

HISTORICAL DEVELOPMENT OF PERSONAL LAWS IN INDIA

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ABSTRACT

India is a land of diverse religions which are governed by their own religion personal laws. Since long, these personal laws were governed by their self-sanctioned customs and usages, which can be traced through the ancient religious scriptures, after the British rule in India, the consciousness to codify those texts got popularised. As a result several law reforms were made from time to time, but they certainly curtailed the essence of fundamental rights of the constitution as they were derived from the ancient customs and India has a history of patriarchal customs, considering men to dominate the system. From the judicial activism in cases like triple talaq and Christian bequests case, efforts have been made to promulgate Art. 44 regarding the implementation of Uniform Civil Code which is necessary to ensure the protection of equal rights of both men and women and keeping in mind the nature of secularism in India.

Keywords: Personal laws, Historical development.

INTRODUCTION

India goes the distinction of being a home for all the major religions of the world, it is for this reason that it is often described as 'Land of Religious Toleration'. The History from past 4000 years gives testimony to this claim which portrayed that the ancient sacred texts and words on polity are the documents on religious toleration. A noteworthy effect of their rule was the emergence of a new synthesis of Hindu and Muslim doctrines. With the establishment of British rule, India came in contact with secular ideas and thoughts of the west. Attempts were made to harmonise western doctrines and concepts with those of India. The Indian Constitution passed in 1950 guaranteed to every person subject to necessary limitations the right to profess, practise and propagate religion. It must, however, be stressed here that although the theme that underlines the constitutional

provisions, takes into account the western ideas, it is essentially Indian, being the product of her history and tradition.[1]

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Indian Society is governed by Hindu, Muslim and British legal system where the Britishers essentially put emphasis on the codification of laws and enactment of some other laws like the Kazi Act, 1881 as an example, but as far as personal laws are concerned, Britishers left them untouched but decisions of the courts influenced them. Present Indian society has inherited from the three different and distinct legal systems - Hindu, Muslim and British. The personal laws of Hindus and Muslims find their source and authority in their religious ancient texts. Since ancient time religion regulated almost every aspect of human life both public and personal. Religion was the guiding force of the all the aspects like crime, trade, evidence, procedure etc., which with time confined to marriage, maintenance, minority, guardianship, adoption, succession and inheritance the development of which is further divided into sub-parts which include the time of ancient India, Medieval period and the British Rule.[2]

The Constitution of India guarantees freedom of conscience, Freedom to profess, practise and propagate religion, however is subjected to certain limitations imposed in it. India, being a secular country, allows the existence of various religion and does not promote any particular religion. To secure the essence of being secular, there exists different personal laws reserved to every religion governing its practice of marriage, divorce, inheritance, adoption etc., through it. Some of these laws are codified like Hindu Marriage Act(1955), Hindu Succession Act (1956), The Muslim Personal Law (Shariat) Application Act, (1937), Dissolution of Muslim Marriage Act (1939), The Indian Christian Marriage Act (1872), Special Marriage Act (1954) etc. Though they are codified and are absolute in nature but this does not prevent them to be tagged as arbitrary towards some sections of the society, especially the women.

CONCLUSION

Therefore in a nutshell it is concluded that in India there are existence of many personal laws which are diverse in nature, It is not atoll easy in our India where large no of different religion exists. But in order to maintain the uniformity among them the state have to take an initiative.

REFERENCES

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