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Civil, Criminal and Personal Laws During British Times

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ABSTRACT

The Research Work mainly talks about the History of the Judicial System in India and how did it evolved and talks about the evolution and transformation by the British Officials in the Indian Judicial System. The Research Work mainly focuses on the evolution of Civil Laws, Criminal Laws and Personal Laws during the time of the British in India and how they implemented their own policies through these laws and used to govern the British India (British India has been used in the preface because earlier India was a part of the British and did not have its own independent judicial laws.) Still Indian Judicial System works on the principles and laws which were formed by the British Officials when they came to India as traders but later become the rulers of the country. The prime focus of this research work is to know in depth about the civil law, criminal law and personal laws during the British Era in India and what all evolutions took place in these over a period of time.

I. INTRODUCTION

Judiciary in India –

Our democracy, our Fundamental Rights etc would be meaningless, if there was no judicial system. We have an elaborate battery of laws and judicial courts. The main sources of Law in India are the Constitution, Legislations and Caste Laws. Certain Customs which are long standing and are not against any express law, constitute the Customary Law. Further, the Government makes a variety of rules, regulations and bye-laws under the authority conferred by the Legislature. This is known as delegated legislation. We have a single integrated system of Courts to administer both the Union and The State Laws. This Uniformity of Judicial Structure has been achieved by placing the relevant areas of civil and criminal law in the Concurrent List of Constitution of India.

We have at the apex the Supreme Court, with a High Court for each State or a Group of States. Under the High Courts are Subordinate Courts. The whole country is divided into

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judicial districts. At the village level we have Nyaya Panchayats.

Judiciary System in India: Supreme Court Of India (Chief Justice and 30 Other Judges) – High Court (In Each State) (Over 1044 Judges in 24 High Courts in India) – District and Sessions Judge's – Metropolitan Areas- (a) Metropolitan Magistrate's Court (b) City Civil and Session's Courts (c) Presidency Small Cause Courts

Scope and Objectives – The Scope of this Research Work is to know about the Civil, Criminal and Personal Laws of India during the time of the British and how British officials did changed them from time to time[2]

II. HISTORY OF LEGAL SYSTEM IN INDIA

India has a recorded legal history starting from the Vedic Ages. It is believed that ancient India had some sort of legal system in place even during the Bronze Age and the Indus Valley Civilization. Law as a matter of religious prescriptions and philosophical discourse has an illustrious history in India. Emanating from the Vedas, the Upanishads and other Religious Texts, it was a field enriched by practitioners from different Hindu Philosophical schools and later by Jains and Buddhists.

Secular Law in India varied widely from region to region and from ruler to ruler. Court Systems for Civil and Criminal natters were essential features of many ruling dynasties of ancient India. Excellent secular court systems under the Mauryas (321-185 BCE) and the Mughals (16^{th} – 19^{th} Centuries) which preceded the current scheme of common law in India .

This section begins with the idea of Hindu Law and traces its origin through the ancient legal literature. The Section also describes the evolution of Hindu Law during the British rule as well as the modern times, to conceptualize ancient Indian Law in relation with modern Law. Islamic Law became relevant in India only during the medieval period or the middle Ages, especially with the advent of the Mughal Empire in the Mid-16^{th} Century.

The British rule in India is responsible for the development of the Common Law based legal system in India. The development of the British Common Law based system can be traced to the arrival and expansion of the British East India Company in India in the 17^{th} Century. The East India Company gained a foothold in India in 1612 after the Mughal Emperor Jahangir granted it the rights to establish a factory in the Port of Surat. In 1640, the East India Company established a second factory in Madras (now Chennai) on the southeastern coast. Bombay Island, a former Portuguese outpost was gifted to England as dowry in the marriage

[2] *Hasard's Debate, 111rd Series Vol. XIX p.53 Background to Indian Law, p.17, 135*

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of Catherine of Braganza to Charles II and was later leased to the East India Company in 1668.

In the Early seventeenth century, The Crown, through a series of Charters, established a judicial system in towns of Bombay, Madras and Calcutta, basically for the purposes of administering justice within the establishments of the British East India Company. The Governor and the Council of these Towns formulated these judicial systems independently. The Courts in Bombay and Madras were called Admiralty Courts, whereas the Court in Calcutta was called Collector's Court.These Courts has the authority to decide both civil and criminal matters. Interestingly, the Courts did not derive their authority from the Crown, but from the East India Company.

The Charter forms the basis for the establishment of Crown's courts in India. The British East India Company requested King George to issue a Charter by which special power could be granted to the Company. Accepting the Letters Patent of 1726 and the subsequent Charters, has, in effect, applied English Law to British India.

- **Establishment of Mayor's Courts**

The expansion of its establishments brought new challenges to the East India Company. Company requested the King to issue a Charter by which special powers could be granted to it. The Company was granted Charter by King George 1 in 1726 to establish "Mayor's Courts" in Madras, Bombay and Calcutta respectively. Mayor's Courts were not courts of the Company, but courts of the King of England. Mayor's courts superseded all existing courts established in the above places. The Mayor's Courts were authorized 'to try, hear and determine all civil suits, actions and pleas' that may arise within the three towns or within the factories of the Company. The Court consisted of a Mayor and nine Alderman Seven of whom, including the Mayor, were required to be naturally born British subjects. Alderman was selected from among the leading inhabitants of the settlement to hold the position for life. The Mayor was elected from the Alderman.

The Mayor's Courts contributed significantly to the formulation of a uniform pattern of judicial functioning in India. The Mayor's Courts administered English Law, which was assumed to be the lex loci ('law of the place') of the settlement. The inhabitants of the settlement were governed by the English Law, irrespective of their nationality. English Law did not extend outside the settlements, and their Indians were subject to their own laws.

The Charter of 1726 did not specify the law to be applied by the Mayor's Courts. The Charter merely stated that the Court was required to 'give judgment and sentence according to Justice

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and Right.' However, based on the past practice and in the light of the 1661 Charter, the then existing English Law, or principles of English Common Law and Equity were applied. It is generally understood that the Charter of 1726 indirectly brought into application the laws of England- both Common Law and statute law, into the three British Settlements in India. This is one of the distinctive outcomes of the 1726 Charter.

- **Regulating Act of 1773**

Judicial functions of the East India Company expanded substantially after its victory in the **Battle of Plassey (1757).** The battle established the Company rule in Bengal, which expanded over much of India for the next hundred years. After this battle, the real authority of the Nawabs of Bengal passed on to the British. In the year 1765, Robert Clive secured in perpetuity for the East India Company, the Diwani of Bengal, Bihar and Orissa from the Mughal Emperor Shah Alam, who was still considered to be the Ruler of the Country, against a payment of Rs 26 lakhs. By this grant, the Company claimed to have become the virtual sovereign and master of this territory. At that time, the Nawab, who was the Subedar of Bengal, represented the Mughal [3]Emperor. While exercising his authority, the Nawab performed two main functions: (i) Diwani i.e. collection of revenue and civil justice, and (ii) the Nizamat, i.e. the military power and criminal justice. The East India Company obtained Diwanirights from the Mughal Emperor and the Nawabs gave it Nizamat work. However, the administration of criminal justice was left with the Nawab, who was responsible for maintaining law and order.

Despite its success in Bengal, the East India Company was debt-ridden at that time and had to pay significant sums of money to the British Government to maintain monopoly rights in India. The affairs of the Company were poorly managed and the natives were unhappy. Even the Tea Act of 1773, which triggered the American War of Independence, was designed to rescue the near bankrupt company and to generate money from the colonies. In 1773, Lord North, the then Prime Minister of England, decided to introduce some form of legal government to manage the Indian possessions of the East India Company.

As the East India Company acquired formal political power over substantial areas in eastern India, the British Parliament grew more concern about the need to regulate its activities. In 1773, the British Parliament passed the Regulating Act (13 Geo, 111 Ch 63). The Regulating Act of 1773 made some important changes in the structure of the Company, and appointed a Governor General and Four Councilors at Fort William in Calcutta. The Regulating Act of

[3] *Op. cit. 536*
Background to Indian Law, p.45

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1773 is widely considered as the first attempt by the British Parliament to construct a regular government for India and to intervene in the control of the Company's Administration. The Regulating Act of 1773 also superseded the provisions of the 1753 Charter.

The Regulating Act of 1773 was the first at creating a separate and somewhat Independent Judicial organ in India, under the direct control of the king. The Chief Justice and other puisne (junior) judges were appointed by the King. Section 13 of the Regulating Act empowered the Crown to establish by Charter, a Supreme Court of Judicature at Fort William in Calcutta. On 26 March 1774, Letters Patent was issued to establish the Supreme Court of Judicature. The Supreme Court was issued to establish the Supreme Court of Judicature. The Supreme Court was to consist of a Chief Justice and three puisne judges being barristers of not less than 5 years of standing to be appointed by His Majesty. Sir Elijah Impey, a distinguished English Barrister, was appointed as the First Chief Justice of the Supreme Court of Calcutta, a post he held until 1787. The Supreme Court was set by 'Letters Patent'. Clause XVIII of the first Charter obtained that the Supreme Court should be a Court of equity, and shall and may have the full power and authority to administer Justice. In a summary manner, as nearly as may be, according to the rules and proceedings of our High Court of Chacery in Great Britain.

Law Reforms in British India

During the late 18th and early 19th centuries, the Indian Cities, much like British Cities of the time, where poorly administered and policed. Crimes were widespread and corruption was rampant especially in the police. Lord Cornwallis realized that implementation of judicial reforms would not be complete without police reforms. Much of the criminal justice system in Bengal remained in the hands of the Nawab, the nominal local ruler of the company's territory. Warren Hastings had attempted several times to make changes in policing and the administration of justice, but with limited success. William Jones, an expert on languages and legal system in Ancient India, translated the existing Hindu and Muslim Penal Codes into English. The limited objective was that the principles of the ancient texts could be evaluated and applied by English-Speaking Judges. In 1787, Lord Cornwallis gave limited criminal judicial powers to the company's revenue collectors, who had already served as civil magistrates. Most importantly, the collector was divested of judicial and magisterial powers and entrusted with the duty of administration of revenue. In 1790 the company took over the administration of justice from the Nawab, and Cornwallis introduced a system of circuit courts with a superior court that met in Calcutta and had the power of revenue over circuit court decisions. However, most of the judges were non-native. Lord Cornwallis had initiated

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efforts to harmonize different codes existing at that time. By the time of his departure in 1793, the harmonized code, known in India as the Cornwallis Code, was substantially complete.

Despite the best intentions, the Cornwallis Reforms resulted in institutionalizing discrimination through judicial reforms. One consequence of the Cornwallis Code was that it, in effect, institutionalized a discrimination against natives in the legal system. In 1791 Lord Cornwallis issued an order that [no] person, the son of a Native Indian, shall henceforward be appointed be appointed by this Court to Employment in the Civil, Military or Marine Service of the Company. These Policies led to the development of an elite class of English Judges in India. English Judges were appointed to various courts in India, including the High Courts and the Federal Court, until India became a Republic in 1950.

The Crown Courts in India operated on the basis of 'law of equity and rule of good conscience' could be interpreted to mean the rules of English Law if found suitable to Indian Society and circumstances. But the exact scope and meaning of this phrase was not and is easily ascertainable, particularly because it also carried a historical background. Within the Presidency Towns, the English law was the lex loci (law of the place), the only exception being for Hindus and Mohammedans, who were allowed the benefit of their personal laws in certain spheres.

Outside the Presidency Towns, Regulation IV of 1793 had provided that in suits regarding succession, inheritance, marriage, caste and all religious usages, the Hindu and Mohammedan Laws were to be applied by the courts; but this provision was confined in its application to Hindus and Mohammedans only. For other categories of persons and other types of suits no specific rules of guidance was in force except that the judges were to act in accordance with "justice, equity and conscience."

However, the application of the laws, as aforesaid, created difficulties. The population of India, even outside the Presidency Towns, could no longer be regarded as consisting of Hindus and Mohammedans alone. The number of Indian Christians was also on the increase. On account of their mixed ancestry and the abandonment of their old moorings, the Anglo-Indians and the Christians could not rely upon their personal laws and even they could, in some cases, the difficulty of ascertaining their personal laws deterred the judges from applying them. The Courts had, out of necessity, to fall back upon "justice or equity and rule of good conscience." This flexibility gave the judges the opportunity to legislate and fill up

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the gaps while deciding cases. [4]

III. CRIMINAL LAW, CIVIL LAW AND PERSONAL LAWS DURING BRITISH PERIOD

Criminal Law in the British Period- During this time, serious offences like homicide became crimes against the state instead of being private offences. From 1790 onwards, Lord Cornwallis extended the process of codifying criminal law. Major changes took place in the subject of sentencing. The Law even divides modes of punishments into categories. These included death, dismembering of limbs, stoning, levy of fines, confiscation of property, the punishment of exile etc.

After the British arrived in India, they initially decided not to interfere much with existing Muslim Criminal Laws. They implemented changes in a phased manner so as to not upset the locals. The Mohammedan law of crimes, which was the law of the land suffered from many defects. The criminal administration of justice was also left to the Muslim Officers even after the introduction of the Adalat System in 1772. Though Warren Hastings was very much perturbed with the state of affairs, he could not make any changes except the one which he made in 1773, which provided heavier punishment for dacoity, a usual crime in those days.

It was Lord Cornwallis who, for the first time, changed some of the rules of the existing law of crimes. Firstly, by a Regulation of 1790 he abolished the distinction between the murder caused by injuring someone and the murder caused by injuring some and the murder in other form such as drowning in the water.

When Warren Hastings introduced his Judicial Plan of 1772, he did not do any severe changes to substantive criminal law. In 1773, he slowly started changing rules of procedure and evidence in existing criminal laws. **For example, he abolished the practice of allowing male relates of victims to pardon their killers.**

During this time, serious offences like homicide became crimes against the state instead of being private offences. This laid the foundation of the modern of the state prosecuting people who commit public offences. From 1790 onwards, Lord Cornwallis extended the process of codifying criminal law. Major changes took place in the subject of sentencing. As a result, the process of levying punishments physically harming and dismembering slowly started fading.

Lord Wellesley made even more changes to the offences of murder and homicide in the early 1800s. For example, the law now made distinctions between intentional and unintentional

[4] *Law Commission of India, Fourteenth Report V I p. 1 (1958) Davis, Donald R. The Spirit of Hindu Law, Cambridge [U.K. UP 2010. Print Derett, J Duncan M The Administration of Hindu Law by The British, The Hague, Mouton, 1961.Print*

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killing. Furthermore, rules of evidence became stricter and the threshold of proof to indicate guilt increased greatly. In Presidency Towns like **Madras, Bombay and Calcutta** the British made many changes keeping local conditions in mind.

Codification of Substantive Criminal Laws

According to the Charter Act, 1833, India's first Law Commission in 1834 recommends drafting of the Indian Penal Code. Lord Macaulay, who was the chairman of that law commission, spearheaded it's drafting. The Code was basically a comprehensive enactment describing all major crimes in existence at that time.

Despite several revisions over almost thirty years, the law did not come into force until 1860. It was only after the **Rebellion of 1857** that the British decided to implement it. IPC has seen several amendments since its first came into existence. Although it largely relied on British Laws and Practices, many of its provisions are still the same. Even the Indian Evidence Act came into existence in 1872 under the guidance of Lord Macauley. It's foundation was largely the British Law of evidence, but it has seen many changes since then.

Codification of Procedural Criminal Laws

Although the British had enacted a Criminal Procedure Code for India in 1862, modern procedural laws came much later. The. Code of 1862 was amended and replaced many times to make procedural laws modern. After Independence, the Law Commission made many recommendations to update **CrPC.** Some of these changes were the abolition of Jury Trials as le. The most important reason for these changes was to make the criminal procedure quick and effective. CrPC was finally enacted again by the Parliament in 1973, and has been amended many times since then.

Civil Law-

From the very beginning the position was that while, all other natives within the Company's Territory were subject to the jurisdiction of the courts established by the Company, the British born subjects were amenable only to the jurisdiction of the Crown's Courts. In 1787, for the first time in Bengal it was provided that if a British subject filed a suit in a Company's Court, who had the jurisdiction with respect to the other party but did not have a jurisdiction over a British Subject, then he had to write a bond to be bound by the decision of such court.

In 1793, Lord Cornwallis prohibited the British subjects from residing beyond ten miles of Calcutta unless they executed a bond to be bound by the jurisdiction of the Mofussil Civil Courts in matters up to the value of Rs 500.

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The Charter Act of 1813 provided that the British subjects residing, trading or holding immoveable property beyond ten miles from Presidency limits could be sued in the Company's civil courts of the place subject to a benefit that the appeal against the decision of such court could be filed only in the Crown's Court and not in the Sadar Diwani Adalats.

Lord Hastings in his reforms of 1814, however, provided that cases in which British Subject, European or any American was a party, could not be heard in the courts of Munsifs and the Sadar Ameens i.e. the matter could be heard in the Courts of Munsifs and the Sadar Ameens ie the matter could be heard only by the district court usually presided over by an English Judge. But in 1827, on the petition of certain British Subjects, this provision was amended and the courts of Sadar Ameens were authorized to take cognizance of such cases.[5]

The Charter Act of 1833 was to bring many changes one of which was that the doors were being opened for the British subjects to settle within the countryside. The Company's Court of Directors envisaged the dangers of such influx and, therefore under Section 85 of the Act an obligation was put upon the Company's Government in India to provide for the protection of the natives from insult and outrage in their persons, properties, religions and opinions.

In pursuance of the policy of the Act of 1833 and the wisnes of Macauley, in spite of opposition from many British People, the Legislative Council of India passed the Act of 1836, section 107 which abolished the privilege enjoyed under the Act of 1813. It also extended the jurisdiction of all civil courts, except that of the Munsifs in Bengal and of Sadar Ameens and District Munsifs in Madras, to all persons without any distinction of birth or of descent.

A complete hierarchy of Courts was established to deal with civil matters. In this hierarchy at the top was the Sadar Diwani Adalat and in the bottom were the Courts of Munsifs and Ameens. The jurisdiction and constitution of these Courts may be mentioned in brief.

- **Sadar Diwani Adalat**- The Sadar Diwani Adalat was the highest Court in the judicial hierarchy which consisted, as usual of the Governor- General and Council. It heard appeals against the decisions of the Provincial Courts of Appeal in matters exceeding Rs 1,000. An appeal against the decisions of this Court could go to the King-in-Council in matters exceeding Pound 5,000.

[5] *For details see MP Singh- Outlines of India Legal History (Ancient and Medieval Periods) Ch 5, (1968) The reason for suchprivilege has been so stated in Adv. Gen of Bengal vs Rane Surnomoyee Dossee, 9 MLA 387 See Chapter 1V Part V of the Constitution of India Art 131 Art 32 Articles 132-136 The Supreme Court at Calcutta and later the Supreme Courts at Madras and Bombay also were given the jurisdiction of the Courts of Oyer and Terminer, supra, Chapter 4 A Reciprocal right was given to Indians also to claim a jury consisting of a majority of the Indians*

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The changes introduced in the powers and functions of this Court related to the supervision and control of the lower judiciary. In that capacity the court could receive any original suit to be referred to the Provincial Court of Appeal or to the Diwani Adalat, if either of them had neglected to entertain the matter.

(b) Provincial Courts of Appeal- Before the scheme of 1793, the only appellate court was the Sadar Diwani Adalat with its seat at Calcutta which was hardly accessible to the people living in the interior. The Court did not have enough time to decide the appeals which came before it and generally, they remained pending for several years. So in practice very few appeals were made to the Sadar Diwani Adalat and that too only by those who could afford to go to Calcutta. Indirectly it amounted to the absence of any appellate court.

To avoid all these defects and increase efficiency a Court of first appeal was established in each of the four divisions of Patna, Dacca, Calcutta and Murshidabad with the name of Provincial Court of Appeal. The Provincial Court of Appeal consisted of three British Servants of the Company's as it's judges. The Provincial Court of Appeal has the jurisdiction to try civil suits referred to it by the Government or the Sadar Diwani Adalat, to entertain and refer back to Diwani Adalat those cases which it had refused to entertain; to hear appeals in all matters against the decisions of the Diwani Adalat, if filed within three months, and lastly, to receive charges of corruption against the judges of the Diwani Adalat and send them to the Sadar Diwani Adalat with its report. In this way the court, apart from being Court of Appeal in all matters, also had direct control over the subordinate courts, ie the Diwani Adalats.

(c) Diwani Adalat- At the district level the Diwani Adalat was reorganised by dislodging the Collector from its judgeship and appointing a civil servant of the Company in his place as its judge who had no other work except deciding the civil and revenue disputes. The judge was required to take an oath of impartiality and was also required to keep proper records of all the proceedings and hold the court in open so that it could be seen by the people that justice was actually being administered.

(d) Registrar's Courts- The Diwani Adalat could refer the suits up to the value of Rs 200 to the Court of Registrar which was held by a servant of the Company.

Although much of the civil law of the native people was left untouched, there were more complications on this side of law. The reasons were that apart from Hindus and Muslims many other people such as **Parsis, Christians, American Jews etc** also lived in the country for whom-in the country for whom there was no law. The position was very confusing with respect to these people as well as to **Hindus and Muslims.** In Presidency Towns the position

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was different from Mofussil and at neither place the position was clear.

Presidency Towns- In Presidency Towns the position of the law was somewhat as below:-

- The common law and statutory law of Britain as it existed in 1726 and which was not made inapplicable to India either by Parliament of England or by Governor-General in Council. But such a Law of Britain was to be applied to the extent to which it suited Indian conditions.
- The Acts of British Parliament passed after 1726 and made applicable to India either expressly or by necessary implication.
- The Regulations made by the Governor-General in Council.
- The law of the Hindus for Hindus and of Mohammedans for Mohammedans or of the defendant, only if one party was a Hindu or Mohammedan, in all matters regarding inheritance, succession to land, goods and rents, and all matters of contract and dealing between parties.
- English Law for persons other than Hindus and Mohammedans
- The law of the ecclesiastical and admiralty courts in the matters concerning those aspects.

Law in Mofussil- The law in Mofussil area particularly in Bengal, Bihar and Orissa was as- The Acts of British Parliament extended to such area either expressly or by necessary implication. However, hardly any law of British Parliament was extended which related to substantive aspect of civil law.

- Regulations made by the Governor- General in Council were very few.
- Law of the parties in case of Hindus and Mohammedans or of defendant if only one party was a Hindu or Mohammedan, in all cases of succession, inheritance, marriage, caste and other religious institutions.[6]
- In all other cases the matter was to be decided on the principle of **'justice, equity and good conscience'** which was applied from the very beginning.

Practically very little substantive law was made with respect to Mofussil Area and most of the cases were decided either by the personal laws of the parties or with the help of English Law moulding it to Indian circumstances. Almost the same system of law as existed in

[6]*U.C. Sarkar, op.cit., p.374, 380 For a very incisive and informative discussion on the notion of "justice, equity and good conscience" see J.D.M Derrett, "Justice, Equity and Good Conscience", in J.N.D Anderson (Edn), Changing Law in Developing Societies, 114-53, also reproduced in the Bom L. Reporter J. of 15th Aug and 15th Sept. 1962*

Bengal existed in other provinces also. In Bombay some of the basic principles with respect to the applicability of law were compiled in the **Elphinston's Code of 1827.**

Personal Laws in India during British Period- Personal Law is defined as a law that applies to a certain class or group of people or a particular person based on the religions, faith and culture. In India, everyone belongs to different caste; religion and have their own faith and belief. Their belief is decided by the set of laws. And these laws are made by considering different customs followed by that religion. Indians are following these laws since the colonial period. There are personal laws of **Hindu, Muslims and the Christian Community.** The early policy of non-interference in the personal law is clear from the earliest Judicial Regulation of 21 August, 1772 made by Warren Hastings which provided that "in all which provided that in "all matters arising out of inheritance and succession to land and goods and matters of contract and dealing between parties, shall be determined, in case of Mohammedans and in case of Gentoos, by the law and usages of Gentoos." But the slow change is evident from the Regulation such as that of 5th July, 1781 made by Sir Elija Impey which provided that in those cases where there was no specific directions the Judges had to act according to "justice, equity and good conscience".

The legislation effected more changes in Hindu Law than in Mohammedan Law. According to Dr U.C. Sarkar "legislation and adjudication were the two most conspicuous instruments that were vitally responsible for the steady and systematic development of Hindu Law during the British Rule, particularly from the later part of the 19th Century."

Personal Law

Laws relating to marriage have been clearly codified in different Acts which are applicable to people of different religion. These Acts are:

- The Convert's Marriage Dissolution Act, enacted during 1866
- The Indian Divorce Act, enacted in 1869
- The Indian Christian Marriage Act, enacted during 1872
- The Kazis Act, enacted during 1880
- The Anand Marriage Act, enacted in 1909
- The Indian Succession Act, enacted during 1925
- The Child Marriage Restraint Act, enacted in 1929
- The Parsi Marriage and Divorce Act, enacted in 1936
- The Dissolution of Muslim Marriage Act, enacted during 1939
- The Special Marriage Act, enacted during 1954

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- The Hindu Marriage Act, enacted during 1955
- The Foreign Marriage Act, enacted in 1969 and
- The Muslim Women (Protection of Rights on Divorce) Act, enacted in 1986.

In personal cases, courts are required to work with the personal laws when the issue is not being covered by any statutory law. For instance, **Hindu Law**

Hindu Personal Laws

Hindu personal laws can be found in:

The **'Shruti'** which contains all the four Vedas, namely Rig Veda, Sama Veda, Yajur Veda and Atharva Veda and The **'Smritis'** which are handed down teachings and sayings of Rishis and holy men of Hindu Religion and the commentaries written by many historic authors about the 'Smritis'.

There are three types of Smritis, namely: Codes of the **Manu, Yajnavalkya, and Narada.**

Personal Laws and customs as recognised by the Statutory Law regulate the Hindus. These are applicable to legal issues related to to matters of inheritance, succession, marriage, adoption, co-parenting, the partition of family property, obligations of sons to pay their father's debts, maintenance and religious and charitable donations.

Sources of Muslim Personal Law

The **Holy Quran**, The sayings and teachings of Prophet Mohammed carefully preserved in tradition and down generation to generation by holy men, **Ijma**, the agreement of Muslim Scholars, companions, and disciple of Prophet Mohammed on matters of religion, **Kiyas,** an analysis made during **Quran,** sayings of Prophet Mohammed, and **Ijma** when any individual one of them is not applicable to a particular case, Digests and commentaries on Muslim Law, written by ancient Muslim scholars. The most famous include **Hedaya (composed in the 12th Century) and Fatwa Alamgiri,** compiled under the instructions of **Mughal Emperor Aurangzeb Alamgiri.**

Personal Laws and customs govern the Muslims. It applies to all matters relating to inheritance, will, succession, legacies, marriage, dowry, divorce, gifts, wakfs, guardianship and pre- emption.

The Waqfs Act, 1913, the Shariyat Act of 1937 and the Dissolution of Muslim Marriage Act, 1939 –

All these three Acts exclusively relate to Muslim Law. The first Act was in conformity to the rule of Muslim Law and only changed a decision wrongly given by the Privy Council, in

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which it had held that Waqf for family was void. The Shariyat Act put the Khojas, Memons and Vohras under the Muslim Law in all matters and the last Act gave the Muslim Wife the right of judicial separation from her husband which was uncertain in Muslim Law.

Christian Personal Law

The Christian Marriage Act, enacted during 1972 has instructions on dealing with the matters related to matters of marriage. **Indian Divorce Act** enacted during 1869 contains matters related to divorce.

Under the directions of this Act, the husband can appeal for divorce on grounds of adultery by the wife. Similarly, the wife can appeal for divorce on grounds of adultery on the part of his wife and the wife can seek divorce on the ground **that the husband has converted to another religion** and has gone through marriage with another woman or has been guilty of any of the acts mentioned in the Act.

IV. CONCLUSION

From the above discussions, it can be concluded that we have discussed about the judicial system of India during British Times and also we studied in detail about the criminal laws civil laws and personal laws during the times of the British in India. We studied about the evolutions and transformations that took place in the judicial system of the country during the times of the British in India and how these laws were applicable and executed towards the common citizens of the country. During whole of this research work we studied about the criminal law, civil law, and personal laws which were related to different religions like Hindu, Muslim and Christian Religion. We also got to know about the ideas of various thinkers about these laws and how these laws were time and again modified by the British Officials. The advent of Muslim Rule in this country created two different system of laws in place of one depending for their application upon the personal status of the parties i.e. Hindu Law for Hindus and Muslim Law for Muslims subject to a theoretical exception in matters of crimes where the Muslim Law applied to all. From the very beginning the position was that while, all other natives within the Company's Territory were subject to the jurisdiction of the courts established by the company. In the sphere of criminal justice, the discriminations continued throughout the British Rule and ended only after the independence. So after all the discussions, we covered all the aspects of Indian Judiciary System during British times and get to know about the criminal law, civil law and personal laws in India during the British Times.

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