

GIFT, MARRIAGE AND THE DENIAL OF RECIPROCITY

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1. The weightiest of gifts is no doubt the giving in marriage of one's own daughter. More than any other social institution it establishes overlapping networks of relationships, thereby ensuring the coherence of society as well as its continuity over time. It is, in other words, central to the foundation of society. The elaborate ritual of the marriage ceremony in which the gift of the daughter is embedded, both in the ancient Indian texts and in present-day practice, demonstrates the pivotal importance of this act, in India as elsewhere.

It was its very importance that gave rise to a variety of legal opinions and arguments. The main issue was precisely the gift character of the bride's transfer by her native family to that of her in-laws. The upshot was the well-known classification of eight (or six) forms of marriage, enumerated in order of preference. They have recently been discussed anew by Professor Stephanie Jamison. So we can confine ourselves for the moment to the main points (Jamison 1996: 207–250).

The first four – the *brāhma*, *daiva*, *ārṣa* and *prājāpatya* forms of marriage are the approved, normatively correct ones. They are generally considered to emphasize the gift aspect of the marriage and accordingly are typified by the use of the term *dāna* or *pradāna*, 'gift'¹. The highest rating goes to the *brāhma* form, characterized as a pure gift without any counterprestation on the part of the bride-receivers. In the *daiva* form a sacrificer gives his daughter in marriage at the time of the sacrifice to the officiating brahmin. The bride in this case is then virtually a *dakṣiṇā* – a moot point as we shall see. The *ārṣa* form is distinguished by a counterprestation on the part of the groom, namely a cow-and-bull pair (*gomithuna*). Although the counterprestation looks suspiciously like a bride-price, this is emphatically denied by the

¹ Thus Mānava DhŚ, including even the *āsura* marriage (3.27–31). The other texts do not consistently use the term "gift", except for the *brāhma* marriage where all texts use it (Jamison 1996: 212 and 297, n.12).

texts and the commentators so as to preserve the gift character of the *ārṣa* form.² The *prājāpatya* form, finally, is again a matter of a pure gift, the father giving away the bride with the words: “Together do ye both practise *dharma*”. The operative word here is *dharma* – a point to which we shall return – but generally speaking, it is hard to see what distinguishes this form from the *brāhma* form of gift marriage.

The next four, the *āsura*, *gāndharva*, *rākṣasa* and *paiśāca* forms, while not invalid, are not approved either. The *āsura* type, although Manu (in contrast with the parallel texts) speaks here of *kanyāpradāna*, ‘gift of a maiden’, clearly involves a bride-price, known as *śulka*. This term had – at least originally – a far wider range of meaning than the commercial one of “sales price”³ but it was the notion of selling one’s daughter (or ward) that made the *āsura* marriage reprehensible in the eyes of the brahmin *dharma* specialists and even cast a shadow of suspicion on the otherwise approved *ārṣa* type of marriage.

We can deal briefly with the last three forms. The *gāndharva* form is a union established by the partners themselves without the parents being in any way concerned; in this respect it is rather like elopement. The *rākṣasa* mode is typical epic fare involving forcible abduction of the wailing and crying maiden as well as a heroic fight with the maiden’s relatives who go after the abductor. Despite being, as Professor Jamison shows, very much convention-bound, it is no less bloody for all that.⁴ The last and worst form is the *paiśāca* one which is simply the rape of a maiden who, being intoxicated, asleep or simply heedless, is incapable of resistance. Although unanimously condemned, it still constitutes a valid ground for marriage.

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2. In spite of being neatly arranged in order of preference the list of eight marriage forms looks rather haphazard, without much rhyme or reason. The differences between the various forms are not clear everywhere. What, for instance, distinguished the approved *ārṣa* mode from the disapproved *āsura* one? And how far are

² Mānava DhŚ 3.53 rejects the use of the word *śulka* for the cow and bull to be offered to the father of the bride (also Āpastamba DhŚ 2.13.12; Vāsiṣṭha DhŚ 1.30). Generally *śulka* is taken, in connection with marriage, in the narrow sense of “price” (see also the next note).

³ J. Gonda (1975: 179–180) stresses the non-commercial, sacral meaning of *śulka* as well as of the word *kṛaya* ‘buying’. Jamison (1996: 213, 217) attaches more importance to the durable exchange relations established by the *śulka*, as also by the gift in general.

⁴ On the conventional nature of the *rākṣasa* scenario see the brilliant analysis of Jamison (1996: 218–236). Also note the conventional use of the war and racing chariot. The abducted maiden may even, for all her wailing and weeping, consent, in which case Manu speaks of the combined *rākṣasa* and *gāndharva* modes, both being proper for the *kṣatriya* whether separately or in combination (Mānava DhŚ 3.26).

both essentially different from the hallowed *daiva* form, where the bride is virtually part of the *dakṣiṇā*?⁵ Or why should the *prājāpatya* and *brāhma* forms be different from each other? Is it impossible for these two forms at least to overlap, as is explicitly stated for the *gāndharva* and *rākṣasa* modes?⁶

Nor is the list exhaustive. We miss the celebrated *svayaṃvara* contest of the assembled suitors. Even if the nature of the contest fits in well with the *rākṣasa* form – in the epic stories they are often combined⁷ – it is surprising that it should not be mentioned in the list; the more so, since the *svayaṃvara* is otherwise well-known to the *dharma* authors.⁸

No less intriguing is the absence of the marriage type that is characterized by a dowry or “bridegroom-price” (often followed by further one-sided prestations in the following years on the part of the bride-giving family). It may well be that the excesses of dowry (and other marriage expenses) have gained their high profile in later times – during the last two centuries – and so become a target for reformists and an object of – not overly successful – legislation forbidding the practice of dowry.⁹ Indications of considerable dowries may be found, however, in the classical texts¹⁰ but the dowry form is not found formalized as a separate marriage form.

Generally speaking the classical list of marriage forms looks rather like a random selection of abstract points for legal purposes. Given the pivotal importance of marriage, which was far from being a uniform institution, there was clearly a need for such a list, if only for clarifying matters and reducing the variety to a measure of unity. We do indeed find telling traces of intensive debates, in the first place in Jaimini’s *Mīmāṃsā-Sūtras*. (PMS 6.1.6–24; Heesterman, forthcoming). Not surprisingly the debate focused on the juridical position of women who, by moving

⁵ On the *dakṣiṇā* and the question of the bride being or not being (part of) the *dakṣiṇā* see below sections 3 and 7.

⁶ See above, note 4.

⁷ On the *svayaṃvara* see Kane 1930–62, II.1: 523. For the relevant epic stories see Jamison 1996: 236–250.

⁸ The *Mahābhārata* (1.96.11), in a not altogether clear enumeration, mentions the *svayaṃvara* as the eighth marriage form.

⁹ On dowry and its increase see Van der Veen 1972: 36–42, 192–193, 255–256. Causes for the emergence of excessive dowry in modern times would include socio-economic changes, among them the introduction of western concepts of exclusive individual ownership, concomitant erosion of supportive family networks, increasing monetization and, possibly, hardening of caste boundaries.

¹⁰ Especially in the case of gift marriages. Thus, in an enumeration of the marriage forms in the *Mahābhārata* (1.96.8), apparently referring to the *brāhma* form, the text has the father not only decking out the bride with ornaments (the ornaments belonging to the *strīdhana*, the separate property of the married woman) but also proffering much wealth (*alamkṛtya yathāśakti pradāya ca dhanāny api*) See also 1.213.40–50, where Kṛṣṇa’s marriage with Subhadrā – which began in the *rākṣasa* mode with her abduction – is later on sealed by her relatives bringing enormous riches.

from their parental family to that of their in-laws, bore the brunt of the problems involved in the relationship between bride-givers and bride-receivers.

Thus the *Mīmāṃsā-Sūtras*, while ostensibly dealing with the *adhikāra*, the entitlement of women to sacrifice, discuss the proprietary rights of the married woman. The discussion takes its cue from the question of whether the transfer of the bride to the groom was a free gift or required a counterprestation, in the form of a *śulka* or 'bride-price'. In the latter case it could be considered a sale. This was not merely a moral question; it had weighty legal implications. If marriage is viewed as a sale, as is possible in the case of the *ārṣa* and *āsura* forms, and in a way also the *daiva* form, the wife, being herself a property, cannot have property rights of her own.

We shall have to return at some length to this problem and the way it was dealt with by the classical *dharma* specialists, foremost among them the *mīmāṃsakas*. For the moment we should only bear in mind that, firstly, the list of eight marriage forms and the discussions related to them are a late arrival – most *gṛhyasūtras* do not know the list, while some distinguish only two types, the gift type (*brāhma*) and the "bride-price" type (*śaulka*); and secondly, that the sale view is rejected in favour of the gift. The crux of the matter, then, as we shall see, is the nature of the gift.

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3. Now, Marcel Mauss in his classical study of the gift has convincingly demonstrated its binding force. The gift creates an asymmetry between giver and receiver. It therefore requires a counter-gift, which, however, fails to bring about a perfect balance. The counter-gift, then, must again be reciprocated and so on. By way of the concatenation of mutual gift exchanges a lasting alliance is brought about and maintained. What makes the gift particularly weighty – one might say "aggravates" it – is the highly personal nature of gift and reciprocity. Donor and donee enter into a bond of personal interdependence.¹¹ In this respect marriage, being the prime gift, plays a crucial role.

In the same vein Professor Jamison concludes that marriage is decisive in forging permanent alliances and thereby controlling tensions, such as those that emerge from the stories discussed by her of hospitality and its anxieties (Jamison 1996: 153–203, 255). Understandably this also leads her to the plausible idea that in this lies the rejection of the notion of "bride-price". As she argues – in general rightly – sale and purchase "with equivalence of value on both sides" would cut short the chain of reciprocal prestations and so preclude the foundation of a lasting alliance

¹¹ Cf. Mauss 1950: 227, "C'est qu'on se donne en donnant, et, si on se donne, c'est qu'on se 'doit' – soi et son bien – aux autres."

(Jamison 1996: 215). Nevertheless, on further consideration the reason for rejecting the “bride-price” notion appears to be a different one, in fact the exact opposite.

No doubt marriage in actual practice did, and still does, involve reciprocity and establish a chain of mutual gift exchanges supporting an alliance between the two parties. However, the question is whether such reciprocity and the lasting ties it maintains are indeed so highly valued. In fact, reciprocity is *not* valued, precisely *because* it creates a chain of gift exchanges. Marcel Mauss had already seen this to be the case and felt obliged to admit that on the principal point of his demonstration, the obligation to reciprocate, he had found little – if anything – in Hindu law, adding that “*même le plus clair consiste dans la règle qui l’interdit*” (Mauss 1950: 243, n. 3).

However fundamental gift exchanges may be to social life, they do have a darkly ominous side. Implying as it does the mutual participation of donor and recipient in each other – as pointed out above – the gift also comes to entail the passing of one’s evil or impurity to the other party. Thus the brāhmaṇa texts stress the feeling of being “poisoned” by the acceptance of gifts.¹² Rather than assuaging and controlling, let alone resolving tensions, gift exchanges may keep them alive.

The ambiguity of the gift is also known in other civilisations. In the Indian case, however, for reasons to which I shall return (below Section 8), this ambiguity of the gift, the reluctance to accept it and the rejection of reciprocity have been turned into scriptural doctrine (cf. Van der Veen 1972: 206–229). This is illustrated by the Indian institution of world renunciation. What the renouncer renounces is not so much the world as the mutual ties of obligation that constitute society. The renouncer not only steps outside society but in doing so transcends it. In this way the gifts – notably of the food he needs to survive – do not tie him down to the social world through the obligation of reciprocity. The absence of the need to reciprocate is clearly brought out, when the food he receives is not specially prepared for him. There is then no personal tie involved (Heesterman 1966: 148).

Apart from the case of the renouncer, the rejection of social “networking” based on reciprocity is clearly in evidence in the injunction not to invite friends to sacrificial meals in honour of gods or ancestors for the purpose of forging alliances – as was undoubtedly common usage. Such munificence is roundly condemned as *paiśācī dakṣiṇā*, a ‘demonic fee’.¹³ In short, reciprocity may be socially necessary, but is for the same reason devoid of ultimate value.

¹² See Heesterman 1985: 27, 31–32, 36–38; also Raheja 1988: 31–36 on the passing of “inauspiciousness” to the donee. This author also gives a full description of gift giving occasions; for marriage, see Raheja 1988: 118–147.

¹³ Mānava DhŚ 3.138–141. Mauss refers specifically to this passage for the rejection of reciprocity (Mauss 1950: 243, n. 3). One may also think of the *sapinḍa* rules, forbidding marriage between even distant relatives, which in practice prevent bonds of mutual obligations from lasting over the generations.

4. But now it will be asked, why all the fuss about the *śulka* not being a “bride-price”, if it is not completely ruled out, when it is precisely the purely commercial transaction of sale and purchase that would effectively eliminate the ambiguity of the gift. The question becomes even more puzzling, when we consider the *dakṣiṇā*, the sacrificial fee given to the brahmin officiants and discussed in the brāhmaṇa texts as the prototypical gift¹⁴. Whereas the *śulka* should by no means be considered a “price”, the *dakṣiṇā*, though originally clearly a gift, becomes in the orthodox view of the Mīmāṃsā as a wage for services rendered, on the same footing as the wage paid to a lumberjack (*naiṣkartyka*).¹⁵ Why then should the *śulka* not be “price” in the same way as the *dakṣiṇā* is the price for work done?

To answer this question we first have to look at the nature of the gift in the light of the true *dharma*. The true *dharma* is that which serves *no* “visible”, that is mundane, purpose, and therefore can only be known through the injunctions of the Vedic *śruti* which is eternal and suprahuman. In other words, it is transcendent.¹⁶ The true dharmic gift, therefore, can only be a free gift that is devoid of any worldly motive and so neither creates an obligation, nor arises from one. All mutuality is excluded. Such a gift is *dharmamātra*, a matter of pure *dharma*, free from worldly concern as well as perfectly impersonal.

Given its ultramundane sacrificial, or dharmic, context the *dakṣiṇā*, whatever its original function, cannot be viewed as a gift in the usual mundane sense of creating a personal bond. Otherwise it would serve the purpose of creating or maintaining an alliance; in the words of Manu it would be, as we have seen, a *paiśācī dakṣiṇā*. If a gift, it would have to be one in the *dharmamātra* sense. But it is precisely the *dharmamātra* quality that is denied. The formal reason is that the *dakṣiṇā* simply serves the purpose of inducing the brahmin specialist to accept the officiant’s job by offering him a proper wage. So the *dakṣiṇā* is in the mundane or the ultramundane sense not a gift but a wage.

Even though this reasoning denies the brahmin officiant any share in the transcendent benefit of sacrifice – which only comes to the sacrificer – and even deems him as an occasional labourer, this view of the *dakṣiṇā* has an important advantage. This transaction between the sacrificer and the officiant avoids the

¹⁴ On the *dakṣiṇā* as a gift establishing a bond of mutual obligations see Heesterman 1959, especially pp. 242–245.

¹⁵ PMS 10.2.28. The Mīmāṃsā argument is analysed by Malamoud (1976: 179–181), who accordingly does not view the *dakṣiṇā* in terms of “prestations totales”, “involving an ever repeated cycle of exchanges” (Heesterman 1985: 31) but as part of contract between the individual sacrificer and the brahmin officiant (Malamoud (1976: 178).

¹⁶ On this fundamental criterion see Lingat 1967: 175–178, 202. It refers to those acts that Jaimini calls *dharmamātra* and according to Śabara result in the transcendent *apūrva* (Heesterman 1994, especially pp. 142–143).

ambiguity that still clings to the gift. For even if viewed as a free *dharmamātra* gift, there is still the darkly ambiguous side of the gift's acceptance to be discussed. The problem is the highly profiled notion, embedded in the *śruti*, that the giver passes on his evil to the recipient.¹⁷ The emphasis on this notion is directly related to the scriptural rejection of reciprocity; the notion of passing on one's evil to the donee obviously blocks reciprocation.

In view of all this, and especially of the threatening ambiguity of acceptance, the best way out of the tangle is to view the *dakṣiṇā* as a wage for services rendered in a single transaction that has no further implications.

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5. Why then should a similar reasoning to that applied to the *dakṣiṇā* not be applicable to the *śulka*? Apart from the ugly suggestion of selling one's daughter – as unacceptable to Indian sensitivities as it is to ours¹⁸ – it would run aground on no less serious an objection. Sale would ultimately mean that the bride would simply be a commodity and consequently incapable of having possessions of her own. This, however, would have weighty consequences for the hallowed institution of sacrifice. Since sacrifice involves material goods, the wife, if denied proprietary rights, would be barred from sharing in her husband's sacrifice. The rules of ritual, however, do require her to participate, as conversely a man cannot be a sacrificer without the participation of his lawful wedded wife.

The matter is discussed at length in Jaimini's *Mīmāṃsā-Sūtras* (PMS 6.1.6–24; cf. Heesterman, forthcoming). The discussion is, of course, in terms of sacrificial ritual, and more specifically concerns the wife's *adhikāra*, her entitlement to sacrifice, but at the same time offers the orthodox dharmic model for dealing with the proprietary rights of the married woman. It is argued that she does have property of her own, notably the inalienable *strīdhana* given to her by her father, relatives or husband, but also her rights to family property held jointly by husband and wife. Similarly she also has a right of ownership (*svāmītvā*) in her husband's property.¹⁹

¹⁷ Incidentally, this may enable us to understand the excesses of the dowry type of marriage; the giving party has to keep on giving without reciprocal balancing, even staunchly refusing such balancing. See Karve 1953: 130; Dumont 1966: 177; Van der Veen 1972: 77–81).

¹⁸ See *Mānava DhŚ* 3.51, 53; 9.98–100. Interestingly Manu seems to be quite aware that *śulka* does not mean “brideprice” in a purely commercial sense; in his view it is used as a *cover* for what actually is a sale, but it can hardly be absolved of the suspicion of a mundane purpose (cf. above, note 16).

¹⁹ PMS 6.1.16, 17, 20. Śabara ad s. 16 refers to *Maitrāyaṇī Saṃhitā* 3.9.7: 88.6, “the wife is master of the household goods; only with the wife's consent is the offering made”.

It should be realized, however, that *svāmitva* or *svāmya*, proprietary right, is as a rule not exclusive; there can be – and usually are – several *svāmins* having different but equally valid rights to the same good. This means that none of the various *svāmins* is the owner in the sense of having the power of disposal without reference to the others. Full ownership, therefore, requires *svātantrya*, independence (Derrett 1962: 93–101; Heesterman, forthcoming, sections 3–5). Given the general practice of interlocking rights of different character to the same good, this independence would be within reach of very few – mentioned as such are the king, the spiritual teacher and the master of the household – but even so the freedom of disposal that goes with *svātantrya* should not impinge on another person’s rights, and will for that reason in practice be limited to the particular right held.

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6. Against this background we can assess the legal position of the sacrificer’s wife. Being *paratantrā*, that is dependent on her husband, she cannot dispose freely of her property, but needs her husband’s consent. But neither can the husband dispose of the family property without his wife’s consent. In ritualistic terms mutuality is expressed by the concept of sacrifice as a joint enterprise of husband and wife, both being propertied and so capable of contributing separately to what – according to the singular verb form *yajeta* – is a single sacrificer’s enterprise.²⁰

The attempt, deftly executed, at squaring the circle – two acting separately as if they were one single person is further underlined by the reference to the *ādhāna*, the setting up of the (domestic) fire, as a *dvyādhāna*, ‘twofold *ādhāna*’, that is by husband and wife together, each acting in his or her own right²¹. Their cooperation in this act signifies the founding of a new living unit capable of acting independently and providing the husband with his *svātantrya* as master of the house (*gṛhin*, *gṛhapati*).²² The setting up of the home fire as the founding act of the new unit is

²⁰ PMS 6.1.17. As Śabara, in his comment (s.f.), explains the activity of the *patnī* does not cancel the singular (verb) of the sacrificer. Hence the sacrifice is still *aikakarmya*, ‘one single act’. Yet the *patnī*’s willing cooperation in her own right is necessary for “property is common between spouses”. For the legal adage to which Śabara refers – *dampatyor madhyagaṃ dhanam* (see Derrett 1962: 62–64). As Derrett points out, there is an unresolved problem here: “Classical Hindu law knows that husband and wife are indivisible (*jāyāpatyor na vibhāgo vidyate*) ... Yet it is quite certain that there was no community of goods between spouses in dharmaśāstra. Complete separation is the rule.” This is the problem the *mīmāṃsakas* had to face.

²¹ PMS 6.1.22: *dvyādhānam divyajñavat*.

²² Hence the dictum *vivāhapūrvō vyavahārah*, ‘transactions start with marriage’, that is, full legal majority is acquired through marriage, it is the basis of *gārhashtya* and therefore, the most important of all transactions (Arthaśāstra 3.2–1; Wezler 1997: 543 and 552, n. 68).

all the more significant for the fact that the fire is derived from the bride's parental home, where the marriage ceremony was celebrated (Heesterman 1993: 100, 135 and 257, n. 55). Hence also the need for the wife's cooperation in sacrifice, the burnt oblation being the centre of sacrificial ritual.

Through the paradoxical interweaving of oneness and separateness, sacrifice sheds a sharp light on the critical nature of the relationship between bride-givers and bride-receivers, and particularly on the position of the married woman. But so far this only states the problem. The *mīmāṃsaka* jurists had to point out the way to deal with it. This they do by defining the participation of the wife in sacrifice. Although the inequality (*atulyatva*) between husband and wife is clearly stated, the wife's participation being for that reason limited to those acts that are explicitly prescribed for her, it is significant that among the duties to be performed by the wife are acts that are parallel to similar acts of the husband.²³ In this way the wife, notwithstanding her inequality, is seen to act independently, as a co-sacrificer in her own right. Accordingly she shares with her husband the benefit, the "fruit" (*phala*), of the sacrifice.²⁴

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7. It is time we returned to the problem presented by the *śulka*. Our digression on the rights of the married woman will have made clear that the orthodox *mīmāṃsaka* view excludes an effective "bride-price". Accordingly the *dharma* texts emphatically reject it. We know, however, that the word *śulka* has a far wider range than merely "(bride-)price", even though the *dharma* authors take it to mean only that (Gonda 1975). Interestingly in the *Arthaśāstra* it also means "dowry" given by the father of the bride. In other words, *śulka* here refers to the reciprocal exchange of gifts between the two parties, as has already been suggested by Professor Jamison in connection with the mythical marriage of heaven and earth at which the two partners exchange *śulkas*.²⁵

²³ PMS 6.1.24 *tasya yāvad uktam āśīr brahmacaryam atulyatvāt*. Of the two cases mentioned – involving the blessing (*āśis*) and chastity (*brahmacarya*) – the first refers to the offerings of the *patnīsaṃyājas* (Hillebrandt 1880: 157). There the mantra to be uttered by the *patnī* is exactly parallel to that of her husband. The chastity to be observed is obviously common to both. (See also Heesterman, forthcoming, n. 16). Another case would be the *avekṣaṇa*, the mirroring oneself in the clarified butter by the sacrificer and, separately, the *patnī*; (Āpastamba ŚS 2.6.2 and 6), referred to by Śabara ad PMS 6.1.17 (Poona ed., 193).

²⁴ PMS 6.1.21. In support Śabara quotes Taittirīya Br. 3.7.5.11: "Together with her husband the *patnī* should join in the auspiciousness; both have been joined under the yoke of sacrifice; united they should leave behind the enemies; in heaven they should attain the undying light". This is the mantra accompanying the ghee libation after the *patnīsaṃyājas* (Āpastamba ŚS 3.9.10).

However, as we have seen, interpreting *śulka* in the sense of mutual exchanges would hardly help to legalize it and the texts do not even mention this. Both the notion of gift and of price have to be avoided. The way to rule both out is then to declare the handing over of the *śulka* to be a *dharmamātra* act, totally unrelated to the act of the bride's father in giving away his daughter.

Curiously, though, Jaimini nonetheless speaks of *kṛaya*, 'purchase', 'buying', which he then declares to be *dharmamātra*.²⁶ His use of the word *kṛaya* refers, as Śabara points out, to a particular Vedic prose passage which speaks of the sacrificer's *patnī* as 'bought by her husband' (*patyuhḥ kṛitā*).²⁷ Apart from the question of what this may originally have meant in terms of mutual exchanges, Jaimini cannot avoid the word and thereby has to acknowledge the prevailing practice of paying a "bride-price".

It will be clear, though, that the *dharmamātra* interpretation is a rather thin veil that fails to obscure the *śulka*'s obvious nature as a reciprocal gift, even if the plain "buying and selling" view is discarded. Yet even the *dharmā* texts, embodying the *smṛti*, stress in connection with the *śulka* the ultramundane *dharmā*, devoid of worldly motives: thus Āpastamba's Dharmasūtra asserts that the bridegroom's gift to the bride's father is made 'for the sake of dharma' (*dharmārtham*) and further that the word 'purchase' (*kṛaya*) is used only as a 'manner of speaking' (*saṃstuti-mātram*), for the marital union is not effectuated by purchase but by *dharmā*.²⁸

The *dharmamātra* plea may save the day for the *śulka*, but what about the gift of the bride to one of the brahmin officiants at a sacrifice, as in the case of the perfectly commendable *daiva* marriage? Is the sacrificer's daughter part of the *dakṣiṇās*? If she is, she is included in the price for hiring the officiant's services, the *dakṣiṇā* being in the orthodox view a wage. Put differently, she would be equal to

²⁵ Jamison 1996: 213, referring to Jaiminiya Br. 1.145, where heaven and earth exchange *śulkas* on their marriage. In the Arthaśāstra *śulka* does indeed mean "bride-price" (3.2.11) as well as dowry (3.2.19,37, 40, 41; 3.3.5,32).

²⁶ PMS 6.1.15, *kṛayasya dharmamātratvam*. Yet in his commentary Śabara does admit that *kṛaya* is sanctioned by the *smṛti* tradition – in other words, it is acknowledged as regular usage – but goes against the Vedic *śruti* and hence is not approved (*smārtaṃca śruti-viruddhaṃ nānumanyate*). Similarly the Mahābhārata's Anuśāsana Parvan declares that, though practised by some, it is not "eternal *dharmā*" (13.45.20).

²⁷ Śabara ad PMS 6.1.11 refers to Maitrāyaṇī Saṃhitā 1.10.11: 151.3 (and Kāṭhaka 36.5: 72.17): "a woman who has been bought by her husband and then consorts with others, commits untruth". The context is the notorious rite in the Varuṇapraghāsa sacrifice where the wife has to confess infidelities committed by her (during the absence of her husband). This passage is also quoted in Vāsiṣṭha DhŚ 1.37 in support of the "bride-price". On this rite see Jamison 1996: 88–96, especially 90–91; also Heesterman 1985: 134–137.

²⁸ Āpastamba DhŚ 2.13.12. Cf. Kullūka ad Mānava DhŚ 3.29 and 53 who interprets the expression *dharmataḥ* in the phrase *gomithunam ... varād ādāya dharmataḥ* ('having accepted a cow-and-bull pair', 3.29) as *dharmārtham*, 'for the sake of *dharmā*'; that is for the purpose of performing sacrifice and similar acts that are typically *dharmamātra*.

the goods and chattels that are paid for the officiant's services and so would have no property of her own. Although the main texts do not deal with the question explicitly, some commentaries do so and, understandably, deny that she is part of the *dakṣiṇās* (Kane 1930–62, II.1: 517, n. 1205).

To sum up, then, the orthodox view held by the *mīmāṃsaka* jurists is that neither the *śulka* nor the *dakṣiṇā* is to be considered as a gift in the normal mundane sense of creating a chain of mutual obligations. But where the *dakṣiṇā* could only be freed from this onus by turning it into a price or wage in a single transaction, the *śulka* could not be made to conform to the model of a commercial transaction. The only way out was to view it as a non-reciprocated *dharmamātra* gift. Similarly the daughter given in marriage according to the *daiva* rule had to be set apart from the *dakṣiṇās*. Although this is not explicitly stated, it would seem that this case also falls the *dharmamātra* category.

* * *

8. Obviously the conclusions reached by the *mīmāṃsakas* as regards both the *śulka* and the *dakṣiṇā* are highly artificial constructions that did not tally with common understanding and practice. As Marcel Mauss with a hint of surprise commented, it was without doubt “une vraie révolution par rapport aux usages courants” (Mauss 1950: 243, n. 3). A revolution it certainly was. It set the pattern of Hindu thought and civilization. But how did this revolution come about?

The answer can be found in the late Vedic prose texts. They reflect the breaking away of the Vedic ritualists from the oppressive hold exercised on society by agonistic sacrifice.²⁹ The sacrificial contest was the central arena, in which tension, rivalry and conflict were brought out, status and honour won and lost, positions redefined. In short, it was the central regulative institution. However, in the absence of an agency capable of enforcing the rules, the contest was always threatening to spin out of control with devastating consequences, such as live on in the epic imagination of the *Mahābhārata*, the story of a sacrifice gone wrong. The archaic world of sacrifice was irreparably broken in its very heart. And it was there, at the central institution of this world, that the ritualists directed their attack.

They did so by the drastically simple means of banning the contest and excluding the contestant from the place of sacrifice. The consequences were far-reaching. By excluding the rival partner sacrifice lost its place and function in the centre of society. Instead it was turned into a transcendent realm, the realm of the perfect order of the ultramundane *dharma*, withdrawn from the social world. This

²⁹ The following briefly summarizes the view developed at length in Heesterman 1985, Ch. 2; 1993: 1–7, 45–85.

new transcendent realm was represented by the ever more detailed ritual that was needed to fill the vacuum left by the now absent rival partner.

The withdrawal of the institution of sacrifice from the social world meant equally the isolation of the sacrificer. Left alone, without counterpart, he no longer had a partner with whom to enter into reciprocal exchanges, let alone one to whom to pass on his “evil”. Nor could the sacrificer any longer be expected to return the compliment. This was, as we saw, the reason why the brahmin officiant receives the *dakṣiṇā* not as a gift but as a contractual wage, and consequently the officiant cannot be a valid counterpart in the sacrificial arena.

Accordingly the order of transcendent *dharma* did not recognize reciprocal exchange. Instead it only knew the absolute order of ritual that had come to replace the mundane order of gift and reciprocity, of contest and alliance. Temporarily stepping outside the mundane order, the sacrificer was compelled to submit unquestioningly to the absolute rule of ritual, so as to realize by, for and in himself the transcendent realm of *dharma*, if only for the duration of the ritual. In that sense the sacrificer was the prefiguration of the classical renouncer of the world who had no truck with society and its arrangements.

In short then, the relatively simple matter of “bride-price” and other marriage arrangements draws us into the depths of an insoluble contradiction – a normative order that not only transcends social reality but actually threatens to dissolve its fabric. Therefore *śulka* and *dakṣiṇā* could no longer be viewed for what they are – prestations that create and maintain ties of mutual obligations – but had to be considered as an entirely free and impersonal gift or as an equally impersonal wage.

* * *

9. At this point a further question emerges. How did the not overly coherent list of eight marriage forms come about? Could they have originated in a more coherent or unitary pattern?

Clearly the list was late in coming into existence. The *gṛhyasūtras*, except *Āśvalāyana* and the late *Vaikhānasa*, do not yet know it. Instead a group of mutually related *sūtras* present a simple dichotomy, the *śaulka* or bride-price type as against the *brāhma* type, meaning the unconditional gift of the bride (*Mānava* GS 1.8.7, *Vārāha* GS 10.12–15, *Kāṭhaka* GS 15.1–16.5). In the classical list the *śaulka* type is represented by the *ārṣa* and *āsura* forms, while the *daiva* form – though sanctified by its sacrificial context – shows the same quid-pro-quo pattern. The basic similarity of these three forms of marriage is based not only on the *śulka* as such but also on the ties of mutual obligation which it ratifies between the two parties.

However, as we have seen, this was not the ideal proposed by the transcendent *dharma*. Appositely enough, the *āśura* form is also known as simply human (*mānuṣa*, Vāsiṣṭha DhŚ 1.39). The true dharmic gift – the disinterested, unconditional gift and so the exact opposite of the usual exchange – is represented by the *brāhma* and the *prājāpatya* marriages.³⁰ However, notwithstanding the obvious opposition, the two types are closely related. The *brāhma* type differs from the *śaulka* type only in that it cuts out the counterprestation. The *brāhma* marriage, even though it knows no reciprocity, remains within the purview of the exchange system.

But what about the *rākṣasa* marriage? Even when the warrior prowess, the *vīrya*, shown in the abduction is put on a par with the *śulka*, and the bride so won can be called *vīryaśulkā*, ‘whose bride-price is a feat of valour’ (Mahābhārata 5.173.13; see Jamison 1996: 225), the violence involved seems at first sight to exclude the *rākṣasa* marriage from the scope of the exchange system. Not surprisingly it is considered to be typical of the *kṣatriya* and in his case lawful.³¹ From the warrior’s point of view both the *brāhma* and the *śaulka* types of marriage are equally scornfully rejected. “Who would give away his daughter like a cow? Who on earth would sell his offspring.”³² Yet they are not so far removed from the *kṣātra* or *rākṣasa* mode as one may be inclined to think.

* * *

³⁰ The emphasis on *dharma* in the mantra of the bride’s father (“Together do ye both practice *dharma*”) characterizing the *prājāpatya* marriage, seems typical for the gift marriage in the sense of a *dharmamātra* transaction (see also above, note 28).

³¹ As Hara (1974: 304–305) and, independently, Jamison (1996: 235) have ingeniously argued, the reason for the *rākṣasa* marriage being proper for the *kṣatriya* is his warrior ethos which forbids him to accept, let alone ask for gifts, and means he must take by force. This argument, as will be presently discussed, can be broadened (sections 10 and 11). The starting point is then not the *kṣatriya* (as known from the classical *varṇa* order) but the archaic consecrated warrior who is still recognizable in the classical *dikṣita*, the aspirant sacrificer, whom the classical *dharma* texts still allow to simply take by force what he needs for sacrifice (Mānava DhŚ 11.11–15; Gautama DhŚ 18.24–27). On the consecrated warrior see Heesterman 1993: 165–187, 212–213.

³² Mahābhārata 1.213.3, in Kṛṣṇa’s defense of Arjuna’s abduction of Subhadrā. Cf. Āpastamba DhŚ 2.13.11: “There is no gift or selling”; the next sūtra (12) however, does not commend the *rākṣasa* marriage but instead explains the offering of the *śulka* as an act of *dharma*, devoid of worldly purpose, (*dharmārtha*, see above note 28). It then explains that the father of the bride ‘should make it in common’ (? *mithuyā kurvāt*), or as Kane (1930–62, II.1: 504) renders the phrase, ‘it should be made to belong to the couple’. Anyway, this rendering makes better sense than simply returning the *śulka* (Thus Bühler: ‘should make bootless by returning it to the giver’). For another interpretation of the expression *mithuyā kuryāt* see below, note 34.

10. In the first place it may be recalled that the word *śulka*, like other words for “price” or “wage”, originally referred to the sphere of honour and contest, where such terms meant a reward for a feat of valour or a prize won in a contest (cf. Benveniste 1969, I: 163–170). Against this background the expression *vīryaśulka* appears to be more than merely a pun or a way to make the marriage by abduction acceptable. Its proper context is the *svayaṃvara*, the contest for the bride among the suitors, missing from the classical enumeration of marriage forms. It will not be fortuitous that in the tales of the Mahābhārata we not infrequently meet the *rākṣasa* marriage combined with the *svayaṃvara*. The *rākṣasa* mode itself also involves a fight with the bride’s relatives who pursue the abductor. Moreover, it conventionally features the chariot on which the bride is carried off, the chariot – emblem of warriorhood – being highly suggestive of fight and contest. *Rākṣasa* marriage and *svayaṃvara* resemble each other in the agonistic character they share.

The spectacular violence of the *rākṣasa* marriage Manu speaks of “hitting”, “cleaving”, and “breaking” and of a “screaming”, “wailing” bride – is, as Professor Jamison has convincingly shown, very much rule-bound (Jamison 1996: 219–222). So, of course is the *svayaṃvara*. Generally speaking, the contest, however conventional it might be, did not exclude violence and bloodshed. In any case, the tensions and uncertainties in establishing alliances easily became too momentous to be contained within the bounds of non-violent proceedings. *Rākṣasa* marriage and *svayaṃvara*, then, appear to be closely related. Incidentally this may well be the reason why the *svayaṃvara* is missing from the classical list; it may have been subsumed under the *rākṣasa* form of marriage.

The ritual of the contest, it would seem, survives albeit in bowdlerized form – in a strange marriage rite recorded by the same *gṛhyasūtras* that divide the marriage forms into *śaulka* and *brāhma*. As the Kāthaka GS has it, “Both (i.e. the father of the bride and the bridegroom) exchange gold”, the one saying: “you, for offspring”, the other: “you, for wealth” (Kāthaka GS 16.2–4; Cf. Mānava GS 1.7.11, 8.7; Vārāha GS 10.11, 13–15). This exchange is made four times (Mānava GS 1.8.8). Since this rite characterizes the *śaulka* type of marriage, it is easy to conclude that it originally referred to the paying of the *śulka* in the narrow sense of “bride-price”. Because the notion of a “sale” had become unacceptable, it has been thought that the rite was no more than the “bride-price” being returned to the bridegroom.

However turning the paying of the “bride-price” into a useless sham hardly seems to be a plausible way of expunging the notion of a sale. More likely we have here the truncated remnant of successive mutual exchanges between the two parties. A commentary on the Kāthaka GS suggests that we may go a step further. The two parties exchange gold in a spirit of emulation.³³ In other words, the exchange

³³ Devapāla ad Kāthaka GS 16.3: *suvarṇam vijigīṣayā parasparam dadato dātṛpratiḡhitārau*.

appears to be the remnant of a highly competitive exchange or rather a potlatch-like contest.

The *śulka*, then, is in this instance neither “price” nor “prize” but the gold (or other valuables) staked by both parties in the contest. Finally the proceeds are, as the Kāṭhaka GS prescribes, collected in a metal vessel which is then taken hold of by those present (Kāṭhaka GS 15.5). This latter feature suggests that originally the collected stakes were divided among the participants in accordance with shares won in the game, in order to seal their alliance.³⁴

* * *

11. We may now discern a common pattern behind the *ārṣa*, *āsura* and – not included in the list – the *svayaṃvara* forms of marriage. All of them are based on competitive exchanges. When we look further the *gāndharva* marriage is put on a par with the *svayaṃvara*, both being based on mutual agreement of the two partners (Kane 1930–62, II.1: 523 and n. 1219). Moreover, the *gāndharva* form, like the *svayaṃvara*, does not exclude the fight with the bride’s relatives that characterizes the *rākṣasa* marriage. Manu even mentions the combination of the *gāndharva* and the *rākṣasa* modes (above, note 4). Finally there is the *daiva* marriage, at which the bride is given away in the course of a sacrifice. Given the originally agonistic nature of sacrifice the *daiva* form too fits into the same pattern.

With the *daiva* marriage we come to the unifying factor of the various marriage forms; they derive from sacrifice. The preclassical agonistic sacrifice, as argued above (Section 8), was the privileged arena for acting out and controlling the tensions and conflicts that permeate society, and as such it was the central regulative institution. As the scene for channelling conflict and solemnizing alliance, it also provided the logical context for marriage. The eight marriage forms – or six, if

³⁴ Vārāha GS 10.13–17 mentions two parties, the groom’s party (*janyāḥ*) seated on the east side and the bride’s party (*kaumārikāḥ*) on the west side; each party is given two balls of cow dung at which the bride’s party says: “Wealth to us”, and the others: “Sons and cattle to us”. This fits in with the traces of a contest we found in the curious rite recorded by the Mānava and the Kāṭhaka GS. This might also explain the somewhat enigmatic injunction of s. 17, *kṛtāṃsena* (read: *kṛtāṃśena*) *viśaṃkasesuḥ*, “They (the bridegroom’s party) should depart with (their) allowed share, namely that won in the contest. Originally the prize in the contest may have been the *śulka*, e.g. the bovine pair offered at the *ārṣa* wedding which, as Jamison (1996: 225) suggests, may have been destined for sacrifice. As she also observes, “even within the orthodox wedding ceremony there are details that seem almost reminiscent of agonistic encounters” (Jamison 1996: 225). The archaic sacrificial contest would explain such reminiscences. Perhaps this might also clarify the expression *tat* (i.e. what is to be offered as *śulka*) *mithuyā kuryāt* (Āpastamba DhŚ 2.13.12, see above, note 32), which then would mean ‘to stake it on the contest’.

the *prājāpatya*, which is practically the same as the *brāhma* form, and the illegal *paiśāca* form are left out – appear to be detached aspects of agonistic sacrifice.

With the breakdown of archaic sacrifice, the various modes of marriage that had been coherently embedded in its agonistic scenario lost their coherence and fell apart into separate entities. The gift was separated from its counterpart, reciprocity, giving rise to the *brāhma* and *prājāpatya* forms. The *śaulka* forms were isolated from each other. Each of them was then construed into a pure gift by detaching the *śulka* from the giving away of the bride and viewing the alleged “purchase” as a *dharmamātra* act. The contest, finally, was discarded. Even the *rākṣasa* form, detached from the *svayaṃvara* (significantly ignored in the classical enumeration), does not qualify as a contest. It is a single act of violence, with no adversarial party.

Only the *daiva* form of marriage maintained the direct link with the now revolutionized sacrifice where it no longer fitted in.³⁵ However, in an indirect way, the link can still be recognized in the fact that the sacrificer needs the cooperation of his wife, the *patnī*, who brings him the fire necessary for sacrifice from her parental home and who shares with him in the benefit of sacrifice (above Section 6).

* * *

12. As the archaic world of sacrifice broke apart, so its society dissolved. Like sacrifice, marriage was no longer a matter of mutual exchanges between collective parties, but came to be seen – irrespective of the social reality – as an incidental transaction between individuals, each acting on his own. Thus the “paying” of the bride-price be viewed as a free *dharmamātra* act, unconnected with the transfer of the bride.

Similarly the *gāndharva* marriage can be commended as the best form of marriage, because the woman decides all by herself; being “her own authoritative relative”, the only one responsible for the course of her life, she herself is the only one who can give her away. The fact that it is Duṣanta who speaks here, when convincing Śakuntalā to marry him forthwith in spite of her father’s absence, does not invalidate the reasoning as such. It refers to the doctrine of the *ātman*, the inalienable immortal Self.³⁶

By the same token women cannot logically be denied access to sacrifice – nor in fact can the *śūdra* be. The criterion for entitlement cannot depend on social

³⁵ Hence the ritualistic problem, discussed above (Section 7), of whether the bride given in marriage at the *daiva* wedding can be considered as a *dakṣiṇā*, that is, a “wage” for the officiant’s work.

³⁶ Mahābhārata version of the Śakuntalā tale (1.67.7; see Jamison 1996: 249). Significantly Duṣanta’s argument repeatedly stresses the *ātman*: *ātmano bandhur, ātmaiva gatir, ātmaiva cātmanaḥ; ātmanaivātmano dānaṃ kartum arhasi dharmataḥ*.

qualifications but, as the *Mīmāṃsā* makes clear, only on the desire for “heaven” – that is for the transcendent realm of *dharma*. Marriage, then, is at the heart of the fundamental problem. On the one hand, it is the primordial institution that establishes the chain of mutual exchanges on which society is based. On the other hand, however, it must deny the chain of gift and reciprocity in order that the individual human being, stripped of his worldly ties, may strike out on his own to realize by, for and in himself the transcendent *dharma*.

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