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Rishi Yajnavalkya and H.L.A. Hart: The Rule of Recognition and the Recognition of Dharma, A Comparative Jurisprudential Study

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ABSTRACT

*This paper compares two frameworks of ultimate recognition drawn from civilisations far apart in time and in outlook: H.L.A. Hart's Rule of Recognition in *The Concept of Law*, and the mechanisms that implicitly allow dharma to be recognised in the Yajnavalkya Smriti and in the Dharmasastric tradition more broadly. Despite the temporal and metaphysical distance between them, Hart and Yajnavalkya each offer an intricate theory of legal validity, of authority, and of the social foundations of norms. Hart's framework is descriptive and positivist, explaining how legal systems identify their valid norms through an ultimate, socially accepted rule that secures the stability of institutional practice. Yajnavalkya, by contrast, elaborates a layered normative epistemology in which law draws its authority from the mutual dependence of scriptural revelation (sruti), traditional jurisprudence (smriti), ethical teleology, practical reasoning, and socially embedded custom (acara). The paper sets these two recognition frameworks side by side, first identifying what they share, notably the dependence of normative authority on shared practice and collective acceptance, and then marking the significant differences. In particular it argues that Hart's morally neutral framework, which separates the legal from the ethical, is counterbalanced by Yajnavalkya's linking of law to cosmological order and moral purpose, which makes dharma inseparable from virtue and social harmony. Finding common ground between them makes the divergences clearer, and shows how different civilisations solve the universal problem of recognising authoritative norms while embedding that solution in culturally particular worldviews. The study concludes that, against Hart's position that legal validity is a social fact, Yajnavalkya offers a richer model in which law, morality and the metaphysical order are intertwined and together constitute the foundation of normative life.*

Keywords: rule of recognition, dharma, Yajnavalkya, H.L.A. Hart, Dharmasastra, legal positivism, normative authority, ethical teleology, comparative jurisprudence, legal validity

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I. INTRODUCTION

The problem of how law becomes authoritative has occupied scholars for centuries and across borders. In contemporary Anglo-American legal theory, H.L.A. Hart's elucidation of the Rule of Recognition is generally treated as the seminal account of legal validity in terms of social practice and institutional reception. Hart's model has shaped generations of legal philosophers by suggesting that the ultimate criteria of validity in a legal system are not metaphysical or moral but institutional, resting on the convergent acceptance of officials who treat those criteria as valid.¹ Quite differently, yet no less complex in its jurisprudential architecture, the Dharmaśāstric tradition articulated in the *Yājñavalkya Smṛti* offers a vision of normative law that entwines textual authority, moral purpose and public opinion.² The two traditions spring from opposed civilisational settings: one secular and modern, tied to institutional centralisation; the other classical and scriptural, framed by an understanding of human action as situated within a cosmology. Both, however, are ultimately concerned with how communities identify what is, and what is not, law.

This study is prompted by an obvious gap in the comparative literature. Hart's legal positivism and Dharmaśāstra are both widely discussed, but they are hardly ever placed side by side, especially on the questions of legal validity and of how recognised norms come about.³ In most comparative legal studies Western thinkers are cast as the central characters, while non-Western legal traditions such as Dharmaśāstra are treated as background, or generalised as "religious law". That is troublesome, because Dharmaśāstra explores authority, normativity and interpretation at length, only by different methods. Without a direct comparison we fail to see how classical Indian legal theory addressed the problem of recognising authoritative rules, a treatment that at some points sounds like legal positivism and at others differs from it, or even contradicts it.

What, then, is the point of this exercise? I wish to compare Hart's legal positivism and Dharmaśāstra not as historical curiosities but as working theories, each developed in an attempt to answer the same question: what makes a rule count as law? I investigate Hart's notion of the Rule of Recognition, the fundamental rule that officials accept as the basis of legal validity in

¹ H.L.A. HART, *THE CONCEPT OF LAW* 94–110 (3d ed. 2012). These pages contain Hart's exposition of the secondary rules, and of the Rule of Recognition in particular, as the criteria officials use to determine legal validity. They also contain his rebuttal of Austin's command theory and his account of the internal point of view.

² *Yājñavalkya Smṛti* 1.7–1.12, in *The Law Code of Yājñavalkya* (Julius Jolly trans., 1880). These verses set out the classical hierarchy of the sources of dharma: *śruti* (the Vedas), *smṛti* (the traditional texts), *ācāra* (custom) and *ātmatusṭi* (inner moral satisfaction). They define how normative validity is recognised within the tradition and form the Dharmaśāstric analogue to Hart's Rule of Recognition.

³ Hart, *supra* note 1, at 94–110.

the modern state. Alongside it, I examine how the *Yājñavalkya Smṛti*⁴ defines the sources of dharma, namely *śruti*, *smṛti*, *ācāra* and rational moral judgment, and how these interrelate in identifying an authoritative norm. By comparing the two, I hope to bring out what each takes for granted about law, where they agree (for instance on the importance of social practice) and where they diverge (for instance on the secular as against the moral and cosmic). The aim, ultimately, is a fuller comparative picture that enlarges our understanding of legal validity beyond the standard cultural and historical frames.

The scope is deliberately narrow. This is a study of reading and interpreting texts, not of data collection or fieldwork. On Hart's side I concentrate on *The Concept of Law* and the principal secondary literature on his positivism. On the Dharmaśāstric side I focus on the *Yājñavalkya Smṛti* and the *Mitākṣarā* commentary, the two most influential and systematic works of the tradition. I do not attempt to cover the whole span of Dharmaśāstra, nor to follow the transformations of Hindu law in the colonial and post-colonial periods. The question is how the classical theory conceives the recognition of dharma, and whether anything in that framework corresponds to Hart's secondary rules.

The questions guiding this research are these. What is Hart's account of the recognition of legal norms in a modern legal system with its own institutional habits? In a world governed by scripture and custom, how does Yājñavalkya unfold the criteria for knowing and validating dharma? What similarities, and what significant philosophical differences, emerge when the two theories are compared? Can Dharmaśāstra fairly be called a proto-positivist body of thought, or does its fusion of morality and cosmic order make that description untenable? And, stepping back, what does the comparison tell us about the way we conceive legal validity: are the rules universal, or do they always depend on culture?

To answer these questions I adopt a qualitative, doctrinal approach. It involves close reading of the principal texts, attention to the standard commentaries, and consideration of both older and more recent scholarly opinion. To keep the work rigorous I rely on peer-reviewed articles, authoritative books and reliable digital archives. There is no place here for statistics or ethnography; the work revolves around ideas rather than around how law is practised from day to day.

The core claim is this. Hart's Rule of Recognition and Yājñavalkya's account of law are far apart in origin, yet both are attempts to answer the same fundamental question: how do people in a society decide what counts as law? Hart emphasises social facts, what officials actually do, and

⁴ *Yājñavalkya Smṛti* 1.7–1.12, *supra* note 2.

the idea that law is something distinct from morality. Yājñavalkya draws no such boundary. For him law cannot be separated from morality or from the wider order of things; law is genuinely effective only if it is in harmony with moral purpose and ritual authority. Despite these differences, both arrive at a similar conclusion: law is not empowered merely by rules that happen to be written down, but by the manner in which people accept and live those rules. This research examines that convergence through comparative legal theory and intellectual history, with the aim of extending the discussion of what law means beyond its usual limits.

II. HART'S RULE OF RECOGNITION

H.L.A. Hart's concept of the Rule of Recognition⁵ significantly altered the way law is understood. It is not a mere technical detail of legal philosophy; it is the core of legal positivism and the principal reason why we can make coherent sense of how contemporary legal systems function. Hart did not simply contribute to an existing dialogue. He identified the structural shortcomings of older theories such as John Austin's command theory.⁶ Austin regarded law as a collection of commands backed by threats, but Hart recognised that genuine legal systems are far more complex. Neither the stability of a legal system nor the question of which rules count as "law" can be explained by asking who is giving the orders.

Hart therefore looked further. He found that law possesses another level, a set of secondary rules, with the Rule of Recognition at the very top. This rule is not simply one more item on a checklist. It is the master rule that guides officials in identifying all the other rules. Officials, whether judges or lawmakers, are on the same page when they apply a common standard, which may be a constitution, an established procedure, or a combination of both, to decide what the law consists of. The Rule of Recognition gathers these sources and presents them as one. Without it the legal system would disintegrate. It would be impossible to determine what is valid, there would be no genuine order, and nothing would keep matters steady when politics or governments change.⁷

What really set Hart apart was his portrayal of this ultimate rule. It is not a regulation printed in a book or passed by a vote. It is a convention, a pattern followed by everyone in the system even where no one has written it down. The Rule of Recognition exists because officials use it, not because it is carved in stone somewhere. Hart's emphasis on what officials treat as valid law

⁵ Hart, *supra* note 1, at 94–110. These pages contain Hart's authoritative exposition of the Rule of Recognition: its nature as a secondary rule, its role in validating legal norms, and its grounding in official acceptance.

⁶ JOHN AUSTIN, *THE PROVINCE OF JURISPRUDENCE DETERMINED* (1832) (setting out the command theory of law that Hart criticises).

⁷ Hart, *supra* note 1, at 94–110. Hart repeatedly emphasises that the Rule of Recognition draws its authority from social practice rather than from moral or metaphysical foundations, a point central to legal positivism.

distinguishes his theory from natural law accounts, which tie law to morality or religion, and from Austin, who concentrated on force. For Hart, legal authority derives from a shared practice within institutions rather than from external ideals or from raw power. Whatever form the Rule of Recognition takes, be it a constitution, a doctrine of precedent, or something else, it can function as such only because the people who operate the system agree to use it.

A. The Core Idea of the Rule of Recognition

Hart's Rule of Recognition may be summarised as follows: every legal system must have an ultimate rule that shows everyone how to determine which other rules are actually law. This rule does not refer to any further rule for its own validation; it is the end of the line. Hart reminds us that officials in any legal system share a common practice: when deciding whether something is a legal rule, they test it against certain criteria. They may ask whether the legislature has passed it, whether it complies with the constitution, or whether the courts have accepted it as binding. The Rule of Recognition is simply the name for this shared method of identifying valid law.⁸

Hart develops the point by distinguishing two kinds of rule. Primary rules tell people what they may and may not do: do not steal, pay your taxes. Secondary rules operate a level higher; they are rules about how the primary rules work. They include the rules by which courts settle disputes, the rules by which laws come into existence or are changed, and, at the apex, the Rule of Recognition itself. Without the Rule of Recognition the whole structure is liable to fall apart. There would be no definite way of knowing which decisions or laws are actually valid.

In a modern state the Rule of Recognition may be represented by a written constitution, by a doctrine of parliamentary supremacy, or by a legal tradition that gives weight to judicial decisions. Hart's major point, however, is that the rule need not be written down anywhere. It is given effect when officials consistently treat certain sources as authoritative. Consider common law countries: judges follow precedent although no one has enacted a rule expressly requiring them to do so. In countries with English-style constitutional arrangements everyone knows that Parliament is supreme, even though that may be no more than tradition.

Another key element is that the Rule of Recognition is not immutable.⁹ As political life changes, so may the standards to which officials refer. The way constitutional courts acquired power in some democracies, for instance, can be read as the Rule of Recognition shifting and giving more

⁸ See generally Hart, *supra* note 1, at 79–99 (distinguishing primary from secondary rules and explaining why the Rule of Recognition forms the apex of a legal system's normative structure).

⁹ See Hart, *supra* note 1, at 55–57. Hart introduces the internal point of view to explain how officials treat legal rules as standards rather than habits, grounding normativity in social practice rather than in morality or coercion.

weight to constitutional norms than to ordinary legislation. Because it is grounded in practice rather than in mere words, the Rule of Recognition can change as officials alter their conduct. This is why legal systems can survive major political upheavals: officials gradually change their criteria, and the system continues, often without any conspicuous formal amendment. Hart's concept demonstrates how legal systems can possess both stability and flexibility, adjusting to new circumstances while retaining their fundamental structure.

B. Normativity and the Internal Point of View

One of Hart's most prominent ideas is that legal rules should not be seen as mere forecasts of official behaviour, but as standards that people actually use to regulate their conduct. He argues that the real force of the Rule of Recognition derives from the way officials regard it internally. They are not actors going through the motions. They accept the rule as a standard that ought to guide them, and this is what distinguishes legal rules from ordinary habits or customs. Take the case of driving on the left. If people keep to that side merely out of habit, or from fear of a fine, then on Hart's account it is not yet a legal rule. For him a rule exists as such only when people treat it as a standard that justifies criticising those who depart from it, and when they expect others to follow it too.

For legal officials this "internal point of view" may be summed up in three aspects. First, they regard the Rule of Recognition as binding upon them. Secondly, they employ it to support their decisions. Thirdly, they identify departures from it as legal errors rather than as accidents or idiosyncrasies.¹⁰

What is striking about this normativity is that it is not moral in origin; it arises from officials treating the rule as a legitimate guide for legal reasoning. On Hart's model it is this communal acceptance that gives a legal system its force. Without it there would be neither the same coherence nor the same stability.

Hart contrasts the internal or insider perspective with the "external point of view", the perspective of a sociologist or an outsider. An outsider sees only patterns of behaviour. Insiders see rules as justified standards. With this distinction Hart can accommodate both the description of legal systems from outside and their use, from within, as guides to action.

The internal point of view also explains how officials keep legality and morality apart. A judge may consider a law unjust, or even morally wrong, and still acknowledge its legal validity under the Rule of Recognition. That is the gist of Hart's positivism: the law is what the Rule of Recognition says it is, not what is morally right. Hart concedes, however, that moral convictions

¹⁰ Hart, *supra* note 1, at 94–110; *Yājñavalkya Smṛti* 1.7–1.12, *supra* note 2.

can influence what officials recognise as part of the Rule of Recognition. If a constitution contains fundamental rights, for example, it may be regarded as legally binding partly because officials also see it as morally significant.

Finally, the internal perspective conveys how officials' understanding of law changes over time. As officials come to regard new standards, such as constitutional supremacy or human rights, as acceptable, those standards gradually become part of the Rule of Recognition. Legal systems therefore change not only through new legislation or amendment. In a sense they change when officials change their attitude to the law, which allows law to keep pace with new social and political realities while retaining a sense of continuity.

III. YĀJÑAVALKYA ON THE SOURCES OF DHARMA

One of the sharpest and clearest expositions of dharma in classical Hindu law is found in the *Yājñavalkya Smṛti*.¹¹ The treatise is generally placed between the third and fifth centuries CE, although scholarly datings differ.¹² Earlier *Smṛtis* tended to weave cosmic ideas together with moral rules; Yājñavalkya takes a different path. He provides a detailed and orderly framework for determining the origin of authority. Not content with theory alone, he envisages how individuals and communities might sort out which prescriptions are binding and which are merely advisory. In essence he addresses the dilemma every legal system faces: which norms must be obeyed?

According to Yājñavalkya there are four primary sources of dharma: *śruti* (the Vedas), *smṛti* (the tradition of texts), *ācāra* (the custom of morally good people), and *ātmatuṣṭi* (one's own sense of what is right and reasonable).¹³ No one of these sources could work perfectly on its own, and each differs from the others. Together, however, they form a carefully considered system that seeks to balance revealed law against the demands of everyday life. Patrick Olivelle and Robert Lingat, among others, argue that this is not merely a tidy recapitulation. Yājñavalkya¹⁴ goes further and establishes a method for resolving conflicts between norms and for determining what constitutes dharma, particularly where the older texts are ambiguous.

¹¹ *Yājñavalkya Smṛti* 1.12, *supra* note 2 (on *ātmatuṣṭi* as morally informed self-satisfaction, permitting a flexible recognition of dharma).

¹² PATRICK OLIVELLE, *YĀJÑAVALKYA: A TREATISE ON DHARMA* (Murty Classical Libr. of India 2019) (dating the text to the fourth or fifth century CE). Scholarly datings differ, and earlier scholarship placed the text considerably before the Gupta period.

¹³ PATRICK OLIVELLE, *MANU'S CODE OF LAW* 38–41 (Oxford Univ. Press 2005); ROBERT LINGAT, *THE CLASSICAL LAW OF INDIA* 142–55 (J.D.M. Derrett trans., Univ. of Cal. Press 1973) (on the role of *ācāra* and of commentary in social validation and in the interpretive process of classical Indian jurisprudence).

¹⁴ ROBERT LINGAT, *THE CLASSICAL LAW OF INDIA* 142–55 (J.D.M. Derrett trans., Univ. of Cal. Press 1973), explaining the interplay of textual authority, custom (*ācāra*) and social practice, and showing that dharma functions as a socially grounded normative system in a manner comparable to Hart's emphasis on official recognition.

A. Hierarchy of Sources

Śruti stands at the pinnacle of the hierarchy Yājñavalkya sets out: the Vedas and the knowledge founded upon them. On Yājñavalkya's account the Vedas are not merely very significant; they are beyond challenge. They are described as infallible and eternal, and as the final word on ritual, morality and the organisation of society. Their authority does not depend on human acceptance of them. Hence a law or custom that contradicts the Vedas cannot be valid dharma, however popular or long-standing that practice may be.¹⁵

Smṛti, the tradition preserved in memory and recorded in texts such as the *Manusmṛti* and the *Yājñavalkya Smṛti*, is the next layer below *śruti*. *Smṛti* does more than confirm *śruti*; it is in effect its offspring. It takes the broad and often ambiguous conceptions of the Vedas and translates them into practical guidance for daily life. Yājñavalkya emphasises that *smṛti* is the link between unchanging principle and a human nature that is never quite orderly. So when one encounters rules on the division of inherited property, on dispute resolution, on marriage and on ritual performance, it is *smṛti* that is attending to the matters the Vedas leave unexplained. Olivelle goes so far as to say that *smṛti* is not only about law but also performs an educational and behavioural role by setting clear standards.

Next comes *ācāra*, which concerns the conduct of morally good people, and of whole communities, and their way of life. It is best understood as society filling in the blanks. Where the texts are silent or vague, the practice of the wise, or of established groups, becomes authoritative. Lingat and Davis argue that *ācāra* represents one of the earliest forms of customary law, the source that keeps dharma alive, allowing it to move with the times while remaining faithful to the original texts.

Last in the sequence is *ātmatuṣṭi*, self-satisfaction, or moral conscience. It is not invoked frequently, but it is of great importance. Where the other three sources fail to yield a clear answer, individuals are permitted to exercise their own judgment. So when *śruti*, *smṛti* and *ācāra* point nowhere, *ātmatuṣṭi* takes over. Donald R. Davis, Jr. understands this as a built-in adaptability that allows dharma to cope with novel cases without abandoning its moral character.

The framework as a whole is significant because it does not merely enumerate the sources of dharma; it also prescribes what to do when they conflict. The higher authority prevails. *Śruti* takes precedence over *smṛti*, *smṛti* over *ācāra*, and in most cases *ācāra* over individual

¹⁵ *Yājñavalkya Smṛti* 1.7–1.12, *supra* note 2; DONALD R. DAVIS, JR., *THE SPIRIT OF HINDU LAW* 45–60 (2010). Davis argues that dharma is at once ethical, social and juridical, and that recognition is both interpretive and socially validated.

conscience. The point is that lower sources may not contradict higher ones; they are there to complete them.

B. Recognition of Dharma: Hermeneutics, Commentary, Custom and Moral Reasoning

Identifying dharma in the Yājñavalkya tradition goes well beyond citing the Vedas. The process is dynamic and integrative, combining rigorous exegesis with the facts of daily life. Commentaries, above all Vijñāneśvara's *Mitākṣarā*,¹⁶ lie at the heart of it. The *Mitākṣarā* may be thought of as a bridge. It links the old authoritative texts with the untidy and unpredictable world in which people live. It explains how to understand norms, how to deal with apparent oppositions, and how to resolve conflicts. Much as judges today consult precedent, Dharmaśāstric jurists turned to these commentaries to ensure that dharma remained both stable and capable of change across time and across communities.

The hermeneutic tradition is not simply a search for hidden meaning between the lines. First, one has to determine the plain sense of the words. Next, one has to reconcile contradictions, sometimes within a single text and sometimes between different texts. Finally, one has to apply the result to particular, and sometimes awkward, human situations. Taken together, these stages produce a mode of legal reasoning that, although it proceeds from a different starting point, is quite comparable to what we find in present-day legal systems.

Custom, or *ācāra*, contributes a further dimension. Where the texts are ambiguous, or simply silent, people turn to the settled ways of reputable members of the community. These customs fill the gaps and become law by default. As Lingat shows, this produces a workable equilibrium: it safeguards tradition while leaving room for change as society evolves. By grounding law in shared community standards the system secures both durability and flexibility.

There is, in addition, moral reasoning, or *ātmatuṣṭi*. This is the point at which the tradition differs most from the operation of present-day legal systems. Instead of separating law from morality, Yājñavalkya combines them. Moral judgment is not external to law; it is an intrinsic part of how law is recognised and enacted. Such judgment enables people to handle novel and unfamiliar cases, so that dharma is concerned not only with rules but also with social order, cosmic balance and personal growth. This is what makes Dharmaśāstric jurisprudence

¹⁶ *Mitākṣarā* of Vijñāneśvara, in *The Yājñavalkya Smṛti with the Mitākṣarā Commentary* (Srisa Chandra Vidyarnava trans., 1918), setting out the interpretive and procedural methods for applying the *Yājñavalkya Smṛti* to particular legal situations. Cited to show how the theoretical hierarchy of dharma is enacted in practice, in a manner comparable to Hart's focus on the internalised practices of legal officials.

distinctive: on its own terms a law is not truly valid unless it is both ethical and metaphysically sound.¹⁷

What does all this mean in daily life? The *Yājñavalkya Smṛti* presents an intricate framework for the recognition of authority, a system in which texts, commentaries, customs and individual conscience all operate together, creating an equilibrium between tradition and flexibility. This allowed jurists and rulers to draw on ancient authority while adjusting to new situations. Law was not frozen in time, nor was it solely at the disposal of the ruling power; it remained open to discussion, interpretation and moral scrutiny.

In sum, the Dharmaśāstric model reveals a profound grasp of the nature of legal knowledge. It is not about learning rules by heart; it is about recognising patterns of authority, understanding moral purposes and attending to social consensus. The *Mitākṣarā* brings these strands together, demonstrating how interpretation, precedent and good judgment constitute a living and interconnected legal system.

C. Why Yājñavalkya's Sources of Dharma Matter in Jurisprudence

The way Yājñavalkya ordered the sources of dharma, namely *śruti*, *smṛti*, *ācāra* and *ātmatuṣṭi*, does considerably more than furnish material for history books or satisfy cultural curiosity. It bears directly on our understanding of law and on the way legal philosophy is taught. Analysing this system, one sees that law is derived from a combination of texts, social habit, ethics and individual conscience. It is not simply that everything is written down, or that officials have the final say.

Yājñavalkya's conception is unlike the strict legal positivism found in some Western theories, where law is only a social fact. He incorporates moral, social and even cosmological considerations into the very essence of what counts as law. Law thus becomes something vibrant, a means of harmonising what people do, how society is held together, and the ideals they pursue.

In the contemporary law classroom Yājñavalkya's framework gives students the opportunity to see law as more than a list of rules. They come to understand that law is interwoven with culture, ethics and the way people live. When students grasp that dharma is arrived at through interpretation, commentary and the practices of people, they begin to appreciate the importance of interpretation and reasoning in legal practice. This is not far from the way modern law uses precedent and acknowledges customary law.

¹⁷ PATRICK OLIVELLE, *MANU'S CODE OF LAW* 38–45 (Oxford Univ. Press 2005), placing Yājñavalkya within the wider Dharmaśāstric tradition and showing how hierarchical textual sources guide legal and ethical conduct.

Take *ācāra*, for example. It demonstrates how community practice can be of first importance in deciding what is regarded as law. That is very much like the way informal custom continues to shape legal systems drawn from many different societies, especially those that are ethnically and culturally diverse.

As for *ātmatuṣṭi*, the idea of a morally informed conscience softens the concept of law somewhat. It permits law to extend into territory that has not previously been mapped without losing its ethical dimension. This is a substantial point for legal philosophy. It recalls the place of discretion, moral judgment and human sense in the application of law.

Discretion, moral judgment and human sense are more often than not overshadowed in strict legal systems, but Yājñavalkya's account places them centre stage. Reflecting on this, students become more willing to question what makes rules fair and binding, rather than taking for granted that a rule simply becomes official.

Comparing Yājñavalkya with Hart or Austin yields an entirely different insight. Where Hart focuses on social practice and official acceptance, Yājñavalkya brings in tradition, ethics and an ordered cosmos. By distinguishing these thinkers, students come to see law not merely as the work of institutions and rules but as involving culture, values and deeper reasons for following norms in the first place.

Using Yājñavalkya's ideas for teaching or for legal inquiry is, in effect, a way of saying that law is multi-faceted, layered and complicated. On this view law is not a simple set of codes to be followed; it also calls for ethical decision, social awareness and interpretation.

This shift from viewing law as a fixed entity to recognising it as something that changes with society, tradition and conscience is particularly effective when students tackle the hierarchy of sources. Such an approach matters at the level of legal reasoning, judgment and critical reflection, all of which students need if they are to become good lawyers or legal thinkers.

Engagement with Yājñavalkya's sources of dharma is therefore more than an academic ritual. It represents a whole intellectual framework that conceives law as at once rational, customary and text-based.

Maintaining a balance between these different components is what gives law, as a living system, its legitimacy. For students of legal philosophy, familiarity with these ideas means not only comprehending the nature of law but also realising why it matters, how it links older problems with newer ones, and what makes law just and meaningful in everyday life.

IV. CONVERGENCES

Any legal framework, whether the law of ancient India or the law of the modern West, eventually comes down to the question of which rules actually matter. What makes a law trustworthy, coercive, something people follow? These are not features peculiar to particular cultures or periods. They arise everywhere. Set the Dharmaśāstric tradition of Yājñavalkya beside H.L.A. Hart's twentieth-century account and, at first glance, the two worlds could hardly be more different. Yet both are exercised by the same problems. Both examine how a society decides which rules are the real ones, what gives a law its force, and how law becomes part of everyday life.

They have different vocabularies, different ethical commitments and different views of reality, but at bottom they are dealing with the same fundamental problems of law, problems common to different cultures and different times.

A. Shared Concern: Identifying Valid Norms

Both Yājñavalkya and Hart grapple with the same core issue: how do we determine which norms are the genuine ones? A legal system cannot be sustained if people are unable to point to rules that everyone accepts as legitimate. In *The Concept of Law*, Hart addresses this by introducing the Rule of Recognition. It is essentially a rule about rules, a means by which officials such as judges, lawmakers and administrators can agree on what constitutes valid law. It is not merely a matter of writing things down. The real force comes from the way these criteria become part of the thinking and the working routine of everyone within the legal system. Hart's method provides a workable way of identifying genuine law, reduces confusion, and keeps matters running smoothly.¹⁸

Yājñavalkya's argument sounds like a different story, but in substance it is the same. He arranges *śruti*, *smṛti*, *ācāra* and *ātmatuṣṭi* into a hierarchy and then explains how dharma is arrived at through interpretation, tradition, custom and moral sense. Even though the framework is bound up with a larger moral and cosmological view, it performs the same task.¹⁹ Each step, whether scripture, tradition, common practice or personal conscience, offers a different route to establishing the valid norm, even where the case is complicated or entirely novel.

Both systems emphasise the importance of structure. Norms cannot appear out of thin air. Without genuine criteria the whole idea of law, and of order, falls apart. Hart's approach is spare

¹⁸ Hart, *supra* note 1, at 105.

¹⁹ Hart, *supra* note 1, at 94–110; Yājñavalkya *Smṛti* 1.7–1.12, *supra* note 2.

and secular; Yājñavalkya's is moral and traditional. But they agree on the essential point: there must be definite ways of finding out which rules really count, or the system will collapse.

The effect of this can be seen in practice. Judges in a contemporary court look to statutes, prior cases and the conduct of officials to determine the validity of a rule, in accordance with Hart's theory. A Dharmaśāstric expert, by contrast, might consider scripture, tradition, local custom and, where matters remain unclear, personal moral judgment. Both systems equip people with a decision-making plan under which the rules everyone follows are genuinely rules, and not merely somebody's opinion.

B. Social Foundations of Authority

Authority is not something that exists out there in a void. It depends on people agreeing, together, that the rules matter. Hart is explicit about this: what gives the Rule of Recognition its strength is not an abstract idea but the fact that legal officials actually apply it. Law is effective only because people, chiefly those in office, share certain habits, observe norms and play by the rules as a matter of practice. Were it otherwise, even laws recorded in black and white would count for little.

Yājñavalkya's position is comparable. He places dharma at the centre of social life. The texts, *śruti* and *smṛti*, give dharma its authoritative base, but it is only when people recognise it through *ācāra*, the customs actually followed by respected members of the community, that dharma comes alive.²⁰ In the Dharmaśāstric account those respected members are Brahmins, sages and householders, and it is their observance that gives dharma its practical force. Dharma is therefore not a theoretical subject alone; it is something people live day by day.

Both Hart and Yājñavalkya make the same point: law is effective only when it becomes part of daily social practice. Hart emphasises official endorsement, while Yājñavalkya focuses on people practising moral conduct that others recognise. They come from very different worlds, Hart maintaining a secular approach and Yājñavalkya connecting law to higher moral and cosmological ideas, but they agree on this: legitimacy depends on the acceptance of the community.²¹

This social base does not only help law to work; it also contributes to stability. Matters proceed smoothly when new laws are issued in accordance with older laws valid under the Rule of Recognition. Similarly, Yājñavalkya's learned customs produce a legal order that is both flexible

²⁰ ANDREI MARMOR, *SOCIAL CONVENTIONS: FROM LANGUAGE TO LAW* (2009). Marmor develops a social-practice account of law, emphasising how conventions create legal obligations. Hart's law is built on social convention; Yājñavalkya's dharma rests on a more plural base.

²¹ Hart, *supra* note 1, at 94–110.

and consistent, allowing new or transformed traditions to merge with older ones without conflict. In the end, law has force only because people decide together to follow it. Society is not merely a component of the legal system; it is what makes the system real.

C. Emphasis on Practice and Lived Normativity

Here the more interesting part of the story begins: both Hart and Yājñavalkya attended to practice and not only to theory. Consider Hart's Rule of Recognition. It is not a set of official rules but something visible in the daily work of legal officials. Judges, lawmakers and administrators give it a living existence through their activity. Law, then, is not just the words on the page. It is real because it is done, shaped and kept alive by people through interpretation and application.

Yājñavalkya's account of dharma works on the same principle. Dharma is not merely an abstract concept. It becomes evident in rites, traditions, decisions and personal choices. The *Mitākṣarā* commentary mediates between the written and the lived, ensuring that dharma remains suitable for real circumstances and for social change. As with Hart's law, dharma exists in practice and not only in theory.

A further feature the two systems share is that each can adapt as the community evolves. Hart's Rule of Recognition may alter as new official practices come to be accepted as valid, so that the law has room to develop. In Yājñavalkya's system, *ācāra* and *ātmatuṣṭi* allow dharma to respond to new social and moral problems without relinquishing its principal authority. Both mechanisms insist that if norms are to matter they must retain their authority, remain flexible, keep pace with the times and not lose their foundations.

The pedagogical consequence is a further point of contact. Hart's work shows students that norms are not merely imposed; they gain strength when people acknowledge and perform them together. Yājñavalkya shows that law can be at once textual, ethical and social. The central lesson is that legal authority is most effective when it is enacted in society, whether one approaches the matter from a positivist or from a dharmic perspective.

D. Comparative Reflections

Noticing these commonalities is revealing. Both Yājñavalkya and Hart address the basis of normative legitimacy by offering means of identifying valid norms. Both understand that authority is not a gift from above; it derives from people, whether through officials or through communities living by certain values. And both maintain that law is not something one merely reads about or pictures. It is something people actually do.

Although their views differ sharply, Hart distinguishing law from morality while Yājñavalkya integrates law into a broader moral and cosmological framework, they are addressing the same fundamental issues. How do you determine which norms are valid? Who confers authority upon them? How do you ensure that they work on the ground? These questions recur wherever one looks, which suggests that some legal problems are universal across cultures and philosophies. For teaching, these shared threads are a treasure. Learners come to see that law is carried by recognition, validation and enactment on the part of people. Hart offers a spare, non-religious framework; Yājñavalkya introduces the ethical and moral dimension. Combining them yields law as something social, interpretive and deeply rooted in values.

Comparative jurisprudence becomes genuinely interesting with this kind of analysis. By studying both theorists, researchers gain a deeper understanding of how legal authority is exercised in different cultural contexts. Hart's approach is useful for understanding contemporary legal systems, while Yājñavalkya is illuminating on the interconnection of ethics, society and scripture in shaping law. The message is clear: law is not simply a set of commands. It is a living system, grounded in both society and morality.

V. DIVERGENCES

Both Yājñavalkya and H.L.A. Hart understand that law is not only about rules, but about how people recognise authority, how society gives law its force, and how law operates in real life. Beyond that, however, they differ almost as though they inhabited different worlds. Their differences are not merely a matter of living in different eras or cultures. They differ on what law is for, where it comes from, and how it ought to work.

This article compares them on four major points of disagreement. The first is the difference between Hart's positivism and Yājñavalkya's moral and religious perspective. The second is the debate between unity and pluralism in the sources of law. The third is the difference between secular and metaphysical grounds of validity. The fourth is the disagreement over who really holds legal authority, officials or the community at large.

Taken together, these differences explain why a direct comparison can only be taken so far. At the same time, examining the contrasts gives a better sense of how different legal philosophies try to answer the larger question of what makes law legitimate in the first place.²²

²² Hart, *supra* note 1, at 94–110; *Yājñavalkya Smṛti* 1.7–1.12, *supra* note 2.

A. Positivism and Moral-Religious Teleology

At bottom, Hart and Yājñavalkya hold fundamentally different views of law. Hart treats law as rooted in social facts: if the relevant members of society acknowledge a rule as law, and it accords with what officials treat as legitimate, that suffices. For Hart, law need not be moral or ethical. The Rule of Recognition, as he calls it, consists in the criteria that officials accept as the standard. This gives law an internal logic independent of any larger moral or ethical consideration. For Hart, law is about clarity, predictability and the maintenance of order; there is no need to bring morality or metaphysics into it.²³

Yājñavalkya is an altogether different figure. Law for him, dharma, is closely bound to ethics and even to higher spiritual aims. Dharma is not only about obeying enforceable rules; it is about leading a life that is beneficial both to the individual and to the wider order. Its validity is drawn from several sources: Vedic scripture, the *dharmaśāstras*, individual conscience and the practice of the community. These sources are interrelated in such a way that one cannot ask separately what is legal and what is moral. Consider inheritance, royal duties or social roles. On this account they are not binding merely because society has accepted them. They matter because they align with a cosmic order (*ṛta*) and serve a deeper ethical purpose. For Yājñavalkya, law and morality are two sides of one coin.

This fundamental division shapes the whole approach of each thinker. Hart's theory allows one to discuss law without entering into interminable moral debate, which is very useful in modern pluralistic societies. Yājñavalkya, by contrast, builds ethical rightness into every command. Law is not merely an instrument of order; it is a moral and spiritual guide to the good life. Where Hart is concerned with the efficient operation of law and the maintenance of order, Yājñavalkya is concerned above all with ethical living, spiritual growth and a sense of harmony that pervades not only society but the cosmos. Their legal systems mirror these very different worldviews.

B. Unity and Pluralism in Foundational Sources

Here the two accounts diverge further still. On Hart's view a single ultimate Rule of Recognition confers authority on all other legal norms. This one clearly defined source is what every law derives its legitimacy from, which keeps matters neat and orderly. Such an arrangement brings predictability and legal certainty, and it is very useful to large bureaucratic states in maintaining

²³ Hart, *supra* note 1, at 94–110.

their systems.²⁴ Every statute and precedent, however numerous, can be traced back to this one rule. In Hart's picture, the law is a single solid wall.

The picture Yājñavalkya paints is quite different. Authority flows simultaneously from four sources: scripture (*śruti*), interpretive tradition (*smṛti*), community custom (*ācāra*) and personal moral judgment (*ātmatuṣṭi*). Instead of a single all-powerful rule binding everything together, legitimacy is distributed among interrelated and layered sources. *Śruti* is of course the supreme authority, but where the texts are ambiguous or do not fit the situation, judges and rulers must combine commentary, custom and their own moral sense to reach an answer. Such a pluralistic system gives the institution the capacity to adjust to, and to mirror, the realities of life, but it also complicates matters, requiring people to work through conflicts and ambiguities as they arise.

The division between unity and pluralism is not only a matter of legal mechanics. It raises larger philosophical questions. Hart's framework rests on order and institutional clarity, characteristic features of a secular, centralised state. Yājñavalkya's is directed more towards flexibility and ethical judgment, as befits a community in which law and morality are closely intertwined. Whether authority is centralised or decentralised therefore depends on what a legal system takes to be its primary concern.

C. Secular and Metaphysical Normative Frameworks

This is another point at which Hart's and Yājñavalkya's conceptions of law diverge radically: they differ on the fundamental nature of law itself. Hart is very much a positivist; he sees law as a human creation. Law, being essentially social, derives its force from social practice and the acceptance of social norms. Nothing divine or cosmic is required. A rule binds because the ruling institutions and their officials accept it. Hart's view fits the contemporary world, in which one can speak about legal systems without invoking God or a higher order. That makes his approach highly adaptable; it works in any political and social environment.²⁵

Yājñavalkya, however, is not thinking about human beings alone. On his account law, dharma, belongs to a world in which everything is related to a cosmic order (*ṛta*) and carries spiritual significance. It is not enough that rules be accepted by society; they must correspond to a larger moral purpose. The ultimate aim of every law is that individuals and society should flourish,

²⁴ MATTHEW H. KRAMER, WHERE LAW AND MORALITY MEET (2004). Kramer defends a version of legal positivism that acknowledges moral evaluation. His treatment of the interplay between law and morality shows that Hart's system is separate from, but not blind to, moral considerations, in contrast with Yājñavalkya's inherently moral system.

²⁵ *Mitākṣarā* of Vijñāneśvara, *supra* note 16; ROBERT LINGAT, THE CLASSICAL LAW OF INDIA 150–55 (J.D.M. Derrett trans., Univ. of Cal. Press 1973).

morally and spiritually as well as materially. Doing the right thing by law is therefore more than following officials; it involves ritual, interpretation and a genuine sense of right and wrong. The *Mitākṣarā* commentary elaborates on how scripture, tradition and moral reasoning not only assist but determine the formation of legal and ethical norms.

The main difference therefore comes down to legitimacy. In Hart's world it derives from social facts. In Yājñavalkya's it comes from ethics and from the cosmos. This is not merely an intellectual exercise: Hart's law can be morally neutral, whereas Yājñavalkya's dharma always integrates ethics with a sense of cosmic order.

D. Role of Officials and Distributed Authority

Another major disagreement concerns the ultimate source of law. Hart concentrates on officials: judges, lawmakers, administrators. These are the people to whom the rules are brought, who work them out, and who hold everything together within closely knit institutions. The arrangement is largely top-down: rules come from above, and officials ensure that everyone follows them. Problems are dealt with through official channels, and the system remains stable because the same group keeps watch over it.

Yājñavalkya does not share that view. For him authority is not concentrated but distributed. Scholars of the texts and priests are important, but so too are community leaders, householders, wise persons and ordinary good people. Law and dharma are identified and propagated by different groups, not only by officials in some central office. Law functions properly only if it is socially accepted and conforms to moral standards. Such a system allows local customs and differing opinions to continue, the aim being harmony and shared values rather than strict, centralised control.

What does this imply for practice? In Hart's system, legal education centres on understanding how institutions function and on interpreting and applying rules consistently. In Yājñavalkya's world, to learn law is to grapple with ethics,²⁶ to read texts, and to attend to social custom. There the legal expert must be prepared for complex scenarios in which context and morality weigh as heavily as the written rule. For anyone comparing legal systems this difference is substantial. It demonstrates that authority may be lodged in institutions or spread through society, depending on what a culture or a philosophy takes to be most important.²⁷

²⁶ Timothy Lubin, *Dharmaśāstra*, OXFORD BIBLIOGRAPHIES: HINDUISM (2020). Lubin's survey provides contemporary interpretive frameworks for understanding dharma as normative, ethical and socially grounded.

²⁷ Leslie Green, *The Concept of Law Revisited*, 94 MICH. L. REV. 1687 (1996).

VI. TOWARD A SYNTHETIC UNDERSTANDING

Comparing modern legal positivism, and Hart's version of it in particular, with the classical Indian tradition of the *Yājñavalkya Smṛti* produces a markedly different conception of law. That conception is not simply about norms or institutions; it incorporates moral and social dimensions as well. Identifying elements in Dharmaśāstra that closely resemble Hart's secondary rules brings out both the similarities and the differences, particularly where Hart's rigorous positivism is challenged by pre-modern systems. Dharmaśāstra is not merely a set of regulations imposed from above; it resembles a way of life in which law is interconnected with moral excellence and diffused through society. Such a viewpoint reshapes not only our understanding of modern legal theory but the whole undertaking of comparing legal systems.

A. Analogues to Secondary Rules in Dharmaśāstra

Hart posits three varieties of secondary rule, namely the Rule of Recognition, rules of change and rules of adjudication, which possess a meta-function in the sense that they are rules about rules.²⁸ By their means a legal system can recognise legitimate norms, modify them and settle conflicts. Whether Dharmaśāstra, and the *Yājñavalkya Smṛti* in particular, contains such meta-rules is a live question. An attentive reading suggests that it does, though they operate differently in cultural and metaphysical terms. Recognising these counterparts deepens our grasp of normative regulation and its authorisation outside the Western positivist framework.

A foundational verse of the *Yājñavalkya Smṛti* illustrates this:

*śrutiḥ smṛtiḥ sadācāraḥ svasya ca priyam ātmanah | samyaksankalpajah kāmō
dharmamūlam idaṁ smṛtam ||*²⁹

In translation: "The Veda (*śruti*), the traditional texts (*smṛti*), the good conduct of those who know dharma (*sadācāra*), and that which is pleasing to oneself (*ātmatuṣṭi*) when prompted by a firm resolution constitute the roots of dharma." This verse establishes a hierarchy of the sources of dharma and functions as a procedural meta-rule, guiding jurists and moral agents in locating valid dharmic norms. It might be thought of as the functional equivalent of Hart's Rule of Recognition: it indicates the sources that must be checked in order to confirm normative validity.

The *Smṛti* then sets out the procedural rules for *vyavahāra*, the judicial process, including the qualifications of judges, the evidence that may be used and the conduct of officials. These correspond to Hart's rules of adjudication. The text also lays down the ways in which standards

²⁸ Hart, *supra* note 1, at 94–110 (on the rules of recognition, change and adjudication).

²⁹ *Yājñavalkya Smṛti* 1.7, *supra* note 2.

may be altered, thereby serving as a counterpart to Hart's rules of change. The Dharmaśāstric counterparts, however, are multiple, morally inflected and socially embedded rather than consolidated and formalised. *Ācāra*, for instance, functions not only as a source of law but as a device for normative change: where a custom corresponds to the moral order of things and is recognised as such by learned jurists, it gradually assumes normative authority. That is one instance of a rule of change arising from social practice itself.

By identifying these counterparts, the legal theorist can broaden the typology of secondary rules and show that pre-modern legal systems also address problems of norm validation, modification and adjudication. The interplay of *śruti*, *smṛti*, *ācāra* and *ātmatuṣṭi* offers an alternative structure of authority that complements Hart's model and invites comparative discussion of how norms are identified and applied in different cultures.

B. Limits of Hartian Positivism in Pre-modern Normative Systems

Although Hart's framework remains valuable and elegantly constructed, it rests on a number of assumptions that restrict its application to systems such as Dharmaśāstra.

First, Hart emphasises a centralised Rule of Recognition acknowledged by officials. In pre-modern societies authority was usually decentralised and deeply embedded in ritual, moral and communal practice. The *Yājñavalkya Smṛti* recognises the authority of sages, householders and community norms alongside that of the text. Law is therefore not enacted by officials alone, and here again we see the limits of Hart's institutional assumptions.

Secondly, Hart separates law from morality. In Dharmaśāstra normative validity comes from being tied to ethical and cosmological commitments. A norm is valid only if it corresponds to *ṛta* and serves the moral and social good. Dharma accordingly encompasses duty, social role and cosmic moral order. Hartian positivism may miss these aspects, which are inseparable from the way pre-modern legal systems functioned.

Thirdly, Hart assumes the presence of a single legal order. Dharmaśāstra is polycentric: Vedic ritual law, community norms, household rules, royal edict, custom and individual conscience all exist together and interact. The *Smṛti* deals with conflicts by allowing *ācāra* and *ātmatuṣṭi* to adjust the textual rules, displaying a flexibility absent from Hart's more monolithic model. Comparative jurisprudence must therefore take account of context-dependent ways of recognising and resolving norms.

C. Dharmaśāstra as a Decentralised, Virtue-Based Legal Culture

The *Yājñavalkya Smṛti* depicts law as decentralised and virtue-based, a model that has much to offer legal theory and pedagogy today. Authority flows through learned sages, householders, community custom and personal conscience. The verse on *śruti*, *smṛti*, *sadācāra* and *ātmatuṣṭi* shows that authority was not concentrated in one place but distributed. In actual adjudication, the combination of textual rule, community practice, moral conscience and the ethical integrity of the adjudicator produced outcomes that were both legally valid and morally justified.

Inheritance disputes in Brahmanical households, for example, were to be resolved by applying *smṛti*, *ācāra* and *ātmatuṣṭi* together. Authority there flowed not only from what the text commanded but, significantly, from the moral standing of the adjudicators and of the community. This stands in contrast to a centralised modern Western system founded on procedural legitimacy.

The virtue-based model highlights qualities such as *ājñava* (uprightness), *śrama* (diligent effort) and *dharma-sambandha* (attachment to duty). The *Mitākṣarā* commentary further stresses that bias or want of care can corrupt a verdict, an early articulation of judicial integrity. A decentralised system is characterised by responsiveness to local custom, social legitimacy and flexibility, features that underline the ethical aspect of law. The model illustrates for present-day jurisprudence that legal authority may be located beyond the domain of formal institutions, and that moral and communal legitimacy are of primary importance. Law students become familiar with systems in which ethical reasoning is central to normative practice. Scholars and philosophers of law can explore the ways in which moral authority, social practice and formal rules are interconnected. The model is particularly relevant to pluralistic and globalised contexts in which many different normative orders coexist. Combining Hart with Yājñavalkya yields a comprehensive view which keeps Hart's account of secondary rules clear while enriching it with Dharmaśāstra's ethical, communal and historical dimensions. Such a synthesis produces a pluralistic and historically aware philosophy of law, one that embraces practice, institutional design, textual authority and moral purpose as well as community custom and individual conscience.

D. Further Ślokas from the Yājñavalkya Smṛti: A Fresh Look at Legal Authority

i. Sources of Dharma

Yājñavalkya Smṛti, Ācārādhyāya 1.7:

*śrutiḥ smṛtiḥ sadācāraḥ svasya ca priyam ātmanah | samyaksāṅkalpajah kāmō
dharmamūlam idaṁ smṛtam ||*

Translation. "The Veda (*śruti*), the *smṛtis*, the conduct of virtuous persons (*sadācāra*), one's own conscience, and desire arising from righteous intention are recognised as the sources of dharma."

What is going on here? This verse outlines the roots of legal and moral authority in classical Hindu law. Yājñavalkya does not assign authority to a single source but acknowledges several interconnected sources. Scripture holds the highest authority, legal tradition clarifies it, custom offers practical application, and conscience guides its ethical enactment.

Comparison with Hart. Hart's Rule of Recognition rests on a basic rule accepted by legal officials. Yājñavalkya suggests a broader approach, in which recognition comes from the authority of scripture, legal tradition, social custom and moral reasoning. The legitimacy of law thus depends on both institutional endorsement and normative acceptance.

Why does this matter? The verse demonstrates that classical Hindu jurisprudence recognises legal pluralism. Law derives legitimacy from multiple sources rather than from a single sovereign command, which makes it an early example of a layered legal system.

ii. Judicial Authority and the King

Yājñavalkya Smṛti, Vyavahārādhyāya 2.1:

*vyavahārān nṛpaḥ paśyed vidvadbhir brāhmaṇaiḥ saha | dharmasāstrānusāreṇa
krodhalobhavivarjitaḥ ||*

Translation. "The king, free from anger and greed, shall adjudicate legal disputes together with learned Brāhmaṇas, in accordance with the principles of the Dharmaśāstra." The text instructs the king to administer justice with the help of learned Brāhmaṇas and qualified judges, ensuring that disputes are resolved according to dharma rather than personal bias.

What is going on here? Judicial authority is institutionalised: courts operate within a defined legal framework based on dharma, the legal texts, evidence and judicial expertise, rather than exercising arbitrary power.

Comparison with Hart. Hart's secondary rules of adjudication give courts authority to settle disputes. Yājñavalkya likewise establishes institutions authorised to interpret and enforce legal norms. Unlike Hart, however, he ties judicial competence closely to ethical integrity and knowledge of dharma.

Why does this matter? This shows that classical Indian law recognised the importance of organised judicial machinery and of procedural fairness long before modern constitutional structures.

iii. Evidence and Judicial Procedure

Yājñavalkya Smṛti, Vyavahārādhyāya. The text discusses at length the use of documentary evidence, witnesses, ordeals where applicable, the burden of proof, and judicial reasoning before a decision is reached.

What is going on here? Legal validity depends not only on substantive rules but also on procedural fairness. Courts must seek the truth through recognised evidentiary standards rather than by arbitrary judgment.

Comparison with Hart. Hart's secondary rules regulate how primary legal rules are applied. Similarly, the procedural rules of the *Yājñavalkya Smṛti* establish standards for adjudication and proof.

Why does this matter? The priority given to evidence underscores that legitimacy in law depends on procedural justice alongside substantive norms, a principle still central to modern legal systems.

iv. Judicial Ethics

Throughout the Vyavahārādhyāya, judges are repeatedly advised to remain impartial, to avoid greed, to reject bias and to decide according to dharma.

What is going on here? Judicial authority is portrayed as a moral duty rather than merely an institutional role. A judge's legitimacy derives from integrity, knowledge and impartiality.

Comparison with Hart. Hart distinguishes legal validity from morality. Yājñavalkya does not. Judicial authority is legitimate only when exercised in harmony with ethical principle and with dharma.

Why does this matter? This approach merges institutional authority with moral responsibility, implying that the legitimacy of a legal system depends on the adherence of its officials to ethical standards.

v. Custom (Sadācāra) as a Source of Law

The *Yājñavalkya Smṛti* consistently recognises *sadācāra*, the customary practice of virtuous members of society, as an authoritative source of dharma, so long as such custom does not conflict with *śruti*.

What is going on here? Custom acts as a flexible, living source of law that adapts legal principle to social change while remaining subordinate to higher normative sources.

Comparison with Hart. Hart's Rule of Recognition rests mainly on official acceptance. Yājñavalkya goes further by treating socially accepted custom as legally relevant, creating a pluralistic view of law in which institutional rules and social practice coexist.

Why does this matter? Recognising custom shows the flexibility of classical Hindu jurisprudence. Law is not merely a set of written commands; it includes social practices that contribute to legitimacy, provided they align with the broader principles of dharma.

The *Yājñavalkya Smṛti* thus offers a nuanced view of legal authority rooted in scripture, tradition, custom, institutional courts, evidence and ethics. Unlike Hart's positivism, which emphasises acceptance by legal officials, Yājñavalkya envisages a normative order in which authority and morality function together. The comparison reveals that classical Hindu law presents a pluralistic theory of legal authority, one that enriches current debates in jurisprudence.

VII. CONCLUSION

Comparing H.L.A. Hart's Rule of Recognition with the recognition of dharma in the *Yājñavalkya Smṛti* illuminates how differently authority and law may be founded. Both systems are concerned above all with the problem of which rules are valid. Hart's model corresponds more closely to a modern approach, in which authority is vested in legal officials and state procedures. For him the Rule of Recognition is an ultimate rule that binds everyone in the system, officials included, yet is never explicitly formulated. The Yājñavalkya model is far less orderly.

There, recognition is not confined to officials or to a formal document; it emerges from a combination of sacred text (*śruti*), social custom (*ācāra*), personal conscience (*ātmatuṣṭi*) and morally good living (*sadācāra*). Yājñavalkya acknowledges social facts and the practical operation of law, but he locates legal science within ethics, religion and the wider cosmic order (*ṛta*), so that law is deeply intertwined with morality.

The comparison makes it possible to identify both similarities and differences. Each system must have a way of validating its fundamental rules; Hart states his explicitly, whereas Yājñavalkya relies on a hierarchy of sources from which anyone in doubt may derive the law. Both hold that law cannot subsist without the support of the community: Hart shows this through officials who follow the rules, Yājñavalkya through people who live out dharma.

Their points of disagreement are equally interesting. Hart's positivism may overlook the extent to which law rests on a deeper sense of right and wrong; Yājñavalkya's legacy may lack the

clearly defined order of the modern state, but it grounds authority in character, shared values and everyday practice.

All of this points to something larger. Every legal system must tackle the same issues, wherever it is found: deciding what counts as law, resolving disputes, and ensuring that the system remains intact. But the tools, sources and values differ from culture to culture. Settings that require clarity, stability of rules and a strong central authority suit Hart's model, while Yājñavalkya's approach is of more use to communities that regard moral duty and tradition as equally important as written law. Law, therefore, need not be codified in order to be valid and binding.

For those involved with law, whether students, scholars or interested readers, the lessons here are considerable. One comes to see that authority is not only about texts or institutions. Ethics, culture and the manner in which people live together also contribute significantly. Acquaintance with both Hart and Yājñavalkya challenges one's sense of how widespread legal problems are and, at the same time, is a reminder that the solutions always depend on the standpoint from which they are sought.

Setting Hart and Yājñavalkya side by side does more than expose their differences. It shows how law may be examined using both the rigour of positivist theory and the richness of older, more value-driven traditions. One comes away with a broader conception of how law works, why it matters, and how far it can vary across time and across cultures.
