



RESEARCH PAPER

Rule of Law in Medieval India: A Critical Analysis of Colonial Perceptions

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ABSTRACT

The rule of law in medieval India has been subjected to colonial misperceptions by Colonialists. The roots of the legal system stretched back to the ancient Dharma Shashtra tradition of Hindu laws that could be witnessed in Ramayana, the Mahabharata and the Arthashastra. Parallel to the Hindu legal system, the Muslim legal system, under Muslim rulers, was based on the laws of Sharia, also practiced on the land of Medieval India. During the colonization of the Indian Sub-continent, a new legal system was introduced. This gave a new fanatical and bigoted approach against the local Islamic and Hindu customary as well as religious laws. The named it as a despotism divine kingship and lack of structured judicial system. The research is conducted with qualitative cum exploratory paradigm to have a critical analysis of the colonial delusions and misperceptions that defile the minds of readers. This paper also examines the legal system of India during the medieval ages. The researcher has also shed light on the colonial legal system that was implemented by British colonists and damaged the legacy of the Indian rule of law to the utmost.

KEYWORDS Rule of Law, Judicial System, Medieval India, Colonial India, Colonial Perception

Introduction

In medieval times, thinkers believed the rule of law should be based on limiting rulers' power and protecting people. The Idea has roots stretching back to the 8th to the 18th century CE. The rule of law, according to this period, means that government must follow established laws, not just the wishes of rulers. Its beginnings can be traced to several early civilizations. According to this perception, the laws were primarily based on religious texts such as the Vedas and Dharma Shashtra, blending legal, moral and religious obligations. These texts provided guidelines for social conduct and outlined punishments for crimes such as theft and murder (Giri, 2007). The caste system played a significant role in shaping medieval India's legal system, as it was used to determine people's social status and legal rights. The concept was based on more than just law. It was a moral order that everyone, including kings, had to obey. During the medieval times, India saw the rise of Islamic rule and the introduction of Islamic law. The period also saw the development of Hindu law, which was codified in the Manu Smriti and other texts (Davis, 2005). The court structure took the primary position. There was a clear hierarchy, from family courts and village councils for the minor matters to the king's courts, which handled major disputes and functioned as the supreme legal authority. The king was advised on legal matters by religious scholars, primarily Islamic scholars to deal with Muslim laws and learned Brahmins for interpreting the *Dharmashastra* for Hindus. The Qazi-ul-Quzat and other learned Ulemas were assigned to deal with the matters connected to Sharia law. The king was also advised by the Wazir and a council of ministers to handle the administrative and civil laws. The legal procedures included the plaint, the trial, decision, with a strong emphasis on conciliation and mediation (Davis, Dresch, & Skoda, 2012). The jurisdiction was linked with trade guilds, and community assemblies had powers to resolve internal issues. Appeals were possible, and the king's court was the final authority. In addition, the philosophical system also contributed to the legal and ethical thinking of the justice system.

It promoted the principles of non-violence, honesty and justice. Though their main impact was more on ethics and governance than on the direct legal structure. The secular laws and the administrative system also existed in the various dynastic periods of medieval India. The regional variations influenced the rule of law. It was intertwined with partly religious and partly secular, and administration depended on the period and dynasty. A well-developed secular court system, including special civil and criminal courts, existed under multiple empires (North, & Gwin, 2010).

From the time of early medieval India to Colonial India, the concept of the rule of Law has been evolving and constantly changing in the period until the colonial legal system was introduced. The concept of the rule of law and the colonial perception of the legal system in ancient India have been questionable (Davis, 2005). The research aims to explore the concept of 'rule of law' in Medieval India and how it was misinterpreted by the colonial perspective. The *British colonial administration* claimed to introduce the modern legal system in India. However, the research examines that multiple medieval legal concepts resembling the 'modern' legal principles existed in India even long before colonial rule (Bingham, 2007). The establishment of an administrative and judicial system by the British was a deliberate effort to legitimize their rule in India. The research seeks to uncover the exploitation of Medieval India's legal order by the Wrath of the British Raj to justify the imposition of British common law in the sub-continent. Additionally, the problem lies in the critical examination of how colonial biases marginalized medieval legal practices and constructed a new legal system for India. This research seeks to investigate these colonial perceptions and participation to introduce the rule of law, measure their historical validity, and explore the legal mechanisms that existed in medieval India.

Literature Review

A literature review involves the discussion of previously published research on a specific subject. This allows an overview of scholarly work and accredited research. The authors of this research article adopted a narrative approach to report a review of the existing literature on the rule of law in medieval India and the colonial perception as pioneers in introducing the legal system.

The article "Early Medieval Law in India and Europe: A Plea for Comparisons" is written by S. Reynoldsto accumulate the record of customary law practiced in India's early medieval period (Reynolds, 2013). The main focus of the study is on the laws which were different from the Western European laws that survived in India. However, the laws practiced in the two subcontinents had rather more similarities. Precisely, in both cases, the paper highlights society's insights into the structure and norms that produced it. The author claims that comparing evidence for the origins and existence of professional law in the subcontinent is more challenging. Taking care of all the possible reasons for the origin of European legal professions suggests that it is worth questioning the assumption that there was no professional law in early medieval India.

Pradeep Kulshrestha, D. Tripathi, and Irfan Rasool Najar wrote the article "The Overview and Origin of the Legal Principle of Rule of Law" (Kulshrestha, Tripathi, & Najar, 2020) to explore the revolutionary nature of the constitution following the question of whether there was rule of Law in India before colonialism. There was a perspective that the rule of Law was introduced by the British Colonial rule in India. The administrative and judicial order was established by the British. This system became the bedrock of the legal system of India after independence. The study mainly focuses on the legal principles of the rule of Law which had evidently existed since the time of medieval. The research paper starts with the debate of what is rule of law is and the fine definition of the law's supreme authority, no one is above the law. The research mainly revolves around the concepts of Dicey, like law is the supreme command and no one is prestigious before it. Equality is

prestigious in the eyes of the law of their land. The writers focus on the origin and genes of the rule of law while laying down the merits and demerits of the rule.

In “Law, Literature, and the Problem of Politics in Medieval India”, (Cox, 2010) author explores the complex intersection of legal discourse, literary customs and political authority in the medieval period of South Asia. The writer uses an interdisciplinary approach to analyze the functions of law and literature to shape the political landscape of the contemporary period. The book also investigates the particular Sanskrit legal as well as literary texts to analyze their role in articulating and negotiating authority, governance, and norms of the society. The research delves into the wider implications of these interactions, interrogating how textual practices influenced the political legitimacy and cultural manufacture of the empire. Cox projects a unique perspective on the relationship between power and culture by utilizing Indian texts within a historical context. This work signifies the contribution of South Asian history, legal studies, and literary analysis. It presents a fresh understanding of the complexities regarding medieval Indian politics and culture.

The book “Paper, Performance, and the State: Social Change and Political Culture in Mughal India” (Hasan, 2022) examines the dynamic relationship among bureaucratic practices, social transformation and political performance in the Mughal period. The writer signifies the role of documentation for example royal edicts and administrative records as an essential instrument for effective governance. The book indicates the ways and procedures of shaping the state authority and societal structure through the use of written words. It juxtaposes the role of Qazis in legal matters as well as property transactions especially in resolving land disputes. They often collaborated with local authorities to safeguard the rights of commoners. The writer points out that, according to documents, property transactions were not considered valid solely based on signatures. Hasan illustrates the political culture, court sacraments, and public rituals of the Mughal Empire to reveal authority and power in both material and symbolic forms. While observing the culture of legal pluralism, the book focuses on the diversity of the legal order in the Mughal states. Conclusively, the book endures the concepts of the Mughal Empires’ relationship with local powers, legal pluralism, property relations, identity conflicts and various forms of social communication.

The research article “Barristers and Brahmans in India: Legal Cultures and Social Change” (Rudolph, Rudolph, 1965) explains the interaction between the legal system and societal transformation from colonial to post-colonial India. The research examines the role of Barristers, qualified by the British legal system, and Brahmans, custodians of classic norms, in the procedure of determining the legal culture. The authors provide a thorough analysis that showcases how these people mediated tension between the Western and Indian traditional legal systems. The study explores the hybridization of legal concepts, practice and impacts on wider societal changing aspects. The paper offers a vision to understand the concept of how the legal system operates and reforms in the medieval as well as colonial phases. It provides a profound connection of legal study, history and sociology for the contribution to the research. The misconception of English men that “Justice in the East had never known before” is reinvestigated by the authors.

The work “The Jurisprudence of Emergency Colonialism and the Rule of Law”(Hussain, 2019) critically analyzes how the British developed the rule of law to justify the use of emergency powers and extraordinary measures in India. The research also examines the evolution of the colonial state's rhetoric and the development of authoritarian rule in colonial India. The author investigates the interaction of competing ideologies in the liberal legal system as well as the universal rational operation of the law on the soil of India. The book profound critique of the rule of law by highlighting these issues and the broader historical and theoretical framework of colonialism. This work is an exquisite contribution to the post-colonial studies, the history of colonial governance and the legal theory. The

study examines the means and measures of Colonial rulers in the development of Western legality.

The chapter “Colonialism and the Rule of Law” in the book “Mr. Mothercountry: The Man Who Made the Rule of Law,” (McBride, 2016) examines the relationship between colonialism and the rule of law. However, it seems contradictory, as colonialism inherently revolves around the exercise of power, whereas the rule of law is supposed to be constrained the power. The research examines the British complex stance on justifying the rule of law while simultaneously utilizing it as a governance tool. The chapter indulges in the debate to overlook the British’s motive of marginalizing the indigenous justice system by establishing legal institutions. The research also explores how colonial subjects struggled and adapted to these foreign legal structures. The text reveals the tensions between imposed authority and local communities. The chapter proposes a nuanced critique of the rule of law as an instrument of colonial domination by initiating the debate within the wider historical and ideological contexts. In addition, it mirrors the discourse on legal imperialism and its role in modifying modern governance.

The book “Negotiating Mughal Law: A Family of Landlords across Three Indian Empires By Nandini Chatterjee” (Hasan, 2022) provides a reconstructed archive of Persian, Marathi and Hindi documents. The writer delivers an exclusive micro-history of a family of landlords who lived in Malwa, central India. By taking a unique route in the research, the author explores the regular interaction with imperial elites, villagers and marauders. He represents a new historical method to collect the pieces of evidence from below of the Mughal Empire away from the nobility and the courts of the emperors. The book has a two-fold perspective, on the one hand, a reader sees the subjectivity of emotions in war, violence, betrayal, romance and disappointment. Conversely, it offers an objective perspective on the research regarding rights, law, and justice within the state structure. It also comprises a rare story of Islamic law in a non-Muslim populated society.

Material and Methods

The researcher has employed the qualitative and analytical research design with descriptive and exploratory approaches to unfold the structure of the rule of law in Medieval Indi and a despotic colonial perspective on it. The explorative approach helped to divulge into the legal system of India during the medieval ages. The analytical approach has also unwrapped the colonial legal system implemented by British colonists, which damaged the entire perception about the legacy of the Indian rule of law.

The conceptualization of the Rule of Law

The contemporary idea of ‘*the rule of law*’ is tied to the notion that society must be governed by law, not by men. This modern concept holds that all individuals and organisations within the state, whether public or private, are entitled to the benefit of important laws prospectively promulgated and publicly administered in the courts. These several principles are essential to elaborate on the definition of the *rule of law*. Firstly, the law should be *clear and accessible* as well as intelligible to the public intended to obey the law. Secondly, the system should be *governed by the law and not discretion*. The public should not be the arbitrary whim of some autocrat or any supreme authority. Thirdly, the *equality before the law* illustrates that, regardless of social status, the law should apply to all people equally in society. Fourthly, the *exercise of public powers*, for instance, the act of government conferred by statute, is exercised in the state within the bounds of the constitution and the law. Fifthly, the *litigation must not be expensive for the public*, i.e. dispute resolution in private or official matters must not be out of the general public's reach. Sixthly, an important principle is that the *state should provide fair trials*, i.e. the people must be treated equally regardless of any interference or social status in society (Bingham, 2007).

It is said that the law must mirror the will and wishes of any society. If someone wishes to know about any society, one has to dig into the study of laws enacted by the society to uncover the reality of its development. Law helps a society to transform into a better and more civilized shape. However, this aspect is divided into two factors that help to facilitate social interaction. In a society, the law aids in regulating disputes and conflicts. It also presumes that equilibrium in the social system can be restored when it becomes unbalanced.

The Conceptualization of the Judicial System in Medieval Times

The concept of the judicial system and the rule of law in medieval times was quite different from contemporary times. It was primarily based on the idea that the law was expected to govern society collectively. Although, the purpose of government was to protect the freedoms of individuals. This idea was followed in medieval and even in early modern legal thoughts of Europe, as well as influencing Indian scholars. *Aristotle* famously quoted his political thoughts that "it is more proper that law should govern than any one of the citizens." *Cicero* articulated the main objective of the rule of law while stating in *Pro Cluentio* that: "We are all servants of the laws in order to be free" (Rubin, 1997). The contemporary understanding of the rule of law opposes absolute, despotic, and tyrannical rule that surfaced in absolute monarchies. *Wawrzyniec Goslicki*, a 16th-century Polish thinker, correctly synthesized this idea by saying, "Kings Rule under the law and by law, and the main goal of their rule is that freedoms are respected" (Wagner, Coleman, & Haight, 1958). The *common law concept*, the rule of law, grounded in traditions and customs of society, relies on the institution of legal precedent. *Samuel Rutherford*, first comprehensively articulated this idea in his influential work titled *Lex, Rex*, which proclaimed the radical concept that rulers are subject to the law. On the contrary, the continental idea of "*Rechtsstaat*" often translated as "rule of law state" emphasized identical principles but focused primarily on positive law and a system where the creative power of the state operates strictly on law within the boundaries of a state (Gillespie, 1846)

Indian Medieval Thinkers and Their Contributions

The imprints of western's concept of the rule of law could hardly be found directly in Indian medieval scholarship. The Indian medieval intellectual exchange occurred indirectly through the religious-philosophical tradition of Islam, which epitomised the absorption of Greek and Roman political ideas (Seaford, 2020). The medieval Indian thinkers notably contributed in a shared 'Afro-Eurasian intellectual tradition'. The Islamic intellectual political philosophy was associated with the concepts of justice (*adl*), supremacy of law, and limits on rulers (Lawrence, 2009). These ideas were incorporated into Indo-Islamic political thought by well-known scholars such as Al-Farabi and Ibn Rushd. Their works were a mirror of the transformation of Aristotelian political thoughts into Muslim intellectual culture in medieval India (PolSci.institute, 2025). Subsequently, the late medieval Indian conceptualization of rule of law and justice emphasized the notion that rulers under monarchy were legally and morally accountable. These ideas were developed with a different kind of thoughts comparable to other civilizations' concept rule-of-law.

Ziauddin Barani (14th century)

Barani's indo-Islamic political thoughts, especially *Fatawa-i-Jahandari*, signified the concept that a ruler's legitimacy depended on enforcing the justice system and obeying divine laws. The scholarship argued that kingship must be confined legal and moral principles instead of arbitrary will. His philosophy put forth the idea of broader rule-of-law traditions where authority was expected to subordinate before higher norms (Roy & Alam, (2017).

Abul Fazl (16th century)

Abul Fazal, the chief ideologue of Emperor Akbar's court, articulated a classical theory of sovereignty in notable works *Ain-i-Akbari* and *Akbarnama*. He braided Persian-Islamic ethics with rational governance and justice system. He proposed the idea of '*sulh-i kul*', unfolded the governance system which ensure welfare, justice, and harmony under a ruler. His thought mirrored medieval Indian philosophical traditions where law and reason obliged political authority.(Forogh, & Samimi, 2021).

Legal Scholars of the Mughal Period under Aurangzeb (17th century)

In the middle of the 17th century, the systematized Islamic jurisprudence for administrative purposes was framed by the compilation of *Fatawa-e-Alamgiri*. This effort to standardize legal practice surfaced an attempt to introduced institutionalize governance through law instead of glorifying personal rule (Aurangzeb, 1931).

Dara Shikoh (17TH century)

Dara Shikoh's comparative approach, known as more theological than juridical, promoted the idea of universal moral truths by underlying law and justice. His intellectual synthesis synchronized with the idea of broader ethical foundations of governance under the strong foundation of justice (Sengupta, 2015). Dara Shikoh signified the comparative method in his well-known works like *Majma-ul-Bahrain* and '*Sirr-i-Akbar*', the Persian translation of the Upanishads. With the help of his theoretical work, he tried to convince that all the religions might have different cloaks but they share the same spiritual truth. He argued that justice, rule of law and moral order could not be framed into one legal traditional system but surfaced from a universal divine source. His scholarships promoted the theological orientation, including the idea that law must be enrooted with ethical justice core instead of rigid formalism. Under the Mughal Empire, Islamic law (*sharī'a*) was tangled with imperial regulations (*zawābit*) as well as local customs. Dara chose a different method and emphasized the idea of better governance in moral responsibility and social fairness (Ali, 1996).

Sources of the 'Rule of Law' in Medieval India

The concept of the rule of law in classical medieval times in India is quite different. Although the term "*rule of law*" assumed in the colonial jurisprudence was not present in the era. Medieval Indian societies had a quite well-established structure of governance and a justice system that stressed accountability, fairness and the protection of civil rights. After the Muslim invasions, it more likely revolved around the concept of Islam. It begins with the history of Muslim arrival on this land and ends with the colonial period. The British perception regarding the rule of law is quite questionable over here. Because, the people had been receiving just in one form or another at particular times. The sources of information about the rule of law in medieval India, covering the portion of Indian history from 1200 to 1857, were limited. The process and evolution of the medieval justice system concept fell into four main categories; *justice works*, *mirrors for princes*, *administrative handbooks* and *philosophical works* (Ahmed, 2016). These works were the reflection of contemporary times, and even the divisions between these works were hard to find. The amalgamation of one categorical work into another was convenient to understand. The works of classic Muslim political thinkers revolved around the concerns of contemporary political ideas and religion. As the *jurist Prof. F. Rosenthal* described, the question could not be really valid about how the state had originated and how it must be. The history was concerned only with the functions of Islamic principles along with the application of laws, Sharia, and last but not least, the defence of orthodoxy against heterodoxy (Rosenthal, 1997). The fundamental schools of the Islamic religion shared the belief that the creation of mankind was based on the worship of God and regulated a just social order within society. The Day of Judgment would come for humans to be judged based on their individual piety,

or “*taqwa*,” as well as their public dealings. Similarly, Islamic laws synthesized provisions concerning rituals, “*ibadat*” and civic duties “*mu’amalat*”.

To understand *the rule of law* in reference to medieval India, it would not be less worthy to mention the late 12th-century quotation:

“To acquire wealth:

Make the people prosper.

To make the people prosper:

Justice is the means.

O Kriti Narayana!

They say that justice is the treasury of Kings.” (Darling, 2002)

The verse was taken from the sixteenth-century Rayavcakamu. According to its translator, Philip Wagoner, who “quoted from the Telugu Niti of Baddena (12th to 13th century), probably derived from Islamic originals” (Rao & Subrahmanyam, 2009). Both the quotation and source were written in Vijayanagar, outside the Islamic territory, but not apparently outside the range of Islamic influence. The expression of this idea of justice in India during the Delhi and Mughal Sultanates offered a glimpse of the availability of law for the subjects used by the rulers (Rosenthal, 1997). As well as, the development of institutional arrangements to ensure the rule of law. In the Middle Eastern context, the idea of this verse was referred to by the name “*Circle of Justice*” and frequently quoted in the following lines:

“There can be no government without men,

No men without money,

No money without cultivation,

And no cultivation without justice and good administration.”(Darling, 2002).

The impacts of the rule of law on social life

The conceptualization of justice here not only meant equality before the law but also ensured the prosperity of agrarian society including protection, working infrastructure, stability of administration, and provision for peasant subsistence. The idea of governance by the ruler who wished to provide justice at a broader base to cultivators and in return, they expected to provide taxes to the treasury. Soldiers were paid to protect the kingdom and suppress the expected unrest, promulgate the rulers’ decisions and refrain from preying on the under-protected people. Autocracy in Medieval India symbolized inequality within the justice system but sought to mitigate its worst effects on the public. The medieval concept regarding the rule of law was influenced by the *Sasanian Persians*, but its roots could be traced back to the *Mesopotamian era* of Hammurabi (Rudolph, L. I., & Rudolph, S. H. (1965). Early in the third millennium BCE, the elements regarding the rule of law and justice surfaced together in Sumerian royal engravings. The divine favor and the idea of true leadership were at the heart of *the rule of law* in the Middle Ages. The concept illustrating the rule of law and justice was repeatedly revived in the ideologies of ancient Indian literature too. The *Kautilya's Arthashastra* quoted the elements of sovereignty as:

“The king, the minister, the country, the front of the treasury, the army, and the friend and the enemy are the elements of sovereignty.”(Kautilya, 1992).

The concept of justice in *Arthashastra* by *Kautilya (Chanakya)* was knitted with the principles of *Nyaya (justice)*, *Dharma (righteousness)*, and *Rajaniti (statecraft)*. The approach was considered highly pragmatic, emphasizing order, administration to justice, good governance, and prosperity for the state. Kautilya's idea of justice was entangled with the concept of kings' primary responsibilities. According to him, the ideal King had to "look after the affairs of both citizens as well as the people of the country" (Kautilya, 1992).

Similarly, the dynasty of *Khusrau 1 Anushirvan (531-579 CE)*, followed the two particular concepts, wealth engendering power and justice engendering wealth in Iran. He earned fame for hanging up the bell outside his palace aiming to provide justice to everyone, who was seeking it. The cultural connection between Iran and India was evidently highlighted in contemporary discourses. The transportation of political wisdom to Iran in the shape of translation of the *Kalila and Dimna* stories from an ancient Indian wisdom book *Panchatantra* (Abdelsadek, 2014). From the start of the eighteenth century, the early Indian Empire was in connection with the enormous Islamic empires and experienced migration, cross-cultural communication, and the most intense cross-border invasions often on the southern and western coasts. These invasions opened the way for religious and army professionals to arrive in India from Central Asia, Iran and Afghanistan to the rest of the Muslim world. This development helped the literature of the wider Islamic world to be introduced in India and studied on its soil.

The Doctrine of the 'Rule of Law' under Muslim rulers

The idea of justice and the rule of law was quite familiar to the *Ghaznavids*, the forerunners of the Delhi Sultanate. The concept of justice could have been taken from the *Bal'amis*, which was the Persian translation of the "Tārīkh al-Ṭabarī" (History of al-Tabari). It was written by *Abū Ja'far Muḥammad ibn Jarīr al-Ṭabarī (839-923 CE)*, a Persian scholar and historian, and was considered the most influential and comprehensive historical work in Islamic historiography. The second source could be from *Samanids'* local historians or works of adab (political knowledge), gathering noteworthy quotations and wisdom literature on the art of governance (Dow, 1772). *Sebuktegin*, founder of the Ghaznavid ruler, included it in this political testament to his son Mahmud. He advised his son to keep the public and private treasuries in a prosperous condition. He was convinced that the kingdom could only be retained from the wealth and wealth could not be achieved without good governance and wise statesmanship. However, the achievement of good governance could not be possible despite justice and righteousness. Later on, the Delhi Sultans imitated *Ghaznavids'* search for legitimization through the practice of Sunni Islam. The Sultans used to link themselves with Persian monarchical traditions, comparing themselves with *Alexander the Great*, naming their sons after the legendary kings and supporting an elaborate court life as well as social hierarchy. Like Ghaznavids, the Delhi Sultans had a confusing relationship with the idea of the rule of law. The contemporary royal inscriptions stressed the power dominance more than the justice and named them the "most exalted king of kings" (Siddiqi, 2010). The idea of justice under the *Qutb ud-Din Aibak*, the Sultan of Delhi, was also founded in the work "Taj al-Ma'asir" by *Hassan Nizami's* the thirteenth-century historian. The work deliberately contained a section to advise the king to make the earth populous with the help of crafting a justice system as well as equity. Additionally, the discourse further explained that peace and order could not be possible without the safety of roads, bridges, highways, and military posts (Meisami, 1990). The Sultan Shams-ud-Din Iltutmish was considered one of the most significant sultan of the *Mamluk Dynasty* in India. His kingship was known for the foundation of strong administrative and legal structures based on Islamic law (Sharia), influenced by the Turko-Persian traditions as well. The *Ulemas and the Qazis* had played significant roles in administering justice at different levels. Their presence symbolized the application of Islamic jurisprudence, resolving disputes according to Islamic law. The idea of just and fair governance was that "the ruler should rule with equity over the subjects and not distressed the subjects by tyranny" (Siddiqi, 2010).

Zia ud Din Barrani, a courtier of Sultanate Muhammad Taghluq (1325-1351), was the most important political thinker of Sultanate India. He wrote “*Tarikh-i-Firoz Shahi*” (Barani, 2004). His book comprised bits of advice to the king regarding political and legal issues that were shaped by principles of Islamic governance and aristocratic traditions. For example, he believed: “Religion and Justice were twins” as well as “The honor of Justice was better than seventy years of devotion” (Barani, 2004). However, his idea of governance was not based on the equal treatment of Hindus and Muslims. Nevertheless, the Taghluq regime did not really follow his advice on this particular issue. *Barrani’s* political wisdom revolves around the concepts of equality before the law, relief of distress and mainly the protection of the weak. Primarily, the idea of justice was braided with the noble class, and the common people played no significant role. He quoted in his book that the prosperity of the earth had been maintained through the justice of the men of equity (Lal, 1950).

In Medieval India, the concept of the “*Ideal Sultan*” could be taken from the writings of *Amir Khusru* where he depicted that only one person could be called the real sultan, within whose territory not a single man went to bed starved or without clothes. He resembled the king with the Shepherd. The concept of good administration was closely associated with the achievement of the rule of law within the kingdom. For instance, *Illtumus* ordered the supply of water reservoirs in Delhi. *Balban* restored ruined villages and constructed roads. *Ghiyath al-Din Tughluq* (1320-1325) introduced the canal system, built bridges, and lowered agricultural taxes to ensure the prosperity of the public. *Sultan Muhammad Tughluq* took care of the wells' construction and provided seed grains during the famine (Chandra, 2007). His ultimate desire was to be known as “The Just King”. *Feroz Shah* brought the wasted, barren land under cultivation and initiated new irrigation work for peasants. He ordered to forgive the loans and erased the non-Quranic taxes, as well as put all his efforts into the infrastructure construction. *Sher Shah Suri* (1540–1545) was known for his agricultural development policies. His administration followed the concept that violence and crime could halt the development of prosperity in the region. He initiated a strong legal system in India. The idea regarding the rule of law under his kingship was based on administrative efficiency, justice and enforcement of laws to ensure equal treatment for all the people regardless of their religion. Historians marked him as a Just ruler, i.e. he established courts of justice in every possible place. Every single morning, he used to ask, “If there were any oppressed or injured left, so he could pay them the dues” (Eraly, 2015). The most important role was played by his court officials called ‘Amir-i dad’. They used to preside over the *mazalim* court. Most of the time, they used to listen to complaints registered against the noble governors and military officers (Siddiqi, 2010).

The Idea of ‘Rule of Law’ in the Mughal Dynasty

The Mughal dynasty (1526-1857) in north India traced its ancestry to *Timur*, the creator of the Central Asian Empire, which was the most illustrious centre of the 15th-century world. Mughal rulers struggled to replace the Sultanate’s rule under the influence of legitimacy, inheritance of Chingiz Khan’s mandate and support for Islamic culture (Farooqui, 2011). The Mughal dynasty’s idea of the *Rule of Law* evolved under many emperors, mostly woven by *royal decrees (Farmans)*, *Islamic laws* and *local customary laws*. *Babur* (1526-1530) the first Mughal ruler had the idea of justice but didn’t speak much of his thoughts about the rule of law in “*Baburnama*”. The memoirs of kings, the chronicles of courts and historical documents had not given the glimpse of information about the systematic structure of rule of law. The attention of contemporary writers was occupied with political change and battles. However, several masterpieces i.e. *Ain Akbari*, *Akbar Namah*, *Fatawa Jahangiri* and *Fatawa Alamgiri* gave much information about the legal and governing system of the Mughal emperors. Apparently, the propagation of Islam as a religion and the implementation of *Shari’ah laws* were not the ultimate desire of Mughal Emperors. Most of them followed the compromised religious policies to rule over the multi-religious people to worship and live freely. Mughal administration followed the policy of “*Sulh kul*” to implement the rule of law in India (Alvi, 1989). Under the Mughal Empire, Islamic laws were

applied to Muslims in civil cases. Hindus and Muslims were treated same under the criminal law. The private matters like inheritance and marriage etc., both communities had access to their own laws.

The concept of punishment in the Mughal dynasty was influenced by the Seljuk Empire. However, the Mughals also accepted elements from *Mongol, Persian, and Indian legal traditions* to establish their own system of justice and governance. The first sphere of punishment was the '*ruler's private habitat*' that was the court and within the palaces. For instance, *Emperor Jahangir* was famous for his idea of justice. He installed the golden chain named "*Zanjeer-e-Adl*" (*Chain of Justice*), to allow people to appeal directly for a fair judgment from him (Alvi, 1989). The second sphere of the punishment was '*Semi-Private*', which contained the semi-official environment of the king's military and criminal tribunals. These courts were supervised by the emperor, *Qazis (Islamic judges)*, and military commanders to handle legal disputes regarding criminal offences committed within the army. Islamic laws were followed in these tribunals alongside imperial regulations to seek justice. The third and last sphere of punishment was used to hold in '*the place of public gatherings*' in the city. The public flogging, execution or amputations were given for several crimes like adultery, theft, blasphemy and rebellion. The brutal punishments for instance burning alive for severe crimes, elephant trampling for traitors, or public beheadings, were common under this sphere of punishment. The most notable examples of public flogging of Qazi Nurullah Shustari and execution, including the beheading of Sikh *Guru Tegh Bahadur*, were carried out by the order of *Emperor Aurangzeb* (Lange, 2008).

An Analysis of Colonial Perception

The Muslim judicial system generally missing from the many discourses in the historiography of India which allowed the coloring of colonialism on the perception regarding the rule of law in India. The opportunity was even ignored by the most renowned works in India for example, *Oxford History of India* by *A.V. Smith* (Smith, 1992), *Akbar to Aurangzeb* by *Edwards and Garrett*, the *Mughal Administration* by *W. H. Moreland* and many *other books* (Moreland, 1923). The misleading perception was that despite the utterly elaborate government machinery, there was no working system of ruling law courts in Muslim dynasties. The main argument, "basic defect" placed by the modern intellectuals from the Department of Law and Justice was that a system or organization was absent in medieval Law Courts. There was neither the regular gradation from the highest to the lowest nor any orderly division of courts in proportion to the area to be served by the court system. According to *Macdonald* about the Muslim Judicial System, "the Muslim Regarding the administration of justice as a duty, and with their armies everywhere, went law and justice such as it was, jurists, accompanied by each army and were settled in the great camp cities which were built to hold the conquered land" (MacDonald, 1903). A very notable passage had succeeded in capturing the attention of the report on judicial reforms submitted in 1772 to *Warren Hastings, Lt. Col. Alexander Dow*, a well-known civil servant of the East India Company, said that the court of justice ran through the same generations, which the general reasons of mankind seemed to have established in all countries subject to regular governments. The provinces were divided into districts, in each of which a judge appointed by the Emperor decided in criminals as well as civil affairs... In a dispute concerning property, there lay an appeal to the Supreme Court in which the viceroy presided in person... There arose a chain of appeal from the lowest to the highest" (Dow, 1918). It appeared that the presence of the judicial system in medieval times and its legacy to contemporary times was not completely unfamiliar to the colonial authorities. The colonial historical amnesia about the classic role of law uncovered the fact that the British didn't bother to embrace the truth about the medieval concept of the law system. The colonial perspective labelled the entire pre-colonial judicial system as offensive and outdated.

The historical evidence supported the idea that there was a workable rule of law system in medieval India suitable to the particular period. Many popular, terrific books were

written by *Muslim scholars*, law officers or judges of repute. In medieval times, there was no documentation of cases as it used to be in colonial times; however, in *Aurangzeb's era*, the preservation of orders related to court records and the circulation of famous judicial decisions among the Qazis were quite in practice (Truschke, 2018). It is rather noticeable that the *Mughal Empire* had earned the repute of a vast paper regime. It strengthened the capabilities to govern state affairs and the rule of law. The efficacy of governance was demonstrated by the extensive usage of written documents in practically every state activity. From the ones undertaken at the imperial court to the ones carried out by petty officials in the smallest unit of administrative organization, the pargana. The textual practices were actually intricately braided with performative traditions and cultures of orality (Hasan, 2022).

The colonial perception regarding the rule of law in medieval India was crafted by British historians and administrators who tried to justify their despotic colonial rule by idealizing their colonial constitutional rule. They claimed that medieval Indian rule, especially under the Delhi Sultanate and Mughal Dynasty, was deprived of a codified legal system that relied on monarchs and religious nobles (Prashad & Prasad, 1964). The misperception of colonial mindsets that the modern legal system was established only a couple of centuries back. This interpretation swayed the minds with the twisted perception that the medieval period ran without any legal system. However, the historiography of the medieval rule of law showed that the foundation of the modern rule of law was based on the ancient traditions and growth of the past judicial system. Even though British colonial rule adopted the existing customary laws into their legal system for governance. These laws were codified and interpreted through the introduction of "Anglo-Muslim Law" and "Anglo-Hindu Law". The foundation of these laws was based on the interpretations of religious scriptures by Muslim Qadis and Hindu Pandits, respectively (Rahman & Kahn, 2018). These laws were perceived as the fundamental base for the colonial legal framework in India. Without understanding the ancient concepts of justice and the rule of law, the colonial legal system in India could not fully comprehend its foundation.

British officials like *Thomas Macaulay* and *James Mill* argued that the lack of uniformity and documentation in medieval laws became the cause of reinforcing the colonial narrative about British governance and legal order (Singh & Maheshwari, 2024). Nevertheless, the colonial perception about the legal system of medieval India could not be justified by the argument that the absence of a legal system gave the space to rule out a blend of royal, religious and customary laws. The ignorance of the colonial mindset about the complexities of Indigenous laws promoted the colonial perception that British rule introduced the rule of law in India.

Conclusion

The rule of law in Medieval India could be examined in terms of the documentation of the relationship between the monarchy and society in meting out justice. Unlike the colonial perception, a Muslim scholar in medieval India was surrounded by the concept of punishment, legal dimensions of justice, and the diverse nature of trials that existed in different shapes. In Medieval times, multiple sources approved that the projection court structure, family courts and village councils were used to handle major and minor issues indicated the practice of the rule of law by the king himself, as well as the *Qazi-ul-Quzat* and other learned Ulemas. The Islamic scholars were meant to advise the King in matters of Sharia laws, and the Hindu Brahmins were appointed as the primary royal counsellors, interpreters of Dharmashastra (Hindu Laws), and scholars to define legal matters. The jurisdiction was linked with civil matters and community assemblies to resolve internal issues. Public appeals were possible, and the king's court practiced as the final authority. In addition, the philosophical system also contributed to the legal and ethical thinking of the justice system. Hence, Medieval India gave such a marvelous example of interplay between theory and practice in Islamic Sharia laws as well as customary laws for other communities.

Conclusively, the festering colonial perceptions were the epitome of giving green signals to legitimization of colonial policies, i.e. introduction of English courts, codification of brutal laws, as well as the implementation of Western-biased legal principles. Conversely, the colonial claim and historical documents revealed that British legal reforms served the colonial interests and more often became the cause of massive disruption to the local legal traditions. They even hijacked the true essence of customary laws after making them part of their colonial civil laws.

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