



Reclaiming indigenous juridical heritage: The relevance of ancient Indian treatises in reforming modern Indian legal education and practice

Ashish Pathak

Legal Officer, Central Sanskrit University, New Delhi, India

DOI: <https://doi.org/10.66856/ijl.2026.12.3.12225>

Abstract

The contemporary Indian legal system largely operates within a framework shaped by colonial legal transplantation, even though India possesses a deep and sophisticated indigenous juridical tradition grounded in concepts of Dharma, justice, governance, and ethical social order. This article argues that ancient Indian legal treatises, particularly the Dharmashastra, Manusmriti, and Arthashastra, should not be treated merely as historical artifacts but as jurisprudential resources capable of enriching modern legal education and legal thought in India. The central claim is not that pre-modern texts should be revived in a literal or prescriptive form, but that their ethical reasoning, concepts of proportionality, models of governance, and pedagogical value can be critically reinterpreted within the framework of constitutional morality, gender justice, and democratic pluralism. Existing scholars identify strong continuities between ancient and modern Indian legal thought in areas such as justice, evidence, governance, and moral accountability, while also warning against uncritical reliance on texts carrying patriarchal or exclusionary elements. Building on this body of literature, this article advances a doctrinal and historical-comparative framework for integrating indigenous jurisprudential knowledge into contemporary legal curricula and academic discourse. It contends that a carefully filtered and constitutionally grounded engagement with ancient Indian legal thought can contribute to the decolonization of Indian legal education and foster a more culturally rooted yet normatively progressive legal imagination.

Keywords: Indigenous jurisprudence, Dharma, Manusmriti, Arthashastra, legal education, constitutional morality, decolonization, Indian legal thought

Introduction

Indian legal education has long been dominated by conceptual categories and institutional assumptions inherited from colonial rule, with relatively limited systematic engagement with the subcontinent's own juridical traditions. Law in India is often taught and practiced through Western jurisprudential frames even when questions of justice, ethics, governance, and social order have long been explored in indigenous legal and philosophical traditions. This gap has acquired renewed significance in current debates on decolonizing knowledge systems, especially in disciplines such as law where intellectual inheritance shapes both pedagogy and institutions.

Ancient Indian legal treatises such as the Dharmashastra, Manusmriti, and Kautilya's Arthashastra are presented in the scholars as repositories of legal reasoning rather than merely religious or historical texts. According to the underlying research design, these materials illuminate conceptions of justice, proportional punishment, ethical governance, social responsibility, and institutional accountability that remain relevant to modern legal inquiry. This article examines how ancient Indian juridical thought may be critically reclaimed for legal education and practice without undermining constitutional commitments to equality, secularism, and gender justice. The focus is therefore analytical and pedagogical rather than antiquarian: the aim is to understand whether ancient treatises can inform a richer and more context-sensitive jurisprudence for contemporary India.

Literature and Debate

The literature is between appreciation of ancient Indian jurisprudence and caution regarding its social implications. On one side, scholars highlighted that Hindu legal thought recognized both restorative and retributive models of punishment and approached law as an ethical instrument rather than a merely coercive command ^[1]. This strand of writing treats ancient Indian legal texts as serious jurisprudential sources with implications for legal theory, governance, and moral reasoning.

Another line of scholars identified structural continuities between ancient and modern legal systems, especially in relation to equity, proportionality, adjudicatory reasoning, and governance. These works suggest that ancient juridical categories can still illuminate contemporary legal institutions, even if they must be translated into modern constitutional language. The scholars arguing that the Indian Constitution itself may be read as participating in a broader ethical tradition connected to Dharma, understood not in sectarian terms but as a normative concern with justice, duty, and moral order.

Yet the literature review is equally attentive to critique. The certain writings expose patriarchal, anti-human, or exclusionary dimensions within texts such as the Manusmriti, thereby warning against any wholesale return to ancient norms. It also refers to historical examples of ideological misuse of ancient texts in public discourse, reinforcing the need for a secular, scholarly, and constitutionally disciplined method of engagement ^[2]. The result is a balanced scholarly landscape: ancient Indian legal

thought is neither to be dismissed as obsolete nor embraced without filtration.

A significant contribution lies in identifying a research lacuna. While prior scholars have explored similarities and differences between ancient and modern legal systems, ethical foundations of Dharma, and the governance theory embedded in the Arthashastra, there remains no sufficiently systematic framework for integrating these insights into mainstream legal education in India. The present article addresses that gap by proposing how such integration may occur at the levels of curriculum, jurisprudential method, and professional formation [3].

Research Focus and Method

The central research problem stated that the relevance of ancient Indian legal treatises to modern legal education and practice remains underexplored despite their jurisprudential richness. Contemporary law schools, according to the scholars, continue to privilege Western legal epistemologies, producing a disconnect between India's civilizational legal heritage and the legal consciousness cultivated in classrooms and institutions. The resulting question is how ancient juridical wisdom may be reclaimed in a way that is constitutionally valid, pedagogically sound, and socially inclusive.

The main objective of the study is to examine the relevance of ancient Indian legal treatises in reforming and enriching modern Indian legal education and practice. Further identifies four subsidiary aims: first, to analyze the philosophical foundations of justice, governance, and law in texts such as the Manusmriti, Dharmashastra, and Arthashastra; second, to explore continuities and divergences between ancient legal thought and modern constitutional principles; third, to identify ethical, procedural, and pedagogical insights that may inform contemporary legal curricula; and fourth, to propose a framework for integration that does not compromise constitutional values.

Methodologically, it adopts a qualitative, analytical, and historical-comparative approach rooted in legal interpretation. Its primary sources include translations and commentaries on major ancient Indian legal texts, while secondary sources consist of journal literature and modern scholarly commentary. The analytical techniques identified are textual analysis, comparative analysis, pedagogical review, thematic categorization, and normative synthesis. The study's scope is explicitly limited: it does not seek legislative reconstruction or judicial transplantation of ancient law, but instead engages these materials as philosophical and educational resources.

Indigenous Jurisprudence and Constitutional Morality

The most persuasive aspect is that indigenous legal thought must be filtered through constitutional morality. This move is essential because any contemporary use of ancient texts must reckon with the Constitution as the supreme normative framework of the Republic. The article's argument therefore depends on distinguishing jurisprudential retrieval from social restorationism: the former seeks concepts, methods, and ethical insights; the latter risks reintroducing hierarchical norms incompatible with modern constitutional commitments.

Dharma may be approached as a jurisprudential idea concerned with ethical order, duties, justice, and

institutional legitimacy rather than as a narrow religious command. This suggests that constitutional values such as justice, equality, and moral governance can be placed in dialogue with this broader ethical conception. Such dialogue is particularly valuable in Indian legal education, where students often encounter constitutional law and jurisprudence as heavily derivative of European and Anglo-American categories, with little sustained exposure to indigenous frameworks of legal thought [5, 6].

The Arthashastra is especially significant in this regard as a theory of governance grounded in pragmatic ethics and institutional accountability. These ideas have clear relevance to modern administrative law, public accountability, and the study of statecraft. Similarly, the jurisprudential dimensions of Dharmashastra may illuminate debates on duties, community norms, and moral reasoning in adjudication, provided these are reinterpreted in a rights-based constitutional order.

The Manusmriti presents the greatest challenge and therefore requires the most careful treatment. As the scholars acknowledge, it contains elements that are open to strong criticism on grounds of gender justice and social equality. For that reason, its contemporary value cannot lie in its social prescriptions as such, but only in carefully selected jurisprudential features, such as classificatory reasoning, ideas of legal ordering, and procedural reflection, if those can be detached from discriminatory content.

Implications for Legal Education

The scholars contend that legal education in India has marginalised indigenous jurisprudence by treating it as peripheral history rather than as a living source of legal reflection. This diagnosis has important pedagogical implications because the architecture of the law curriculum shapes how future lawyers, judges, academics, and administrators understand legal authority and legal culture. A curriculum that omits Indian jurisprudential traditions may unintentionally reproduce the assumption that serious legal thought is always external, imported, or exclusively modern.

A reformed curriculum need not displace constitutional law, statutory interpretation, or comparative jurisprudence. Instead, the scholars support an integrative model in which ancient Indian legal thought is introduced through jurisprudence, legal theory, comparative legal traditions, legal history, and specialized electives on indigenous legal concepts. Such incorporation would help students distinguish between descriptive recovery of legal traditions and normative endorsement of all their contents [8].

Three pedagogical gains follow from this approach. First, students gain intellectual access to indigenous categories of justice and governance that expand the horizons of legal reasoning beyond colonial inheritances. Second, they learn a disciplined method of critical retrieval, one that asks which elements of ancient thought are analytically fruitful and which are incompatible with constitutional morality. Third, curriculum reform can support a broader project of epistemic decolonization by restoring agency to Indian legal scholars without collapsing into majoritarian or revivalist politics.

Institutionally, the scholars also suggest the value of revisiting teaching materials, course design, and legal scholars in order to incorporate more sustained engagement with primary texts and interpretive traditions. This does not

require treating ancient texts as unquestionable authorities; rather, it requires presenting them as contestable and analyzable legal materials. The classroom can then become a site where students test ancient concepts against constitutional doctrine, feminist critique, human rights discourse, and democratic theory. Such a pedagogy would be both rooted and critical, traditional and modern.

Toward a Framework of Selective Reclamation

The scholars ultimately point toward a model that may be described as selective reclamation. Under this model, ancient Indian legal treatises are approached neither as sacred commands nor as antiquated relics, but as archives of jurisprudential insight that require filtration, contextualization, and constitutional evaluation. This is the article's most viable theoretical contribution because it avoids the binary between rejection and revival.

A selective reclamation framework would rest on at least four principles derived from the scholars. The first is interpretive caution: texts must be read in their historical context and not abstracted from the social structures in which they operated. The second is constitutional supremacy: no principle drawn from ancient sources may be accepted if it conflicts with equality, dignity, liberty, or secular democratic order. The third is pedagogical utility: incorporation into legal education must be justified by genuine analytical value rather than cultural symbolism alone. The fourth is ethical filtration: concepts of justice, governance, evidence, proportionality, and accountability may be retained for discussion, while exclusionary norms must be rejected^[9].

This framework also helps answer the criticism that any return to ancient texts risks legitimizing caste or patriarchal hierarchies. The scholars already anticipate this objection by emphasizing that the study does not seek to reconstruct ancient law as a prescriptive model. Instead, it proposes a constitutionally grounded conversation in which ancient jurisprudence is mined for insights, contested through modern critique, and adapted only where normatively defensible. Such a methodology is particularly suitable for legal scholars because law routinely engages with historically layered texts while distinguishing authority from argument.

Conclusion

The scholars support a clear scholarly argument: ancient Indian legal treatises remain relevant to contemporary legal education and legal thought when approached through a critical, comparative, and constitutionally disciplined framework. Their value lies not in literal restoration but in the recovery of jurisprudential concepts concerning justice, governance, moral reasoning, and institutional order that can deepen the study of law in India. At the same time, the social and normative limitations of the texts, especially regarding gender and hierarchy, make selective and ethically filtered engagement indispensable.

The strongest contribution of this argument is its pedagogical orientation. It frames indigenous jurisprudence as a resource for rethinking curriculum, legal theory, and intellectual self-understanding in Indian law schools without compromising constitutional morality. In that sense, reclaiming indigenous juridical heritage is best understood not as a retreat into the past, but as a method of constructing

a more self-aware and normatively grounded future for Indian legal scholarship.

References

1. Rajkumar Kasliwal, Aaradhya Sharma & R.S. Aggarwal, *Analysis of Hindu Law and Its Implications on Crime and Justice in India*, 13 *Int'l J. Hum. & Soc. Sci. Invention* 153, 153–62 (Dec. 2024).
2. Sonali & Rakesh Kumar, *Ancient Legal System and Present Legal System: Similarity and Difference*, 14 *Int'l J. Sci. & Res.* 1688, 1688–96 (Feb. 2025).
3. Leepakshi Rajpal & Mayank Vats, *Dharma and the Indian Constitution*, 5 *Christ U. L.J.* 57, 57–70 (2016).
4. Gurdeep Kaur & Ankit Tomar, *State and Governance in Kautilya's Arthashastra: A Non-Western Philosophical Perspective*, 5 *Int'l J. Pol. Sci. & Governance* 380, 380–87 (2023).
5. Akhil K.S. Kumar, *Echoes of Manusmriti: Exploring Parallels Between Ancient Indian Law and Contemporary Legal System*, *Jus Corpus* (Feb. 8, 2024).
6. A.A. Aditi, *Evolution of Indian Legal Concepts: Dharmashastra to Indian Constitution*, 5 *Indian J. Integrated Res. L.* no. 3.
7. Edgar K., *The Law of Manusmriti: An Antifeminist and Anti-Human Manuscript*, 3 *Int'l J. Legal Sci. & Innovation* 11, 11–22 (2021).
8. Sudhi Mandloi, *Nehru-Ambedkar and the Hindu Code Bill: A Historical Reappraisal*, 7 *J. People's Hist. & Culture* 22, 22–33 (June 2021).
9. *Hindutva Watch*, *Hindu Mahasabha Rejected the Constitution of India, Preferred Manusmriti* (Dec. 5, 2019).