

# Relevance of Indian knowledge system with present family laws in India

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## INTRODUCTION

The Indian Knowledge System (IKS) has a profound and nuanced relevance to present family laws in India, even though the modern legal framework is predominantly derived from common law principles introduced during the British colonial period.

The Indian Knowledge System (IKS) has a profound and undeniable relevance to present-day family laws in India, particularly Hindu family law. While modern family laws are largely codified statutes enacted by Parliament, their historical roots, underlying principles, and even some contemporary challenges are deeply intertwined with the ancient wisdom, customs, and ethical frameworks of IKS.

The paper aims to find out and denote the relevance between IKS and the family laws in India. The article ponders upon the constitutional and philosophical underpinnings of both subjects. This relevance can be observed in several key areas:

### 1. Foundation of Personal Laws

- **Dharmashastras and Ancient Texts:** Historically, family matters in India were governed by personal laws deeply rooted in ancient religious and philosophical texts, primarily the Dharmashastras (like Manusmriti, Yajnavalkya Smriti), Arthashastra, and various customs (achara).

These texts provided guidelines on marriage, divorce, inheritance, adoption, guardianship, and maintenance. Manusmriti described the kinds of marriages, devolution of property after the death of father, mode of adoption and such other laws have been aptly described.

We are not concerned with the rituals and religious practices but legal aspects enshrined in these ancient texts need to be appreciated and analysed in terms of modern day developments.

- **Continuation of Personal Laws:** Even today, India operates under a system of diverse personal laws for different religious communities (Hindu, Muslim, Christian, Parsi). While many of these have been codified and reformed post-independence (e.g., Hindu Code Bills of 1955-56), their foundational principles, concepts, and much of their substance are derived from these ancient IKS sources. For instance:

Personal laws are codification of varied practices prevailed in the society. These customary practices have been consolidated and codified in order to bring well-arranged system for the generations to follow.

- **Hindu Law:** The Hindu Marriage Act, Hindu Succession Act, Hindu Adoption and Maintenance Act, and Hindu Minority and Guardianship Act, though modernized, still retain concepts like *Sapinda* relationships, *coparcenary* (modified now), and the sacramental nature of marriage, which have their origins in the Dharmashastras.

Hindu laws have been enacted after the Hindu Code Bill. These laws govern the different aspects of the life such as marriage, divorce, adoption, succession, maintenance and guardianship. It had brought the uniformity and definite meaning and process to govern these aspects of personal life.

- **Muslim Law:** While distinct, it is based on Islamic religious texts (Quran, Sunnah, Ijma, Qiyas) which represent a different stream of knowledge system but function as "personal law" in India.

Muslim law largely based on the Quran and other religious texts has profound impact over the life of an ordinary person. These customary laws govern the personal affairs of every individual.

However these personal laws must be in tune with the constitutional mandate. Any custom, if found against the constitution, shall be declared as void.

## 2. Influence on Constitutional Values and Judicial Interpretation

- **Dharma and Justice (Nyaya):** The core principles of "Dharma" (righteous conduct, duty, moral order) and "Nyaya" (justice, fairness, equity) from IKS continue to implicitly influence judicial interpretations, especially in matters of family law. Judges often refer to the "spirit of the law" or "conscience" which can, at times, align with these broader ethical concepts.

The concept of Dharma has been well received in the Constitutional philosophy. Universal ideals such as *Nyaya* / justice, *Samata* / equality, *Bandhutva* / fraternity, *niti* / ethics are based on the dharma, an integral part of IKS.

- **Evolution towards Equality:** While ancient laws often reflected patriarchal norms, the post-independence legal reforms, driven by constitutional values of equality and gender justice, have sought to address historical inequities. However, the initial understanding of family structures, roles, and relationships as articulated in IKS has provided the historical context against which these reforms are measured and debated. For example, the legal recognition of a daughter's equal rights in coparcenary property (Hindu Succession (Amendment) Act, 2005) was a significant departure from traditional patriarchal interpretations, yet it was a reform *within* the framework of Hindu personal law.

In an ancient wisdom *Shiv* and *Shakti* i.e. men and women are considered as an equally important and inseparable from each other. This idea of equality and respect was deeply rooted in the Indian philosophy. However with passage of time especially during the foreign invasion this equality has been done away with. But originally IKS does not believe in discrimination.

## 3. Alternative Dispute Resolution (ADR)

- **Panchayat System and Conciliation:** Ancient India had sophisticated mechanisms for dispute resolution at the community level, such as the *Panchayat* system, which emphasized conciliation, mediation, and community consensus. This approach resonates with the modern emphasis on Alternative Dispute Resolution (ADR) mechanisms in family law, such as mediation and conciliation, encouraged by

family courts to resolve disputes amicably and preserve family ties where possible. This is particularly relevant in family matters where adversarial litigation can be damaging to relationships. Many instances of Ramayana and Mahabharata provide an example that the any dispute can be resolved through dialogue and common understanding. For e.g. in *Ramayana Angad* acted as an ambassador of the *Ram* and kept proposal before the *Ravana* to avoid the war and handover *Sita* to *Ram*. This shows that there was a system of dispute settlement. Many such examples have been depicted in IKS.

## 4. Cultural Context and Social Realities

- **Social Fabric:** Family laws in India must operate within a diverse socio-cultural landscape, where traditional values, customs, and community norms still hold significant sway. IKS provides a framework for understanding these deeply ingrained societal patterns and beliefs about marriage, family structure (e.g., joint family vs. nuclear family), and intergenerational responsibilities.

Internal relations and Intra-relations between the society were based on the customary practices. *Varna* System was initially based on the *Guna* and *Karma* of every individual (*Chaturvarna maya srustham Guana Karma Vibhagashah*)

- **Challenges of Uniform Civil Code (UCC):** The ongoing debate surrounding the Uniform Civil Code (UCC) highlights the tension between modern, universal legal principles and the diverse traditional knowledge systems embedded in personal laws. Proponents of UCC argue for equality and uniformity, while opponents often emphasize the importance of preserving religious and cultural identities, which are linked to their respective IKS.

## 5. Protection of Indigenous Practices (e.g., Tribal Laws)

- While the major personal laws are widely known, many indigenous tribal communities in India have their own customary laws governing family matters. These uncoded systems are a part of their unique IKS and are often protected by specific constitutional provisions, posing a challenge and a

necessity for the formal legal system to acknowledge and sometimes integrate these diverse practices.

Protection of forests and forests dwellers are well described in *Aranyak upnishad*. A person is obliged to respect and preserve every animal of the universe i.e. *char – achar srushti*.

#### 6. Emerging Discourses in Legal Education

- There is a growing movement to integrate IKS into legal education. For family law, this means encouraging future legal professionals to understand the historical, philosophical, and cultural underpinnings of India's family law regime. This can lead to more culturally sensitive and contextually relevant legal practice and policy-making.

### CONCLUSION

In conclusion, while contemporary Indian family laws are shaped by modern legislative reforms and constitutional principles, their deep roots in the Indian Knowledge System remain highly relevant. IKS provides the historical context, shapes ongoing debates, subtly influences judicial interpretation, and informs the cultural understanding necessary for effectively addressing family matters in a pluralistic society like India. It emphasizes the continuous interplay between tradition and modernity in the evolution of India's legal landscape.

The Indian Knowledge System is intrinsically linked to present family laws in India. While modern statutes have codified and reformed ancient principles to align with constitutional values of equality and justice, the historical foundations, ethical considerations of *Dharma*, traditional family values, and dispute resolution mechanisms from IKS continue to shape the contours of family law. Understanding this relationship is crucial for comprehending the nuances of current legal debates, the challenges in achieving complete uniformity or gender equality, and the potential for drawing upon indigenous wisdom to create more harmonious and effective legal frameworks for families in India.

### REFERENCE

- Books:
  - Kautilya. *The Arthashastra*. Translated by R. Shamasastri. (Numerous editions available).

- Singh, Nagendra. *India and International Law: Ancient and Modern*. S. Chand & Co., 1969.
- Singh, Bal Ram. *Indian Family System: The Concept, Practices and Current Relevance*. D.K. Printworld Pvt. Ltd., 2011.

- Journal Articles & Papers:

- iPleaders. "Sources of Family Law- Hindu, Islamic and Christian Law." *iPleaders Blog*. Accessed July 5, 2025. <https://blog.ipleaders.in/sources-of-family-law/>
- IJCRT.org. "Women In Indian Knowledge Systems: Contributions And Representations." *International Journal of Creative Research Thoughts (IJCRT)*, Vol. 13, Issue 1, January 2025. Accessed July 5, 2025. <https://www.ijcrt.org/papers/IJCRT2501404.pdf>
- Sivanandaonline.org. "The Smritis." *Divine Life Society*. Accessed July 5, 2025. <https://www.sivanandaonline.org/?cmd=displaysection&id=572>
- Wikipedia. "Traditional ecological knowledge." Accessed July 5, 2025. [https://en.wikipedia.org/wiki/Traditional\\_ecological\\_knowledge](https://en.wikipedia.org/wiki/Traditional_ecological_knowledge) (General relevance for TEK which impacts aspects of family life, though not direct family law).