

## ANCIENT AND MODERN INDIAN LEGAL SYSTEMS: A COMPARATIVE STUDY OF LAW-MAKING INSTITUTIONS AND PROCESSES

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### ABSTRACT

The evolution of law-making institutions in India illustrates a fundamental transition from a decentralised and pluralistic normative order to a constitutionally organised legislative framework. This paper comparatively examines the institutions and processes of law-making in the Ancient and Modern Indian Legal Systems from historical, jurisprudential and constitutional perspectives. It argues that the ancient legal order was characterised by strong legal pluralism, where legislative authority was dispersed among multiple normative sources rather than concentrated in a single sovereign, contrary to the Austinian conception of law. Legal norms evolved through the interaction of Dharma, sacred texts, juristic interpretation, recognised customs, local assemblies, guilds, and royal edicts, while their legitimacy rested upon moral authority, social acceptance, institutional practice and the normative supremacy of Dharma. The study further demonstrates that ideas analogous to contemporary constitutional principles which including ethical governance, collective deliberation, institutional accountability, functional distribution of authority and limitations on public power were embedded within the ancient legal tradition, albeit in forms distinct from modern constitutional institutions. By contrast, the Modern Indian Legal System is founded upon constitutional supremacy, representative democracy, and formally constituted legislative bodies exercising authority within a codified constitutional framework. Legislative legitimacy now flows from the Constitution rather than from religious or customary norms. Despite these institutional and doctrinal transformations, both legal systems remain united by a common commitment to legitimacy, accountability, public welfare, and the maintenance of social order. The study concludes that the Ancient Indian Legal System represents a sophisticated tradition of pluralistic legal governance whose underlying jurisprudential principles continue to inform and enrich contemporary constitutional discourse in India.

**Keywords:** Legal Pluralism; Law-Making Institutions; Ancient and Modern Indian Legal System; Constitutional Governance.

### 1.1 INTRODUCTION

A legal system comprises laws, interpretative principles, and enforcement institutions regulating citizens' conduct within a defined territory to maintain justice, order, and legal certainty.<sup>1</sup> A binding custom is a legally recognised practice, while legislation consists of laws systematically enacted by authorised institutions established to create and regulate the legal framework.<sup>2</sup> Accordingly, "law" can be defined as binding norms of behaviour intended to

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<sup>1</sup> Edward Rubin. L, "Law and legislation in the administrative state." 89(3) *Columbia Law Review* 369 (1989).

<sup>2</sup> Oliver Mendelsohn, "The pathology of the Indian legal system." 15(4) *Modern Asian Studies* 823-863 (1981).

maintain the rule of law. It creates enforceable duties and obligations. Such norms primarily originate from customary practices or authoritative legislative processes.<sup>3</sup>

Although the origins of law can be traced to ancient India, the concept of a comprehensive and institutionalised legal system evolved and attained its modern form under the constitutional framework.<sup>4</sup> Law-making constitutes one of the most fundamental and essential components of any legal system, as it forms the basis for the creation, structure, and functioning of law.

## 1.2 RESEARCH METHODOLOGY

This paper adopts a **doctrinal research methodology**, which is primarily based on the systematic analysis and interpretation of legal texts, historical sources, and scholarly literature. The study is qualitative and analytical in nature, examining the evolution of law-making institutions and processes in the Ancient and Modern Indian Legal Systems through a comparative legal framework.

The research relies on primary sources, including ancient legal texts such as the Vedas, Dharmasūtras, Smṛtis (particularly the Manusmṛiti and Yājñavalkya Smṛti), the Arthaśāstra, and other relevant historical materials, along with the Constitution of India, parliamentary procedures, statutes, and judicial decisions relating to the modern legislative process. Secondary sources comprise books, peer-reviewed journal articles, commentaries, reports, and other academic writings on jurisprudence, legal history, constitutional law, and legal pluralism.

A comparative and analytical approach has been employed to identify the similarities and differences between ancient and modern law-making institutions with respect to their structure, sources of authority, legitimacy, and legislative processes. The study also examines these institutions through the jurisprudential concepts of legal pluralism, constitutionalism, sovereignty, separation of powers, accountability, and democratic governance. The analysis is interpretative rather than empirical and does not involve fieldwork, surveys, interviews, or statistical methods.

By adopting a doctrinal research methodology, the paper seeks to critically evaluate the historical evolution of Indian law-making institutions and demonstrate the continuity and transformation of legal principles from the Ancient Indian Legal System to the contemporary constitutional framework.

## 1.3 OBJECTIVES OF THE STUDY

1. To comparatively examine the law-making institutions and processes in the Ancient and Modern Indian Legal Systems, with particular emphasis on their sources of legal authority, institutional structure, legitimacy and methods of norm creation.

## 1.4 LAW MAKING INSTITUTION IN ANCIENT INDIAN LEGAL SYSTEM

In ancient India, law emerged from texts, custom, assemblies, and royal edicts, reflecting decentralized, plural authority rather than centralized legislative monopoly.<sup>5</sup> This pluralistic structure anticipated later conceptions of legal pluralism and decentralized norm creation.<sup>6</sup>

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<sup>3</sup> Lawrence M Solan. , "Can the legal system use experts on meaning." 66 *Tennessee Law Review* 1167 (1998).

<sup>4</sup> Robert Lingat, *The Classical Law of India* (University of California Press 1973)

<sup>5</sup> Werner Menski, *Hindu Law: Beyond Tradition and Modernity*, 11–16 (Oxford: Oxford University Press, 2003).

## Periodisation of Law-Making Institutions in Ancient India

### 1. RIG VEDIC

#### Law-Making Institution

##### Morale and Legal Frame work

1. **R̥sis (Seers)** were regarded as the creators and transmitters of early normative principles derived from the Vedic tradition. Through revelation and interpretation, they articulated concepts such as **r̥ta** (cosmic order) and **satya** (truth), which functioned as the foundational moral and legal framework of early Indian society. These principles shaped ideas of justice, duty and social harmony, providing an ethical basis upon which later legal and institutional norms were constructed.<sup>7</sup>
2. **Sabha and Samiti** i.e. **Tribal assemblies** played a crucial role in articulating and reinforcing **customary norms** through **collective deliberation**, serving as early forums for dispute resolution, norm-setting and the communal affirmation of social and legal obligations.<sup>8</sup>
3. **Custom (ācāra)** i.e the **lived practices of clans and tribes** functioned as **binding normative rules** shaping conduct and obligations through long-established customs that carried social legitimacy and enforceability within the community.<sup>9</sup>

### 2. LATER VEDIC

#### A. Law-Making Bodies

##### Shared Deliberation

1. **Brahmanical scholars** – They functioned as **interpreters of śruti** and the emerging body of smṛti gradually **systematizing legal and moral norms** by translating sacred principles into practical rules governing social conduct, obligations, and dispute resolution.<sup>10</sup>
2. **King (Rājan)** – The ruler acted as the **promulgator and enforcer of rules aligned with dharma** certain limitain remained his authority remained **constrained by religious principles and ethical expectations**, ensuring that governance was legitimized by moral duty rather than unchecked power.<sup>11</sup>
3. **Sabha / Parishad** – **Advisory councils** assisted in **norm formation and dispute resolution**, offering collective guidance, interpretation and oversight that reinforced the legitimacy of legal norms through shared deliberation rather than unilateral authority.<sup>12</sup>

<sup>6</sup> Bimal N Patel and others, *Indian Legal System*, 17–23 (New Delhi: Oxford University Press, 2014).

<sup>7</sup> J. Gonda, *Ancient Indian Kingship from the Religious Point of View* (E.J. Brill, Leiden) 32–67 (1966).

<sup>8</sup> A L Basham, *The Wonder That Was India*, 118–122 (3rd edn, London: Picador, 2004).

<sup>9</sup> Julius Jolly, *Hindu Law and Custom*, 35–38 (Oxford University Press, 1928).

<sup>10</sup> Donald R Davis Jr, *The Spirit of Hindu Law* 17–56 (Cambridge University Press 2010).

<sup>11</sup> Radhakumud Mookerji, *Ancient Indian Political Thought and Institutions*, 145–152 (Motilal Banarsidass, Delhi:1954).

<sup>12</sup> R S Sharma, *Material Culture and Social Formations in Ancient India*, 102–107 (Macmillan 1983).

### 3. MAHAJANAPADA & MAURYA

#### A Law-Making Bodies

1. **Kings and Royal Councils** in monarchical states such as Magadha.<sup>13</sup>
2. **Republican Assemblies** (Gaṇa-Saṅghas) in non-monarchical polities, exercising collective legislative and judicial authority.<sup>14</sup>
3. **Guilds** (śreṇi) and **Associations** (puga), which framed binding commercial and professional norms.<sup>15</sup>
4. **Monastic councils** (Buddhist and Jaina), which generated disciplinary and adjudicatory rules.<sup>16</sup>

### 4. MAURYAN EMPIRE

#### A Law Making Bodies

1. **King (Emperor)** – supreme legislative authority.<sup>17</sup>
2. **Council of Ministers-** (Mantripariṣad) assisting in policy and legal formulation.<sup>18</sup>
3. **Kauṭilya and state jurists** whose Arthaśāstra provided a systematic articulation of civil (vyavahāra) and criminal (daṇḍa) law.<sup>19</sup>
4. **Royal Edicts (Aśoka's Edicts)** which functioned as binding normative instruments across the empire.<sup>20</sup>

### 5. GUPTA EMPIRE

#### A Law Making Bodies and Codification of law

1. **Smṛtikāras** such as Manu, Yājñavalkya and Nārada whose texts systematized legal doctrine.<sup>21</sup>
2. **King with a sabha of jurists**, functioning as both law-maker and supreme judicial authority.<sup>22</sup>
3. **Village and Guild Assemblies**, which exercised limited norm-making powers within local spheres.<sup>23</sup>

### 6. HARSHAVARDHANA'S

#### A Law Making Institution

1. **King with advisory councils**, including learned jurists and ministers.<sup>24</sup>

<sup>13</sup> Romila Thapar, *From Lineage to State*, 132–141 (Oxford University Press 1984).

<sup>14</sup> T W Rhys Davids, *Buddhist India*, 249–258 (T Fisher Unwin, London:1903)

<sup>15</sup> Sukumar Dutt, *Buddhist Monks and Monasteries of India*, 88–97 (Motilal Banarsidass, Delhi: 1988)

<sup>16</sup> D D Kosambi, *An Introduction to the Study of Indian History*, 169–175 (Popular Prakashan, Bombay: 1956).

<sup>17</sup> Kauṭilya, *Arthaśāstra*, bk I, chs 1–3, tr R P Kangle (Motilal Banarsidass, Delhi:2010).

<sup>18</sup> R P Kangle, *The Kauṭīliya Arthaśāstra: A Study*, 1–18, vol III (Motilal Banarsidass, Delhi 1972)

<sup>19</sup> Upendra Thakur, *History of Indian Penal System*, 39–48 (Abhinav Publications, New Delhi: 1982).

<sup>20</sup> Romila Thapar, *Aśoka and the Decline of the Mauryas*, 257–266 (Oxford University Press, New Delhi: 1997).

<sup>21</sup> Manusmṛti, trs G Bühler (Oxford University Press, 1886) chs VII–IX

<sup>22</sup> Yājñavalkya Smṛti, tr P V Kane (Government Oriental Series, Poona: 1939) bk II.

<sup>23</sup> Nārada Smṛti, tr Julius Jolly, *Sacred Books of the East*, vol 33 (Clarendon Press, Oxford: 1889).

2. **Religious scholars**, (both Buddhist and Brahmanical) influencing ethical content of law.<sup>25</sup>
3. **Customary village institutions**, continuing to generate local norms.<sup>26</sup>

## 7. NORTH INDIA

### A Law Making Bodies

#### Cast panchayats

1. **Feudal Kings and Sāmantas**, exercising legislative and judicial authority within their territories.<sup>27</sup>
2. **Caste Panchayats**, regulating social conduct and occupational norms.<sup>28</sup>
3. **Village Assemblies**, handling local governance and dispute resolution.<sup>29</sup>
4. **Commentators** such as Vijñāneśvara (Mitākṣarā) and authors of Smṛticandrikā, who reinterpreted classical law.<sup>30</sup>

## 8. HIMALAYAN KINGDOMS (KARKOTA, UTPALA, LOHARA)

### A Law Making Institution and Temples

1. **King**, as the ultimate source of legal authority.<sup>31</sup>
2. **Judicial Councils**, assisting in adjudication and norm articulation.<sup>32</sup>
3. **Temple and Monastic Authorities**, exercising regulatory power over land and endowments.<sup>33</sup>

## 9. SOUTH INDIAN DYNASTIES (PALLAVAS, CHALUKYAS, RASHTRAKUTAS, CHOLAS)

### A Law Making Bodies

1. **King**, issuing binding orders and grants.
2. Village Assemblies (sabha, ūr, nagaram), exercising extensive legislative autonomy.<sup>34</sup>
3. **Temple Committees**, managing land, revenue and dispute resolution.<sup>35</sup>

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<sup>24</sup> Bāṇa, *Harṣacarita* (E B Cowell and F W Thomas trs, Royal Asiatic Society 1897) bk 8.

<sup>25</sup> Xuanzang, *Si-Yu-Ki (Buddhist Records of the Western World)*, tr Samuel Beal, 210–215, vol I (London: Trübner, 1884).

<sup>26</sup> B H Baden-Powell, *The Indian Village Community: Examined with Reference to the Physical, Ethnographic and Historical Conditions of the Provinces* 45–102 (Longmans, Green & Co 1896).

<sup>27</sup> Burton Stein, *Peasant State and Society in Medieval South India*, 56–62 (Oxford University Press, New Delhi 1980).

<sup>28</sup> B R Grover and Sushil Chaudhry, *A New Look at Medieval Indian History* 189–224 (S Chand & Co, New Delhi, 2000).

<sup>29</sup> D C Sircar, *Select Inscriptions Bearing on Indian History and Civilization*, 210–218, vol I (Motilal Banarsidass, Delhi, 1983).

<sup>30</sup> Vijñāneśvara, *Mitākṣarā*, tr Ganganath Jha (Oriental Book Agency, Calcutta: 1918).

<sup>31</sup> Kalhaṇa, *Rājatarāṅgiṇī*, tr M A Stein (Westminster: Archibald Constable, 1900) bk V.

<sup>32</sup> M A Stein (trans), *Kalhaṇa's Rājatarāṅgiṇī: A Chronicle of the Kings of Kaśmīr*, vol I 72–118 (Motilal Banarsidass, New Delhi 1961).

<sup>33</sup> R S Sharma, *Indian Feudalism c 300–1200* 214–248 (Macmillan, New Delhi 1980).

<sup>34</sup> K A Nilakanta Sastri, *A History of South India*, 145–156 (4th edn, Oxford University Press, New Delhi: 2002).

4. **Royal Inscriptions** (copper plates and stone edicts), serving as formal legal instruments.<sup>36</sup>

## 10. SANGAM AGE

### A Law Making Bodies

1. **King**, embodying ethical kingship and justice.<sup>37</sup>
2. **Councils of Elders**, resolving disputes through customary norms.<sup>38</sup>
3. **Merchant Guilds**, regulating trade and commerce.<sup>39</sup>
4. **Moral Texts** such as the Tirukkural and Tolkāppiyam articulating normative ideals.<sup>40</sup>

## 1.5 NATURE OF LAW MAKING IN ANCIENT LEGAL SYSTEM

### 1.5.1 Ethical Obligation, Centralisation, Decentralisation , Semi-Formalisation and Functional Pluralism

Law in Vedic period was essentially moral and customary in nature lacking formal institutional enforcement. Legal norms arose from religion, custom and social consensus, with obedience ensured through ethical obligation rather than coercive authority.<sup>41</sup> Later Vedic Period reflects the semi-formalization of law under Smṛti jurisprudence where dharma guided adjudication while royal authority systematised in the Arthaśāstra assumed a structured role in enforcing law within ethical constraints.<sup>42</sup> Law-making in Mahajanpada era was marked by functional pluralism with royal authority coexisting alongside civic, commercial and religious normative orders rather than monopolizing legal control.<sup>43</sup> The Mauryan period reflects the centralization of law-making and punishment under state authority as articulated in the Arthaśāstra while Aśoka's ethical governance ensured that coercive power remained constrained by moral responsibility and welfare-oriented ideals.<sup>44</sup> Gupta Period witnessed the codification of law through the Dharmaśāstras which systematized royal authority, religious norms and custom into a coherent legal framework while retaining space for interpretation and local practice<sup>45</sup>

Era of Harshavardhana's influenced by Buddhist ethics, particularly under Aśoka, law during this period emphasised compassion, restraint and moral reform, reframing punishment as a

<sup>35</sup> Noboru Karashima, *South Indian History and Society: Studies from Inscriptions, AD 850–1800* 67–112 (Oxford University Press, New Delhi 1984).

<sup>36</sup> Burton Stein, *Peasant State and Society in Medieval South India* 93–128 (Oxford University Press New Delhi 1980).

<sup>37</sup> Kamil Zvelebil, *The Smile of Murugan*, 180–190 (Leiden: Brill, 1973).

<sup>38</sup> Ibid. 180–190.

<sup>39</sup> K A Nilakanta Sastri, *A History of South India: From Prehistoric Times to the Fall of Vijayanagar* 98–126 (Oxford University Press, New Delhi 1955).

<sup>40</sup> P S Sundaram (trans), *Tiruvalluvar: The Kural* 101–148 (Penguin Books 1990).

<sup>41</sup> Romila Thapar, *Early India: From the Origins to AD 1300*, 64–69 (Penguin Books, New Delhi: 2002).

<sup>42</sup> Upendra Nath Ghoshal, *A History of Indian Political Ideas: The Ancient Period and the Period of Transition to the Middle Ages* 182–236 (Oxford University Press 1959).

<sup>43</sup> Bimal N Patel and Ranbir Singh (eds), *Indian Legal System* 21–48 (Oxford University Press 2014).

<sup>44</sup> R S Sharma, *Aspects of Political Ideas and Institutions in Ancient India* 145–176 (Motilal Banarsidass, 1991).

<sup>45</sup> Timothy Lubin, Donald R Davis Jr and Jayanth K Krishnan (eds), *Hinduism and Law: An Introduction* 112–148 (Cambridge University Press, 2010).

tool of ethical governance and social welfare rather than mere control.<sup>46</sup> In Ancient North India Law-making remained decentralised and customary, shaped by agrarian relations, caste hierarchies and local elites rather than centralised state authority.<sup>47</sup>

### 1.5.2 Separation of Powers, Checks and Balances, Cross-Cultural Transmission and Accountability

Himalya Kingdoms in Ancient India demonstrate early functional differentiation between judicial and executive roles, with adjudication gradually separated from administrative governance. Simultaneously, royal authority was circumscribed by ethical and moral norms, preventing arbitrary exercise of power. This fusion of institutional role distinction and normative restraint indicates an emerging conception of accountable governance long before the advent of formal constitutionalism.<sup>48</sup>

In **South India**, law-making reached a high level of institutional development at the local level, with village and corporate assemblies actively framing enforceable by-laws, prescribing penalties and laying down procedural rules. Although these bodies enjoyed substantial autonomy in governance and adjudication, their legislative authority functioned under royal oversight, reflecting a balanced system in which local self-regulation coexisted with overarching political authority.<sup>49</sup>

The legal order in Sangam age was anchored in the doctrine of righteous kingship, under which sovereign authority was legitimised by conformity to dharma, ethical responsibility and the pursuit of just governance instead of reliance on coercion. Disseminated through religious, political, and dynastic connections, these legal and political ideals shaped institutions of governance in Cambodia, Java, and Thailand, reflecting the enduring transregional impact of India's jurisprudential tradition.<sup>50</sup>

Ancient Indian law emerged through a composite system of sacred authority, royal power, scholarly interpretation, assemblies and customary practices rather than through a single sovereign legislature. This pluralistic mode of law-making anticipated modern conceptions of legal pluralism where legitimacy is derived from multiple normative sources rather than centralized legislative authority.<sup>51</sup> Rather than legislative sovereignty ancient Indian law rested on a plurality of normative sources foreshadowing modern pluralistic law-making.<sup>52</sup> However, unlike the modern constitutional framework where the separation of powers between the executive and judiciary is institutionally defined, the ancient legal system functioned through a more integrated structure in which judicial authority was often exercised under royal executive power. In this context, the king acted as the central adjudicatory authority, guided by the principle “Rex non potest peccare” in its normative sense that sovereign authority was expected to uphold justice and social order.

<sup>46</sup> N A Nikam and Richard McKeon (eds and trans), *The Edicts of Aśoka* 45–89 (University of Chicago Press 1959).

<sup>47</sup> Satish Chandra, *Medieval India: From Sultanat to the Mughals, 1206–1526* 154–189 (Har-Anand Publications, 1997).

<sup>48</sup> B P Sahu (ed), *Land System and Rural Society in Early India* 187–226 (Manohar Publishers 1997).

<sup>49</sup> Y Subbarayalu, *South India under the Cholas* 142–186 (Oxford University Press, New Delhi 2012).

<sup>50</sup> R C Majumdar, *Ancient Indian Colonies in the Far East*, vol I 52–118 (Firma K L Mukhopadhyay 1927).

<sup>51</sup> *Manusmṛti, chs I and VII (sources of dharma and royal authority); Yājñavalkya Smṛti, Ācāra and Vyavahāra sections; Kauṭilya, Arthaśāstra, bk I (op. cit.) (on the role of the king, ministers, and councils); village assemblies (sabhā, pañcāyat) and customary law (ācāra).*

<sup>52</sup> Derrett, J Duncan M, *Dharmasastra and Juridical Literature* 12–46 (Otto Harrassowitz 1973).

## **1.6 LAW MAKING INSTITUTION IN MODERN INDIAN LEGAL SYSTEM**

In modern India, the law-making institution is fundamentally shaped by the Constitution of India, which establishes a democratic, federal and constitutional framework for legislation. Law-making in modern India reflects a shift from imperial command to constitutional democracy, popular sovereignty and accountability.<sup>53</sup>

### **1.6.1 Constitutional Basis of Law-Making**

The Constitution vests legislative authority in Parliament and State Legislatures, distributes powers through federal lists, and requires all laws to comply with constitutional principles and fundamental rights.<sup>54</sup>

Articles **245 to 255** of the Constitution govern legislative powers and procedures. Article 245 empowers Parliament and State Legislatures to make laws, while Articles 246 and the **Seventh Schedule** distribute subjects between the Union and the States.<sup>55</sup>

#### **1.6.1.1 Parliament of India**

Parliament is India's supreme legislative body, comprising the President, Lok Sabha, and Rajya Sabha, and exercises Union legislative authority while representing both the people and the federal interests of the States.<sup>56</sup>

Parliament legislates on matters in the Union and Concurrent Lists and, under specified constitutional circumstances such as a national emergency, may also enact laws on State List subjects.<sup>57</sup>

##### **1.6.1.1.1 Legislative Functions**

Parliament enacts ordinary, constitutional, and financial legislation through prescribed procedures involving introduction, debate, committee examination, and voting. A bill becomes law only after receiving the President's assent, ensuring a structured and representative legislative process.<sup>58</sup>

#### **1.6.1.3 State Legislatures**

Each State in India possesses its own Legislative Assembly, and some also have a Legislative Council. State Legislatures are empowered to enact laws on matters in the State and Concurrent Lists, reflecting regional needs and governance priorities.<sup>59</sup>

However, in case of conflict on Concurrent List subjects, Union law prevails unless the State law has received Presidential assent.<sup>60</sup>

### **1.6.2 Executive and Law-Making**

Although legislative power is vested in the legislatures, the executive plays a significant role in law-making, as most bills are initiated and drafted by it. The President and Governors also possess ordinance-making powers under Articles 123 and 213 of the Constitution.<sup>61</sup>

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<sup>53</sup> D D Basu, *Introduction to the Constitution of India* 45–78 (21st edn, LexisNexis 2013).

<sup>54</sup> V N Shukla, *Constitution of India* 102–148 (13th edn, Eastern Book Company 2017).

<sup>55</sup> Constitution of India, arts 245–246, Seventh Schedule.

<sup>56</sup> Constitution of India, art 79.

<sup>57</sup> P M Bakshi, *The Constitution of India* 247–289 (14th edn, Universal Law Publishing 2019).

<sup>58</sup> Constitution of India, arts 107–111.

<sup>59</sup> Constitution of India, arts 168–169.

<sup>60</sup> Constitution of India, art 254.

<sup>61</sup> Constitution of India, arts 123, 213.

Ordinances have the force of law but are temporary in nature and must be approved by the legislature within a specified period. While intended for emergencies frequent use of ordinances has raised concerns about executive overreach.<sup>62</sup>

### 1.6.3 Delegated Legislation and Law Making

Modern governance necessitates technical and detailed regulation, leading legislatures to delegate law-making powers to the executive. Such delegated legislation includes rules, regulations, notifications, and bye-laws framed under statutory authority. Although constitutionally valid, it remains subject to legislative oversight and judicial review to prevent excessive delegation and arbitrariness.<sup>63</sup>

### 1.6.4 Role of the Judiciary in Law Making

Although courts do not make laws in the strict sense, the **judiciary plays a crucial indirect role** through constitutional interpretation and judicial review. By interpreting statutes and striking down unconstitutional laws, courts shape the content and limits of legislation.<sup>64</sup> Judicial doctrines such as the **basic structure doctrine** significantly influence legislative power ensuring that constitutional amendments do not destroy core constitutional values.<sup>65</sup>

### 1.6.5 Democratic and Federal Character of Law-Making

Modern Indian law-making is democratic, federal and constitutionally limited, with Parliament and State Legislatures enacting laws subject to judicial review and constitutional supremacy.<sup>66</sup> Modern Indian law-making Institution highlights the constitutional ideal of a sovereign, democratic Parliament, empowered to legislate for social transformation. However, the legislative process is often criticized for over-delegation, executive dominance and limited deliberation. Upendra Baxi argues that Parliament increasingly functions as a “manager of governance rather than an instrument of social justice,”<sup>67</sup> weakening its transformative role envisioned by the Constitution.

India’s legislative institutions situate within a colonial legacy. The structure, procedures and drafting style of Indian legislation closely follow British parliamentary traditions, emphasizing control and uniformity. Granville Austin notes that post-Independence India inherited a “strong central legislature designed initially for imperial administration.”<sup>68</sup> This continuity reflects colonial motives of centralized authority rather than participatory law-making. Furthermore, Marc Galanter observes that legislation often benefits institutional “repeat players,” marginalizing informal and local normative systems.<sup>69</sup>

Thus, while modern India possesses a constitutionally legitimate law-making body, its colonial institutional memory, executive dominance and procedural formalism continue to limit democratic participation and social justice in legislation.

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<sup>62</sup> D C Wadhwa v State of Bihar (1987) 1 SCC 378.

<sup>63</sup> I P Massey, *Administrative Law* 312–356 (9th edn, Eastern Book Company 2016)

<sup>64</sup> M P Singh, *V N Shukla’s Constitution of India* 221–268 (12th edn, Eastern Book Company 2013).

<sup>65</sup> Kesavananda Bharati v State of Kerala (1973) 4 SCC 225.

<sup>66</sup> Sudhir Krishnaswamy, *Democracy and Constitutionalism in India: A Study of the Basic Structure Doctrine* 89–134 (Oxford University Press 2009).

<sup>67</sup> Upendra Baxi, *op. cit.*, 107–132.

<sup>68</sup> Granville Austin, ‘Working a Democratic Constitution’ 58(3) *Journal of Asian Studies* 823–845(1999).

<sup>69</sup> Marc Galanter, *op. cit.*, 95–160.

## 1.7 LAW MAKING AND PARISHAD

The Dharam Shastra also mentions a Parishad for law-making with two or three members who were expected to serve as judges individuals were known as Sabha and were expected to support the king. The requirements set forth for them do indicate that they were expected to be men of exceptional learning, knowledgeable in the law, devoted to their task, and capable of turning the king along the road of justice. They used to guide the king in the correct direction by appropriately applying the law. The Positive Law is superseded by a new law that makes people scared.<sup>70</sup> Additionally, to present their cases, there were pleaders.<sup>71</sup>

Ancient sources also mention the Parishad, a deliberative body comprising three, five, or ten Vedic experts tasked with resolving questions of law, with judges and evaluative members (Sabhyas) participating in the adjudicatory process.<sup>72</sup>

Evidence indicates that this period did not possess a centralised legislative authority or a system of formal statutory law. Consequently, the legal order primarily operated on the basis of customary norms and traditional practices. The institutions Sabha, Samiti, Gan and Vidhata existed for the making of laws throughout the Early Vedic Period, particularly during the Rigveda period.<sup>73</sup>

In the later Vedic era, the power of the king became more consolidated, and the Sabha evolved chiefly into a judicial forum. Meanwhile, the Samiti did not acquire greater authority and the tribal institution of Vidhata eventually declined and ceased to function.

## 1.8 LAW MAKING PROCESS IN ANCIENT LEGAL SYSTEM

### 1. ŚRUTI

The earliest foundations of law-making in ancient India were rooted in Śruti, particularly the Vedas, which were regarded as the supreme normative authority. These sacred texts articulated fundamental ethical norms and social ideals that regulated human behaviour and the organisation of society.<sup>74</sup> While the Vedas did not function as codified legislation in the modern statutory sense, they provided the philosophical and moral basis of the legal order. Central to this framework was the concept of ṛta, representing the universal principle of cosmic order, which subsequently developed into the broader juridical and ethical doctrine of dharma governing social and legal life.<sup>75</sup>

Within this framework, law was perceived as a revealed and timeless normative order, rather than a set of rules formally enacted by human authorities.<sup>76</sup> Legal authority was therefore believed to originate from sacred revelation and both rulers as well as communities were expected to administer justice in accordance with these divine principles. This understanding

<sup>70</sup> James Bernard Murphy, *The Philosophy of Positive Law: Foundations of Jurisprudence* 1-20 (Yale University Press, London, 2008).

<sup>71</sup> S W Schmitthener, "A Sketch of the Development of the Legal Profession in India" 3(2/3) *Law & Society Review* 337 (1969).

<sup>72</sup> Georg Bühler (tr and ed), *The Laws of Manu* (Sacred Books of the East, vol 25, Clarendon Press 1886).

<sup>73</sup> Ram Gopal, *India of Vedic Kalpa sutra* (Nariman Publishing House, New Delhi, 1959). *Gautama Dharmasūtra* 28.49–53.

<sup>74</sup> N.C. Sen Gupta, "Comparative View of Law in Ancient India" 2(2) *Cahiers d'Histoire Mondiale (Journal of World History)* 283 (1954).

<sup>75</sup> P.V. Kane, *History of Dharmaśāstra (Ancient and Mediaeval Religious and Civil Law in India)* Vol. I 5–12 (Bhandarkar Oriental Research Institute, Poona, 1930).

<sup>76</sup> Anjali Kaul, *Administration of Law and Justice in Ancient India* (Sarup & Sons, New Delhi, 1993).

corresponds with the classical legal maxim *Lex est ratio divina*, which signifies that law embodies divine reason.<sup>77</sup>

## 2. SMRTI

Another significant mode through which legal norms were formulated in ancient India developed through the *Smṛiti* corpus, including texts such as the *Manusmṛiti*, *Yājñavalkya Smṛiti*, *Nārada Smṛiti* and *Bṛhaspati Smṛiti*. These works reflect organised juristic efforts to explain, systematise and articulate the normative principles originally embedded within the Vedic tradition. By translating broad ethical and religious injunctions into structured legal guidelines, the *Smṛiti* literature played a central role in shaping the doctrinal framework of ancient Indian law.<sup>78</sup>

Ancient jurists closely examined prevailing social practices, patterns of disputes and the administrative requirements of governance and on that basis formulated legal principles governing matters such as civil litigation (*vyavahāra*), criminal wrongdoing (*aparādha*), inheritance, marriage and property relations. Through this process of systematic reflection and doctrinal articulation, the *Smṛiti* texts came to operate as authoritative legal treatises, providing structured normative guidance for the regulation of social life.<sup>79</sup>

Thus, law-making during this stage involved scholarly interpretation and doctrinal development, rather than legislative enactment by a political body.<sup>80</sup>

## 3. ĀCĀRA

A further significant source of legal development in ancient India was *Ācāra*, referring to the customary practices observed and accepted within society. The established usages of particular communities, guilds and regional groups were acknowledged as possessing legal validity, provided they did not conflict with the overarching normative framework of *dharma*. In this manner, customary conduct functioned as an important basis for the formulation and application of legal rules.<sup>81</sup>

The *Dharmashastra* tradition acknowledged the dynamic and plural character of social life, recognising that legal norms must accommodate the diversity of social practices. Accordingly, local customs assumed an important role in the development and application of law. Judicial authorities and rulers frequently recognised the customary practices of families, caste groups, guilds (*śreṇīs*) and village communities as legitimate normative standards, thereby granting them authoritative status within the legal order.<sup>82</sup>

This method reflects the classical legal principle ***Consuetudo est altera lex***, meaning custom is another form of law.

## 4. RĀJĀŚĀSANA

With the gradual consolidation of political authority and the rise of large kingdoms and empires, particularly during the Mauryan period, the royal decree (*Rājāśāsana*) came to

<sup>77</sup> R. Lingat, *The Classical Law of India* 3–10 (University of California Press, Berkeley, 1973)

<sup>78</sup> Patrick Olivelle (trans.), *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra* 108 (Oxford University Press, Oxford, 2005).

<sup>79</sup> Julius Jolly, *Outlines of an History of the Hindu Law of Partition, Inheritance and Adoption* 15–19 (Tagore Law Lectures, Calcutta, 1885).

<sup>80</sup> J. Duncan M. Derrett, *Religion, Law and the State in India* 120–126 (Oxford University Press, London, 1968).

<sup>81</sup> P.V. Kane, *History of Dharmaśāstra* Vol. II 857–860 (Bhandarkar Oriental Research Institute, Poona, 1941).

<sup>82</sup> R. Lingat, *The Classical Law of India* 20–24 (University of California Press, Berkeley, 1973).

function as an additional mechanism of law-making. Through such proclamations and administrative directives, the king exercised normative authority to regulate governance and maintain social order within the expanding territorial state.<sup>83</sup>

Classical texts such as Kautilya's Arthaśāstra acknowledge that the ruler possessed the authority to promulgate administrative regulations and legal directives essential for the maintenance of public order and effective governance. Similarly, the royal edicts of Emperor Ashoka illustrate how state authority was utilised to encourage moral behaviour, social discipline and the welfare of the population.<sup>84</sup>

Nevertheless, the legislative authority of the king was not regarded as unlimited or arbitrary. The ruler was expected to exercise his powers in conformity with dharma, which functioned as the overarching normative standard governing governance and justice. Consequently, royal authority operated within the broader framework of sacred law, ethical principles and established social traditions, rather than as an independent or unchecked source of law.<sup>85</sup>

This principle illustrates the maxim **Rex sub lege**, meaning the ruler is subject to law.

## 5. JUDICIAL DECISIONS

Judicial interpretation also played a significant role in the evolution of legal principles. Courts, presided over either by the king himself or by judges appointed by the royal authority, examined existing norms and resolved disputes through reasoned adjudication.<sup>86</sup> Through this process, judicial reasoning contributed to the clarification and practical application of legal rules within the broader framework of dharma.<sup>87</sup>

Over time, judicial determinations contributed significantly to the evolution of legal doctrines and procedural practices. Through the repeated resolution of disputes, courts clarified and refined existing legal norms. In this manner, the process of adjudication gradually functioned as an indirect mechanism of legal development, resembling the precedent-oriented growth of law observed in later judicial systems.<sup>88</sup>

The process of law formation in ancient India was pluralistic and evolutionary in character, rather than based on a formal legislative procedure comparable to the modern parliamentary system. Legal norms gradually emerged through the interaction of multiple recognised sources, including Śruti (sacred revelation), Smṛiti (juristic interpretation), Ācāra (customary practice), Rājāśāsana (royal decrees), and Vyavahāra (judicial decisions). Together, these elements constituted a comprehensive framework through which legal principles were articulated, interpreted and applied within society.<sup>89</sup>

The existence of these multiple normative sources illustrates that ancient Indian legal thought embodied a refined and indigenous method of law formation in which moral doctrines, community practices, and royal authority collectively shaped the legal order. Unlike the contemporary system where legislation is formally enacted through institutions like

<sup>83</sup> Kautilya, *Arthaśāstra*, trans. R. Shamasastri Book I, Ch. 3 (Mysore Printing and Publishing House, Mysore, 1915).

<sup>84</sup> Romila Thapar, *Aśoka and the Decline of the Mauryas* 250–260 (Oxford University Press, Delhi, 1997).

<sup>85</sup> P.V. Kane, *History of Dharmaśāstra* Vol. III 242–245 (Bhandarkar Oriental Research Institute, Poona, 1946).

<sup>86</sup> Mahesh Kumar Sharan, *Court Procedure in Ancient India* (Abhinav Publications, New Delhi, 1978).

<sup>87</sup> S. Varadachariar, *The Hindu Judicial System* 22–30 (University of Madras, Madras, 1927).

<sup>88</sup> Marc Galanter, "The Displacement of Traditional Law in Modern India", 24 *Journal of Social Issues* 65. (1968)

<sup>89</sup> J.D.M. Derrett, *An Introduction to Modern Hindu Law* 18–22 (Oxford University Press, Bombay, 1963).

Parliament, the ancient legal system evolved through a continuous interaction between sacred texts, interpretative scholarship and administrative governance.<sup>90</sup>

Accordingly, the ancient Indian legal system reveals structured mechanisms of law-making and normative regulation through recognised authorities and procedural practices. This indigenous development illustrates that Indian civilisation functioned as an early precursor in the evolution of legal institutions, consistent with the maxim “*Salus populi suprema lex esto*,” signifying that the welfare of the people constituted the ultimate objective of law.

## **1.9 LAW MAKING INSTITUTION IN ANCIENT AND MODERN INDIAN LEGAL SYSTEM**

### **1.9.1 Law-Making Institutions in Ancient Indian Legal System**

Law-making in ancient India functioned within a pluralistic and decentralised normative order lacking a single sovereign law-giver in the Austinian sense. Normative authority emerged from a constellation of institutions, including R̥sis, Sabha and Samiti, Brahmanical jurists the King (Rājan), Parishads, republican assemblies, guilds (śreṇi), associations (puga), temple and monastic councils, village assemblies, caste panchayats, customary institutions, judicial councils and later commentators.<sup>91</sup>

From a jurisprudential perspective, ancient Indian law exemplifies strong legal pluralism (Griffiths) wherein multiple normative systems religious, royal, customary and professional coexisted without hierarchical subordination to a central sovereign. Legal validity was grounded not in command backed by sanctions, but in social acceptance, moral authority (dharma) and institutional practice. The King’s role was executive and protective rather than legislative in the positivist sense, aligning more closely with Hart’s conception of law as a system of social rules rather than sovereign commands. Law-making was thus customary interpretive and context-specific, anticipating later pluralist critiques of monistic sovereignty.

### **1.9.2 Law-Making Institutions in Modern Indian Legal System**

#### **Sovereignty and Constitutionalism**

Modern Indian law-making represents a decisive rupture from this pluralistic normative order. Under the Constitution of India legislative authority is centralised, formalised and democratically legitimised reflecting the ascendancy of constitutional sovereignty over customary normativity. Law-making power is vested in elected institutions at the Union level, the President of India acting with Parliament the Lok Sabha and Rajya Sabha and at the State level, the Governor, Legislative Assemblies and Legislative Councils. The Judiciary exercises constitutional review reinforcing the supremacy of the Constitution.

Jurisprudentially, this framework departs from Austinian sovereignty while also transcending Diceyan parliamentary supremacy. Sovereignty in India is located in the Constitution itself, consistent with Kelsen’s theory of the Grundnorm, where legislative authority derives its validity from a higher constitutional norm. Judicial review further reflects a Hartian secondary rule of recognition, identifying constitutional conformity as the criterion of legal validity. Law-making in modern India is therefore characterised by democratic representation federal distribution of legislative competence and constitutional limitation, replacing customary legitimacy with formal legality.

<sup>90</sup> Upendra Baxi, “The Rule of Law in India”, 4 *Sur – International Journal on Human Rights* 7. (2007)

<sup>91</sup> Daniel H.H. Ingalls, ‘Authority and Law in Ancient India’ in *Theory of Value* 88–99(Routledge, London, 2013) .

### 1.9.2.1 Core Jurisprudential Similarities in Law-Making Institutions

Despite structural differences, ancient and modern Indian legal systems share important similarities in their law-making institutions. In ancient India, law was developed through Smṛti texts, customary practices and royal edicts, with the king acting as the central authority guided by jurists and councils.<sup>92</sup> Similarly, modern India entrusts law-making to institutional bodies such as the Parliament of India supported by constitutional principles and expert committees.<sup>93</sup> In both systems, law-making is not arbitrary but informed by normative values, consultation and the objective of maintaining social order and justice.<sup>94</sup>

### 1.9.2.2 Central Comparative Distinction

The law-making institutions of ancient and modern India differ fundamentally in structure, authority and source of legitimacy, reflecting a transition from normative pluralism to constitutional monism. In ancient India, there was no single, centralised law-making authority. Law emerged from multiple institutions and sources including Ṛṣis and jurists who systematised dharma through Smṛti literature such as the Manusmṛiti<sup>95</sup> customary practices (ācāra) developed by villages and guilds (śreṇīs)<sup>96</sup> assemblies such as sabha and samiti<sup>97</sup> and royal orders (rājāsāsana) issued by the king.<sup>98</sup> The king did not function as a legislator in the modern sense but as a guardian and executor of dharma, bound by juristic and moral constraints.<sup>99</sup> Legal norms thus evolved through interpretation, ethical reasoning and social acceptance rather than formal enactment.

In contrast, modern Indian law-making is centralized, institutionalized and constitutionally regulated. Legislative power is vested in Parliament and State Legislatures under the Constitution of India.<sup>100</sup> Laws are enacted through formal democratic procedures and derive validity solely from constitutional conformity, subject to judicial review.<sup>101</sup> Unlike ancient law, modern legislation is secular, uniform and enforceable through state institutions reflecting constitutional supremacy rather than moral or customary authority.<sup>102</sup> This marks a decisive shift from dharma-centred normative authority to democratic and constitutional legality.<sup>103</sup>

### 1.9.2.3 Comparative Perspective

The shift from ancient to modern Indian law marks a transition from normative pluralism grounded in dharma and custom to constitutional monism rooted in popular sovereignty. It is submitted that Dharmaśāstra was interpretive rather than legislative, whereas modern law

<sup>92</sup> P V Kane, *op.cit.*, Vol III.

<sup>93</sup> Granville Austin, *op.cit.*.

<sup>94</sup> M. P. Jain, *Outlines of Indian Legal History* (LexisNexis, Nagpur, 7th edn., 2014).

<sup>95</sup> Manusmṛti, translated by G. Bühler, in *The Sacred Books of the East*, Vol. XXV, edited by F. Max Müller (Oxford University Press, Oxford, 1886), II.6–12.

<sup>96</sup> P. V. Kane, *History of Dharmaśāstra (Ancient and Mediaeval Religious and Civil Law in India)*, Vol. I (Bhandarkar Oriental Research Institute, Pune, 2nd edn., 1968), pp. 3–15.

<sup>97</sup> Robert Lingat, *op. cit.* 18–30.

<sup>98</sup> A. S. Altekar, *State and Government in Ancient India* pp. 240–245.

(Motilal Banarsidass, Delhi, 3rd edn., 1966)

<sup>99</sup> The Yājñavalkya Smṛti, translated by Julius Jolly I.366–367(Motilal Banarsidass, Delhi, reprint edn., 1985)

<sup>100</sup> *The Constitution of India* arts 245–246.

<sup>101</sup> *The Constitution of India* arts 13, 32, 226.

<sup>102</sup> M P Jain, *op.cit.*, 85–92.

<sup>103</sup> Granville Austin, *op. cit.* 50–60.

derives authority from constitutional supremacy and democratically structured institutions.<sup>104</sup> Ancient Indian law emerged from plural institutions assemblies, guilds, jurists and custom reflecting socially grounded legitimacy. Lingat describes dharma as interpretive normativity, not enacted statute. Derrett observes that royal authority was constrained by Dharmaśāstra ensuring political power remained subordinate to juristic and moral order.<sup>105</sup> From a jurisprudential perspective this system exemplifies a form of strong legal pluralism wherein royal law, customary practice, guild regulations and Brahmanical jurisprudence coexisted without hierarchical unification.<sup>106</sup> While ancient legality reflected plural, socially recognised norms rather than sovereign command modern Indian law operates within a constitutional framework of democratic legislation and judicial oversight. Sovereignty rests in the Constitution itself echoing Kelsen's Grundnorm and constitutional conformity serves as the ultimate test of legal validity.<sup>107</sup>

The evolution from Dharma-based pluralism to constitutional monism signifies a foundational jurisprudential shift in Indian law. Ancient legality rested on decentralised authority and customary legitimacy, whereas modern law derives validity from hierarchical constitutional structures, democratic representation, enforceability and judicial review transforming both the source and justification of authority.<sup>108</sup>

## **LAW MAKING PROCESS**

### **1.10 Comparative Perspective Law-Making Process in Ancient and Modern Indian Legal System**

In modern India, the enactment of legislation is governed by a structured constitutional procedure. A proposed law is introduced in Parliament in the form of a Bill and is subsequently deliberated upon in both the Lok Sabha and the Rajya Sabha. Once the Bill receives approval from both Houses, it is presented to the President of India for assent, after which it attains the status of enforceable law. This formalised legislative process embodies the contemporary principle of representative law-making operating within the framework of the Constitution.<sup>109</sup>

In contrast, the formulation of law in ancient India was not carried out through a formal legislative institution comparable to the modern Parliament. Instead, legal norms developed through a pluralistic normative framework, drawing upon multiple recognised sources. These included Śruti as sacred revelation, Smṛti as juristic exposition, Ācāra as established social custom and Rājāśāsana as royal command, collectively shaping the structure and operation of the legal order.<sup>110</sup> Within the Dharmashastra tradition, the Vedas were regarded as the primary and foundational source of legal authority providing the normative basis for the regulation of social and moral conduct. Juristic works such as the Manusmṛti and the Yājñavalkya Smṛti subsequently interpreted, elaborated and organised these foundational

<sup>104</sup> P V Kane, *op. cit.*, Vol I, 3–10.

<sup>105</sup> J Duncan M Derrett, *op.cit.*,

<sup>106</sup> John Griffiths, 'What Is Legal Pluralism?' 24 *Journal of Legal Pluralism* 1.(1986)

<sup>107</sup> H. L. A. Hart, *The Concept of Law* (Oxford University Press, Oxford, 3rd edn., 2012).

<sup>108</sup> Jagtar Singh, 'Structure and Functions of Government in Ancient India' 9(8) *International Journal of Multidisciplinary Educational Research* 245 (2020) . <https://www.researchgate.net/profile/Sendhilkumar->

<sup>109</sup> M.P. Jain, *Indian Constitutional Law* 879–885 (8th edn., LexisNexis, New Delhi, 2018).

<sup>110</sup> P.V. Kane, *History of Dharmaśāstra (Ancient and Mediaeval Religious and Civil Law in India)* Vol. I 5–12 (Bhandarkar Oriental Research Institute, Poona, 1930).

principles, translating them into more systematic legal rules suitable for the practical administration of justice and governance.<sup>111</sup>

At the same time, customary practices observed within various communities and professional guilds were recognised as possessing legal validity, provided they conformed to the broader principles of dharma. This recognition of diverse local usages demonstrates the pluralistic and decentralised nature of the ancient Indian legal system, where social norms and community traditions played an important role in shaping legal regulation.<sup>112</sup> The ruler was also empowered to promulgate administrative regulations and royal proclamations aimed at preserving public order and ensuring effective governance. Such authority of the king is explicitly acknowledged in Kautilya's Arthaśāstra, which recognises royal decrees as an important instrument for regulating the affairs of the state.<sup>113</sup>

Thus, whereas contemporary India depends upon formal legislative institutions for the enactment of law, the legal order in ancient India evolved through the interaction of several normative authorities. Sacred revelation, juristic interpretation, recognised social customs and the governing authority of the ruler collectively contributed to the formulation and development of legal norms, reflecting a distinctive yet sophisticated system of legal evolution.

## CONCLUSION

The comparative analysis of the law-making institutions and processes in the Ancient and Modern Indian Legal Systems reveals that, despite their distinct institutional structures and sources of legal authority, both systems were fundamentally oriented towards achieving justice, social order, and good governance. Ancient India developed a sophisticated model of legal pluralism in which law evolved through the interaction of Dharma, customs, juristic interpretation, local assemblies, guilds, and royal authority, deriving legitimacy from moral values, social acceptance, and institutional practice rather than from a centralized sovereign. In contrast, the modern constitutional framework establishes a formal, representative, and democratically accountable legislative process founded on constitutional supremacy and the rule of law. The study demonstrates that principles now regarded as hallmarks of modern constitutionalism which includes ethical governance, shared deliberation, functional pluralism, accountability, separation of powers, and the balancing of governmental authority were recognised in varying forms within the Ancient Indian Legal System. Thus, while the transition from normative pluralism to constitutional monism marks a significant institutional transformation, the enduring commitment to legitimacy, public welfare, responsible governance, and justice provides a conceptual continuity between the two legal traditions. The study concludes that the Ancient Indian Legal System was not merely a historical precursor but a sophisticated jurisprudential model whose enduring principles continue to offer valuable insights for understanding the evolution and contemporary development of Indian constitutional and legal thought.

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<sup>112</sup> R. Lingat, *The Classical Law of India* 20–24 (University of California Press, Berkeley, 1973).

<sup>113</sup> Kautilya, *Arthaśāstra*, trans. R. Shamasastry Book I, Ch. 3 (Mysore Printing and Publishing House, Mysore, 1915).

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