

Rule of Law in ancient India

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Abstract

The concept of the Rule of Law is commonly associated with western constitutional thought particularly the work of A. V. Dicey and the evolution of English Common Law. However, the historical experience of Ancient India demonstrates that principles of analogous to the Rule of Law existed centuries earlier through the doctrines of Dharma, Rajdharma, and Dandaniti. From early Vedic period to classical Dharmashastra literature, Indian thinkers articulated normative frameworks that emphasized the supremacy of dharma over rulers, the procedural obligations of Kings, and the ethical foundation of governance. This article examines the indigenous evolution of Rule of Law in ancient India through key textual sources, including the Rgveda, Upanishads, Mahabhart, Ramayana, Arthashastra, the Manusmriti and Yajnavalkya Smriti. Employing a qualitative and historical-analytical methodology, this article explores how principle such as restrain on sovereign authority, accountability of rulers and institutional mechanism for justice were embedded within cultural, philosophical and legal discourses. The study seeks to examine the philosophical foundations of the Rule of Law in Ancient India, analyze the legal and political concepts of Dharma and Rajdharma, evaluate judicial institutions and legal procedures in ancient Indian governance, Compare Ancient Indian legal philosophy with modern constitutional principles, assess the contemporary relevance of Ancient Indian jurisprudence. The findings show that concept of separation of power, due process of law making, equality before law and protection rights of marginalized people deeply embedded in Indian texts and conscience of ruler.

Key Words: Rule of Law, Dharma, Rajdharma, Arthashastra, Ancient India, Constitutionalism, Justice, Governance

Introduction

The Rule of law is widely recognized as a foundational principle of modern democratic governance, ensuring that authority is exercised within the boundaries of established norms, that all persons remain equality before law, and that legal institutions safeguard justice and accountability. While contemporary discourses often trace its origin to classical Greek, Roman, or Enlightenment thought, the intellectual foundation of the Rule of Law is located much earlier within ancient Indian civilization. These ideas developed originally within the broader frameworks of dharma, niti, and rajdharma, which provided normative guidance not only for rulers but for all sections of society.

The primacy of dharma conceived as the universal moral order represented the earliest articulation of a supra-legal authority to which even king were subordinate. Vedic hymns, particularly within Rgveda, portray the ruler as the custodian rather than the creator of law, responsible for the cosmic and social harmony. This understanding is further elaborated in the Mahabharata, where the dialogue on rajdharma underscores the ethical responsibilities of the sovereign and importance of impartial justice. The Arthashastra of Kautilya introduces a pragmatic dimension of governance, emphasizing accountability, institutional checks, and codified procedures for administration and adjudication. Similarly, the Dharmashastra tradition, especially the Manusmriti and the Yajnavalkya Smriti systematizes legal norms that apply to both rulers and subjects, highlighting principles analogous to contemporary formulations of Rule of Law.

Research Methodology: The research adopts a qualitative historical methodology. Primary sources include Rig Veda, Atharva Veda, Upnishads, Mahabharata, Ramayana, Manusmriti, Yajnavalkya Smriti, Narada Smriti, Arthashastra. Secondary sources comprise books, journal articles, commentaries, and interdisciplinary research in legal history. Textual analysis and comparative methods are employed.

Conceptual Framework

The rule of Law is a fundamental principle of modern democratic governance ensuring that power is exercised within a framework of established norms, equality, accountability, and justice. As a conceptual category it serves both as a normative ideals and an institutional practice shaping constitutionalism, public administration and judicial governance. Despite its

universal appeal, the Rule of Law remains contested, evolving across political systems and socio-legal contexts. Under the modern systems constitution means the fundamental law of a State upon which all the political and administrative structure has founded including the fundamental law for gaining power, Dharmashastra positively ordained that the king shall not legislate. P. V. writes in his Katyayana Smriti, 'A king should decide according to the rules of Shastras. In the absence of a provision in the texts he should follow the usages'. Panikkar further emphasize in Shanthi Parva king took oath, 'I shall act fearlessly and observe the whole of Dharma in accordance with Dandaniti and not according to my own sweet will' (Panikkar, 1963). This conceptual framework synthesizes the theoretical constructs, institutional variables, and socio-political dimensions that together constitute the Rule of Law. Theoretical discourse on Rule of Laws stems from two major traditions:

The Formal/Procedural Tradition conceives the Rule of Law as a system where

- Laws are publically promulgated, clear, stable and prospective (Fuller, 1964).
- Governmental action adheres on predictable and impartial procedures (Raz, 1979).
- Authorities operate within legally defined boundaries.

Formalism is primarily concerned with legality, predictability and procedural fairness without evaluating moral content of laws.

The substantive tradition extends the framework to encompass

- Protection of fundamental rights
- Public participation
- Social and distributive justice (Dworkin, 1986; Sen, 2009).

Finally, in Rule of Law, laws must be consistent, coherent and enacted through constitutionally sanctioned processes. Arbitrary use of state power is restricted through constitutional checks and judicial oversight. It includes non-discrimination, equal access of justice and fair adjudication. Public authorities must justify their actions in accordance with legal standards. Independent judiciary works as a mechanism of constitutional control over executive and legislative actions. The Rule of Law is a complex and multidimensional construct that requires a synergistic interaction between norms, institutions and societal values.

The idea of Rule of Law has deeply rooted in ancient Indian intellectual and legal traditions. The democratic system of governance in Bharat started from Vedic period. The evidence may be derived from coins, literature and various records for the governing directives and practice of monarchs. The primary duty of the ancient Indian state was not only for the Kings to rule individuals but also to conform to the law in all its actions for the purpose of ensuring the happiness and welfare. Although modern scholars frequently examines this concept through western lenses, ancient texts such as Dharmashastras, Arthashastra, Smritis offer a sophisticated normative and institutional understanding of governance, justice and checks on authority. The concept of absolutist monarchies has always been rejected and the supremacy of 'Dharma' over the Kings always preferred (Kane, 1946, p. 25). This article synthesizes these textual, philosophical, and jurisprudential elements to articulate how the Rule of Law operated in ancient India.

Accordingly, although the classical doctrine of separation of powers emerged much later in Western political thought, particularly through the writings of Montesquieu, several elements of functional separation and mutual restrain can be identified in ancient Indian Jurisprudence. The following section examines how ancient Indian texts conceptualized the distribution oft governmental powers, thereby reinforcing the broader principle of the rule of law in ancient India.

Legislature

Indian scriptures advocate king legislate according to *Dharmashastra*. In absence of proper provision he will follow the usages. According to Katyayana Smriti, "A king should decide cause according to rules of Sastras. In the absence of a provision in the texts he should follow the usages. King should never act according to his own fiat. Such an action on the part of the king causes danger to him and bring ruin to the people" (Kane, 1933, p. 45). The *Sukranitisara* offers a detailed account of process of legislation in ancient India (Shukla, 1993; Kane, 1977). The process of legislation began with the minister, the priest, and the departmental envoy or official concerned with subject matter of the proposed law. They prepared a balanced and equitable written report articulating their views after discussion on the relevant issue. The document was then submitted to the Prime Minister for preliminary scrutiny. If the Prime Minster found the draft appropriate, he endorsed it with the remark, "Sadhu Lekhanamasti" (the writing is adequate/commendable). This proposal was forwarded

to Sumanta, the chief councillor, who conveyed a debate within his advisory circle. The deliberative forum considered both supportive and dissenting opinions, revisiting the proposal where necessary. Sumanta expressed his assessment with the notation, “Samyag Vivaritam”, indicating that the matter has been properly examined (Sharma, 2001). Subsequently, the head of the council reviewed the document and added the remark, “Satyam Yathartham”, meaning, it is correct and appropriate for the task.” Following this, various key representatives recorded their endorsements:

- The King’s personal advisor wrote “Angikartum Yogyam” (fit to be adopted),
- The Crown prince added “Angi Kartavyam” (ought to be approved)
- The royal priest (purohit) inscribed “Lekhyam Swamimatam” (I approve this on behalf of the sovereign) (Mishra, 1988).

Once these sequential endorsements were completed, the final draft was presented to the king. By adding Angikartum (approved) and affixing his seal, the monarch conferred formal and legal validity upon the proposed law. The legislation considered duly enacted.

In the classical Hindu jurisprudential tradition, the Vedas (shruti), the smritis and the established norms of sadacara (conduct of the learned and virtuous) constitute the foundational source of law. In addition to these ethical judgement rooted in a sincere and morally informed conscience (atmatusti) is recognized as a subsidiary source of legal authority (Kane, 1962; Lingat, 1973). The underlying premise is that law emerges from both divine revelation and the collective ethical practices of society. The eminent Mimamsa scholar Kumarila Bhatta, a principal disciple of Sankaracarya according to later tradition, elaborates this principle in his work Tantravarttika, a commentary on the Purva Mimamsa Sutras of Maharshi Jaimini. Kumarila argues that a Smriti texts attains legitimizing authority when it is consistent with vedic injunctions or derives its force from being observed and upheld by learned individuals within the community (Jha, 1912, 1942). Where direct correspondence with the Vedas is absent, conformity to established practice (acara) becomes the validating factors.

As Kumarila explains, “In the case of a Smriti, corroborative validity is assumed from the fact of being practiced by those who are knowledgeable in the Vedas.” This illustrates the

epistemic hierarchy in Dharmasastra: when explicit Vedic authority is not available, long-standing, socially sanctioned usage provides the necessary justification (Derrett, 1975).

This doctrinal framework clarifies why the king is nowhere described as the originator of law. Rather, the king's role is administrative- he enforces and upholds pre-existing Dharma but does not legislate it independently (Buhler, 1886). Even in situations of legal ambiguity or conflict, Dharmastra texts reiterate that the king must rely on the Vedas, the Smriti, and the practices of the learned, not on arbitrary personal decree.

Executive

In the classical Indian polity, the King served as the central executive authority, but his power was neither absolute nor arbitrary. Texts such as the Arthashastra clearly articulate that the King must govern in accordance with established norms of Dharma, and importantly act with the help of council of ministers (Kautilya, Arthashastra, Book 1, Chapter 7). The concept of collective deliberation, known as mantriparishad, functioned as a crucial institutional mechanism for insuring balanced and ethical decision-making. Furthermore, the King was expected to uphold the traditional five yajnas, symbolizing his moral, social, and administrative obligations towards subjects, ancestors, sages, and the divine order (Olivelle, 2005). These ritual duties reinforced the ethical foundations of governance, linking executive authority with cosmological responsibility.

Ancient texts also conceptualize the people as praja, emphasizing their welfare as the ultimate purpose of kinship. Rajnitiratnakara, for instance, describes the ruler as praja-visista meaning that the king is meaningful only relation to his people (Sharma, 1999). For the welfare and prosperity of the nation, the king shall govern by adopting eighteen distinct paths (or measures). These eighteen paths reflects the classical categorization of administrative functions such as justice, revenue, defense, diplomacy, and public order, discussed extensively in Arthashastra (Kangle, 1960). Collectively, such scriptural and political treatises underscore that ancient Indian executive authority operated within normative framework aimed at maximizing public welfare (lokasangraha), ensuring administrative accountability, and harmonizing political power with ethical duty.

Ancient Indian political thought placed significant emphasis on the ethical foundations of governance, particularly the management of state finances. As articulated in the Yajnavalkya

Smriti, kinship was conceptualized not as personal dominion but as a sacred public trust (rajan-dharma). The text underscores that state revenue were neither the private property of the ruler nor to be diverted for personal purposes. Instead, public funds (nidhi) were to be utilized exclusively for collective welfare. Any misappropriation of these resources by the king was regarded as a moral transgression and an act of sin (papa) (Yajnavalkya Smriti). Such provisions reflect an early articulation of ethical fiscal accountability, echoing principles later associated with constitutional governance and public finance ethics (Sharma, 1959; Kane, 1974).

Furthermore, the Vedic corpus expresses a fundamental conception of equality within the social order. A notable verse from Rgveda declares that no individual is inherently superior or inferior and affirm the ideal of collective progress through mutual cooperation (Rgveda 5.60.5). This egalitarian ethos, embedded in earliest sastra of Indian intellectual history, indicates that social equality and participatory ethics formed integral elements of ancient normative framework (Chattopadhyaya, 1985). A compelling historical illustration of these principles appears in Kalhana's Rajatarangini, which documents the reign of king Candrapida of Kashmir (c. 680-688 CE). The chronicle recounts an incident in which state of officials sought to construct temple dedicated to Lord Tribhuvansvamin on land that included the humble dwelling of a Charmakara (a cobbler). When the officials attempted to remove him without his consent, the king intervened decisively. Candrapida rebuked his officers for violating the principle of justice and instructed them to either halt construction or relocate the temple to another site. He admonished that dispossessing a poor man of his property in name of religious act would itself constitute an act of impiety. He further asked, "If those responsible for upholding dharma themselves act unlawfully, how can others be expected to abide by the law?" (Rajatarangini IV. 59-60). This incident exemplifies the deep-rooted commitment to dharma rajya- a system in which rulers were expected to uphold justice, protect individual rights, and subordinate state authority to moral norms. Modern scholars view such narratives as evidence of an early Indian tradition of rule of law and procedural justice, aligning with contemporary understanding of legal egalitarianism (Basham, 2004; Sen, 2012).

Administration

The administrative organization of early Indian politics frequently comprised a system of eighteen high ranking state offices, reflecting a sophisticated and structured model of governance. Classical sources indicate that this institutional framework was not only well-established but also widely recognized across diverse historical traditions. Kalhana, in his *Ratarangini* (c. 12th century CE), records that King Jalauka of Kashmir- who likely reigned shortly before 1184 BCE according to traditional chronology- had instituted eighteen major state departments as part of his governmental reforms (Kalhana, *Rajtarangini*, I. 57-70). Kalhana's account suggests that Jalauka revived or emulated an earlier administrative paradigm associated with reign of Yudhishthira, thereby reinforcing the continuity of constitutional practices within ancient Indian statecraft.

The notion of eighteen departments (known as Tirthas) is corroborated across several foundational texts of Indian literary and political tradition. The *Mahabharata* (II.5.38) and the *Ramayana* (II.100.36) explicitly reference these administrative units, highlighting their normative significance in early polity. Similarly, the *Pancatantra* (ed. Kielhorn, III. 67-70), Kalidasa *Raghuvamsa* (XVII.68), and Sriharsa's *Sisupalavadha* (XIV.9) also enumerate or allude to these departments, demonstrating their widespread acceptance in classical political thought. According to the medieval commentator Nilakantha, whose commentary on the *Mahabharata* remains a major exegetical source, the eighteen Tirthas or principal state offices comprise the following:

1. Mantrin- Chief Councilor or Minister
2. Puhita- Royal Priest or Pontifex
3. Yuvaraja- Crown Prince or Heir Apparent
4. Senapati- Generalissimo or Commander-in Chief
5. Dwarpala- Chief Chamberlain
6. Superintendent of the Royal Household
7. Karagaradhikarin- Superintendent of Prison
8. Dravya Samchayakrta- Treasurer responsible for State revenue and material resources

9. Sannidhatra- the auditor and custodian of the royal treasury, responsible for overseeing financial records and ensuring accountability in revenue collection.

10. Pradestra- an official entrusted with combined executive and judicial functions, supervising local administration and ensuring law and order.

11. Nagaradhyaksa- the prefect of the city, responsible for urban regulation, maintenance of public utility, and supervision of markets and civic affairs.

12. Karya-nirmanakrta- the superintendent of public works, overseeing construction projects and maintenance of infrastructure.

13. Dharmadhyaksa- the chief judicial authority or lord chief justice, presiding over legal matters and ensuring adherence to dharma based jurisprudence.

14. Sabhadhyaksa- the president of assembly, supervising deliberative councils and facilitating consultative governance.

15. Dandapala- the warden with criminal jurisdiction, charged with maintaining internal security and enforcing penal laws.

16. Durgapala- the officer responsible for fortifications, including construction, maintenance, and defense preparedness of forts.

17. Rastrantapala- the warden of frontier regions tasked with border administration and protection of territorial boundaries.

18. Atavipala- the conservator of forests, responsible for managing forest resources and regulating related economic activities.

Collectively, these officers embodied a system of delegated authority, enabling efficient governance through multilevel bureaucratic structure (Trautmann, 1971).

For village administration Manu prescribes that each village should be overseen by a designated officer, forming the lowest and most localized tier of the administrative hierarchy. The Manusmriti states- "A separate minister shall be appointed to have control over the officers appointed as heads of villages or groups and to inspect the affairs connected therewith." (Manusmriti 7.115).

This injunction demonstrate an early form of decentralized governance wherein village-level officials managed grassroots administration, agricultural regulation, local dispute resolution, and revenue collection. The overseeing minister ensured coordination between village authorities and central government, thereby integrating rural administration into the broader state structure (Basham, 2004).

Judiciary:

The judiciary, alongside the legislative and executive branches constitutes a foundational pillar for democratic governance grounded in rule of law. Although ancient Indian monarchs sometimes exercised considerable authority over administrative and legislative matters, classical legal texts delineated significant boundaries on royal power concerning the judicial domain. These provisions ensured that the monarch did not wield unchecked control over judiciary. Ancient Indian jurisprudence consistently upheld the supremacy of law (dharma). Brhadaranyaka Upanisad asserts, "Law is the king of kings: there is nothing superior to law. Through the protection of law, even the weak can prevail over the strong" (Brhadaranyaka Upanisad 1.4.14). This verse foregrounds the centrality of law as an autonomous normative forces superior even to the authority of the monarch (Radhakrishnan, 1953). Similarly, the Naradasamhita reinforces the principle that the king, as the ultimate administrator, must abide by the counsel of the Chief Justice and adjudicate strictly according to law (Naradasamhita 1.35). The text emphasizes, "The king shall adjudicate disputes with utmost care and caution, following established legal procedures and the guidance of the Chief Justice." This indicates a system of judicial accountability and procedural checks embedded within the monarchy (Kane, 1962)

The hierarchical organization of courts in ancient India was elaborate and well-developed. Smriti literature identifies multiple tiers of judicial bodies, each entrusted with specific jurisdictional authority. According to Katyayana, five distinct levels of courts formed the judicial hierarchy:

1. Kula- family councils or assemblies of elders
2. Sreni- guild or corporate bodies
3. Gana- larger assemblies or community councils

4. Adhikarta- courts appointed directly by king

5. Nripa- the king's own court, functioning as the court of final appeal (Katyayana Smriti, cited in Kane, 1962).

Further, Brhaspati elaborates a four-tiered system of public courts based on feasibility and procedural convenience, suggesting a sophisticated understanding of judicial gradation and institutional specialization (Brhaspati Smriti; Derrett, 1968). Pratisthita court was a stationary judicial body established at a specific village or town, whereas the Apratisthita functioned as a mobile court moving across villages, thereby ensuring access to justice in peripheral regions (Shukla, 1992). The Mudra court operated under the royal authorization and was empowered to utilize the royal seal, while the Sasita court represented the highest tier of adjudication under the direct supervision of the King (Kane, 1968). Brhaspati, one of the authoritative writers on ancient Indian law delineates the jurisdiction of various courts with remarkable precision. According to him, institutions such as Kula, Sreni and Gana were competent to adjudicate disputes not falling under the category Sahasa (offenses involving violence), which remained within the exclusive domain of royal authority (Brhaspati Smriti 1.28; Kane, 1962). These bodies reflect the communitarian and corporate dimensions of early Indian dispute resolution.

Punishments involving corporal measures or monetary penalties were the prerogative of the king, yet the system remained broadly participatory. Courts comprising pancayatadars (members of local council) possessed jurisdiction over civil disputes and minor criminal matters. The procedures also incorporated mechanisms such as Punarnyaya, a provision enabling review or retrial, particularly in cases where corruption, dishonest testimony, or procedural irregularities were alleged (Narada Smriti, Ch. 1; Lingat, 1973).

Appointment of judges (Sabhyas) was governed by stringent criteria. The King was advised to select individuals of proven integrity, moral fortitude and comprehensive knowledge of sacred law (Dharmasastra). Additionally judges were expected to exhibit impartiality, administrative competence, prudence, and the ability to remain unaffected by personal relationship, whether with friends or adversaries (Narada Smriti 1.84). Such qualifications reflects a normative ideal of judicial conduct grounded in ethical principles and community trust.

Conclusion

Ancient India developed one of the earliest and most sophisticated articulations of the Rule of Law. Rooted in dharma, it imposed substantive and procedural limitations on rulers, established judicial institutions, and emphasized ethical governance. While its framework differed from modern constitutional democracies but many fundamental principles of Rule of Law including supremacy of Law, accountability, procedural fairness, and institutional checks were clearly functioning. This legal heritage offers valuable insights for contemporary debates on constitutional morality, judicial ethics, legal pluralism, and governance reforms. Revisiting India's ancient jurisprudential legacy enriches global legal history and underscores the multidimensional origins of rule-bound governance.

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