

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS (ISSN 2582 - 6433)

VOLUME 2 ISSUE 6  
(April 2022)

---

Email –

[editor@ijlra.com](mailto:editor@ijlra.com)

Website – [www.ijlra.com](http://www.ijlra.com)



**IJLRA**

INTERNATIONAL JOURNAL  
FOR LEGAL RESEARCH & ANALYSIS

## DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 5 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA  
INTERNATIONAL JOURNAL  
FOR LEGAL RESEARCH & ANALYSIS

## EDITORIAL TEAM

### EDITORS

*Ms. Ezhiloviya S.P.*

Nalsar Passout

*Ms. Priya Singh*

West Bengal National University of Juridical Science

*Mr. Ritesh Kumar*

Nalsar Passout

*Mrs. Pooja Kothari*

Practicing Advocate

*Dr. Shweta Dhand*

Assistant Professor

INTERNATIONAL JOURNAL  
FOR LEGAL RESEARCH & ANALYSIS

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Quarterly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN

2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **COMPARISION OF ANGLO HINDU LAW AND MODERN HINDU LAW?**

**By: Gaura Agarwal**  
**Symbiosis Law School, Hyderabad**

## **ABSTRACT**

In the Anglo Hindu Law, it is for the religions British, Sikhs, Hindus and Jains. In this Law, it is shown that the change is the text and the change in the interpretation of the texture of the Hindu is done by Hindu Pandits whereas in case of Muslims the change of text and interpretation of texture of done by Qadis. This movement of Anglo Hindu Law started in 1772 and it ended in 1864 during the time period the Pandits and Qadis was lead to death because there was inconsistency and it was assumed that interpretation and change of texture was lead to the corruptions. The British East India Company has come into force as an agents of the Mughal Emperor whereas with the passage of time they have took over the political and administrative reforms of the India. The administrative has faced a legal back and they took over the intermediaries of local government and support of Hindus and Muslims. For the Muslims of India, it has been that Code of Muslim Law is readily available for the AL-Hidaya and Fatawa -i-Alamgiri but on the other hand nothing is made available for Hindu committee and any othe non-Muslim committee.

In the Modern Hindu Law, it has been mentioned that the Nehru has imposed a Hindu Code Bill which is for the upliftment of the Hindu committee when Jawaharlal Nehru imposed this Bill in Indian Parliament than it rose to the controversies among the people of the Parliament and people of different religion committee. Now the Hindu Committee has to fight for their rights first than unified by other religious committee. This Modern Hindu Law has been setup for religion Muslim, Sikhs, Parsis and Christians. It has started in 1947 and has been going now as well. The Modern Hindu Law is also Known as Personal Hindu Law and it is the on-going process of the Anglo Hindu Law. The Bill has gave the lot of fights between Hindu Committee and other Committee of the religions. The Modern Hindu Law has been set up for doctrine of the religion and for the saver of the Hindu religion. The Indian Legal System has the part of the criminal Law but since it is Codified than it is more of Civil Law than Criminal Law. The Modern Hindu Law of Indian Legal System is basically for personal laws like issue of marriage, adoption of child.

## **INTRODUCTION**

There is a major difference in the Anglo Hindu Law and Modern Hindu Law. If we talk about the Anglo Hindu law, it was established during the British colonial era. In Anglo Hindu Law, the Law is basically for the religion Hindu, Sikh, Jain and British of the British time. The Anglo Hindu Law has been divided into two phase, the first part started in 1772 and lasted till 1864. In first phase, the Anglo Hindu Law is basically for translation of Hindu languages and complete interpretation of it texture by appointing some Hindu Pandits. For the Muslims, the same translation of text and complete interpretation of texture extracted from Quran by appointing some Muslim Qadis and which leads to end of first phase of Anglo Hindu Law in 1864. During

the second phase of the Anglo Hindu Law, started in 1864 and lasted till 1947, during this period Hindu Pandits along with Muslim Qadis were lead to dead due to rise in unpredictability in complete interpretation of texture of text and intuition of corruption. Anglo Hindu Law was made wide with the succession of British Parliament Act 1828 and 1947, that was upon the Political harmony rather than different religious texts.

Now second comes Modern Hindu Law, this Modern Hindu Law is also known as Personal Hindu Law. The Modern Hindu Law is the on-going process of Anglo Hindu Law. The Modern Hindu Law is basically for the religion Muslim, Sikh, Christians and Parsis. This has been developed during the British Colonial period in India. But in return it is all related to the less define of the Classical Hindu Law. The Modern Hindu Law began from 14 august 1947, and it has been going up till now. The Modern Hindu Law is basically based upon the saver and doctrine of the religions many still says that discrimination is basically for the Upliftment of the legal systems. Though the efforts to modernize and increase the legal rights of the marginalized, the modern legal rights is all perfect. India first Prime Minister, Jawaharlal Nehru, and the law minister codified the Hindu Code Bills. In Hindu Code bill it was very controversial and all settle upon for the welfare of the Hindu committee. Hindu Code Bill is being passed by Jawaharlal Nehru in the Parliament of the India. After looking into it and after checking all the reports the conclusion that the Hindu Code Bill was to be applied to all religions in-spite of restricting it to a single religion. The Hindu Code Bill is still a controversial among all the religion which includes nationalist, women and religious committee. Nehru and their committee asked the Hindu Committee which comprises of the 80% of the Indian population are first needed to be united before any action is taken to bring together all the religious committee.

### LITERATURE REVIEW

The current research is case specific and hence the review of literature enunciates that there are direct sources existing on the current topic. The researcher has performed a background check as to what laws are relevant to such cases. The journals, research article and reports referred by the researcher are not conclusive intrinsically but the researcher had to analyse the data with respect to other relevant factors to form a conclusion. The researcher mainly depended on Hindu Laws and the conclusions are on the basis of the same. Anglo Hindu Law and Modern Hindu Law has a crucial source to the researcher as these are the Laws which induced the spirit of preserving religions in India. The researcher also referred to the Religions equality during British rule and now which is another provision for change in equality of religion now. All the actions done in order to protect the religion during Anglo Hindu Law has an Act related to it The Hindu Widow's Remarriage Act of 1856. Hence, the researched believed that utmost importance is to be given to these governing acts. To review and analyze the status of women who can remarry, the researcher also made use of another act in Anglo Hindu Law .These reports gave a distinct idea of the treatment given to the women and how the adoption can be done. It was deemed necessary for this research to refer to the Modern Hindu Law to have comparative research. The act forms a legal framework to safeguard the interests of the Hindu committee who sustain with their Hindu from the other religions committee which also includes the Act Medical termination of pregenancy act. This act was most contributory to the current research as the paper draws from the experiences of pregnancy of the women during this time. Close interaction with the people, administrators and political leaders of these precincts reveal a great enthusiasm amongst all to improve the residents' general standard of living. To obtain a wider view on the range here I have one more act to add on this research that is The Hindu Marriage Act. This journal mostly

talks about the need for protection of the women and the Hindu committee for their development and emphasizes on a legal attention to safeguard their rights.

### RESEARCH METHODOLOGY

The methodology used in this research is subjective, doctrinal and analytical in the nature. The brief study of the comparison of Anglo Hindu Law and the Modern Hindu Law has been done then it has been written down in primary way. Secondary material has been used journals articles, newspaper articles are used in the research. The research is primarily based on the doctrine research. The researcher believes that the current research is basically on law and law which were earlier passed. To find out best research on these topics, the researcher believes it's better to do doctrine research and analyse in the laws and cases.

### RESEARCH QUESTION

- 1-How is Anglo Hindu Law is different from modern Hindu law?
- 2-How is the source of the Anglo Hindu Law is Different from the sources of the Modern Hindu Law?
- 3-How is the application of the Anglo Hindu Law is different from the application of the Modern Hindu Law?

### ANALYSIS

#### **1-How is Anglo Hindu Law is different from the Modern Hindu Law?**

In the Anglo Hindu Law it is defined as a period where the time of British can be seen it has been the time when the religion Hindu, Jain, Sikh and British has been taken into consideration during that period of time. On the other hand, In Modern Hindu law the rule of Indian Government can be seen and it includes the religion Muslim, Parsis, Christian and Sikhs. In Anglo Hindu law it started from 1772 and it came to an end in 1864. On the other hand, the Modern Hindu Law came into force on 1947 and it is still going on. In Anglo Hindu Law the change of text and interpretation of the texture is seen by the help of Pandits in Hindu Mythology and by the help of Qadis in Muslim Mythology but later on this leads to dispute which leads to the people of British made the Pandits and Qadis to death. On the other hand, in Modern Hindu Law the upliftment of the Hindu committee among all other religions is being done by the first prime minister Jawaharlal Nehru and first Law minister as well, the Jawaharlal Nehru also passed an Bill which is called Hindu Code bill which leads to a lot of debate in the Indian Parliament since the bill was in favour of the Hindus. During the Anglo Hindu Law, it has been mentioned that all the conflicts and queries are to be solved by the pre-colonial law or Political law during the British rule over the country since they have acquired the political and administrative parts of the country. On the Other Hand, in Modern Hindu Law the law is the Common Law which is more or less Criminal Law but later on it has been only the Civil Law which is used to solve the case.

#### **2-How is the source of the Anglo Hindu Law is Different from the sources of the Modern Hindu Law?**

Anglo Hindu Law has been derived from the oldest source of Jurisprudence whereas the source

of Modern Hindu Law has been derived from Dharamshastra, sadachars and customs. In Anglo Hindu Law the many people have noticed that after every argument it has become more difficult to analysis what a common Anglo Hindu Law is, it become more and more complicated. On the other hand, Modern Hindu Law, it has been so much explained, brief, codified that it is easy to understand what actually does it means. In Anglo Hindu Law the people begin to use Smriti which was converted in English by British so it became difficult for people to understand what does it actually means due to which many controversies arises which is very difficult to resolve. In Modern Hindu Law no such controversies arises it has been detailed and accepted in common law and civil law. In Anglo Hindu Law the things were according to the British so they have converted the Vivadarnava Setu in the English and named it as Halhed's Gentoo Code this was done by Warren Hasting, another they have converted is Vivada Bhangarnava which they named as Colebrooke's Digest and it was done under guidance of Henry Colebrooke. On the other hand, the Modern Hindu Law did not suffer any such problem because it is under the control of the Indian Government, their was an bill passed named Hindu Code Bill which was passed by First Prime Minister Jawaharlal Nehru for the betterment of the Hindu Committee from other religion committee but as soon as Jawaharlal Nehru talked about the Bill in the Parliament there came a acute fight between the politicians and the general public.

### **3-How is the application of the Anglo Hindu Law is different from the application of the Modern Hindu Law?**

The application of Anglo Hindu Law is basically comprises of the fact that it has been restricted towards the rules of the British which they have implemented on the Indians during their rule and power and also the way they treated the Hindus and other committee. They killed the Pandits and Qadis and also made people life hard by making the conversing in their books to English so that people don't understand what's written in it. It has also made the change in the text and interpretation of texture change of every religion with the help of Pandit in Hindu and with help of Qadis in Muslim. There was lot of harm done to the people that time, they also choose the political way of solving problems for making them more complex.

On other hand, In Modern Hindu Law it was under article 44 that secularism has been made the point to be governed. The Indian Government always wanted the equality and integrity among all the religions for which they were working. The Hindu Committee which was seen to be kept as minor was tried to made the Hindu Committee the whole sum power of the committee and give them same power as the power which other committee have. They used criminal less and more of civil methods to solve the case of the public which make the decision easier to take in spite of making it complex. The Modern Hindu Law is also known as Personal Hindu Law which is the extension of the Anglo Hindu Law in the much better way it could be. The legislative bodies and law ministers and government have been always cooperating and helping people in every aspect they could be.

### **SUGGESTIONS**

The laws made by British during the Anglo Hindu Law do conflict with the laws for the Modern Hindu Laws because they are opposite to each other. There is a dire need for better mechanism to ensure relocation of Indians during British time so that their was no harm done to them and they can have peaceful life. This would have been achieved during Modern Indian Law by delegating the Laws relocating to the authorities taking up the project itself. When developed a mechanism to ensure the same, it would serve two benefits. One being that the relocation of the public is ensured without any hindrance to their life. Secondly, this would ensure that the public hold a

certificate which further turns the sector into a relatively organized as there would be a record of all the public rights in the country. The second benefit is an added advantage as most of the public go through some violence in India do not hold a certificate or a few do not even know about their religion Committee and its provisions. The mechanism can act as an awareness initiative to the street vendors. Nonetheless, one shall look forward to develop laws and execute them in a manner that does not conflict the interests of another provision by the parental provision, the Constitution of India. For the nation, both, cultural heritage and rights of the citizens are equal and unbiased.

## REFERENCES

- Bannigan, John (1952, December 3). The Hindu Code Bill. Far Eastern Survey: American Institute of Pacific Relations, XX1.
- Kishwar, Madhu (1990, May, 30). Codified Hindu Law: Myth and Reality.
- Menski, Werner. Comparative Law in a Global Context : The Legal Systems of Asia and Africa. New York: Cambridge UP, 2006.
- Nagpal, Ramesh C. Modern Hindu Law. Allahabad: Manav Law House, 1983.

1

1. Ludo Rocher (1972), [Indian response to Anglo-Hindu law](#), Journal of the American Oriental Society, 92(3),
2. ^ Rosane Rocher, "The creation of Anglo-Hindu law" in [Lubin, Davis & Krishnan, Hinduism and Law \(2010\)](#),
3. ^ [Jump up to:](#)<sup>a b c d</sup> Donald R. Davis, Jr., "A historical overview of Hindu law" in [Lubin, Davis & Krishnan, Hinduism and Law \(2010\)](#),
4. ^ [Jump up to:](#)<sup>a b c d</sup> Michael Anderson in Arnold, David; Robb, Peter; Robb, Peter G. (1993), [Institutions and Ideologies: A SOAS South Asia Reader](#), Psychology Press,
5. ^ [Cohn, Colonialism and Its Forms of Knowledge \(1996\)](#)

6.^ [Jump up to:](#)<sup>a b</sup> Washbrook, D. A. (1981). "Law, State and Agrarian Society in Colonial India". *Modern Asian Studies*. **15** (3): 649–721. . [JSTOR 312295](#).

7.^ Kugle, Scott Alan (May 2001). "Framed, Blamed and Renamed: The Recasting of Islamic Jurisprudence in Colonial South Asia".<sup>2</sup>

8.J. D. M. Derrett, Religion, Law, and the State in India (London: Faber, 1968), 96; For a related distinction between religious and secular law in Dharmasāstra, see Lubin, Timothy (2007). "Punishment and Expiation: Overlapping Domains in Brahmanical Law". *Indologica Taurinensia*. **33**: 93–122. [SSRN 1084716](#).

9.^ K Ewing (1988), Sharia and ambiguity in South Asian Islam, University of California Press, [ISBN 978-0520055759](#)

---

<sup>1</sup> Modern Hindu Law

<sup>2</sup> Anglo Hindu Law

10.^ A digest of Moohummudan law on the subjects to which it is usually applied by British courts of justice in India Neil Baillie, Smith, Elder & Co. London

11.^ Jump up to:<sup>a b c</sup> Rudolph, Susanne Hoeber; Rudolph, Lloyd I. (August 2000). "Living with Difference in India". *The Political Quarterly*. Wiley. **71** (s1): 20–38. doi:10.1111/1467-923X.71.s1.4.

12.^ Jump up to:<sup>a b c</sup> AK Giri in Costa, Pietro; Zolo, Danilo (2007), *The Rule of Law History, Theory and Criticism*, Springer Science & Business Media, pp. 596–597, ISBN 978-1-4020-5745-8

13.^ Llewellyn-Jones, Rosie (2007), *The Great Uprising in India, 1857-58: Untold Stories, Indian and British*, Boydell & Brewer, pp. 111–112, ISBN 978-1-84383-304-8

14.^ Cook, David (23 May 2005), *Understanding Jihad*, University of California Press, pp. 80–83, ISBN 978-0-520-93187-9

15.^ Kunal Parker in Larson, Gerald James, ed. (2001), *Religion and Personal Law in Secular India: A Call to Judgment*, Indiana University Press,