

# The impact of british administration on hindu law:

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The impact of British Administration on Hindu Law: When the East India Company established their business in Indian subcontinent they were not aware about the laws of that area. As a result they faced problems in the administration levels. The main concern of the administrators of East India Company, Hastings and also his immediate successors, was to ensure maximum amount of land revenue along with the introduction of a judicial administration of both civil and criminal, which would command the authority over the native subjects.[1] So in 1772 Governor-General, Warren Hastings declared his Plan for the Administration of Justice that ' in all suits regarding inheritance, marriage, caste and other religious usages or institutions, the laws of the Koran with respect to the Mohamedans and those of the Shaster with respect to the Gentoos shall invariably be adhered to.'[2] This policy developed some more policies that modernize Hindu law and established Anglo-Hindu law. The codification of Hindu law helped this personal to develop because before this codification Hindu law was not codified anywhere, so it became easier to bring reforms in a compiled law. Moreover, due to the policy of using Hindu law in civil cases concerning Hindu parties, Court Pundits were introduced in courts to help English judges in decision-making. Finally, besides taking help from pundits in giving judgment on Hindu law related cases, the English judges also took help the principles of common law. As a result the Hindu law developed, which contributed to the reforms of Hindu law that took place in the end of British India.

Early Colonial Development of Hindu Law: The early colonial period is marked from 1772 till 1864, when three sorts of development took place in Hindu personal law: codification of Hindu Law in one code, introduction of pundits in courts and

development of case principles in Hindu law related cases.[3] Dharmashastra, smriti, sruti, purans, customs and usages and commentaries on smritis are sources of Hindu law. These sources were used to codify Hindu law in British India. In order to codify the personal law Hastings designated eleven pundits. Thus in 1776 the first codified Hindu law had been developed, which was named as Vivadarnavasetu and then been translated in English as the ' Code of Gentoo Laws'.[4] This codification was later known as the Anglo-Hindu Law. Besides this codification another development was going on in Hindu law that is interpretations of law by pundits in courts. In courts the pundits were the advisors and interpreters of Hindu law for the English judges.[5] They made many modern interpretations, which modernized Hindu law. For example, in the case of Binda v. Kaunsilia it was observed that the judicial authority could enforce conjugal rights.[6] In the case of Ramnath Tolapottro v. Durga Sundari Devi, it was observed that, chastity was a condition precedent to the taking not only of her husband's property but it was a condition precedent to the taking of the heritage by all female heirs and after death of a women the property she inherited goes back to the heirs of the last owner but no to her heirs.[7] Therefore, it is evident from the case precedents that the interpretations of Hindu laws by pundits were male dominating and discriminating to women. As a result further reforms were needed in the Hindu law, which caused the codification of ' Digest of Hindu Law' in 1801. This codification was the first step to reform the traditional Hindu law and practices that the British disliked.[8] ----- [1] Cohn, B., ' From Indian Status to British Contract' (1961) Journal of Economic History, 21, p. 463-482 at p. 464. [2] Pozzo, B., ' A Suitable Boy: The

Abolition of Feudalism in India' (2008) 1 (3) Erasmus Law Review, p. 41-58 at p. 49. [3] Halperin, J., ' Western Legal Transplants and India' (2010) 2 (1) Jindal Global Law Review, p. 1-23 at p. 15. [4] Id. [5] Id. [6] Mayne, John Dawson, A Treatise on Hindu Law and Usage (1991, Bharat Law House, Ed. 13) Ch 4, p. 119. [7] Ibid, Ch 17, p. 758-759. [8] Op. cit. no. 3, p. 16.