

Indian's Legal DNA: Tracking Dharam Shastra's Elements

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ABSTRACT

This paper explores the lasting and often subtle impact of Dharam Shastra's ancient Indian legal and ethical principles on today's Indian Legal System. This study argues that despite the codified and secular nature of the modern Indian legal system, fundamental concepts and values stemming from Dharam Shastra continue to shape its underlying ethos, specific legal domains, and judicial interpretations, a relationship we characterize as "India's legal DNA". This paper conducts a wide-ranging, multi-faceted analysis, delving into the direct impact on personal laws, this subtly impacts on ethical basis of justice, the reflected in alternative dispute resolution influences environmental ethics and legal consciousness, and relates conceptually links to ideals of governance.

KEYWORDS

Dharam Shastra, Indian legal system, Legal History, Indian legal DNA, legal philosophy, Personal laws, Ethics, Justice, Governance, Alternative Dispute Resolution, Cultural Influences, Legal Evolution.

INTRODUCTION

The Indian legal system today is a complex and multifaceted structure primarily formed by the Constitution of India, extensive statutory law, and evolving judicial precedents, Based on democracy, secularism and the rule of law, it suggests a considerable break from the ancient legal traditions of the Indian subcontinent. Nevertheless, a rich and profound history of legal and ethical thoughts exists beneath this modern framework, with Dharam Shastra serving as its most prominent embodiment. These ancient writings, which detailed religious, morals, social, and legal obligations, furnished the foundational framework for societal organization and justice for centuries. This research emphasizes that Dharma Shastra's influence on the Indian legal system is not a trivial historical detail but a subtle yet crucial underlying influence, comparable to a foundational "legal DNA".

By investigating the convergence of ancient legal insights and contemporary legal structures, this paper aims to offer a more integrated understanding of the development of Indian law.

OBJECTIVES

The objective is to provide a comprehensive analysis of the enduring elements and underlying principles of Dharam Shastra and their ongoing influence on the structure, ethos, and specific domains of the present Indian legal system. To promote a deeper understanding of the complex ways in which tradition and modernity influence the development of India's Legal System and this seeks to construct a framework that facilitates further investigation into specific facets of the Indian sphere where Dharma Shastra's influence continues to be meaningful and consequential.

HYPOTHESIS

Notwithstanding the contemporary and secular nature of the Indian legal system, the fundamental ethical and legal tenets stemming from Dharam Shastra maintain a noticeable and influential presence on its structure, specific legal domains (especially personal laws), and underlying ethos.

RESEARCH METHODOLOGY

This is a doctrinal research and all data collected is secondary data

DEFINITION, PURPOSE AND IMPACT OF DHARMSHAstra

The ancient Indian texts, known as Dharma Shastra, are manuals on dharma, outlining duties, rights, laws, conduct, and virtues for diverse individuals and communities. To comprehend the historical trajectory of legal and ethical systems in ancient India, the Dharm Shastra are key, as they informed ancient Hindu law and also exerted influence on modern secular laws in the region. These texts were employed for various purposes included –

Societal Unity : Through the establishment of guidelines, these texts encouraged peace and structure.

Reinforcing the Varna System: These texts contributed to the strengthening of the cast system and its corresponding obligations. *offering detailed guidelines on justice and retribution, these texts provided a legal framework that evolved into formalized legal systems.

Dharam Shastra endures as a fundamental "DNA" element within the Indian Legal System :

The lasting components of Dharma Shastra acts as a foundation "DNA" within the Indian legal system. This influence is analysed through several key points -

- As a comprehensive ancient legal and ethical framework, Dharm Shastra represents a vast body of ancient Indian texts - These texts served as guides on dharma, encompassing

duties, rights, laws, conduct, and virtues for individuals and communities, and provided the foundational framework for Societal order and justice for millennia.

- Dharm Shastra was instrumental in shaping the legal and ethical landscape of ancient India, thereby shaping early legal systems. It provided detailed guidelines on various aspects of life, such as dispute resolution, crime, punishment, family matters, and governance, which, though not always codified in the modern sense, served as the basis of social and legal norms.
 - When interpreting and applying these modern codified personal laws, judges often consult the underlying principles and historical context provided by Dharma Shastra to gain a deeper understanding of what the lawmakers intended and social structure the law seeks to govern.
 - The secular modern Indian legal system notwithstanding, its underlying ethical principles concerning justice, fairness, and equity often resonate with the moral framework of Dharma Shastra. Concepts such as truthfulness (satya), non-violence (Ahimsa), righteous conduct (dharma in its broader sense), and the emphasis on duty have subtly permeated the Indian ethos and influence legal thinking.
- ❖ **Resonance in Alternative Dispute Resolution:** Ancient India had well-established community based dispute resolution system founded on principles of fairness, reconciliation, and restorative justice - values also emphasized in Dharm Shastra, showing resonance with modern Alternative Dispute Resolution.
- ❖ **Ancient Environmentalism :** Principles emphasizing the sacredness of nature, the interconnectedness of all beings and the duties of humans towards environmental preservation are often found in Dharm Shastra and related ancient texts. While modern environmental laws is primarily a product of contemporary concern and international conventions however find a subtle resonance with the ancient Indian world view influenced by Dharm Shastra.
- ❖ **Hermeneutical Traditions and Judicial interpretation :** The long-standing practice of interpreting complex religious and legal texts within the Dharm Shastra framework might have indirectly shaped the approaches to legal interpretation used by the Indian Judiciary over the time, with an emphasis on context traditional, and underlying principles.

CONCLUSION

Notwithstanding the undeniable modern, codified, and secular character of the present Indian legal system, the "DNA" of Dharma Shastra remains present in various forms. Rather than a direct application of ancient rules, it's a subtle yet foundational influence that has shaped the underlying ethical values, specific legal domains such as personal laws, approaches to dispute

resolution, and a more nuanced understanding of the Indian legal system's evolution and character, acknowledging the deep roots that continue to nourish its contemporary form.

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