

# **Analysis of Hindu Law and Its Implications on Crime and Justice in India**

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## **ABSTRACT**

*The Hindu legal system, which is one of the oldest legal systems in the world, has had a significant influence on the criminal justice system as well as other parts of life in India. In the past, the Manusmriti, Dharmasāstra, and Arthashastra were among the ancient scriptures that constitute the foundation of Hindu law. These texts were responsible for dictating obligations, punishments, and ethical criteria for every aspect of life. The focus placed on dharma (goodness), karma (the consequences of actions), and nyaya (justice) contributed to the formation of Indian society's perspectives on law and justice throughout history. A highly organised penal system known as the Indian Penal Code has been adopted by modern Indian criminal law, which was formed by the legal traditions of British colonialism. This is in contrast to traditional Hindu legal theories, which placed a higher priority on restoration and social harmony than they did on punitive acts. There have been both beneficial and bad effects as a result of the coexistence of contemporary statutory laws and Hindu legal traditions. This is particularly true in the areas of personal law that deal with caste-related offences, inheritance, and marriage. The Hindu legal system has significant repercussions for both criminal justice and the administration of justice since it is a reflection of long-standing social imbalances, such as gender and caste relations. Taking Hindu law as an example, it has traditionally deferred to community-based conflict resolution mechanisms. On the other hand, contemporary formal law has a tough time harmonising customary law with constitutional ideas of equality and justice.*

**KEYWORDS:** *Hindu Law, cultural, Crime, democratic society.*

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## **I. INTRODUCTION**

One of the oldest legal systems in the world is Hindu Law, which is based on the religious, intellectual, and cultural history of India. This makes Hindu Law one of the oldest legal systems as well. It has experienced centuries of development, beginning with the ancient Smritis and Dharmashastras and advancing to its present codified form inside India's legal system. Over the course of these centuries, it has evolved. The Hindu legal system, which is a subset of personal law, is primarily responsible for regulating matters including marriage, motherhood, and places of worship. However, it has repercussions that are felt across the whole of India's criminal justice system, and it is not limited to the lives of individuals. There are significant questions about justice, equality, and human rights that are raised by contemporary Indian jurisprudence that is founded on Hindu legal principles. The Manusmriti, Yajnavalkya Smriti, and Narada Smriti are examples of sacred books that set the foundation for Hindu law by providing principles for appropriate social conduct. These works served as the foundation for a legal system that controlled both civil and criminal crimes. The legal system was constructed on the three pillars of dharma, punishment, and justice. The original Hindu legal system was not prescriptive; rather, it depended on community-based adjudication, with the strong hand of Brahmanical jurists and kings acting as judges. Due to the fact that these legal traditions were influenced by colonial interventions, particularly those that took place under British rule, the codification and modernising of Hindu Law were successful consequences.

In the years after India's attainment of independence, several laws were enacted that significantly reshaped Hindu law. Among them were the Hindu Marriage Act (1955), the Hindu Succession Act (1956), the Hindu Adoption and Maintenance Act (1956), and the Hindu Minority and Guardianship Act (1956). All of these laws were brought into effect in 1956. Domestic violence, offences involving dowries, and child marriage were among of the areas of criminal law that were impacted by these developments, despite the fact that they primarily dealt with civil matters. The fact that many ancient practices in India's criminal justice system are in conflict with the constitutional objectives of equality and fairness has spurred an ongoing dispute about the ways in which Hindu law connects with the rest of the legal system.

With regard to the problem of gender and caste within the legal system, Hindu Law has significant repercussions for the administration of justice and the criminal justice system in India. As a result of the patriarchal ideals that were imposed by Hindu law, women and individuals from lower castes were often excluded from the

process of obtaining justice. The continued prevalence of caste-based violence, honour murders, and gender discrimination, despite the fact that these issues have been addressed through constitutional safeguards and legislative changes, is illustrative of the challenges that arise when attempting to bridge the gap between ancient Hindu legal concepts and contemporary human rights frameworks. In spite of the fact that customary practices continue to have an effect on how society perceives criminal behaviour and punishment, the court has been essential in interpreting Hindu law in line with the provisions of the constitution.

Given the dynamic nature of Hindu law in contemporary India, it is clear that religious traditions, contemporary legislation, and social justice are all dependant on one another. Laws are still not consistently implemented, which is occasionally influenced by political and social situations. Despite the fact that legislative improvements have been sought to combat bias and inequality, laws continue to be problematic. In this article, we will analyse the continued significance of Hindu law to India's judicial system, as well as trace the origins of Hindu law, investigate its effect on criminal law, and evaluate its influence on society. The purpose of this study is to examine historic legal judgements and ongoing debates in order to give a comprehensive understanding of the ways in which Hindu Law interacts with and impacts the Indian criminal justice system at the present time.

### **Objectives**

1. To explore law and morality in the Indian Journal of Law and Legal explore.
2. Studying justice, dharma, and the law An Analysis of Hindu Jurisprudence.

### **Crime and Punishment in Hindu Jurisprudence**

An autonomous school of legal thought and practice existed in ancient India, representing a unique legacy of law. Two seminal treatises that provided authoritative legal counsel in ancient India were the Arthashastra (c. 400 BC) and the Manusmriti (c. 100 AD). All over Southeast Asia, people would quote Manu's teachings on tolerance and plurality. Hindu and Islamic law were superseded by British common law when the British Raj came to power, marking a departure from tradition. Consequently, modern Indian law is heavily influenced by British precedent and has very little in common with the legal systems of pre-British India. In addition to guaranteeing women's equality and safety, India's constitution and laws provide the government the authority to actively discriminate in their favour. In order to address societal ills like as child marriage, dowry, rape, the practice of sati, and other similar practices, as well as to protect women from social discrimination, violence, and atrocities, the Indian government has passed many laws pertaining specifically to women. An ancient Indian political theory known as the "Rastramimamsa" classified criminal acts into two broad categories. Upapatakas were considered minor offences, whereas Patakas were considered significant ones.

Ten papas, or sins, are present. Killing someone, stealing from them, being an adulterer, being cruel, being deceitful, making meaningless statements, inflicting misery on other people, wanting someone else's stuff, and finally, atheism.

Sins of a lesser kind. upapataka (upapapa) Slaughter of cows, offering sacrifice by an unworthy individual, enticing the wife of another man, abandoning one's parents and teachers, neglecting one's own education, agni (fire), and son becoming a Parivetta (one who marries before their older brother does), a younger brother completing his studies before his elder, sacrificing an unmarried female to a Parivitti or Parivetta, slandering an unmarried girl, and so on. Making a living off of interest on loans; breaking a commitment; selling a pond, garden, wife, or son; embracing social exclusion; abandoning family; Disposing of therapeutic plants for profit, selling forbidden goods, and teaching the Vedas while taking payment; living off of women; to hinder ceremonies; to cut down fresh trees (not dried) for firewood; to abduct women; to associate with women who smear women; to engage in self-serving pursuits; to eat forbidden rice; to fail to maintain the sacred fire; to steal; to repay a loan; to study forbidden sciences; to do evil deeds that will bring misery to others; to steal base metals, grains, and cows; to come into contact with inebriated women; to murder women, etc.

Killing a Brahmana (Brahma hatya), drinking too much (Suraa paana), stealing gold (Asteya), praising one's own transgressions (Gurudi Patni Gamana), and so on are the five deadliest crimes.

The Yamadutas, Yama's emissaries, convey all living things before his court after death. There, Yama assesses each being's virtue and vice and pronounces a verdict, sending the righteous to Swarga (heaven) and the wicked to one of hell. Swarga or Naraka stays are often characterised as short-term. Souls are resurrected as either inferior or higher creatures according on their merits when the quantum of punishment is complete. "Hell" or Naraka. Located halfway between the three realms, under the surface of the earth and above the Atala Loka, lies a planet known as Pitrloka. Pitrloka is ruled by Yama. Yama is also known as Yamadharm because of his meticulousness in dispensing justice. According to their virtuous and wicked deeds while on Earth, he fairly delivers justice to all sentient creatures. His authority is limited to judging the morality of individuals and doling out appropriate penalties, rather than changing punishing laws or procedures. Yamadharm assigns sinners to several Narakas according on the gravity of their transgressions. There is a total of twenty-eight Narakas mentioned in the Puranas. The following are listed:

Tamisram – If the robbers take from other people, whether it is their money, their women, their children, or anything else, the attendants of Yama will bound them with ropes and transport them into the Naraka that is known as Tamisram. The sound is played till they are no longer conscious. The hammering will start as soon as they recover consciousness, and anybody who attempts to run will be bound and dragged back into the depths of hell. No matter what happens, this will go on endlessly unless Fate orders otherwise.

Andhatamasram – In the event that a person cheats on their marriage and consumes the meal, either the husband or the wife will be condemned to spend eternity in hell. The punishment is the same as it was in Tamisram, with the exception of whether or not it involves physical punishment. The terrible pain that the victims go through as a result of Yama's minions binding them with Yama's rope, on the other hand, contributes to the victims' mental instability.

Rauravam – Those individuals who have been responsible for the persecution of other living beings will be sent into this inferno. In addition, the term "Persecution" refers to those who amass and make use of the resources or property of another individual. When such individuals are sent into this inferno, the individuals whom they had tormented or defrauded while they were on earth take the form of "ruru" and torture them to a great extent. One may say that "Ruru" is a terrifying snake. Because of the large number of rurus that may be found there, this inferno is referred to as "Rauravam."

Maharauravam – Moreover, ruru serpents are said to be present in this area. However, they are a breed that is more aggressive. Those who refuse to accept the true heirs and their inheritance, as well as those who take control of and benefit from the property of others, shall be encircled and devoured by these dreadful serpents.

Kumbhipakam – This is the inferno that awaits people who are responsible for the slaughter and consumption of animals and birds. The oil is kept boiling in these enormous containers here. These sinners are dipped into this oil by the servants of Yama. As many years as there were hairs on the corpses of the birds or animals that they slaughtered and ate, they were subjected to torture. This torment lasted for as long as anybody could remember.

Kalasutram (Yamasutra) – The heat in this inferno is unbearable. Those individuals who do not respect their parents, elders, or other family members are cast here. As they make their way through the intense heat of this inferno, they sometimes collapse from exhaustion and scramble about.

Asi(ta) patram – In this hell, those offenders who have given up their own duty, known as svadharma, and have accepted the responsibility of others, known as paradharm, are beaten by Yama's minions with whips made of asipatra, which are leaves fashioned like swords with sharp edges. While they are being flogged, they are running about, and they end up falling on their faces because they trip over stones and thorns. After that, there are blades made of asipatra that are used to stab them. After they have regained consciousness, they are subjected to the identical procedure that they went through while they were asleep.

Sukaramukham – The punishment for kings who fail to fulfil their responsibilities and who misrule their people is to find themselves in this inferno. They are beaten until they are rendered unconscious, and whenever they have recovered, they are subjected to the same torture once again. This continues until they are finally reduced to a pulp.

Andhakupam – The punishment for people who mistreat Brahmans, gods, and the impoverished is hell. This is the torment that they deserve. In this Kupa (well), there are wild animals such as tigers and bears, as well as predatory birds like as eagles and kites, as well as poisonous species such as snakes and scorpions, and insects such as bugs, mosquitoes, and other similar critters. Sinners are required to suffer under the unrelenting assaults of these monsters till the conclusion of the span of time during which they are subjected to punishment.

### **Crime and Justice in India**

With a population of 1.15 billion, an economy that has risen to the position of sixth largest in the world, a stable and representative democratic government, and significant scientific, military, and nuclear capabilities and accomplishments, India is quickly becoming an international superpower with a diverse and rich cultural heritage derived from some of the earliest historical civilisations. Poverty, unemployment, corruption, pollution, and separatism are just a few of India's persistent social, economic, and political issues that have impeded the country's development for a long time. Because of these differences, John Kenneth Galbraith, a renowned economist and former United States ambassador to India, called it a "functioning anarchy." This special edition of the *Journal of Contemporary Criminal Justice on Crime and Justice in India* reflects the optimism and despair that accompanies any consideration of India, including its criminal justice system and crime problem. Several of the essays highlight this continuing dichotomy.

The fields of criminal justice and criminology at Indian universities have not grown nearly as rapidly as their Western counterparts (Khan & Unnithan, 2008). Very little research on criminal justice and crime goes beyond problem description and careful observation. As a result, the field's impact on criminal justice policymaking and assessment has been severely diminished (Khan & Unnithan, 1984). The sixteen scholars

contributing papers to this special issue represent a wide range of nationalities and perspectives; ten are from the US, five from India, and one from the UK. Their work represents a significant advance towards an evidence-based empirical approach to criminal justice and criminology in India.

Some of the study topics covered in these articles have been thoroughly investigated before, while others are perennial favourites within the field. Three contributions are included in the former. First, the authors Sudershan Pasupuleti, Eric G. Lambert, Shanhe Jiang, Jagadish V. Bhimarasetty, and K. Jaishankar compare the public's perspective on crime, criminals, treatment, and punishment based on samples of American and Indian college students. Secondly, referring to the work of female-staffed police stations in the Indian state of Tamil Nadu, Sessa Kethineni and Murugesan Srinivasan detail the procedures followed by these agencies while investigating incidents of domestic abuse (Natarajan, 2008). After that, Arvind Verma, Doug Evans, and Julia Scott investigate if Delhi police personnel' views on their jobs change as a result of their level of schooling. The following contributions fall under the category of subjects that have received little investigation. Public demonstrations are a significant civic tradition in one city in the Indian state of Kerala, and T. K. Vinod Kumar examines this conflict from the perspective of the police. Gilbert Geis systematically examines the portrayal of corruption in popular English-language literary works set in India. Many of the people who engage in street-based commercial sex work in Chennai, India, exhibit a high level of dread towards law enforcement, according to an assessment of their mental health conducted by Geetha Suresh, L. Allen Furr, and A. K. Srikrishnan. Lastly, Jyoti Belur delves into the subject of "encounters," a particularly heinous instance of police brutality that, according to the Mumbai police, is widely accepted. In order to discover answers to these concerns, the researchers have used a number of methodical approaches. Techniques used include questionnaire-based interviews (Suresh et al.), surveys (Pasupaleti et al.; Scott et al.), "event catalogues" (Kumar), content analysis (Geis), intense interviews (Belur), and secondary records analysis (Kethineni & Srinivasan).

It is also important to mention two limits. Urban settings, particularly metropolises like Delhi, Mumbai, and Chennai, are the focus of every piece in this issue. This collection unintentionally leaves out rural India, which has more than 70% of the population and likewise has crime concerns, even though conceiving of crime as an urban problem is not unique to any nation. Additionally, the contributions from the Indian police force are noticeable even in seemingly unrelated articles (such as Geis and Suresh et al.), whereas the criminal justice system's legal and penitentiary branches get far less attention. This could be because many of the papers in this issue trace their ideas back to the work of older comparative academics like David Bayley (1969), whose impact on the field of crime and criminal justice in India is evident (see Das, 1990). Each author has painstakingly outlined potential areas for further study as well as the policy implications of their work. Publication of this report should encourage further study and policymaking in these areas in India. We think that by studying and evaluating India's criminal justice system in a methodical way, we may assist alleviate despair and keep the optimism alive in the face of these formidable problems.

## **Evolution of criminal justice system in ancient India**

### **Emergence of Criminal Law**

Because of the passage of time, people gradually came to the realisation that bigger settlements provided greater conveniences than their nomadic roots. As time progressed, communities that were first formed on the basis of familial connections gradually gave way to more broad organisations, sometimes known as societies. The notion of Dharma was held in very high esteem throughout the early phases of the development of Indian culture. As a result of the fact that everyone was already acting in accordance with what was proper (Dharma), there was no need for an authority to enforce the rules. Without being burdened by the harmful forces of individuality and exploitation, everyone lived in peace with one another. As a result of the fact that everyone in the society was very cautious to respect the rights of everyone else, it was very rare for anyone's rights to be violated. What follows is a lyric that makes the assertion that such a flawless society does, in fact, exist. As well as punishment and those who were guilty, there was no such thing as a kingdom or a monarch. By conducting themselves in line with Dharma, individuals were offering protection to one another.

On the other hand, the ideal society without states did not last long. The true state of circumstances gradually deteriorated while the people's god-fearing attitude, the effectiveness and utility of Dharma, and the trust in God continued to be the dominating mentality in society. Regrettably, things got out of hand when some individuals began taking advantage of and harassing others who were less fortunate for their own personal benefit. The oppression of the weak by the strong persisted unabated through the years. It was necessary for the law-abiding folks to look for a solution because of the circumstances that they were in. It was because of this that the idea of a monarch and his authority over a community, which would later be referred to as a state, was conceived. In light of the fact that obeying the law was the primary motivation for the establishment of the state and the king's authority, the King devised a system that would penalise those who broke the law and guarantee the protection of the people's person and property. Eventually, the phrase "criminal justice system" came to be used to characterise this particular arrangement. In spite of the fact that the Indus Valley Civilisation gives evidence of structured



society in India prior to the Vedic period, it is not until the Vedic period that indicators of a criminal justice system arise. This is because the Vedic period was the time when well-defined norms were developed. In the Vedas, which are the earliest canonical books, the right conduct of the people and the obligations of the ruler are described in detail. As a result, the evolution of the criminal justice system in India is investigated by dividing the history of the nation into three separate time periods: Ancient India (from 1000 B.C. to 1000 A.D.), Mediaeval India (from 1000 A.D. to 1757), and Modern India (from 1757 A.D. to 1947).

### **Ancient India (C. 1000 B.C. To A.D. 1000)**

The Hindu era is another name for this time in Indian history when Hindu law was the most popular and influential. State administration, with its components representing a monarch's control with the assistance of advisors or helpers, has its roots in the early Vedic era. Gopa janasya, meaning "protector of the people," is a title bestowed upon the king in the Rig-Veda. This suggests that upholding the rule of law was one of his tasks. It was the king's responsibility to look out for his people's safety and well-being, as stated in the Dharma sutras and the Arthashastra.

There were divisions and districts within each province, which were further subdivided within each state. Governors were chosen for each of the provinces. Justice and administration were placed in the hands of district officials. The Nagarka were charged with the governance of towns, according to Kautilya's Arthashastra. He was tasked with overseeing the upkeep of peace and order, as well as enforcing numerous hygienic and construction rules, and conducting censuses of the populace. There were a great many villages in addition to the cities and towns. The village really served as the fundamental administrative unit. Members of the Village Council, also known as the Panchayat, and the Village Headman made up each village. Having a family member serve as head of the village was a common practice. He was a representative of the King's government in the villages. The establishment of people assemblies—the Sabha and the Samiti in particular—was the most striking aspect of early Vedic governance. The Samiti ceased to exist as a general assembly in the latter part of the Vedic era, while the Sabha evolved into a more exclusive body analogous to the Privy Council of the king. It was in the pre-Mauryan era that the first systematic procedures for the administration of state courts began to take shape. The Mauryan era (c. 326-185 B.C.) bridges the gap between the two major periods in ancient Indian criminal justice administration, the first of which is described in the Dharma sutra and the second in Manu's code.

The few allusions to criminal punishments in Megasthenes' Indica that occur during Chandragupta's reign capture the essence of that era's penal code. We learn from Ashoka's Pillar Edict IV that the death penalty persisted even after he became a Buddhist; the only change he made was to provide the condemned three days of reprieve before they were executed. It would indicate that the legal system of the previous era was carried on by the Mauryas. Under Ashoka's rule, the distinction between urban and country courts remained in place. The scant allusions in Mauryas's records indicate that the state police of the previous era persisted. It seems that the previous system of prison management was maintained. An important part of ancient Indian administration's narrative is the dominance of foreign rulers prior to the Gupta dynasty. Provincial governors with Greek titles were established by several Indo-Greek kings to administer their Indian territories. The Kushanas (c. 120-220 A.D.) introduced a regal view of government. To improve the efficiency of the justice system, they established two new ranks of military or judicial officials, the Mahadandanayaks and the Dandanayaks. The Guptas (c. 320–550 AD) rebuilt the imperial government after the collapse of the Mauryan empire. It would seem that the Mantri continued to oversee the civil administration. The Guptas revived previous patterns of provincial administration under their own system, but they gave it new official names and included some revolutionary changes. The four-person municipal board was made up of the guild president, chief merchant, chief artist, and chief scribe. There has been an audacious effort to link public officials with municipal government.

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municipal board was made up of the guild president, chief merchant, chief artist, and chief scribe. There has been an audacious effort to link public officials with municipal government.

Northern India's King Harshvardhana (A.D. 606-47) established a stable and effective government after the Guptas. Thanks to his devotion to justice, tireless work in carrying out his responsibilities, and widespread acclaim, modern-day Chinese Buddhist pilgrim Hiuen Tsang sings Harshvardhana's praises. On the other side, after a period of unusual leniency under the Imperial Guptas, the criminal code became notoriously severe. Typical features were present in the Deccan during the reign of the Imperial Chalukyas of Vatapi (540–753). The northern Indian Rajput states had a bureaucratic style of government. Below, we will outline the key aspects of the criminal justice system that existed and developed in ancient India.

### **Concept of Dharma (Law)**

According to the teachings of the Vedas, Puranas, Smritis, and other Hindu texts, Dharma was the foundation of Hindu law. The outline or overarching strategy for the holistic development of individuals and many parts of society was dharma, or law. Dharma (law) is emphasised in the following verse:

Those who undermine Dharma will ultimately perish. People who safeguard dharma are protected by it. Consequently, Dharma should not perish.

Everyone understood that the law was a powerful tool for safeguarding people's freedoms and rights. No matter how formidable an adversary may be, the law always protects the rights and freedoms of the oppressed, and the victim may always turn to the King for help. Obedience to the law might be implied by the recognition of the King's right to punish lawbreakers or enforce the law.

### **Sources of Dharma**

In ancient India, the Vedas served as the primary text for Dharma. Additional significant sources were the Dharma sutras, Smritis, and Puranas. Further sources of law were the Nibandhas (commentaries and digests) and the Mimamsa (art of interpretation). The Vedas were considered supreme if they disagreed with other sacred texts such as the Smritis or the Puranas. It was thought that the Vedas came from a divine source. Each of the four Vedas—the Rig, Yajur, Sam, and Atharva—contains profound wisdom. In accordance with Wilkins, the RigVeda is the earliest of the Vedas, followed by the Yajur-Veda, the Sama-Veda, and finally the Atharva-Veda. The song component of the Vedas, known as the mantras, were most likely composed between 1200 and 800 B.C., the Brahmanas between 800 and 600 B.C., and the other portions between 600 and 200 B.C., according to Maxmuller. A Samhita, which is a compilation of hymns or mantras, and a Brahmana, which contains ceremonial instruction and example, make up each of the Vedas. There is an Upanishad, which contains mystical or hidden teachings, attached to every Brahmana.

The Dharmashastras outlined the code of conduct that governs every aspect of human life. Both civil and criminal law were inalienably a part of this. There were three schools of thought among the early writings that established law via sutras: the Srouta school, the Grihya school, and the Dharma school. Both criminal and civil law were addressed in the Dharma sutras. Gautama, Baudhayana, Apastamba, Harita, Vasista, and Vishnu were the authors of the revered Dharma sutras. Thus, the Dharma sutras might be considered the foundational texts of Hindu law.

The Smritis was the second most significant book in Hindu law. A contemporary approach to codification is similar to the one used in the creation of the Smritis. The Smritis are a subject-wise compilation of all the legal concepts found in the Vedas and the Dharma sutras, as well as in the socially accepted and observed customs and usages. Constitution and gradation of courts, judge appointments, procedural law for substantive law enforcement, etc. were all topics covered in the Smritis. They show that the judicial and legal systems are advanced. Manu, Yajnavalkya, Narada, Parashara, and Katyayana are some of the most significant Smritis. Characteristic of the Manu Smriti are the eighteen branches of law that deal with both civil and criminal law. It seems that all legal authors from the second century A.D. onwards held the Manu Smriti in high esteem, and it eventually became acknowledged as the most authoritative text. Nevertheless, studies have shown that of the 2685 shlokas (verses) in the Manu Smriti, only 1214 are authentic and the other 1471 are interpolations. The researcher has shown how some passages that were added to the Manu Smriti either go against Manu's stated opinions in other verses or don't pertain to the topic at hand.

The old Indian legal code was based on the Puranas as well. According to its teachings, every Purana extols a particular god who is, in fact, the highest. Even if other Puranas depict the same gods in similarly ostentatious terms, here they are insulted and even banned to be worshipped. It certainly proves that these novels were created by individuals who were unaware of one other's works, and that they were written at various periods and in different locations. There are a total of 18 Puranas. Firstly, there are those that are devoted to Brahma, such as the Brahma, the Brahmanda, the Brahmavaivarta, the Markandey, the Bhavishya, and the Vaman. Secondly, there are those that are devoted to Vishnu, such as the Vishnu, the Bhagavata, the Naradiya, the Garuda, the

Padma, and the Varaha. Lastly, there are those that are devoted to Siva, such as the Siva, the Linga, the Skanda, the Agni, the Matsya, and the Kurma.

From the time of the Mauryans forward, Kautilya's Arthashastra was regarded as yet another major and authoritative text in ancient Indian law. A minister under Chandragupta Maurya (c. 322-298 B.C.), Kautilya went under many names, including Vishnugupta and Chanakya. The legal system has been described in great depth by him. One of the most important functions of governance, says Kautilya, is to keep the peace. Both the preservation of societal order and order as it pertains to the prevention and punishment of criminal conduct are included in his expansive definition. The law of processes, evidence law (both civil and criminal), criminal investigative procedure, and punishment method and quantum are all covered by Kautilya. Additionally, the Arthashastra covers topics related to prisons, lockups, and inmate care. A rule of behaviour for the King and Judges has been given by Kautilya. It has also been shown that several of the Arthashastra's penalty clauses are interpolations.

Over time, however, it became clear that the Dharmanyaya, or the law of the king, took precedence over the laws given down in the Shrutis (Vedas) or the Smritis, therefore the aforementioned belief evolved.

For the purpose of administering justice, not only were the canonical texts of Hindu law studied, but also the practices and traditions of the community. "The Vedas, the foundations of the sacred law; the Vedangas and the Puranas shall govern the administration of justice," the Gautama sutra said. Traditional practices among families, nations, and castes that do not conflict with divine precepts also have weight. When there is no explicit rule in the scriptures, the Katyayana Smriti states that the king has to adhere to common practice. In the event of a discrepancy between two Smritis, the Yajnavalkya Smriti said that the concepts of equity as established by common practice should take precedence. "When it is impossible to act up to the precept of sacred law, it becomes necessary to adopt a method on reasoning because custom decides everything and overrules the sacred law," said the Narada Smriti. It may be deduced from these Smritis laws that an approach had developed to acknowledge the prevalent practices and local use as authoritative in ancient India. After a long period of time, common practice had superseded the holy rule contained in the Vedas and had become the law itself.

The King was given authority over the residual affairs. When the Shruti, Smritis, or tradition do not include a concept of law, the King is to make a decision based on his conscience. The Smritis themselves admitted that they were founded on a combination of governmental laws, choices established through experience, and common practice.

### **King and Courts**

According to the Smritis, one of the most important aspects of the King's function was to presiding over the administration of justice. According to the Smritis, the primary purpose of creating kingship was to guarantee that Dharma (law) was enforced by the exercise of the king's authority, to punish those who violated Dharma, and to offer protection and relief to those who had suffered through the consequences of their actions. In accordance with the Smritis, the only way for the King and the people to live in peace and prosperity was for the King to enforce the rule of law in a manner that was both impartial and suitable.

In cases that were of the utmost importance to the state, the King's Court operated as both the first court of appeal and the highest court of appeal altogether. In order to provide the king with advice, members of the commercial community, ministers, elders, as well as the Chief Justice and other judges, were present in the King's Court. Additionally, the Court of Chief Justice, which was located next to the King's Court, was made up of a board of judges who provided assistance to the Chief Justice. The administration of justice was carried out by state officials who were assigned by the King to rule over courts in towns and districts. During his many trips, Mahamatras was given the job of monitoring the local courts by Ashoka, who entrusted him with this obligation.

### **Judicial System in Villages**

Due to the fact that the criminal justice system in ancient India was so well-organised, it was possible for any villager to attend a courtroom in a straightforward and comfortable manner. The local Samitis and Sabhas were two important instruments of Indian politics throughout the time of the Vedic culture. When it came to administering justice to the people in the Village Councils, which were comparable to Panchayats in the modern day, a board consisting of five or more members would be responsible. The administration of justice was essentially the responsibility of these village assemblies, in conjunction with other organisational structures that were either communal or popular. The headman of the village has the authority to levy fines on those who violate the rules. A number of committees, including the justice committee, were selected by the villagers via the process of membership election. It was the responsibility of the Village Council to resolve straightforward civil and criminal cases. Additionally, various criminal matters were adjudicated in courts located in towns and district headquarters, in addition to the central court. These courts were presided over by government officials who were entrusted by the royal authorities to administer justice.

## **Police**

Prior to the formation of Mauryan rule, the first state police force was established. In Kautilya's Arthashastra, the whole development of it is described in complete detail. It states that in ancient times, there were two branches of the Indian police force: the conventional police and the secret police. Both of these branches came into existence. Within the regular police force, there were three tiers of officers: the Pradesta, who were assigned to rural areas, the Nagaraka, who were assigned to urban areas, the Sthanikas, who were assigned to both rural and urban areas, and the Gopas, who were assigned to both rural and urban areas. As detailed by Kautilya in his description of the Pradesta's duties, an investigation was carried out in the case that a sudden death occurred. During this procedure, a postmortem examination and a comprehensive investigation by the police were carried out. The peripatetic and the stationary secret police are the two forms of secret police that are mentioned in Kautilya's works. In the Manu Smriti, the monarch was provided with detailed instructions on how to expose criminal activity via the employment of spies and warriors. The Katyayana Smriti makes reference to both an investigator and an informant when it comes to the investigation. When it came to the administration of justice during that time period, this gives more proof that the King had help from an organisation that was comparable to the police forces that are in place today.

## **Jails**

As was the case with the state police force, the state jail system may trace its roots back to the time before Mauryan occupation. In accordance with the sentencing, a secured jail that is located in the nation's capital and has cells that are separated according to gender was prescribed. As an additional requirement, the convicts were required to work in order to earn a livelihood. A third element that was created by ancient Indian law was the practice of expressing compassion to those who had been convicted of crimes and condemned to jail. It was the duty of the Dharmamahatras to protect the members of the prison population from being subjected to sexual abuse and to release those who were deserving of freedom. The Arthashastra has a detailed account of the administration of correctional facilities of all kinds.

## **Crime and Investigation**

Any violation of the legislation was considered a crime committed against the state. Should any citizen bring the violation to the attention of the King, he was bound to apprehend and punish the person responsible for the offence. Regardless of whether or not a private individual had filed a complaint, it was provided that the King would independently take notice of any criminal offences that occurred.

If an infraction is committed by another individual, any citizen, not simply the victim or his family, has the ability to report or register a complaint about the transgression. "Stobhaka," which literally translates to "informant," was the name that was used to designate the person who willingly found misconduct and reported it to the King. In recognition of the fact that he was the first to know, the King ought to have supplied him with remuneration. "Suchaka," which literally translates to "investigation officer," was the phrase that was used to describe the official who was appointed by the monarch to discover suspicious activities. In the Manu Smriti, which highlighted the King's special responsibility in the supervision of criminal activity, the discovery of criminal activity, and the administration of punishment, the following rules were established for the King:

- Those who commit crimes or plot to commit crimes are often found at gambling establishments, hotels, brothels, and assembly houses;
- To police such areas and deter thieves and antisocial characters, the King must station troops and spies; and
- Reformed thieves who were formerly associated with such dubious elements should be appointed by him, and it is through them that criminals must be identified and dealt with.

## **Punishments**

Because of its central role in ancient Indian state administration, the dandaniti (penalty policy) was one of the topics that received extensive treatment in ancient Indian literature. Punishment "alone governs all created beings, protects them and watches over them while they are asleep," Manu said, emphasising the significance and practicality of punishment. Manu, Yajnavalkya, and Brihaspati all state that in ancient India, physical punishment, exhortation, censure, and fines were the four main forms of punishment. The death sentence was one kind of corporal punishment; others included amputation of the culprit's offending limb, branding of the head with a mark denoting the offence, shaving of the head, and public parading of the criminal. The severity, variety, and brutality of the penalties were appalling. According to the Manu Smriti and other Smritis, the victim's and offender's Varna were considered for determining punishment. For instance, it was stated in the Gautam Smriti, the Manu Smriti, and the Yajnavalkya Smriti that a Kshtriya should be fined 100 panas or 150 panas for defaming a Brahmana, respectively, but a Sudra should be punished physically. This demonstrates that the severity of the penalty increases as the offender's Varna decreases. In contrast, the Katyayana Smriti stipulated that the punishment for a



Kshatriya's crime would be double that for a Sudra's crime of the same kind. A comparable passage states that the penalty increases in proportion to the offender's varna in the Manu Smriti. This suggests that many Smritis included clauses that were at odds with one another about punishment.

### **Examination of Witnesses and Perjury**

The cross-examination of witnesses requires promptness on the part of the attorney. It is possible that a substantial mistake, namely a miscarriage of justice, might occur if there are delays in interrogating witnesses. Due to the fact that the law required witnesses to testify in court, they were compelled to do so. The failure to appear in court resulted in harsh penalties for the defendant. offering evidence that was not genuine was equivalent to not offering any evidence at all. Providing false testimony, often known as perjury, was regarded as a serious offence and was subject to harsh punishment. An anyone who, motivated by greed, submitted false witnesses would not only have all of their belongings taken away by the King, but they would also be put to death. It is possible that the side whose witnesses testified against him would bring in more witnesses who are trustworthy in order to strengthen their case and counter the allegations of perjury that were made by the first group of witnesses.

### **Peoples' Participation in Crime Prevention**

We took the failure to fulfil our responsibilities to society extremely seriously. Any individual who fails to provide aid in the prevention of crime in accordance with his degree of capability would be expelled along with his possessions and other property. It was possible to get a fine for any homeowner who failed to assist another person in the event that a fire broke out in their home. Those who neglected to provide aid to a person who was asking for assistance despite the fact that they were there at the time or who fled after being asked for assistance were subjected to a double penalty.

### **Right of Self-defence**

Even in ancient India, people had the right to defend themselves. A person is not to hesitate to kill an assassin who approaches them with the aim to murder them, according to the law. The slayer does not break any laws by eliminating an assassin. There are many justifications for taking violent action, including the need to protect vulnerable populations like women and children from harm or to defend oneself against an attacker. It is not a crime to murder a Brahmana who is exercising this privilege.

In spite of this, the Jail Superintendent, other public personnel, and police officers were subject to harsh sanctions for offences and misbehaviour. Assuming they did not give unlawful orders, accept bribes, or violate the trust placed in them, the judges would be exiled. It is clear from the preceding that the criminal justice administration's institutions had their origins in the Vedic era of India. According to the Arthashastra, a well defined criminal justice system emerged during the Mauryan era after the system had evolved over time.

## **II. CONCLUSION**

India's legal structure has been significantly influenced by Hindu law, notably in areas pertaining to personal laws, morality, and justice. This is especially true in matters of justice. Hindu law, which has its origins in ancient writings like the Manusmriti and Dharmaśāstra, as well as subsequent codifications, has had a significant impact on the contemporary Indian legal system, particularly in the areas of family law, inheritance, and religious practices of the country. Despite the fact that its teachings place an emphasis on dharma (responsibility) and karma (the repercussions of acts), the intersection of these principles with modern legal frameworks sometimes results in problems when it comes to maintaining justice in a society that is secular and multicultural. Regarding gender justice, caste-based disparities, and the balance between religious traditions and constitutional principles, the implications of Hindu law on crime and justice in India reveal both its strengths and its challenges. Some of the strengths include the emphasis on ethical conduct and reconciliation. Other challenges include the fact that it places a strong emphasis on reconciliation. changes that safeguard basic rights while preserving cultural and religious diversity are required, as the continual growth of Hindu law within the larger context of Indian jurisprudence brings to light the need of such changes.

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