

MARRIAGE & DIVORCE LAW MANUAL (2000). By Kusum. Universal Law Publishing Co. Pvt. Ltd., Delhi-110033. Pp. xviii + 369. Price Rs. 295/-.

FAMILY AND marriage are two basic concepts that pivot the society in general and human civilization in particular. The undeniable fact remains that the institution of marriage and family-home holds fast a society, which occupies in relation to state the same position as occupied by human cell in human body.¹ Therefore, the concern of law relating to marriage and divorce is not only the concern of the parties to it but it goes deep to the very foundation of society as well as state also.

In India, we have diversity of personal laws. Most of the matrimonial laws relating to Hindus, Christians, Muslims, Parsi have been codified and enacted from time to time in India. As the name of the book, *Marriage & Divorce Law Manual*, under review, suggests, it is basically a manual that contains almost all the important statutes as well as relevant provisions related with the subject matter of marriage and divorce. However, part-I: Introduction, part-II: Marriage & Divorce and Part-X: Digest of Important Cases are the additional strength of this book and it raises this *Manual* considerably above any routine manual on the subject.

This book has been divided into X Parts, besides Table of Cases and Subject Index. Part-I: "Introduction" further consists of XII sub parts. In each sub part, the author has very lucidly and critically evaluated the different themes related to the subject. The concept of marriage in the changing perspective; in the Indian context the diversity of personal laws; the need for change in the Indian Divorce Act, 1869 (already stands amended to that effect by the Indian Divorce (Amendment) Act, 2001, after the publication of the book under review in the year 2000); the provisions of divorce by mutual consent and critical evaluation of *Ashoka Hurra v. Rupa Zaveri*², wherein the Supreme Court of India had invoked its inherent jurisdiction under article 142 of the Constitution of India to grant divorce to the parties. Kusum concluded this sub part observing that "The judgement, with due respect to the court, is assailable on many fronts but the least one could say is that it is neither good law nor good logic nor even *complete justice*"; a case for the ground of irretrievable breakdown of marriage; evaluation of judgements vindicating the position of married women; new emerging jurisprudence of damages

1. A. N. Saha, *Marriage and Divorce* 5 (2002).

2. AIR 1997 SC 1266.



or compensation to the aggrieved women; proper implementation of order 32-A of the Code of Civil Procedure, 1908 and the Family Court Act, 1984; misuse of the provisions of 'Dowry Act'³ and Section 498-A of the Indian Penal Code, 1860; plea for harsher penalties for child marriages; issue of marital rape and the concluding sub part with an entreaty to adopt the reconciliatory approach by the courts.

In Part-II of the book, Kusum has added five topics loaded with scholarly treatment. In "Breakdown of Marriage and Divorce" sub part, the author has pleaded for the incorporation of the ground of irretrievable breakdown of marriage. In the next sub part the practice of child marriage is discouraged by "encouraging the education, facilitating job/employment opportunities, ensuring protection against exploitation coupled with provisions for compulsory registration of marriage."⁴ In the next sub part, the author has taken a very cautious approach in dealing with a very sensitive matter of "Uniform Civil Code-Reforms in the Personal Laws"⁵ by saying: "The approach has to be through appeal and awareness rather than an imposition. Evolution and not revolution is the watch-word" The menace of dowry has been critically evaluated in sub part 4 of Part-II of the book. Next sub part, "Indian Divorce Act-Need for Reform" that contains the appeal of the author for amendments in the Indian Divorce Act is of historical importance now due to the fact that after the publication of this book in the year 2000, the Act has been resourcefully amended by the Indian Divorce (Amendment) Act, 2001.⁶ This amendment⁷ has undone the injustices and anomaly in respect of Christian women in the matters of judicial separation or dissolution of marriages.

Another remarkable feature of this book is the inclusion of "Digest of Important Cases" in Part-X of the book. Though only 28 in number, these case notes cover almost all relevant topics on the subject. Part-III: titled "Secular Laws" contains the Bare Acts, along with Statement of Objects and Reasons of The Special Marriage Act, 1954; The Foreign Marriage Act, 1969; and The Foreign Marriage Rules, 1970. Sections 1 to 22 of The Indian Succession Act, 1925 are also included in this Part. Hindu laws are integrated in Part IV of the book. This Part consists of Bare Acts, along with Statement of Objects and Reasons of the Hindu Marriage Act, 1955; The Hindu Adoption and Maintenance Act, 1956; The Hindu Widow's Re- Marriage Act, 1856; The Hindu Widow's

3. The Dowry Prohibition Act, 1961.

4. In a recent judgement, the Supreme Court of India has also felt the need for compulsory registration of marriage.

5. Article published in *The Hindu*, 28 July 1996.

6. Act 51 of 2001.

7. The word "Indian" omitted by Act 51 of 2001.



Re- marriage (Repeal) Act, 1983; The Anand Marriage Act, 1909; The Arya Marriage Validation Act, 1937; The Hindu Marriage (Validation of Proceedings) Act, 1960; The Hindu Succession Act, 1956 (Relevant Provisions)⁸ and The Hindu Minority and Guardianship Act, 1956.

The Bare Acts, along with Statement of Objects and Reasons of The Indian Divorce Act, 1869; The Indian Christian Marriage Act, 1872 and The Marriage Validation Act, 1892 and Christian Laws are included in Part-V of the book.

Muslim Laws are incorporated in Part VI of the book. The Bare Acts, along with Statement of Objects and Reasons of The Dissolution of Muslim Marriage Act, 1939; The Muslim Women (Protection of Rights on Divorce) Act, 1986; The Muslim Women (Protection of Rights on Divorce) Rules, 1986 and The Muslim Personal Law (Shariat) Application Act, 1937 are the contents of this Part.

Part-VII: titled "Parsi Laws" consists only the Bare Act, along with Statement of Objects and Reasons of The Parsi Marriage And Divorce Act, 1936, whereas Part VIII deals with "Miscellaneous Laws" and contains the Bare Acts, along with Statement of Objects and Reasons of The Dowry Prohibition Act, 1961, The Dowry Prohibition (Maintenance of List of Presents to the Bride and Bridegroom) Rules, 1985 and The Child Marriage Restraint Act, 1929. It also contains the provisions of section 304-B, 493, 494, 495, 496, 497, 498 and 498A of The Indian Penal Code, 1860.

Titled as "Procedural Laws", Part-IX includes the Bare Act, along with Statement of Objects and Reasons of The Family Courts Act, 1984. It also contains the provisions of Order XXXII A of the Code of Civil Procedure, 1908; Sections 125 to 128 of the Code of Criminal Procedure, 1973 and Sections 112, 113A and 113B of the Indian Evidence Act, 1872.

In the view of the reviewer, Kusum has succeeded in bringing at one place a '*One Law Manual*', of marriage and divorce laws in India, which not only contains the bare provisions, along with Statement of Objects and Reasons of 20 Acts and 3 Rules, it also incorporates the relevant provision from 6 Central Acts and case notes on the subject. Besides this, it also contains scholarly comments on given themes. Considering from this viewpoint the noteworthy feature of this *Manual* is its moderate price. Printing, binding, paper quality and getup of this book are excellent. It will certainly be of great use to students of law, members of bench and bar, beside the persons who are interested to know law of marriage of divorce from one source.

8. Ss. 17 to 22 have not been included therein. These should not have been omitted.



In conclusion, however, the need of the hour is the inclusion of the latest amendments made in the above stated statutes by the Marriage Laws (Amendment) Act, 2001, the Code of Criminal Procedure (Amendment) Act, 2001 and the Indian Divorce (Amendment) Act, 2001. The reviewer is sure that Kusum will include all the latest amendments in the next addition of this book.

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BOOKS RECEIVED FOR REVIEW

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MAJ. GEN. NILENDRA KUMAR, *Case Studies on Military Law* (2003). Universal Law Publishing Co. Pvt. Ltd. C-FF-1A, Ansal's Dilkhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. xx + 154. Price Rs. 150/-.

M.S. PARTHASARATHY, *Cheques in Law & Practice* (2003). Universal Law Publishing Co. Pvt. Ltd. C-FF-1A, Ansal's Dilkhush Industrial Estate, G.T. Karnal Road, Delhi – 110 033. Pp. xxxii + 897. Price Rs. 795/-.

DR. JUSTICE G.C. BHARUKA, *Rejuvenating Judicial System through E-Governance & Attitudinal Change* (2003). Wadhwa and Company Nagpur, DD-13, Kalkaji Extn., Opp. Nehru Place, New Delhi – 110 019. Pp. xxxi + 291. Price Rs. 495/-.

GARY JEFFREY JACOBSON, *The Wheel of Law: India's Secularism in Comparative Constitutional Context* (2003). Oxford University Press, YMCA Library Building, Jai Singh Road, New Delhi-110001. Pp. xviii+324. Price Rs. 695/-.

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