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Relevance Of Indian Knowledge System (IKS) With Present Hindu Family Laws

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Abstract

The Indian Knowledge System (IKS) has a profound and undeniable relevance to present-day family laws in India, particularly Hindu family law. While modern family laws are largely codified statutes enacted by Parliament, their historical roots, underlying principles, and even some contemporary challenges are deeply intertwined with the ancient wisdom, customs, and ethical frameworks of IKS. Family Laws are the Personal laws that refer to the rules and regulations that govern various aspects of one's personal life, such as matrimony, divorce, succession, and adoption. The article discusses the relevance of the IKS with the present Hindu family laws.

The term "Hindu" itself is considered imprecise and of foreign origin. This proposed law extends beyond those identifying as Hindu, encompassing *Sikhs*, *Jains*, *Lingayats*, and *Buddhists* – faiths historically linked to Hinduism. Essentially, it aims to apply to all Indian citizens except Muslims, Parsis, Christians, and Jews.

Keyword- Indian Knowledge System (IKS), Hindu Law, Personal law

Introduction

India's culture is rich and diverse, with a wide range of languages, religious beliefs, customs, and traditions woven into its tapestry. For centuries, India has been ruled by patriarchal values and practices that held women to a lower status in society and in the private world. Many personal laws and legislative frameworks have been amended over the years to ensure equality and safety for women.

Historical background

India's legal system traditionally operates on personal laws tied to religious groups rather than a unified territorial law. Hindus and Muslims each follow their own distinct legal codes, both claiming divine origin and intertwined with religious practices, coexisting with customary laws. Initially, the British in India attempted to establish a public, territorial legal system applicable to all. However, finding this unworkable, they enacted the Declaratory Act of 1780, establishing the principle of applying Hindu law to Hindus and Islamic law to Muslims. Generally, British policy favoured minimal interference with Indian religious laws and customs. Nevertheless, in some instances, British rule did see statutory modifications and relaxations of provisions within the Hindu Shastras and the Quran .

The Idea of codifying Hindu laws dates back to 1832, leading to the appointment of a Royal Commission tasked with codifying both Hindu and Muslim law.

The journey towards codifying and reforming Hindu law began in 1941 when the government established a committee, led by Sir B. N. Rao, to investigate legal reforms. This committee drafted two initial bills addressing Hindu intestate succession and marriage.

Research Method

Researcher has collected data from secondary source of information such as books, articles, journals and online articles. Researcher has expressed his observation and experiences in the legal field.

Personal Laws / Family Laws

Personal laws refer to the rules and regulations that govern various aspects of one's personal life, such as matrimony, divorce, succession, and adoption. These personal laws are closely linked to religious and cultural traditions and vary from one religious' community to another in India, including Hindus, Muslims, Christians, and Sikhs. Historically, personal laws have reflected patriarchal values and practices, which have restricted women's rights and autonomy. For example, according to some interpretations of religious law, women have faced discrimination in matters like marriage, divorce and inheritance. Such practices, such as child marriage and polygamy, as well as the lack of equality in inheritances for daughters, have been common in India and have contributed to gender inequality in families and communities.

Components of Family Law

Family law covers the certain essential portion of a life of every Hindu person. These consists – marriage, divorce, succession, adoption, maintenance, and guardianship.

In ancient India, personal laws were integral to the social, cultural, and religious structure of the society. They governed the individual lives of the people, their rights and obligations within the family and society. These laws were deeply embedded in the religious faith and practices of the people, and played an essential role in the formation of social norms and social values. In ancient India, there were four social classes:

Brahmins, Kshatriya, Vaishya's, and Shudras. Each of these social classes had its own personal laws, which were based on the principle of dharma (meaning duty, justice, and moral order).

The relevance can be understood in several key areas:

1. Historical Foundation and Continuity

- **Evolution of Hindu Personal Law:** The current codified Hindu personal laws (like the Hindu Marriage Act, 1955; Hindu Succession Act, 1956; Hindu Adoptions and Maintenance Act, 1956; Hindu Minority and Guardianship Act, 1956) are direct descendants of ancient Hindu law. This ancient law was not uniform but derived from:

- **Shruti (Vedas):** Considered the primary source, though not containing explicit legal codes, they laid down philosophical and ethical foundations that influenced later legal texts.

Shrutis are such literatures which have been heard by the sages from the God. It includes Vedas. Hence they are called 'apourushey' i.e. superhuman. They provide essentials of valid marriage, rituals/process that shall be complied with and Dharma i.e. Duties of husband and wife.

- **Smriti (Dharmashastras):** Treatises like the *Manusmriti*, *Yajnavalkya Smriti*, and *Narada Smriti* were foundational. They codified rules on marriage, divorce, adoption, inheritance, maintenance, and family structure.

Present marital rituals / sanskaras, forms of marriage are largely derived from Manusmriti. For example Vedic vivah, Rakshasa vivah, Gandharva vivah, etc. These are still followed in Hindu society.

- **Digests and Commentaries:** Works like the *Mitakshara* and *Dayabhaga* schools further interpreted and elaborated on Smritis, leading to regional variations in Hindu law that persisted until codification.
- **Customs (Achara):** Local, class, and family customs were highly regarded and often overridden written texts, reflecting the living law of the people.

Customs and usages are considered as a 'law' under article 13(3) of the Constitution of India. These customs must be in accordance with the constitutional framework. Unconstitutional practices such as Sati, Child marriage, and other evil practices are now obsolete.

- **Continuity of Principles:** Even after codification, many fundamental concepts from IKS, such as the sacramental nature of Hindu marriage, the importance of lineage (especially male lineal succession, though now modified), and the duty of maintenance, continue to inform the understanding and application of these laws.

These ancient sources are commonly referred as IKS. Scriptures that were considered as mythological, spiritual and fictitious at one time are now gaining vital significance. With the changed interpretation now we are looking at these literatures from different perspectives.

2. Philosophical and Ethical Underpinnings

- **Dharma as the Moral Compass:** The concept of *Dharma* remains a subtle but significant influence. It represents righteousness, moral duty, and ethical conduct, guiding family relations. While not directly enforceable in every modern legal provision, the *spirit* of *Dharma* often underlies principles of mutual respect, care for elders, and responsibility within the family unit.
- **Sacramental View of Marriage:** Unlike many Western legal systems where marriage is primarily a contract, Hindu marriage, rooted in Vedic traditions, is traditionally viewed as a sacred, indissoluble union (*sanskara*). While modern law allows for divorce, the emphasis on its sacramental aspect still influences societal perceptions and judicial interpretation in some cases.
- **Family as a Unit:** IKS traditionally emphasized the joint family and extended kinship ties, promoting collective well-being over individualistic pursuits. This communal spirit, though challenged by modernization, still influences how families interact and how the law addresses aspects like maintenance and succession.

3. Challenges

- **Gender Equality:** Ancient IKS texts, particularly Dharmashastras, often prescribed patriarchal norms, limiting women's rights in property, divorce, and guardianship. Modern family laws, especially after post-independence codification, aimed to reform these discriminatory practices (e.g., Hindu Succession Act, 1956, giving equal inheritance rights to daughters).
 - **Relevance:** The tension between traditional gender roles (influenced by IKS) and modern demands for gender equality is a continuous challenge in family law. Debates around the Uniform Civil Code (UCC) often highlight this, as it seeks to harmonize personal laws and remove gender disparities.
- **Individual Rights vs. Family/Community:** While IKS emphasizes collective harmony and familial duties, modern family law increasingly recognizes individual autonomy and rights (e.g., divorce by mutual consent, right to choose one's spouse).
 - **Relevance:** This dynamic creates complex legal and social challenges, as courts often balance individual aspirations with traditional family expectations.
- **Changing Family Structures:** IKS largely envisioned joint or extended families. Modern India sees a rise in nuclear families, single-parent households, and increasingly, LGBTQ+ relationships.
 - **Relevance:** While modern law is slowly adapting (e.g., Supreme Court remarks on evolving family definitions), IKS provides a traditional lens that influences societal acceptance and ongoing legal reforms regarding diverse family structures.

4. Alternative Dispute Resolution (ADR)

- **Traditional Panchayat System:** IKS included robust informal dispute resolution mechanisms like the *Panchayat* system, which traditionally resolved family and community disputes.

- **Relevance:** This historical emphasis on conciliation and community-based justice continues to influence the promotion of mediation, conciliation, and Lok Adalats (people's courts) in modern family law, recognizing their potential to provide more amicable and culturally sensitive solutions compared to adversarial litigation.

Conclusion

The Indian Knowledge System is intrinsically linked to present family laws in India. While modern statutes have codified and reformed ancient principles to align with constitutional values of equality and justice, the historical foundations, ethical considerations of *Dharma*, traditional family values, and dispute resolution mechanisms from IKS continue to shape the contours of family law. Understanding this relationship is crucial for comprehending the nuances of current legal debates, the challenges in achieving complete uniformity or gender equality, and the potential for drawing upon indigenous wisdom to create more harmonious and effective legal frameworks for families in India.

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