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# Ancient Legal System of India

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## ABSTRACT

*Dance, civilization, culture, tradition, enormous temples, medicine, literature, astronomy, arithmetic, and other topics come to mind when we think about ancient India, but one aspect that is crucial for any country to exist is its legal system. Since ancient times, our laws have been among the most developed, and we can witness some of these advancements in the laws of the twenty-first century. A significant portion of Hindu law originates from Rig Veda, it is considered to be divine law as it is believed, when God was in deep contemplation they revealed this knowledge to the sages.*

## I. INTRODUCTION

Dance, civilization, culture, tradition, enormous temples, medicine, literature, astronomy, arithmetic, and other topics come to mind when we think about ancient India, but one aspect that is crucial for any country to exist is its legal system. Since ancient times, our laws have been among the most developed, and we can witness some of these advancements in the laws of the twenty-first century. A significant portion of Hindu law originates from Rig Veda, it is considered to be divine law as it is believed, when God were in deep contemplation they revealed this knowledge to the sage's.

## II. THE SOURCES OF DHARMA

From the time of the Vedic culture until the arrival of the Muslims, everyone in India was bound by the principle of Dharma. The part "dhr" is the root of the term "dharma," which means to uphold, sustain, or nourish. The Hindu Law is founded on the Dharma principle. Dharma is the one of the four goals of life in Hinduism, it is the moral and religious code that determines how one should behave themselves. It also consists of truthfulness, non-injury, and generosity, among several other virtues.<sup>2</sup> The Vedas also known as Shruti, Smritis, and Achara are the first three sources of Dharma.

***Vedas or Shruti:*** The Vedas are thought to be of divine origin and constitute the Shruti, which is Sanskrit for 'that which the Rishis have heard from God'. The 'Vaidika Dharma' or 'Shrauta Dharma'—the principle of Dharma taught in the Vedas—is regarded as infallible, universal and

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<sup>2</sup> Dharma, Religious Concept. Encyclopedia Britannica. available at: <https://www.britannica.com/topic/dharma-religious-concept> (Last Modified September 3, 2022)

eternal. Yajnas are one example of a religious practise that is only prescribed in the Vedas, and this practise is explicitly referred to as Shrauta Dharma. Except when discussing universal qualities and spiritual truths, the Shruti does not contain many directives of the "do this" and "don't do that" variety. This is because directives of this kind are typically not universal in nature.

**Smriti:** Smritis, refers to the 'memory of a tradition'. Manu Smriti (200BC 200CE) and Yajnavalkya Smriti (200-500CE) are two well-known Smritis that are still important in the twenty-first century. When cultural memory—the collective wisdom of the society is passed down from one generation to the next and each succeeding generation builds on the wisdom that came before it, human culture evolves. It is believed that the Vedas themselves are the source of the Smritis' teachings. The "Dharmashastras" are the primary Smriti texts that impart Dharma knowledge; as a result, the term "Smriti" is occasionally interpreted to refer solely to the Dharmashastras. However, numerous other Smriti scriptures—such as the Puranas, Mahabharata, Ramayana, and others—teach about Dharma. Certain aspects of Dharma, such as the obligations of Varnas (Social classes), Jatis (Castes), and Ashramas (states of existence), are particularly and in-depth taught solely in the Smritis; thus, they are known as Smārta Dharma. Smriti is a practical twist to virtues of Dharma.

**Achara:** This refers to the moral behaviour or righteous deeds of those who comprehend and know the Vedas. We sometimes have to rely on the ideals or examples set by other pious Saints and Sages, or on the conduct of communities/groups known to have very high ethical and moral standards than the teachings of Shruti and Smriti, when Vedas and Smriti are silent or unavailable to provide any guidance then we use teachings of Achara.

### III. COURTS OF ANCIENT INDIA

A ground of case occurs, according to the legal system of ancient Indian civilization, when an individual files a complaint after being harassed in a way that violates the principles of Smriti. A petition, a response, proof, and a decision are the four components of a standard legal proceeding. The four most common sorts of responses are confessions, denials, special pleas, and references to earlier rulings. Documentation, ownership, and witnesses are the three types of evidence mentioned<sup>3</sup>

Based on their rank, Katyayana Smrithi classifies the courts into six groups.

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<sup>3</sup> Historical Evolution of The Indian Legal System. Delhi: The Secretary, CBSE, Shiksha Kendra, 2, Community Center, Preet Vihar, Delhi-110301.

They are as follows:

**The Kula** or family councils or organisations: a group of senior citizens who taught the family's members how to resolve disputes between families with similar backgrounds or inside their own.

**The Shreni** or Trade or Professional Councils: A gathering of senior citizens who are regarded as impartial among a group of businesspeople, professionals, and artisans to resolve disputes.

**The Gana** or Village Assembly: was a sizable assembly of village or grama elders who were respected by the locals for their wisdom, objectivity, and reliability. It is like gram panchayat, that exists in the 21<sup>st</sup> century.

**Adhikrita** or Court appointed by the king: These are all the courts that the King has appointed to administer justice, and its judges are well-versed in the Shastras and Smritis. Depending on where it was located, this type of court might take on several shapes. They are Mudrita, a higher-level court with access to the royal seal,<sup>4</sup> and Pratishtitha, which was established in a certain village or town. The sovereign authorises the Adhikrita, which occasionally resolves conflicts in the Pratishtitha, Apartishtitha, and Mudrita courts.<sup>5</sup>

**Apratishtitha**: was a mobile court that would meet in a specific site upon the King's summons to hear a particular case.

**The Sasita** or Kings Court: served as the highest court in the kingdom. The King personally served as the moderator. A Chief Justice by the name of Pradvivaka and a group of judges by the name of Sabhyas served and supported the King.

**Nripa** or King himself: The King was the ultimate decision-maker in the legal and judicial system, and he was bound by Dharma precepts that he could not violate.

#### **IV. JURISDICTION OF COURTS IN ANCIENT INDIA**

We have discovered evidence in an inscription from the Ashoka Empire, where he instructed all of his judicial officers to be impartial and follow the Dharmashastras. In India, we find a section of legal codes dating back to the first century BCE, which by the sixth century had developed themselves in the form of legal procedure known as "Vyavahara."

The administration of justice was the King's primary responsibility, according to the Smritis of ancient India, which also highlighted the need for a capable judicial system to carry out Dharma-based justice. The King was in charge of upholding the law, ensuring public security, and

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<sup>4</sup> Kumar, Concept of Judiciary in Ancient India, 80-82,

<sup>5</sup> Kumar, Rajandra, "Concept of Judiciary in Ancient India". *Global Research Services* 2 80-82 (2013)

punishing criminals.

The ability, learning, honesty, objectivity, and judicial independence of ancient India were at the highest possible level of any antiquity, and these standards have not been surpassed to this day. The Indian legal system was based on a hierarchy of judges, with the Court of the Chief Justice at the top and each higher court having the authority to review the rulings of the lower courts.<sup>6</sup>

In Ancient India, there existed a hierarchy of courts that went from the family Courts to the King, according to **Brihaspati Smiriti**. The family arbitrator was at the lowest. The court of the judge was the next higher court, followed by the Chief Justice, also known as Praadivivaka or adhyaksha, and finally came the King's court

**Manu** mentions the following reasons for bringing a lawsuit: debts that are not paid; deposits; sales made without ownership; partnerships; gifts that are not delivered; and wages that are not paid; Breach of Contract, cancellation of a sale or purchase, owner-herdsman disputes, the law on border disputes, verbal and physical abuse, theft, violence, sexual offences against women, laws governing husbands and wives, inheritance division, and gambling and betting.

The binding impact of the rulings of these tribunals, ending with that of the monarch, is in the ascending order, and each succeeding judgement shall triumph against the prior one due to the higher degree of study and knowledge, was said by Vachaspati Misra.

Kula, Shreni, and Gana have the authority to decide all civil and criminal cases, with the exception of violent crimes (Sahasa). The King established a court called Adhikrita to try cases involving violence. Although the King has the final say and will decide whether to use corporal punishment, the Sasita (King's Court) will make the decision. The Shreni can review a Kula decision, and the Gana can review a Shreni judgement. The Adhikrita courts, which follow a hierarchy of courts, can similarly review a Gana's decision.

Although ancient writers claimed that a hierarchical system of courts existed in the distant past, the Law Commission's Fourteenth Report<sup>7</sup> states that the precise framework that achieved cannot be conclusively proven with any concreteness; but subsequent writings of writers like Narada, Brihaspati, and others appear to suggest that usual courts must have existed on a substantial level. It was claimed that there was a hierarchy of courts in ancient India, with certain elements of an authoritarian hierarchy of appellate power over the courts below.

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<sup>6</sup> Kumar, Rajander, Concept of Judiciary in Ancient India. Global Research Services 2 80-82.(2013)

<sup>7</sup> Law Commission of India. "Fourteenth Report 1958"

## V. JUDGES OF ANCIENT LEGAL COURT

It's interesting to note that the Indian judicial system currently consists of a hierarchy of courts arranged on a similar principle: the village courts, the Munsif, the Civil Judge, the District Judge, the High Court, and eventually the Supreme Court, which replaces the King's Court. Without realising it, we are continuing a long-standing custom. The king was initially supposed to dispense justice in person, rigorously in accordance with the law, and under the supervision of judges who had studied the law.

In addition to Rajadharma, Manu Smriti and Visnu Smriti place a strong emphasis on domestic administration, the appointment of spies, ministers, and counsels, setting the land, law and order, judges, international relations, the battlefield, famines, and other issues that fall under the purview of the king. For the king, a very severe code of judicial conduct was established. He had to make decisions during open hearings and in the courtroom, and he had to conduct himself in a way that didn't intimidate the parties. He was required to take an impartiality oath and rule on matters without prejudice or allegiance.

‘King has no authority to adjudicate matters between Bhramanas, he should be righteous in deed and speech, he should be well trained (abhivinīta) in the Triple Veda (trayī) and Investigation (ānvīkṣikī). He should be pure, with his senses under control (jitendriya), and furnished with virtuous assistants and policies’.<sup>8</sup>

As society progresses, the king was forced to outsource more and more of his judicial authority to professional judges as his duties increased and he had less and less time to hear cases personally. According to Katyayana, the king should designate a Brahmin who is versed in the Vedas to serve as judge if he himself is unable to hear lawsuits personally due to other duties.

Ancient texts include details on the selection process and qualifications of the many Judges. Yajanvalkya encourages the Sovereign to select people who are knowledgeable about professional legal literature, honest, and behaviourally capable of absolute impartiality between a friend and an enemy as judges of his Court.<sup>9</sup> The Raja Dharma urges the King to select Judges who have a certain set of qualities ingrained in them. They are: a Bahushrutha (deep researcher), a Pramananjana (well deeply educated in the norms of evidence), a Nyayasasthrevilambinah (a responsible and law-abiding citizen), has completely studied the Vedas and Tarka (Logical reasoning), and is a well-versed in Vyavahara (laws guiding court process). The Katyayana

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<sup>8</sup> Patrick Olivelle and Donald R. Davis (eds.), “The Oxford History of Hinduism” King: rājadharmā, Mark McClish 268 (Oxford University Press, 2017)

<sup>9</sup> Vijai Govind, “The Role Of Witnesses In The Ancient And The Modern Indian Judicial System” Vol. 15, JILI 645- 656, JSTOR (1973)

provides some further specifications for the temperament of a judge, saying that the King should select a judge who is pleasant, kind, brilliant, and active, but not pretentious. According to the ancient texts, judges must be impartial, independent, and fearless to a certain extent. The exalted and honourable status of judges in the administration of justice in society was established by the Smrithis and Sastras. Even when their findings contradict the King's wishes, their courage, neutrality, and integrity are invaluable and a lesson to us. Since the supremacy of Dharma was unstoppable and law received its legitimacy from the confidence of the people and the King in Dharma, in accordance with the proverb "Law is the King of Kings,"<sup>10</sup> the King was also required to uphold this idea of judicial freedom and independence. As is evident, the Smrithis built a solid and clear structure for an impartial competent court. Every Smriti emphasises the importance of judicial integrity. Shukra-nitisara argued that the king's chosen judges should be knowledgeable about the law, wise, of outstanding character and temperament, kind in speech, impartial to friends or foes, truthful, and free from fury, greed, or other evil desires. They should also be factually accurate.

## **VI. LEGAL PROCEDURE AND PUNISHMENT OF ANCIENT INDIA**

People were always in danger of being attacked by one another in the past when there was no criminal law to regulate society. The young, the inexperienced, and the elderly were readily subdued and defeated by the strong and the mighty. However, when societies became more unified and diverse standards were put into use, violations were punished with fines, the death penalty, exile, mutilation, and other harsh measures. Fines, forfeiture, property confiscation, and life imprisonment all became frequent types of punishment meted out for nearly all offences around the world with the growth of the humanitarian aspect in criminal philosophy. Manu stated that it is the responsibility of the King to uphold peace and humanity in his domain and that he might use danda as a tool to do justice to the accused party and to punish the guilty person. The Rajadharma law was created to prevent the King from making an arbitrary decision with this power to punish someone and according to Manu, king should only punish those who deserve it after precisely determining the proclivity, the time, and the location, and after carefully weighing the criminal's capacity and the gravity of the crime.

But if King did something improper, who would have the power to investigate it or punish King? According to Medhatithi, the King should be forced to punish himself or admit guilt by making a sacrifice to Varuna.<sup>11</sup> He held the title of "Lord of Punishment." Given that Varun is

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<sup>10</sup> Rama Jois, *Seeds of Modern Public Law in Ancient Indian Jurisprudence* 1-2 (Eastern Book Co; 2nd edn, 2000)

<sup>11</sup> Varuna Indian deity. *Encyclopedia Britannica*, available at <https://www.britannica.com/topic/Varuna/additional-info#history> (Last modified July 7, 2015)

also the lord of water, it is assumed that if he became enraged with the King, he would cast him into the water. Hindu law, which we still adhere to in contemporary legislation, placed even the King under the legal system's purview by punishing them for their wrongdoing. No one is beyond the law of the land.

When punishing people, there was a definite differentiation made between those in upper and lower castes during the ancient Indian period. Higher caste offenders received less harsh punishment, whereas lower caste offenders received more severe penalty according to Kautilya's Arthashastra. He claimed that despite possibly committing a crime, a brahmin was not subject to torture like other individuals and was also free from the death penalty.<sup>12</sup>

Forms of punishment under the Hindu code of law were capital punishment, corporal punishment, social punishment and financial punishment. According to the standards and advancement of ancient society, punishment in ancient India was more severe than it is today. If the seriousness of the offences is more, the court is likewise greater; if the court is greater, the punishment is also greater. The courts (Kala, Sreni, and Gana) delivered the judgements, and it was the Kings who gave the danda. There is no need for the King to intervene in family disagreement cases in the game, and the older wise man from the family serves as the judge. He is free to impose punishment as he sees fit, and the King is not permitted to subject the family members to severe bodily harm.<sup>13</sup>

Capital punishment involves the legally sanctioned killing of a person, as a form of retribution for a crime committed, such as the death penalty. Capital punishment was a widely used method of punishment in ancient India. It was the harshest type of punishment, and several approaches were sometimes used to administer it. Among those techniques were: stoning, pillory, immurement and execution by elephant.

A form of punishment meant to physically hurt a person is known as corporal punishment. It is sometimes referred to as physical punishment. The following are examples of corporal punishment from ancient times: flogging, mutilation, branding, pressured by iron rods and imprisonment.

A person who has received social punishment has been relocated to a remote location or is otherwise prohibited from interacting with anyone, severing all of his social ties. No one is allowed to offer assistance of any kind, and anyone caught doing so will be punished. Social

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<sup>12</sup> The Indian Law, available at <https://theindianlaw.in/punishment-in-ancient-hindu-and-mohammedan-law/> (Last modified October 28, 2020)

<sup>13</sup> Patrick Olivelle and Donald R. Davis (eds.), "The Oxford History of Hinduism" McClish, "Punishment: danda", 279 (Oxford University Press, 2017)

punishment was intended to cause psychological agony rather than any physical harm. There were two aspects to this type of punishment: banishment and social boycott.

Financial punishment is also referred to as fine imposition. It was a typical punishment that wasn't particularly severe and was given especially for breaking traffic laws, revenue laws, and other minor offences. It also involved covering the costs of the prosecution as well as providing compensation to the victims of the crime.

## **VII. CONCLUSION**

In this note on the ancient legal system of india we first understand what constitutes Dharma, what are the sources of dharma, what smritis are, and the significance of the Vedas in the Hindu religion. We then learn about the rule of Manu, Kautaliya, and Gautama, who worked together to develop jurisprudence, and how with their combined efforts, we saw the oldest written laws in the world. We classified the six groups of courts in ancient india; kula, ghana, adhikrita, apratishtih, sasita and nripa, for various crimes, and the King's court for the more obscene and vulgar crimes, and we saw how the punishment is also different and the judges are also different in relation to the severity of the crimes. We also learned the jurisdiction of the courts and how the judges are appointed and governed if they meet the qualifications. We finally learnt about the legal procedure followed to accuse the culprit and the form of punishments given to the wrongdoers.

A supportive system of peaceful living, necessitated by a proper and effective law and order system, as well as an active court, is necessary for civilization to advance. The ancient judiciary formed by India's great clairvoyants met all requirements for a safe and effective judiciary, as can be shown from the discussion above, and it was also compatible with the current system.

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