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HINDU LAW

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GROUP : 20LL10A

TOPICS

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INTRODUCTION

- **Hindu law**, as a historical term, refers to the code of laws applied to Hindus, Buddhists, Jains and Sikhs in British India.
- Hindu Law is a body of **principles or rules called 'Dharma'**. It lays down the laws which regulated Hindu nationals, social, family and individual obligations. Dharma are considered as the law in the Hindu philosophy. ... Hindu philosophy is based on dharmaśāstra and these dharmaśāstras have been taken as a tool for justice.
- Hindu law is divided into 3 categories:
 1. Classical Hindu Law
 2. Anglo-Hindu Law
 3. Modern Hindu Law
- Hindu Law in different Countries

1. CLASSICAL HINDU LAW

- John Mayne, in 1910, wrote that the classical Hindu law has the oldest pedigree of any known system of jurisprudence.
- The term "Hindu law" is a colonial construction, and emerged when the colonial rule arrived in South Asia, and when in 1772 it was decided by British colonial officials in consultation with Mughal rulers, that European common law system would not be implemented in India, that Hindus of India would be ruled under their "Hindu law" and Muslims of India would be ruled under sharia (Muslim law).
- However, Hindu law was neither mentioned, nor in use, nor codified, during the 600 years of Islamic rule of India.

2. ANGLO-HINDU LAW

- It has 2 phases:

- 1.(1772-1864)

- The early period of Anglo-Hindu Law (1772–1828) was structured along the lines of Muslim law practice. It included the extracted portions of law from one DharmaŚāstra by British colonial government appointed scholars (especially Jones, Henry Thomas Colebrooke, Sutherland, and Borrodaile) in a manner similar to Islamic al-Hidaya and Fatawa-i Alamgiri. It also included the use of court pandits in British courts to aid British judges in interpreting Shastras just like Qadis (Maulavis) for interpreting the Islamic law.

- 2.(1864-1947)

- In 1864, after the East India Company was dissolved and India became a formal part of the British Empire, Anglo-Hindu law entered into a second phase (1864–1947), one in which British colonial courts in India relied less on the Muslim Qadis and Hindu Pandits for determining the respective religious laws, and relied more on a written law.

3. MODERN HINDU LAW

- Legal recognition to civil marriage in Hindu society & inter-faith marriage in India
- Legal recognition to inter-caste marriage, abolition of polygamy & introduction of the concept of divorce in Hindu society.
- Mandatory enforcement of the protection of civil rights of SC and ST people by **The Untouchability (Offenses) Act (1955)**
- Legal recognition to adoption of Hindu children outside the family, irrespective of the caste of the adopter.
- Hindu Marriage Act (1955)

COUNTRIES FOLLOWING INDIAN LAW

- NEPAL
- SRI LANKA
- BANGLADESH
- INDONESIA

SOURCES OF THE HINDU LAW

- Sources of Hindu law can be divided into ancient sources and modern sources.

A. Ancient Sources:

- **Shruti:** Shruti means to hear, it is derived from the word “shur” which means to hear. Shrutis are considered to be the major source of Hindu law. Another term for Shruti is Veda. according to Hindu law, there are four Vedas namely, Rigveda, Samveda, Yajurveda, Atharveda. The brahmins used to pronounce what is written in these Vedas to the people. Since brahmins were considered to be knowledgeable people whatever they said was of supreme importance and it was considered to be the law of the land, therefore shrutis contain what is written and pronounced by the brahmins. Brahmins also tell us about the duties that the individual has to follow and how to perform these duties. The Upanishads contain the essence of these duties.

- **Smriti** :Smriti is derived from “smri” which means to remember. Smritis are those parts of shrutis which the sages forgot to tell in their original form and therefore wrote down in the language which they were familiar with, therefore shrutis are considered to be the basis of smritis. There are 2 kinds of smritis first is Dharmasastras and the other is Dharmasutras. Dharmasastras contains the rules regarding the moral code of conduct for Hindus, whereas Dharmasutras contains the rules regarding government, caste, the relationship between people, economic affairs, eating habits, etc. There are many smritis that one can not count but the two famous smritis are Yajnavalkya smriti and manusmriti. Manusmriti is also considered to be the first law book written by Manu.

- **Custom:** Customs are the most important and the oldest form of lawmaking, customs mean the traditions, practices, activities, that people have been following for generations and overtime recognized as law. Indian law has recognized 3 types of custom namely:
- **Local customs-** These are the customs that are prevalent in a particular local area.
- **Class customs-** These are the customs that are prevalent amongst a particular class.
- **Family customs-** These are the customs that are binding on the members of the family.
- **Digests and Commentaries:** Digests contain the important aspects of all the smritis and discussed their reconciling and contradictions

B. Modern Sources:

- **Legislation:** The legislation means the acts of the parliament, various Acts were passed by the legislature such as the Child Marriage Restraint Act, 1929, Hindu Succession Act, 1956, Hindu Marriage Act, 1955, Hindu Minority and Guardianship Act, 1956.
- **Justice Equity and Good Consciousness:** In cases where there was no proper law to settle the disputes nor there was an existing law, then the judges used to give judgments according to the concept of Justice Equity and Good Consciousness.

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- Precedents: After the establishment of British rule, courts were established and the hierarchy was introduced.

CONCLUSION

- Conclusion. Hindu Law is a law which is considered **to be of divine nature** as it is believed that it has been developed on the words of god, theories given by god.
- Hindu Law of Marriage Marriage is a union with a commitment to pursue Dharma, Artha (Property) and Kama (physical desires) together. Is Hindu marriage.
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