has been enlarged in its application in some of the States so as to embrace crafts and industries. It has also been repealed by States Acts in its application to certain regions or districts.

Under Section 20 of the Act, a society for instruction and diffusion of useful knowledge, or for the foundation or maintenance of public museums or galleries of paintings and other works of art may be registered under the Act. As noted before, the scope of Section 20 has been amplified in some States in order to enable it to include art and industry. Under Section 1, any seven or more persons associated for a purpose as described in Section 20 of the Central Act or as amended by State Acts may by subscribing their names to a memorandum of association, and filing the same with the Registrar of Joint Stock Companies,² form themselves into a society under the Act.

1. The Minimum Wages (Amendment) Acts of 1954, 1957, and 1961.

2. *See* Companies Act, 1956.

For some of the State amendments *see* below.¹

The Co-operative Societies Act, 1912, facilitates the formation of co-operative societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means. A society which has as its object the promotion of the economic interests of its members in accordance with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability. The registration of a society renders it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

The Multi-unit Co-operative Societies Act, 1942, provides for the incorporation, regulation and winding up of co-operative societies with objects not confined to one Province or State.

The Co-operative Societies Act, 1912, has been *repealed* in its application to

- (i) the Bombay Presidency by the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925);
- (ii) the Madras Presidency by the Madras Co-operative Societies Act, 1932 (Madras 6 of 1932);
- (iii) Bihar & Orissa by the B. & O. Co-operative Societies Act, 1935 (B. & O. 6 of 1935);
- (iv) Coorg by the Coorg Co-operative Societies Act, 1936 (Coorg 2 of 1936);
- (v) Orissa, separately, by the Orissa Laws Regulation, 1936 (I of 1936);
- (vi) Bengal, with certain exceptions, by the Bengal Co-operative Societies Act, 1940 (Ben. 21 of 1940); and

(vii) Vidarbha region of Bombay by Bombay Act 20 1960, s. 79.

The Co-operative Societies Act, 1912, has been *amended* in

(i) The U. P. by the Co-operative Societies (Amendment) Act, 1919 (U. P. 3 of 1919) and the Co-operative Societies (U. P. Amendment) Act, 1944 (U. P. 1 of 1944 as continued in force by the U. P. Expiring Laws Continuance Act, 1948 (U. P. 13 of 1948); and U. P. Act 10 of 1957;

(ii) The C.P. by the Co-operative Societies (Central Provinces Amendment) Act, 1930 (C.P. 7 of 1930) and in C. P. and Berar by the following Acts as continued in force by the C. P. and Berar Expiring Laws Continuance and Amending Act, 1947 (C. P. & B. 48 of 1947).

- (1) the C. P. and Berar Co-operative Societies (Amendment) Act, 1940 (C.P.&B. 5 of 1940);
- (2) The C. P. & Berar Co-operative Societies (Amendment) Act, 1941 (C.P.&B. 6 of 1941);
- (3) The C. P. & Berar Co-operative Societies Amendment and Liquidators Orders Validation Act, 1945 (C. P. & B. 10 of 1945); and
- (4) Madhya Pradesh by M. P. Act 8 of 1954.

The Central as well as the State Governments by notifications, under Section 9 of the Indian stamp Act, 1899² (or under the relevant section of the state stamp Acts) remitted the stamp duties with which the instruments executed by or in favour of co-operative societies would be otherwise chargeable.

Partnerships are now governed by the Indian Partnership Act, 1932. "Partnership" is the relation between persons who have agreed to share the profits of a business carried on by all or any of them acting for all.³ The relation of partnership arises from contract.⁴

Persons who have entered into partnership with one another are called individually "partners" and

1. (i) C. P. and Berar Act 3 of 1940.
 (ii) Assam Acts 14 of 1948, 15 of 1948, 1 of 1953, 7 of 1957, 11 of 1958.
 (iii) Bihar Acts 30 of 1948, 4 of 1951, 2 of 1960.
 (iv) East Punjab Acts 32 of 1948 and 6 of 1949, Punjab Act 31 of 1957.
 (v) West Bengal Act 16 of 1950.
 (vi) President's Act 10 of 1954 (Andhra).
 (vii) Madras Act 9 of 1960.
 (viii) Mysore Act 17 of 1960; 14 of 1955.
 (ix) U. P. Act 25 of 1957.
 (x) Orissa Act 21 of 1958.
 (xi) Bombay Act 76 of 1958.
 (xii) M. P. Act 1 of 1960.
2. *See* Patra, Indian Stamp Act, 1899, 2nd edn., 1963, Appendices.
3. Section 4, *Ibid.*
4. Section 5.

collectively “a firm” and the name under which their business is carried on is called the “firm name”.

A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of the partnership. Such minor has a right to such share of the property and of the profits of the firm as may be agreed upon, and he may have access to and inspect and copy any of the accounts of the firm. Such minor's share is liable for any such act.¹

For registration of firms, *see* Chapter VII of the Act. For the effect of non-registration, *see* Section 69.

The Indian Trade Unions Act, 1926, as amended in 1960,² provides for the registration of trade unions and in certain respects defines the law relating to registered trade unions. As to what is a trade union, *see* Section 2(b). As to what is a “trade dispute” under the Act, *see* Section 2(g). The Act does not affect any agreement in consideration of instruction in any trade or handicraft.³

PROTECTION OF EARNED MERITS

Individuals were and are to some extent protected in the enjoyment of the fruits of their individual exertions. The Indian Merchandise Marks Act, 1889, thus dealt with fraudulent marks on merchandise.⁴ The Trade Marks Act, 1940, provided for the registration and more effective protection of trade marks. These two last-mentioned Acts have been of late removed by the Trade and Merchandise, Marks Act, 1958, which extends to the whole of India.

The Indian Patents and Designs Act, 1911, extends to the whole of India. The Act amended the law relating to the protection of inventions and designs.

“Article”, under the Act, means (as respects

designs) any article of manufacture and any substance, artificial or natural, or partly artificial and partly natural.⁵ “Copyright” means the exclusive right to apply a design to any article in any class in which the design is registered.⁶ “Design” means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye, but does not include any trade mark as defined in Section 478, or property mark as defined in Section 479 of the Indian Penal Code:⁷ ‘invention’ means any manner of new manufacture and includes an improvement and an alleged invention;⁸ “manufacture” includes any act, process or manner of producing, preparing or making an article and also any article prepared or produced by manufacture;⁹ ‘patent’ means a patent granted under the provisions of this Act:¹⁰ “patentee” means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent.¹¹ ‘Proprietor of a new or original design’:

(a) where the author of the design for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(b) where any person acquires the design or the right to apply the design to any article, either exclusively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so acquired; and

(c) in any other case, means the author of the design; and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.¹²

1. Section 30.

2. The Indian Trade Unions (Amendment) Act, 1960.

3. Section 2, proviso.

4. *See* also the Khaddar (Protection of Name) Act, 1950.

5. Section 2(2).

6. Section 2(4).

7. Section 2(5).

8. Section 2(8).

9. Section 2(10).

10. Section 2(11).

11. Section 2(12).

12. Section 2(14).

PATENTS¹

An application for a patent may be made by any person whether he is a citizen of India or not, and whether alone or jointly with any other person.²

The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification and by the prescribed fee.

Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.³

For opposition to grant of patent, *see* Section 9.

Subject to other provisions of the Act, a patent sealed with the seal of the patent office confers on the patentee the exclusive privilege of making, selling and using the invention throughout India and of authorising others so to do.⁴

As to term of patent, *see* Sections 14, 15, and 15A, *ibid.*

A patent shall be deemed to be revoked if the Central Government declares, by notification in the Official Gazette, the patent or the mode in which it is exercised to be mischievous to the State or generally prejudicial to the public.⁵

For application for registration of designs, *see* Section 43, *ibid.*

When a design is registered, the registered prop-

rietor of the design, subject to the provisions of the Act, will have copyright in the design during five years from the date of registration.⁶

For the extension of the period of copyright *see* Section 47(2) and (3) *ibid.*

For opposition to registration *see* Section 51A, *ibid.*

The Copyright Act, 1957, has amended and consolidated the law relating to copyright. The Indian Copyright Act, 1914, and the Copyright Act of 1911 passed by the Parliament of the United Kingdom as modified in its application to India by the Indian Copyright Act, 1914, have been repealed by Section 79(1) of the Copyright Act, 1957. The last mentioned Act of 1957 extends to the whole of India, and came into force on 21st January, 1958. No person is entitled to copyright or any similar right in any work otherwise than under and in accordance with the provisions of Copyright Act of 1957 or of any other law for the time being in force.⁷ No assignment or the copyright in any work will be valid unless it is in writing signed by the assignor or by his duly authorised agent.⁸

In the case of an artistic work, for the purposes of the Copyright Act, 1957, 'copyright' means the exclusive right, by virtue of, and subject to the provisions of the said Act, to do or authorise the doing of any of the following acts, namely:⁹—

(i) to reproduce the work in any material form; (ii) to publish the work; (iii) to include work in any cinematograph film; (iv) to make adaptation of the work; and (v) to do in relation to an adaptation of the work any of the acts specified in relation to the work in the said clauses (i) to (iii).

For copyright in artistic works, *see* Section 13 of the Act. Copyright does not subsist under the Copyright Act, 1957, in any design which has been registered under the Indian Patents and Designs Act;

-
1. Patents are relevant mostly in industrial products. Crafts may also be protected under the same law as industrial products.
 2. Section 3(1).
 3. Section 3(3).
 4. Section 12(1).
 5. Section 25.
 6. Section 47.
 7. Section 16, *ibid.*
 8. Section 19, *ibid.*
 9. Section 14 (1) (b) and (2).

1911.¹ Copyright in any design, which is capable of being registered under the Indian Patents and Designs Act, 1911, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.² 'Artistic works' under the Copyright Act, 1957, include paintings, sculptures and engravings whether or not any such work possesses artistic quality. They also include an architectural work of art and any other work of artistic craftsmanship.³ Architectural work of art means, for the purposes of the Act of 1957,⁴ any building or structure having an artistic character or design, or any model for such building or structure.⁴

PROTECTION OF PARTICULAR CRAFTS

In independent India special protection has been accorded to certain crafts. *Khadi* or *Khaddar* has received particular patronage of the State. Silk industry, too, has received its special care. *Khadi* has been fostered at the cost of non-*khadi* cloth. From the standpoint of civilisation, this undue patronage of *Khadi* will be judged, according to some, in history as to have been a retrograde step in the life of the Indian community.

The Central Silk Board Act, 1958, was passed to provide for the development, under Central control, of the silk industry, and for that purpose, to establish a Central Silk Board. The Act extends to the whole of India except the State of Jammu and Kashmir. The duty of the Board is to promote the development of the silk industry by such measures as it thinks fit. For some of the functions of the Board, see Section 8 of the Act. For imposition of cess on certain kinds of silk, see Section 9, *ibid*, for Control by the Central Government, see Section 11, and for penalties, Section 14.

The words "khaddar" and "khadi" whether in Hindi or in any other Indian language or in English, when applied to any woven material, is deemed to be a trade description within the meaning of the Indian Merchandise Marks Act, 1889, indi-

cating that such material is cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India or from a mixture of any two or all such yarns.⁵

The Khadi and other Handloom Industries Development (Additional Excise Duty on Cloth) Act, 1953, provides for the levy and collection of an additional duty of excise on cloth for raising funds for the purpose of developing khadi and other handloom industries and for promoting the sale of khadi and other handloom cloth.

"Cloth" for the purpose of the Act, means cotton, woollen, silk and rayon or artificial silk fabrics, as defined in the First Schedule to the Central Excises and Salt Act, 1944; 'handloom cloth' means any cloth woven from any material, including silk, artificial silk, staple fibre and wool, on loom worked by manual labour, "handloom industries" means industries which manufacture khadi or other handloom cloth; "khadi" means any handloom cloth woven from yarn hand-spun in India.⁶

There was to be levied and collected on all cloth manufactured in any factory a duty of excise at the rate of 1.9 naye paise per square metre. No such duty shall be levied on cloth which is exported out of India. The excise duty has been varied from time to time.

The duty of excise thus specified⁷ shall be in addition to the duty of excise chargeable on cloth under the Central Excises and Salt Act, 1944, and shall be levied and collected in the same⁷ manner as the duty of excise on cloth is levied and collected under that Act.⁷

The Central Government may utilise the net proceeds of the duty of excise levied under this Act for meeting the costs of such measures as it considers necessary or expedient to take for developing khadi and other handloom industries, and, particular, measures for

(a) undertaking, assisting or encouraging khadi and other handloom industries;

1. Section 16 (1) of the Act of 1957.
2. Section 15 (2) of the Act of 1957.
3. Section 2. (c).
4. Section 2 (b).
5. The Khaddar (Protection of Name) Act, 1950.
6. Section 2.
7. Section 3.

(b) encouraging the adopting of improved methods of manufacturing khadi and other handloom cloth;

(c) encouraging and developing research in the technique of production of khadi and other handloom cloth and in the art of designs relating thereto;

(d) maintaining or assisting in the maintenance of institutes for the development of khadi and other handloom industries;

(e) promoting the sale and marketing of khadi and other handloom cloth;

(f) fixing the grades and standards of khadi and other handloom cloth and enforcing quality control;

(g) promoting and encouraging co-operative effort among manufacturers of khadi and other handloom cloth.¹

Under Section 5 of the Act, the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

Then, there has been the Khadi and Village Industries Commission Act, 1956, as amended in 1961.² This Act provides for the establishment of a Commission for the development of *khadi* and village industries and for matters connected therewith. Under this Act, "khadi" means any cloth woven on handlooms in India from cotton, silk, or woollen yarn hand-spun in India or from a mixture of any two or all of such yarns;³ and "village industries", under the Act, means all or any of the industries specified in the Schedule to the Act and includes any other industry deemed to be specified in the said Schedule by reason of a notification under Section 3 of the Act.⁴ Cottage pottery industry; cottage soap industry; cottage match industry; flaying, curing and tanning of hides and skins and ancillary industries connected with the same and cottage leather industry; and handmade paper have already found their place in the Schedule.⁵ Under Section 3(1) of the Act, as amended in 1961, the Central Government may, of its own motion or

on the recommendation of the Commission, by notification in the Official Gazette, add to, or omit from the Schedule any village industry or alter the description of any village industry and thereupon the Schedule shall be deemed to be amended accordingly.

For the purpose of assisting the Commission in the discharge of its functions under the Act, the Central Government may, by notification in the Official Gazette, constitute a Board to be called the Khadi and Village Industries Board consisting of a chairman and such number of other persons as the Central Government may think fit, chosen from among persons who, in the opinion of the Central Government, are qualified as having had experience, and shown capacity, in matters relating to the development of Khadi and village industries.⁶ The Commission has ordinarily to consult the Board with respect to the discharge of its functions under the Act.⁷ The Central Government has also the power to give directions to the Commission in the discharge of its functions.⁸ For functions of the Commission, see Section 15 of the Act.

PROTECTION OF ANTIQUITIES

Much of the archaeological wealth of India has gone out of the country. India is now naturally anxious to preserve the records of her ancient heritage so far as it is feasible. The Antiquities (Export Control) Act, 1947, accordingly, makes provision for controlling the export of objects of antiquarian or historical interest or significance. For the purposes of this Act, "antiquity" includes works of art or craftsmanship which have been in existence for not less than one hundred years. The export of such antiquities is prohibited except under the authority of a licence granted by the Central Government.

WEIGHTS AND MEASURES⁹

India had had different standards of weights and measures for different objects. Specific weights in fixed ratios have been recovered from the ruins of Harappa and Mohenjo-daro. Trade and commerce made the use of weights and measures inevitable. The weights and measures of this civilised and

1. Section 4.

2. See the Khadi and Village Industries Commission (Amendment) Act, 1961.

3. Section 2(d).

4. Section 2(h).

5. See items 3, 4, 5 and 7 of the Schedule.

6. Section 10.

7. Section 11.

8. Section 16.

9. For weights and measures in ancient and medieval India, see Patra and Parekh, *Op. Cit.*, ch. v (Classes of Punishments).

extensive country were both minute and numerous. Even for the same purpose, different provinces had had different units of weights and measures. Even the same denomination was used differently in different provinces of India. With the unification of the different provinces under the British rule, the different local units of weights and measures were gradually tending to lose their distinctive identities in favour of some common legally acceptable standards throughout the territories of India, though the process of unification could not be complete even with the introduction of the metric system. The rural India will take sometime before she can adapt herself to the newly introduced metric system in all the transactions of commerce.

The Measures of Length Act, 1889, declared the imperial standard yard for the United Kingdom to be the legal standard measure of length in the whole of India except the territories which immediately before the 1st day of November, 1956, were comprised in Part B States. This Act had been repealed in its application to Bombay Presidency by the Bombay Weights and Measures Act, 1932, in the Punjab in such areas in which the Punjab Weights and Measures Act, 1941, had been brought into force, and in Orissa in such areas in which the Orissa Weights and Measures Act, 1943, had been brought into force. As to Delhi, see the Orissa Weights and Measures (Delhi Repeal) Act, 1958. One-third part of the standard yard was called a standard foot, and one-thirtysixth part of such a yard was called a standard inch.

The Standards of Weight Act, 1939, established standard of weight. The unit for weight was the standard grain, that is to say, that weight which when multiplied by 1799.84585 was the weight *in vacuo* of the iridio platinum cylinder in the custody of the Mint Master, Bombay, certified by the Standards Department of the British Board of Trade as having a weight of 1799.84585 grains *in vacuo*. This standard grain was the only unit from which all other standard weights were to be ascertained.¹ Under Section 3, the standard weights were standard tola, standard seer, standard maund, standard pound, standard ounce, standard hundredweight and standard ton. No weight other than these weights and integral

multiples or sub-multiples of any such weight could be used as a standard weight.

The Indian Weights and Measures of Capacity Act, 1871, so far as it related to the establishment of standards of weight was repealed by the Act of 1939. The Standards of Weights and Measures Act, 1956, established standards of weights and measures based on the metric system. Different dates might be appointed for different provisions of the Act or for different areas or for different classes of undertakings or for different classes of goods.² Under this Act, the primary unit of length is a metre; the primary unit of mass is a kilogram. The standard unit of weight at any place is the weight of the primary unit of mass at that place. The primary unit of time is a second; for the definition of a second, see Section 5(2) of the Act. The unit of electric current is an ampere. For the definition of an ampere, see Section 6(2) of the Act. The primary unit of area is a square metre. The primary unit of volume is the cubic metre. The unit of capacity is the litre. For other standards, see the several Sections of the Act.

The Measures of Length Act, 1889, and the Standards of Weight Act, 1939, have been repealed by this Act of 1956. Certain weights and measures were allowed to be continued during the transitional period for a period not exceeding three years.

For conversion of the older weights and measures into standard mass and measures under the Act of 1956, see the First Schedule thereto. For the repeal of the various State Acts, see the Second Schedule.

The Central Excises (Conversion to Metric Unit) Act, 1960, has amended certain laws relating to duties of excise for the purpose of introducing metric units in such laws. The Customs Duties and Cesses (Conversion to Metric Units) Act, 1960, further amends certain laws relating to customs duties and the cesses for purpose of adopting metric units in those laws.

STANDARDS

The Indian Standards Institution (Certification Marks) Act, 1952, provides for the standardisation and marking of goods. The Act now extends to the whole of India.³

1. Section 2.

2. See Section 1(3) of the Act of 1956 as amended by the Standards of Weights and Measures (Amendment) Act, 1960; see also the Weights and Measures (Enforcement) Acts of the States as well as the Central Regulations.

3. Section 2 of the Indian Standards Institution (Certification Marks) Amendment Act, 1961.

“Indian Standard” means the standard (including any tentative or provisional standard) established and published by the Indian Standards Institution, in relation to any article or process, indicative of the quality and specification of such article or process, and includes any standard recognised by the Institution under clause (aa) of Section 3 of the Act. “Licence” means a licence granted under the Act to use the Indian Standards Institution Certification Mark, in relation to any article or process which conforms to the Indian Standards. “Mark” includes a device, brand, heading, label, ticket, pictorial representation, name, signature, word, letter or numerical, or any combination thereof.

The Indian Standards Institution is empowered to establish and publish the Indian Standard in

relation to any article or process. It can also specify a Standard Mark to be called the Indian Standards Institution Certification Mark, which will be of such design and contain such particulars as may be prescribed to represent a particular Indian Standard.

No person shall use, in relation to any article or process, or in the title of any patent, or in any trade mark or design the Standard Mark or any colourable imitation thereof, except under a licence granted under the Act.

No person shall, notwithstanding that he has been granted a licence, use in relation to any article or process the Standard Mark or any colourable imitation thereof unless such article or process conforms to the Indian Standard.¹

1. Section 3.