

Contemporary Christian Marriage Laws in India: An Analytical Study of Legal Evolution

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Abstract: *Marriage is a sacred covenant ordained by God between one man and one woman as per the Bible. If a person is professing Christianity and a Christian way of life, then only he is a Christian. Personal law is a law that identifies what law should apply to a person who belongs to a particular religion in the country. The laws regulating the solemnization of marriages among the Christian community in India are laid down by the Indian Christian Marriage Act of 1872. Laws can never be static. Society conditions keep on changing and laws have to keep pace with such changes if they are to be in tune with the times. Radical changes are hence required to be made in these Acts to meet the present needs of the Christian community. Realizing the need for changes in the personal laws of Indian Christians an attempt to update these laws are necessary. This paper attempts to examine the concept of the legal status of Christian Marriage Laws and its way forward.*

Keywords: Marriage, Christian, Christian marriage laws, Bible, Canon laws

1. Introduction

The Indian legal system we have today bears a significant imprint of the British colonial era, which is crucial to comprehend as many laws instituted during that time persist in contemporary India. The situation for Christians in 19th-century British India was intricate. Having predominantly been Hindus or Muslims who converted, they found themselves in a legal ambiguity, as their previous religious laws no longer applied, and English law couldn't be applied due to their non-British status. The uncertainty prompted a call for a new personal law, as Indian Christians faced a legal vacuum distinct from Hindu or Muslim laws.

Initially, there was contemplation about applying the laws of the converts' pre-conversion religion, but this was deemed unnecessary, given families' reluctance to relinquish property to those changing religions. While the law of the former religion could apply to inheritance, it proved impractical for matters like marriage, divorce, or adoption. Due to persistent issues around Christian marriages, the Native Converts Marriage Dissolution Act was enacted in 1866. With inheritance laws in place, attention turned to marriage concerns. Christian missionaries had observed in the early 19th century that, in couples where one partner had converted to Christianity and the other had not, the converted partner could not remarry due to Christian doctrines opposing polygamy. Meanwhile, the non-converted Hindu partner could remarry. The absence of rules compelled these converts to either practice their new religion in violation or live in solitude until their former spouse's demise.

The Indian Christian Marriage Act of 1872 was enacted with the primary objective of streamlining and simplifying existing laws related to the solemnization of marriages among individuals professing the Christian religion in India. This legislative measure aimed at consolidating various enactments on this subject while also addressing identified shortcomings. The Indian Christian Marriage Act, of 1872, was driven by the need to consolidate and amend the legal framework surrounding the solemnization of Christian marriages in India, addressing specific deficiencies and ambiguities identified in earlier enactments.

2. Objectives of the Study

The study seeks aims to anal the evolution of Christian marriage laws in India by tracing their historical roots and examining the transition to contemporary legal frameworks. Further, the primary focus of the study is to examine the effectiveness of the Indian Christian Marriage Act of 1872, a pivotal legislative intervention in regulating Christian marriages in the country.

3. Evolution of Christian Marriage Laws

Christians in India tracing its origins from the arrival of St. Thomas, one of Jesus Christ's disciples, in 52 A.D. marked the establishment of Christian communities in India, such as the Malankara Jacobite Syrian Christians. Early Christians often adhered to canons, such as the Hudaya canon, governing their religious and customary practices.

During the 16th century, when the Portuguese established rule in western India, they encountered the Syrian Christians' customs, which differed from Roman Catholic practices. Consequently, the Portuguese codified these customs, relating to marriage, divorce, succession, and inheritance, in The Code of Canon Law. Despite this, Syrian Christians continued to observe their religious customs, later regulated by the Code of Canons of the Eastern (Oriental) Churches.

Under British rule, these canonic customary laws were modernized through specific legislations—the Indian Divorce Act of 1869 and the Indian Christian Marriage Act of 1872. The Christian community traditionally did not recognize divorce, considering their marriages sacramental. The Divorce Act, amended in 2001, now allows divorce by mutual consent.

The evolution of Christian marriage laws in India is a multifaceted journey encompassing religious traditions, colonial legacies, legislative interventions, and societal changes. The laws have evolved to address the unique needs and practices of the Christian community while navigating the broader legal landscape of the country.

4. Interpretation of the Indian Christian Marriage Act

The Preamble of the Act emphasizes its expedience in consolidating and amending the law related to the solemnization of Christian marriages in India. The Act, divided into eight parts, defines expressions such as Church of England, Church of Scotland, Church of Rome, Church, and Christians. The Act also provides a comprehensive definition of "Christian," stating that it includes persons professing the Christian religion and Indian Christians, encompassing the Christian descendants of Indian natives converted to Christianity. Marriages between persons, where at least one is a Christian, fall under the purview of the Christian Marriage Act, of 1872, extending to the whole of India, excluding specific states.

Each part of the Act addresses various aspects of Christian marriages, from the conditions for validity (Part I) to the registration of marriages (Part IV), solemnization by Marriage Registrars (Part V), and penalties for false declarations or unauthorized solemnization (Part VII).

For Christians in India, marriage is officiated by a minister or priest within a church. The minister is then required to issue a marriage certificate, which is endorsed after the marriage has been consummated. Additionally, even a previous marriage can be registered with the Registrar of Marriages. To register a marriage, both parties must file a utility application with the appropriate authority near their residence.

To be considered a valid marriage under the Christian Marriage Act of 1872 and Christian Marriage Registration in India, certain conditions must be met:

- The groom should be at least twenty-one years old, and the bride should be at least eighteen years old.
- Consent must be free, voluntary, and not obtained through misrepresentation, coercion, or undue influence.
- Neither party should have a spouse at the time of marriage.
- The marriage must be conducted in the presence of at least two reliable witnesses by someone licensed to provide a marriage certificate.

If a marriage is to be performed with the assistance of the Marriage Registrar, Both parties must submit an application to the Marriage Registrar informing them of their intention to marry. If the parties live in different regions, each must write a separate letter to the respective Marriage Registrar in their area. Both parties must personally witness the marriage ceremony and pledge that there are no barriers, the location is correct, and, if one party is a minor, the necessary consents have been obtained. After these steps, the Marriage Registrar issues a certificate of notice. This certificate is expected from the church or chapel where the marriage is to take place. If not used within six months, a new certificate must be issued.

A Christian marriage is performed according to the rituals deemed necessary by the minister or priest, with the presence of at least two witnesses. Under Section 5 of the

Christian Marriage Act, individuals eligible to perform marriages include ministers, priests, and those appointed by the Episcopal. The marriage must be solemnized by the customs and guidelines of the respective church. The Registrar of Marriage can register the marriage after the parties submit a written application. Required documents include a complete application form, passport-sized photos, marriage certificates issued by the minister or priest, photos of the marriage rituals, proof of residence, and an affidavit certifying the mental and marital status of each party.

While divorce is not encouraged in Christian marriages, the Indian Divorce Act of 1869 regulates divorce for Christians. Grounds for divorce include adultery, conversion to another religion, incurable unsoundness of mind, leprosy, sexual disorders, and abandonment. Section 14 of the Act allows the court to issue a decree dissolving the marriage if satisfied with the evidence and the petitioner's case. Conditions for dissolution by mutual consent are also outlined in a new section 10-A, allowing parties to file a petition if they have been living separately for a specified period and mutually agree to divorce.

The portrayal of marriage in Christianity underscores its sacred nature, viewed as a holy ceremony conducted by a Minister or Priest. Christians perceive the marriage ceremony as a divine gift from God. While certain aspects of the marriage celebrations may align with those in Hindu marriages, divorce is not readily considered a viable option. However, if circumstances warrant it, divorce proceedings are regulated by the Indian Christian Marriage Act of 1872 and the Indian Divorce Amendment Act of 2001. Despite the societal demands for reforms, the Christian law has remained resistant to change, and the Act enacted more than a century ago, continues to govern Christian marriages in India.

5. Case Law Analysis

The cases mentioned highlight the nuanced interpretation and application of Marriage under the Indian Christian Marriage Act, of 1872.

The decision in *David v. Nilamuni Devi* emphasizes that baptism is not an absolute prerequisite for being considered a Christian under the Act. This recognition aligns with the inclusive nature of Christianity, acknowledging that individuals who profess the faith, regardless of their baptismal status, can be regarded as Christians. On the contrary, *Maha Ram v. Emperor* introduces the notion that mere baptism, without an accompanying profession of the Christian faith, may not be sufficient to classify an individual as a Christian. This decision underscores the importance of an active declaration or profession of the Christian religion for legal recognition under the Act.

In *Rajani v. Subramonian*, the Kerala High Court held that a Christian marriage can be dissolved by mutual consent under Section 10A of the Indian Divorce Act, 1869, as amended by the Indian Divorce (Amendment) Act, 2001. The court also held that the period of separation of two years required for filing a petition for divorce by mutual consent can be waived

by the court if the parties satisfy the court that they have been living separately for a sufficient period.

6. Suggestions

Given the historical evolution and diverse customary practices among Christians in India, there could be an ongoing effort to bridge the gap between traditional customs and legal provisions. Community awareness programs and legal education initiatives can be undertaken to ensure that Christians are well-informed about their rights and responsibilities under the Indian Christian Marriage Act and related legislation. Additionally, forums for dialogue between religious authorities, community leaders, and legal experts may facilitate a better understanding of contemporary issues related to Christian marriages.

Regularly review the Indian Christian Marriage Act to ensure that it remains relevant and responsive to the changing needs and dynamics of society. Consider amendments that address emerging issues, technological advancements, and societal changes while upholding the fundamental principles of the Act. Recognize and respect the diversity in Christian marriage ceremonies. While upholding certain legal requirements, provide flexibility for individuals to incorporate cultural and denominational practices into their marriage ceremonies.

7. Conclusion

The evolution of Christian marriage laws in India, shaped by historical contexts and societal needs, reflects a complex interplay between religious customs and legal frameworks. The Indian Christian Marriage Act of 1872, while providing a structured legal foundation, also leaves room for adherence to customary practices. Christian marriages, considered sacred in the faith, have navigated challenges such as the recognition of conversions, inheritance laws, and marriage dissolution.

The legal landscape has addressed some of these challenges through acts like the Indian Marriage ACT, of 1872. However, the continuous coexistence of customary practices and legal regulations emphasizes the need for ongoing dialogue and education within the Christian community. By fostering awareness and understanding, it is possible to ensure that Christian marriages in India harmonize both with their rich religious traditions and contemporary legal requirements.

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