

Sources of law in ancient India: A study

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Abstract

India has one of the oldest and most dynamic legal systems in the world. Long before the emergence of written Constitution and legislative enactments, ancient Indian society developed elaborate systems of governance, dispute resolution, judicial administration, and social regulation. These ideas were preserved in the Vedas, Dharmasutras, Dharmashastras, commentaries, digests, and customary practices that collectively came to be recognised as sources of dharma. Dharma represented a comprehensive principle of righteousness, duty, morality, and social order, while sources of dharma provided systematic expositions of the principles and rules applicable to different aspects of human and social life. The present study examines the nature and significance of dharma and sources of dharma as foundations of the ancient Indian legal system and analyses the principal sources through which legal norms were derived and developed.

Keywords: Dharma, dharmashastras, sources, law

Introduction

In ancient India not only was there tremendous development of mathematics, astronomy, medicine, grammar, philosophy, literature, etc. but there was also tremendous development of law. This is evident from the large number of legal treatises written at that time.^[1] Unlike modern legislation, which generally defines legal rights and prescribes sanctions for their violation, the legal literature of ancient India sought to harmonise individual conduct with social order through the broader principle of dharma. In ancient Indian society, law and dharma were not distinct concepts. In Dharmashastras, the concept of justice, law and religion were not distinguished and invariably law was equated to dharma and vice-versa.^[2] Law was therefore not conceived merely as an instrument of state coercion but as a means of sustaining moral order, protecting society, and ensuring justice.

Meaning of Dharma

Dharma is one of those Sanskrit words that defy all attempts at an exact rendering in English or any other language.^[3] It is a very elastic term like jus, recht and droit having more than one meaning. It can be distinguished in at least five different senses in which the term is used in popular parlance.^[4] In the first place, it means religion which is a category of theology, e. g. Confucian dharma, Mohammedan dharma, Christian dharma, Hindu dharma etc., in the second place, it means virtue as opposed to sin or vice, a category of ethics; in the third place, it means law which is a category of jurisprudence; in the fourth place, it means justice and in the fifth place, it means duty.^[5]

On being asked by the yudhisthira about the meaning and scope of the Dharma, Bhishma states “it is most difficult to define Dharma. Dharma has been explained to be that which helps the upliftment of living beings. Therefore that which ensures welfare of living beings is surely Dharma. The learned rishis have declared that which sustains is Dharma.”^[6]

तादृशोऽयमनुप्रश्नो यत्र धर्मः सुदुर्वचः।
दुष्करः प्रतिसंख्यातुं तर्केणात्र व्यवस्यति॥
प्रभावार्थाय भूतानां धर्मप्रवचनं कृतम्।
यत्स्यादहिंसासंयुक्तं स धर्म इति निश्चयः॥
धारणाद्धर्म इत्याहुर्धर्मेण विधृताः प्रजाः।
यत्स्याद्धारणसंयुक्तं स धर्म इति निश्चयः॥^[7]

According to Srimad Bhagwata Mahapurana “what is ordained in the Vedas is dharma or righteousness. What is against the prescription of the Vedas is adharma or un-righteousness.

वेदप्रणिहितो धर्मो ह्यधर्मस्तद्विपर्ययः।
वेदो नारायणः साक्षात् स्वयम्भूरिति शुश्रुम॥^[8]

The term Dharma is clearly derived from the Sanskrit root ‘dhri’ which means to uphold, to sustain or to nourish. Its essential meaning is “the principle that upholds and sustains life.” In this sense, it has been used in the Rigveda.^[9] The conduct prescribed by Shruti (Vedas) and Smriti (Dharma Shastras) is considered as Dharma.^[10] Jaimini defines dharma as ‘a desirable goal or result that is indicated by injunctive (Vedic) passages.’ The word dharma would mean such rites as are conducive to happiness and are enjoined by Vedic passages.^[11] “Dharma is that which is ordained by the Supreme Lord. Neither sages, nor gods, nor humans can independently know it.”

धर्मं तु साक्षाद्भगवत्प्रणीतं न वै विदुरषयो नापि देवाः।
न सिद्धमुख्या असुरा मनुष्याः कुतश्च विद्याधरचारणादयः॥^[12]

The twelve great authorities—god Brahma, Narada, god Siva, Sanatkumara, Kapila (the founder of the Sankhya Shastra), Manu, Prahlada, Janaka, Bhishma, Bali, Sukadeva (the son of Vyasa) and Yamaraj—know the essence of the Dharma as expounded by the Lord. It is extremely sacred, pure, secret and difficult to understand. One who knows it attains immortality (Final Liberation—Moksha).

स्वयम्भून्नरदः शम्भुः कुमारः कपिलो मनुः।
प्रह्लादो जनको भीष्मो बलिर्वैयासकिर्वयम्॥
द्वादशैते विजानीमो धर्मं भागवतं भटाः।
गुह्यं विशुद्धं दुर्बोधं यं ज्ञात्वा मृतमश्नुते॥^[13]

Sources of Dharma (Law)

Manu enumerates four and Yajnavalkya fourteen^[14] different sources of Dharma. According to Manu, Veda is the first source of Dharma. After that, the expression by the Smritikaras, handed down from generation to generation by memory, the virtuous conduct of those who were well versed in the Vedas, and lastly, what is agreeable to the good conscience, are the other sources.^[15]

वेदोऽखिलो धर्ममूलं स्मृतिशीले च तद्विदाम्।
आचारश्चैव साधूनामात्मनस्तुष्टिरेव च॥^[16]

Yajnavalkya declares the sources in a similar strain, the Vedas, the smritis, good conduct or approval usage, what is agreeable to conscience proceeding from good intention are the sources of law.^[17]

श्रुतिः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः।
सम्यक्सङ्कल्पजः कामो धर्ममूलमिदं स्मृतम्॥^[18]

Vedas (Shruti)

The Vedas or Shruti considered the ‘primary and original source of Dharma.’^[19] It means which was heard and handed down from generation to generation verbally. The source of the Vedas or Shruti was believed to be divine. The word śruti comes from the root śru, which means ‘to hear’. Thus, what is heard? It is believed that these sentences are revelations of God to the ṛṣis (sages). The sages heard the divine truth through meditation and passed it down in the same form. Shruti is not considered man-made; its authority is absolute. Its main purpose is to provide spiritual and religious knowledge. It is generally believed that the Shrutis contain the words of God which came down to us through the seers and sages. They are regarded as the oldest sources of Dharma. They include four Vedas viz.:^[20]

1. **Rigveda:** Rigveda is first and foremost among the Shrutis for the knowledge of Dharma. It is considered the oldest among all Vedas which is composed between 1500 BCE and 1000 BCE. It mainly contains hymns of praise for gods, prayers, and mantras recited during yajñas. It consists of 1028 hymns arranged into ten maṇḍalas (books). The hymns of the Rigveda were used on the occasion of yajñas to please the deities. References to weddings,^[21] funerals,^[22] and conception^[23] are found in a concise form in the Rigveda. It may perhaps be presumed that the later rituals of vivaha, garbhadhana and antyesti owe their origin to these hymns. Innumerable hymns are found in it that are recited at different rituals and ceremonies.^[24]
2. **Yajurveda:** The meaning of Yajus is sacrifice (yajña). It contains a collection of rules and regulations for performing yajñas. The priest who recited the mantras of the Yajurveda was called Adhvaryu. It has two parts – the Śukla Yajurveda and the Kṛṣṇa Yajurveda. It is written in both prose and verse. The Yajurveda represents an advanced stage in the ritualistic litanies.

3. **Samaveda:** The literal meaning of ‘Sāma’ is song. It mainly contains a collection of hymns sung on the occasions of yajñas. These are primarily hymns in praise of the SuryaDeva.

4. **Atharvaveda**—Atharvaveda considered the last among the Vedas. It has 731 sūktas, twenty chapters, and about 6000 mantras. It contains knowledge of various subjects including spiritual knowledge, religion, social ethics, use of medicines, disease cures, mantras, rituals, and various branches of tantra, like magic, charms, etc. Mantras concerning almost every aspect of human life are found in it. The Atharvaveda throws light more on common faith and rites of the common people rather than on the highly specialised religion of the priests.^[25] The Vedas include auxiliary works called Vedangas which are six in number. Vedangas literally mean the limbs or the Angas (wings) of the Vedas. Just like the wings of the body or a system, they perform various supportive and augmenting functions in the penetration, continuity and innovations of the Vedas and the Vedic traditions.^[26] As given in Paniniya Shiksha:

शिक्षा कल्पोऽथ व्याकरणं निरुक्तं छन्दसां चयः।
ज्योतिषामयनं चैव वेदाङ्गानि षडैव तु॥^[27]

The Vedas, Vedangas and Upanishads and other texts which together constitute the Shruti are mainly religious books. There are no special chapters pertaining to law or provisions dealing with the law directly.^[28] The Shrutis, in fact, shed immense light on the life of our earliest ancestors, their conduct, their beliefs, philosophy, and practices. They do not contain any systematic or scientific exposition of legal rules. Whatever rules of law exist are scattered here and there and gathered from various references, because the Vedas are regarded as the source of all knowledge. The Vedas cannot be considered as formal legal texts, scattered references to various aspects of dharma are found in them. A systematic knowledge of law is embedded in the Dharmasūtras and the Smṛtis.^[29] In regard to references of legal rules, the texts of the Vedas do not hold any special importance. There is no passage in the Vedas that is of a prescriptive nature from which a code of conduct could be drawn. Only such traditions and practices, which fall within the scope of dharma, constitute the scattered fragments of the original Vedic texts.^[30]

Dharmasutra

The Dharmasutras are works on dharma written in the sūtra form that is to say in the form of aphorisms. Originally, it seems, most of the dharma-sūtras, if not all of them, are parts of the Kalpa which were attached to a particular Vedic school.^[31] Although, according to some scholars, the Dharmasutras are part of the Smṛitis (Dharmashastras), which are in prose form and precede the metrical (verse) compositions.^[32]

The Dharmasutras are the earliest types of literature in Sanskrit in which some details of the law in the modern sense of the term are available. Many principles as conceived in these Sūtras are surviving and being applied even in the modern administration of Hindu Law. It is not correct to generalise that the Dharmasāstras were based on and versified from the Dharmasutras.^[33]

Various ingenious explanations have been given as to the origin of the word Sutra. The word Sutra literally means — a thread, a string, or a guiding clue. These concise rules are called Sutras because it was through them that the complexities of Vedic rituals could be strung together like beads on a thread, and because they served as guides through the intricate labyrinth of religious discussions found in the Vedic texts. The elaborate details in the Vedic texts were so extensive and overwhelming that the human mind could not grasp them all at once, unless the arguments were strung together in order and presented in a concise form. The Dharmasutras might be called Vedic Encyclopedias. They were a collection of the essential facts, principles, and discoveries in all branches of the Vedic Literature, digested under proper titles and arranged under proper heads. [34] The authors of these sutras laid down the law or rules of conduct regulating the entire gamut of human activity.

The term Dharmasutras, in its proper sense, applies to those works which form a part of a greater collection of the sutra works. They are of three types, Śrautasutras, Grihyasutras, and Dharmasutras, and when combined together, they are referred to as Kalpasutras:

1. Śrauta Sutras, which regulated the performance of rituals,
2. Grihya Sutras, which governed matters relating to family life,
3. Dharma Sutras, which dealt with civil and criminal law.

The sutras of the aforesaid first two categories regulated religious rituals and personal code of conduct at different stages of life. The third category of Sutras which dealt with civil and criminal law constitutes the foundation of Hindu legal system, and is therefore most relevant to the study of Indian legal history. [35] The period of these Sutras is estimated to be between 800 BCE and 200 BCE. These Sutras mainly discuss the duties of human beings. The compositions of these Sutras were written in different regions of the country and at different times. It can be said that the authors of the Dharmasutras provided a legal system, though it was not as well-organized and systematic as that found in the Dharmashastras. [36] A brief account of the Dharma Sūtras are:

1. **Gautama Dharmasūtra:** The Gautama Dharmasūtra is generally regarded as the oldest, among the Dharmasūtras. The text is composed in prose and deals extensively with both legal and religious matters. It discusses matters such as marriage [37], witness, [38] inheritance, partition, and stridhana. [39] Gautama also attaches importance to the practices and usages of cultivators, herdsmen, traders, artisans, and money-lenders, thereby reflecting the socio-economic dimensions of law. [40]

*कर्षकवणिक्पशुपालकुसीदिकारवः स्वे स्वे वर्गे।
तेभ्योयथाधिकारमर्थान्नत्यवहृत्य धर्मव्यवस्था॥* [41]

2. **Baudhāyana Dharmasūtra:** Baudhāyana treats in detail a wide range of subjects, including marriage, [42] sonship, [43] and inheritance. [44] He makes reference to several accepted customs and usages, and notably records the South Indian practice of marrying the daughter of a maternal uncle.

*यथैतदनुपेतेन सह भोजनं स्त्रिया सह भोजनं पर्युपितभोजनं
मातुलपितृष्वसृदुहितृगमनमिति॥* [45]

The Baudhāyana Dharmasūtra also recognises the necessity of state control over trade and commerce, containing provisions for the regulation of trade, the levy of customs duties on sea-borne goods, and the imposition of excise duties on manufactures by the king. [46]

3. **Apastamba Dharmasūtra:** The Apastamba Dharmasūtra is one of the most authoritative early works on law. The language of Apastamba is clear and forceful. While he acknowledges the Vedas as the primary source of law, he states that their role was indicative rather than prescriptive. He strongly condemned the practice of polyandry under the guise of niyoga, as well as the custom of begetting a son through a sister-in-law for alleged spiritual benefit. [47] He further criticised adoption, observing that it often amounted to the selling or desertion of one's legitimate offspring. In this context, he argued that the Vedic texts had frequently been misinterpreted to serve vested interests. [48]

दानं क्रयधर्मश्चाऽपत्यस्य न विद्यते॥ [49]

4. **Harita Dharmasūtra:** The Harita Dharmasūtra is another important early work of considerable relevance to legal history. The work written in verse by Harita contains many elaborate rules of legal procedure and striking concepts of substantive law. He propounded the principle of prāg-nyāya—equivalent to the modern doctrine of res judicata.

*राजिकं दैविकं कार्यमभियुक्तस्य तत्त्वतः।
स्थाने वाऽप्यन्तराळे वा यात्येवं तु न दोषभाक्॥* [50]

The introduction of this principle at such an early stage in ancient Indian jurisprudence highlights the recognition of finality of judgment as an important rule in the administration of justice. Harita was, no doubt, quoted by ancient writers of the Dharmasutras like Apastamba and Baudhāyana, but it is curious that many of these quotations are not traceable. [51] On this basis, some scholars suggest that the Dharmasutra of Harita exist only in name or in citations either in the Smṛiti works or in the commentaries and digests. [52]

5. **Vasistha Dharmasutra** —The Sutra of Vasistha claims some new topics and concepts with more elaborate and systematic treatment. Unnatural offences and suicide [53] as crimes are to be found in Vasistha alone. As regards evidence also, he refers to documents and possession besides witnesses.

*लिखितं साक्षिणो भुक्तिः प्रमाणं त्रिविधं स्मृतम्।
धनस्वीकरणं पूर्वं धनी धनमवाभ्रयादिति॥* [54]

The most important and expedient means of adjudication that has been referred to by Vasistha is the consultation of the opinions of the village-elders in deciding local disputes. [55] The Grama-Bṛddhas might indicate the

rudiments of the jury system at a very early date. ^[56] He has also dealt with various topics of law, such as marriage, ^[57] sonship, ^[58] inheritance ^[59] and adoption. ^[60] He declared that it was legitimate to procure a son through adoption. For this purpose, he recognised the right of natural father to give his son in adoption as also the rights of an adopted son. He did not agree with Apastamba that giving of a son in adoption by one and acceptance by another would amount to buying and selling of a child. ^[61]

Dharmashastra (Smritis)

The next and the most important and authoritative source of legal literature is found in the smritis. The compilation of the smritis resembles the modern method of codification. All the legal principles here and there scattered in the Vedas and also those included in the Dharmasutras as well as the custom or usage which came to be practiced and accepted by the society, were collected together and arranged subject wise in a systematic manner. Smritis also dwelt with the constitution and gradation of courts, appointment of judges, and their qualification as also the procedural law for the enforcement of substantive law. They disclose a well developed legal and judicial system. ^[62] Serving as the second foundational source, embodying codified legal principles and societal norms. ^[63]

‘Smriti’ means, literally, that which was remembered. It is the recollection handed down by the Rishis, or sages of antiquity, of the precepts of God. The Smritis constitute the principal source of law. The term Dharma Shastra, literally, teacher of law, comprehends both Srutis and Smritis, but it is often used to designate the Smritis alone. ^[64] The word Smriti is used in two senses. In a broader sense, it is applied to all ancient orthodox non-Vedic works, and in a narrower sense, smriti and dharmashastra are synonyms. ^[65]

1. Manusmriti—The Manusmriti is a significant Hindu text that historically served as a foundational legal and societal framework in ancient India. Often referred to as ‘the laws of Manu’, it is attributed to Manu, a revered figure in Hindu tradition who is considered the first human and the son of Brahma, the creator god. While the exact date of its origin is unclear, the Manusmriti has been influential for centuries, shaping legal practices and civil disputes within Hindu communities. The Manusmriti is the work of a man named Manu. The word Manusmriti translates to ‘the laws of Manu’ or ‘the institutions of Manu’. Manu was the oldest son of Brahma, a triumvirate of Hindu gods. Brahma is believed to be the creator of the world and all its creatures. As his son, Manu is considered among the first humans, and his words are taken with great authority.

The date of origin for the Manusmriti is unclear. There is evidence that people followed these rules for many centuries before a complete written copy existed. Much like the Christian Bible and other religious texts, it is believed that many authors had a hand in the Manusmriti before 200 Common Era, when it appeared in a form similar to that used in contemporary times. ^[66] The Manusmriti is written in a simple and fluent style. It is divided into twelve chapters ^[67] and consists of 2694 verses. ^[68]

The eighteen ^[69] sub-divisions of law which cover civil and criminal law are the special features of this smriti, the details of which is dealt with under chapter VIII. ^[70]

*तेषामाद्यं ऋणादानं निक्षेपोऽस्वामिविक्रयः।
सम्भूय च समुत्थानं दत्तस्यानपकर्म च॥
वेतनस्यैव चादानं संविदश्च व्यतिक्रमः।
क्रयविक्रयानुशयो विवादः स्वामिपालयोः॥
सीमाविवादधर्मश्च पारुष्ये दण्डवाचिके।
स्तेयं च साहसं चैव स्त्रीसङ्ग्रहणमेव च॥
स्त्रीपुनर्धर्मो विभागश्च द्यूतमाह्वय एव च।
पदान्यष्टादशैतानि व्यवहारस्थिताविह॥ ^[71]*

2. Yajnavalkyasmriti: The Yajnavalkyasmriti acquired a very high position in the Hindu jurisprudence. Though this smriti follows the same pattern as of Manu in the treatment of subjects, it is more scientific and methodical. It avoids repetition of same or similar provisions. ^[72] Yajnavalkyasmriti is assuredly the best composed and appears to be the most homogeneous of all the Smritis, even though it may have been made up of elements borrowed from various sources. ^[73] This Smriti occupies a very important position in the field of substantive civil and criminal law.

The Yajnavalkyasmriti consists of 1010 verses and is divided into three chapters (adhyayas) of about equal length. The first adhyaya devoted generally to religious custom (achara)—368 verses, the second to administration of justice (vyavahara) ^[74]—307 verses, and third to penance (prayaschitta)—335 verses.

3. Narada Smriti: The views propounded in this work are highly advanced and progressive. Narada was independent in his views and didn’t allow himself to be bound by the earlier texts. A distinguishing feature of this Smriti is that it solely deals with law. It solely deals with forensic law, both substantive and procedural, without any reference to penance and other religious matters. It deals with courts and judicial procedure with great clarity. The procedural law laid down by this smriti contains provisions relating to pleading, oral and documentary evidence and also the procedure required to be adopted by the courts of law. ^[75]

The Smriti consists of 1028 verses including 61 in the Appendix. It contains three introductory chapters on the principles of judicial procedure (Vyavahara-matrkā) and on the judicial assembly (sabha). ^[76] The fourth chapter deals one by one with the eighteen different topics of law. ^[77]

*ऋणादानं द्युपनिधिः सम्भूयोत्थानमेव च।
दत्तस्य पुनरादानमशुश्रूषाभ्युपेत्य च॥
वेतनस्यानपकर्म तथेवास्वामिविक्रयः।
विक्रियासम्प्रदानं च क्रोत्वानुशय एव च॥
समयस्यानपकर्म विवादः क्षेत्रजस्तथा।
स्त्रीपुंसयोश्च सम्बन्धो दायभागोऽथ साहसम्॥
वाक्पारुष्यं तथेवोक्तं दण्डपारुष्यमेव च।
द्यूतं प्रकीर्णकं यैवेत्यष्टादशपदः स्मृतः॥
एषामेव प्रभेदोऽन्यो द्वात्रिंशदधिकं शतम्।
क्रियाभेदान्मुष्याणां शताशाखो निगद्यते॥ ^[78]*

Narada Smṛiti recognises the right of separation and remarriage by a woman in certain circumstances.^[79] Another important contribution of this Smṛiti has been the recognition of the principle of ‘speedy trial’. Narada says “In disputes concerning cows, land, gold, women, grain, verbal abuse, assault, theft, violence, and curses—the case should be decided immediately.”^[80] Thus, the Smṛiti made a remarkable contribution towards the evolution of criminal jurisprudence.

4. Brihaspati Smṛiti—Bṛihaspati Smṛiti is also considered one important legal text of ancient India. In some matters, he completed what was left incomplete in the works of Manu. He emphasized civil law, but also gave a detailed description of criminal law. The entire work is divided into seven parts or kanda i.e. Vyavaharakanda, Samskarakanda, Acarakanda, Sraddhakanda, Asaukanda, Apaddharmakanda and Prayaschittakanda. The Vyavaharakanda deals with various topics of law and is divided into twenty nine chapters or sections. The first two are devoted to the constitution of a Court of Justice and the general rules of procedure. The next four are devoted to the four stages of legal proceeding—the plaint, the answer, the trial and the judgement. The next four are devoted to the different modes of evidence and the last nineteen are devoted to the treatment of the topics covered by the different titles of law.^[81]

कुसीदनिधिदेयाद्यं सम्भूयोत्थानमेव च।
भृत्यदानमशुश्रूषा भूवादोऽस्वामिविक्रयः॥
क्रयविक्रयानुशयः समयातिक्रमस्तथा।
स्त्रीपुंसयोगः स्तेयं च दायभागोऽक्षदेवनम्॥^[82]
पारुष्ये द्वे साहसं च परस्त्रीसङ्ग्रहस्तथा।
हिंसोद्धवपदान्येवं चत्वार्यह बृहस्पतिः॥^[83]

Bṛihaspati was the first jurist who made clear distinction between civil and criminal justice. He divided the different titles of law into two groups, those springing from wealth and those springing from injury to beings.^[84] He provided that cases must be decided not merely according to the letter of the law, but having due regard to the facts and circumstances of each case.^[85] Unfortunately, this great work has not been traced in its entirety.

5. Katyayana Smṛiti: This smṛiti is regarded as the latest and most important work of extraordinary merit. The rules of law laid down in this smṛiti compare remarkably with the modern advanced legal system. Unfortunately, this smṛiti is also not traced fully. It deals with substantive civil, criminal and procedural law. The law of procedure which is given in greater detail in this smṛiti relating to administration of justice as laid down by Katyayana shows the great advancement in procedural law. Several provisions are similar to the corresponding provisions in modern law. He makes precise provisions regarding presentation of plaint,^[86] filing of written statement,^[87] law of evidence,^[88] and possession.^[89] This smṛiti makes an authoritative exposition on all the matters dealt within it. The provision contained in this smṛiti has the distinction of being remarkable in its expression of views and clarity of thought and approach. The basic

concept of law of partnership, namely, that in law every partner is an authorised agent of all the partners of the partnership firm, which is also the modern concept of the law of partnership was laid down in this smṛiti.

बहूनां संमतो यस्तु दद्यादेको धनं नरः।
ऋणं च कारयेद्वापि सर्वैरेव कृतं भवेत्॥^[190]

In some respects Katyayana goes even beyond and is more stringent and elaborate than other smṛiti writers. For example, he propounds a rule similar to the rule of constructive res judicata. He lays down that if a man abandons a ground of defence or attack and puts forward a less cogent one, he would not be allowed to put forward again the stronger ground after a decisive judgment of the court.

क्रियां बलवतीं मुक्त्वा दुर्बलां योऽवलम्बते।
स जयेऽवधृते सभ्यैः पुनस्तां नापुयात्क्रियाम्॥^[191]

6. Parasara Smṛiti—Parashar is acknowledged as the highest authority on law in the fourth age kaliyuga.^[92] He holds a high rank among ancient Indian law writers. The extant Parasarasmr̥iti consisting of twelve chapters and contains 592 verses. It deals only with achara and prayaschitta and not with vyavahara. Parasara contains several peculiar views. This Smṛiti gives exemption from observing strict rules of Dharma (law) during invasions, journeys and calamities but insists on its strict observance under normal circumstances.

देशभंगे प्रवासे च व्याधिषु व्यसनेष्वपि।
रक्षेदेव स्वदेहादौ पश्चाद्धर्मं समाचरेत्॥^[93]

He recognized the right of women to remarry under certain conditions. “When the husband is lost, or dead, or become a renunciate, or impotent, or an outcast—in the event of these five calamities another husband is permitted for women”.

नष्टे मृते प्रव्रजिते क्लीबे च पतिते पतौ।
पञ्चस्वापत्सु नारीणां पतिरन्यो विधीयते॥^[94]

7. Other Smritis—Apart from the most important and popular smritis, a brief account of which is given above, a few other works have also been traced. “Atri, Visnu, Usanas, Angiras, Yama, Samvarta^[95], Vyasa, Sankh, Likhita, Daksa and Satatapa”^[96] are some of the promulgators of other smṛiti works. Other than these Smritis, there were also eighteen subsidiary Smritis called Upasmitis.

Conclusion

The study of the sources of law in ancient India reveals that the ancient Indian legal system possessed a highly developed and superior system of administration of law and justice, well suited to the social conditions of its time. Many principles that are recognised in the modern Indian legal system cannot be regarded as merely borrowed from English law, rather, their roots can be traced to the indigenous legal and jurisprudential traditions of ancient India. The study of these sources, therefore, demonstrates

the continuity and historical depth of Indian legal thought and highlights the significant contribution of ancient Indian jurisprudence to the development of modern legal principles.

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7. Mahabharata, Shantiparva, 109.9-11.
8. Srimad Bhagwata Mahapurana, 6.1.40.
9. Supra note 4.
10. श्रुतिस्मृतिविहितो धर्मः, Vasistha Dharmasutra, I.4
11. चोदना लक्षणोऽर्थो धर्मः, Purva Mimamsa, I.1.2
12. Srimad Bhagwata Mahapurana, 6.3.19.
13. Srimad Bhagwata Mahapurana, 6.3.20-21.
14. पुराणन्यायमीमांसाधर्मशास्त्रांगमिश्रिताः। वेदाः स्थानानि विद्यानां धर्मस्य च चतुर्दश॥ Yajnavalkyasmriti, Aacharadhyaya, I-3.
15. Supra note 6, 14.
16. Manusmriti, II.6.
17. Supra note 6.
18. Yajnavalkyasmriti, Aacharadhyaya, I.7.
19. श्रुतिस्मृतिपुराणानां विरोधो यत्र दृश्यते। तत्र श्रौतं प्रमाणन्तु तयोर्द्वेधे स्मृतिर्वरा॥ “Whenever there is a conflict between Shruti (Vedas), Smritis and Puranas, then what is stated in the Shruti should be taken as authority” VedVyas Smriti, I.4.
20. Kesari UPD. Hindu Law, Central Law Publication, 31st edn, 2013, 12.
21. Rigveda, X.17, X.85.
22. Ibid, X.14, X.15, X.16, X.18.
23. Ibid, X.184, X.185.
24. Bhattacharjee M. A Critical Study of the Vishnusmriti, Department of Sanskrit, Gauhati University, 1995.
25. Ibid.
26. Chakraborty S. A Brief Discussion on Vedanga, International Journal of Humanities Social Science and Management (IJHSSM), 2024;4(5):227-234.
27. Śikṣhā (phonetics), Kalpa (rituals), Vyākaraṇa (grammar), Nyukta (etymology), Chandas (metrics), and Jyotiṣhya (astronomy/astrology)—these are the six disciplines known as the Vedāṅgas, the limbs of the Vedas.
28. Supra note 6, 19.
29. Supra note 3, 7.
30. Lingat R. The Classical Law of India, J Duncan M Derrett tr, University of California Press, 1973.
31. Ibid, 18.
32. Supra note 20, 13.
33. Supra note 4, 54.
34. Sarvadhikari R. Principles of the Hindu Law of Inheritance, Thacker, Spink & Co., 1882, 145-146.
35. Supra note 6, 22.
36. Supra note 20, 14.
37. Gautama Dharma Sūtra, I.IV.
38. Ibid, II.IV.
39. Ibid, III.X.
40. Supra note 6, 25.
41. Gautama Dharma Sūtra, II.II.21-22, See also, Farmers, merchants, herdsmen, moneylenders and artisans exercise authority over their respective groups. King should dispense the law after he has ascertained the facts from authoritative persons of each group, Olivelle P. Dharmasūtras: The Law Codes of Ancient India, Oxford University Press, 1999, 97.
42. Baudhāyana Dharma Sūtra, I.XI.XX.
43. Ibid, II.II.III.
44. Ibid, I.V.XI.
45. Baudhāyana Dharma Sūtra, I.I.II.III, See also, They are, to eat in the company of an uninitiated person, to eat in the company of one's wife, to eat stale food, to marry the daughter of a maternal uncle or of a paternal aunt, Supra note 41, 133.
46. Supra note 6, 25.
47. Apastamba Dharma Sūtra, II.X.XXVII.
48. Supra note 6, 25.
49. The gift (or acceptance of a child) and the right to sell (or buy) a child are not recognised, Apastamba Dharmasutra II.VI.XIII.X.
50. “Royal or divine matters (cases relating either to royal punishment or to misfortunes regarded as divinely inflicted), if a proper decision has already been rendered in respect of an accused person (tattvataḥ—in due and correct form), then, whether that judgment has been pronounced in a local assembly (sthāne) or in a higher tribunal or in some intermediate court (antarāle), the accused cannot be declared guilty again in the same matter (na doṣabhāk)” Bhatta D, Srinivasacharya L. (Eds.). Smṛtichandrikā—Samskara kanda, Government Branch Press, Mysore, 1914, 77.
51. Supra note 4, 80.
52. Supra note 30, 24.
53. काष्ठजललोष्टपाषाणशस्त्रविषरज्जुभिर्य आत्मानमवसादयति स आत्महा भवति। “A man is said to commit suicide when he kills himself by means of wood, water, clods of earth, stones, weapons, poison, or a rope” Vasistha Dharmasutra, XXIII.XV.
54. Vasistha Dharmasutra, XVI.X.
55. Ibid, XVI.XV.
56. Supra note 4, 73.
57. Vasistha Dharmasutra, I.
58. Ibid, XVII.
59. Ibid, XVII.
60. Ibid, XV.
61. Supra note 6, 26.
62. Ibid, 22-23.
63. श्रुतिः स्मृतिः सदाचारः स्वस्य च प्रियमात्मनः। सम्यक्सङ्कल्पजः कामो धर्ममूलमिदं स्मृतम्॥ Yajnavalkyasmriti, Aacharadhyaya, I-7.
64. Mulla SDF. Principles of Hindu Law, The Eastern Law House Ltd, 10th edn, 1946, 9.
65. श्रुतिस्तु वेदो विज्ञेयो धर्मशास्त्रं तु वै स्मृतिः। ते सर्वार्थेष्वमीमांसे ताभ्यां धर्मो हि निर्बभौ॥ Manusmriti, 2.10.

66. Available at <https://www.ebsco.com/research-starters/religion-and-philosophy/manusmriti>
67. (I) Creation of the Universe (II) Sources of Knowledge of Dharma (III) Duties of the Householder (IV) Means of Livelihood (V) Sources of Evil (VI) Duties of the Hermit and the Renunciate (VII) Duties of the King (VIII) Law (Civil and Criminal) (IX) Duties of Husband and Wife (Family Law) (X) Abnormal Social Conditions (XI) Expiation of Sins (XII) Philosophy.
68. Supra note 6, 28.
69. (1) Non-payment of Debt, (2) Deposits, (3) Selling without ownership, (4) Joint concerns, (5) Non-delivery of what has been given away, (6) Non-payment of wages, (7) Breach of Contract, (8) Recision of Sale and Purchase, (9) Dispute between the Owner and the Keeper, (10) Disputes regarding Boundaries, (11) Defamation, (12) Assault, physical and verbal, (13) Theft, (14) Violence, (15) Adultery, (16) Duties of husband and wife, (17) Partition, and (18) Gambling and Betting.
70. Jha GN (tr). Manu-Smriti: The Laws of Manu with the Bhasya of Medhatithi, Calcutta University Press, Senate House, Calcutta, 1924:IV(1):18.
71. Manusmriti, VIII.4-7.
72. Supra note 6, 31.
73. Supra note 30, 98.
74. The Vyavahara adhyaya (I-XVII) of Yajnavalkyasmriti deals exhaustively on subjects like: (1) General Provisions for Judicial Procedure (2) Debts and Deposits (3) Means of Proof— Witnesses, Document and Ordeals (4) Partition and Inheritance (5) Boundary Disputes (6) Sale (7) Gift (8) Partnership (9) Payment of Wages (10) Gambling and Betting.
75. Supra note 6, 33.
76. Supra note 3, 197.
77. (1) Recovery of Debts (2) Deposit, Lending, Bailment (3) Partnership (4) Gifts and Resumption (5) Breach of Contract of Service (6) Non-Payment of Wages (7) Sale without Ownership (8) Non-Delivery after Sale (9) Rescission of Purchase (10) Violation of Conventions of Corporations (11) Boundary Disputes (12) Marital Relation (13) Partition and Inheritance (14) Heinous Offences (15) Defamation and Abuse (16) Assault (17) Gambling and Betting (18) Miscellaneous Wrongs.
78. Narada Smriti, I.16-20.
79. नष्टे मते प्रव्रजिते क्लीवे च पतिते पतौ। पञ्चस्वापत्सु नारीणां पतिरन्यो विधीयते॥ Ibid, IV.XII-97.
80. गोभूहिरण्यस्त्रीस्तयवाग्दण्डात्ययिकेषु च। साहसेष्वभिशापे च सद्य एव विवादयेत्॥ Ibid, I.45.
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82. Brihaspati Smriti, Vyavaharakandam, I.11-12.
83. Ibid, I.14.
84. द्विपदो व्यवहारः स्यात् धनहिंसासमुद्भवः॥ Ibid, I.9.
85. शास्त्रं केवलमाश्रित्य क्रियते यत्र निर्णयः। व्यवहारः स विज्ञेयो धर्मस्तेनापि वर्धते॥ Ibid, I.19.
86. Katyayana Smriti, 124-135.
87. Ibid, 145-172.
88. Ibid, 214-248.
89. Ibid, 313-335.
90. Ibid, 627.
91. Ibid, 221.
92. कृते तु मानवा धर्मास्त्रेतायां गौतमाः स्मृताः। द्वापरे शङ्खलिखितौ कलौ पाराशराः स्मृताः॥ Parasar Smriti, I.24.
93. Parasar Smriti, VII.40.
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