

Cure The Other Epilepsy Now

If you are governed by the Hindu Marriage Act, 1955, you can no longer annul your marriage or seek a divorce on the ground that your spouse is suffering from lunacy by virtue of being epileptic. That landmark change was put forth by the country's law minister on December 20 on the basis that epilepsy is now fully curable and therefore did not warrant a divorce. Even more significant was the fact that the Indian Parliament passed the legal amendment that day without a protest, without any storming of the well of the Lok Sabha; indeed, there was no discussion at all so that the voice vote in its favour sailed through so swiftly and silently that the public at large has failed to notice it, courtesy of the media that largely ignored the issue.

Coming towards the end of what everyone has termed as a millennium, this latest amendment to the Hindu Marriage Act represents another peak point of social reformation by a community that was not so long ago considered as too orthodox and utterly patriarchal. It was so ingrained, this male domination, that even the President of India was bitterly opposed to the Hindu Code Bill sought to be pushed forward by Jawaharlal Nehru in the early fifties.

Believe it or not, a Hindu male of less than half a century ago could marry any number of wives if he so chose, but the Hindu law did not admit of divorce. All that and more was changed, despite stiff opposition from orthodox Hindus, by the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, and the Hindu Adoption and Maintenance Act, 1956. These measures substantially secularised and modernised the personal laws for Hindus even as matrimonial laws applicable to Muslims, Parsis and Christians remained more or less static.

The main reason for this phenomenon is that the non-Hindu communities -- the "minority" section as they are fashionably called -- have exhibited an unbelievable unwillingness to reform their customs passed off as religious law. For example, in the latest matter of epilepsy ceasing to be a ground for divorce, the Christians would probably have procured a hundred medical opinions to disprove that epilepsy is fully curable and thereby struck down the law minister's amendment. Ditto with the Muslims.

Compounding this archaic reluctance to reform is the fact that all the governments in Delhi so far have been timid in Article 44 of the

Constitution of India that enjoins the state to provide a uniform civil code for the entire country. It is therefore ironic that the Hindus who permitted their personal laws to undergo a veritable sea-change in the last 45 years are today condemned as communal and fundamentalists and fascists just because they urge the commonsense code of "one land, one law." The greater pity is that even those who pass off as Hindus do not understand, or do not wish to acknowledge, that it is a dire need of our nation's social fabric to do away with the gross discrimination in certain civil laws and thereby uphold Article 14 of the Constitution -- that is the Article which enunciates that "The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

It is because of the extreme oddity of looking at a Christian divorce case in one way, at the Hindu divorce petition in another manner, and the Muslim divorce plaint in a third way that a few judgements of our Supreme Court, one being as late as 1995, asked the government of India to enact a uniform civil code. The oddity is rendered stark by the fact that except for marriage, divorce, adoption, maintenance and inheritance, there are uniform laws for all other matters.

The bewildering variety of personal laws presently prevalent in the country is set out below.

Applicable to Hindus (Hindu Law)

* The Hindu Marriage Act, 1955 * The Hindu Succession Act, 1956 *
The Hindu Adoption and Maintenance Act, 1956

Applicable to Muslims (Mohammedan Law)

* The Muslim Personal Law (Shariat) Act, 1937 * The Dissolution of
Muslim Marriages Act, 1939 * The Wakf Act, 1913 * The Muslim
Women (Protection of Rights on Divorce) Act, 1986

Applicable to Christians (Christian Law)

* The Indian Christian Marriages Act, 1872 * The Indian Divorce Act,
1869

Applicable to Parsis (Parsi Law)

The Parsi Marriage and Divorce Act, 1936

Applicable to Jews (Jewish Law)

The Jewish Law of Marriage and Divorce (Uncodified Law)

Applicable to all Citizens

* The Converts Marriage Dissolution Act, 1866 * The Indian Succession Act * The Guardian and Wards Act * The Criminal Procedure Act. The Special Marriage Act, 1954 which provides for a civil form of marriage, which can be availed of by anyone domiciled in India irrespective of religion. A marriage celebrated in any other form can also be registered under this Act provided that such a marriage also satisfies other requirements for marriage under this Act. On the registration of marriage under the Act, the provisions of the Act govern the parties to such a marriage. A hallmark of this Act is divorce by mutual consent.

The fall-outs of the above maze of laws are some perverse peculiarities. For instance, under the Indian Divorce Act, a Christian woman has to prove adultery combined with incest or some other lapse on the part of the husband in order to get a divorce; however, a man of the community can get a divorce merely on the ground of adultery. This is why, in its judgment of 1989, the Calcutta High Court observed (obiter dictum) that various provisions of the Indian Divorce Act were discriminatory as between man and woman as well as biased against women on the basis of religion. Again, the Muslim personal law permits a man to marry four wives and to divorce his wife by oral unilateral declaration (talaq) and the obnoxious practice of child marriages. Neither the Hindu nor the Muslim woman gets inheritance equal to that of her brother.

The saddest part of such a pronounced and blatant anti-woman base of the extant civil laws is that none of the scores of women's organisations in the country has ever really made a concerted move to secure a uniform civil code. These women have demanded reservation of seats in panchayats, in state assemblies and in Parliament; they have demanded the right to be pilots in the air and shuttlers in spacecraft; they have demanded that men too should nurse the new-born and therefore be entitled to "paternity" leave, etc etc. But Gita Mukherjee and the like have never launched a movement for securing a uniform civil code. Why? Are you reading this, Arundhati Roy?

With 2000 AD likely to continue the votebank politics of pseudo-secularism, it will remain the burden of the "fundamentalist" Hindus to educate the nation on as to why it will be good for Indian womanhood if there were only one law for them in our one land. Sustained lectures in all our villages, towns and cities can bring this about. After all, epilepsy is now fully curable, isn't it?

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