

1999

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# The Indian Christian Marriage Act, 1872

Asst. Inspector General of  
Registration Assam  
Guwahati-32

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with SHORT NOTES



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## THE INDIAN CHRISTIAN MARRIAGE ACT, 1872

### INTRODUCTION

The law relating to solemnization in India of marriages of persons professing the Christian religion was spread over in two Acts of English Parliament and three Acts of Indian Legislature. To reduce into a smaller compass and to simplify the then prevalent law on this subject by the consolidation of the different enactments The Indian Christian Marriage Bill was introduced in the Legislature.

### STATEMENT OF OBJECTS AND REASONS

The law relating to solemnization in India of marriages of persons professing the Christian religion is at present distributed over two English Acts of Parliament and three Acts of the Indian Legislature.

The objects of this Bill is to reduce into a smaller compass and simplify the existing law on this subject by the consolidation of the different enactments referred to, and at the same time to amend the law in those matters in which it has been shown to be defective.

For example, by Act V of 1865 it is provided that marriages between Native Christians shall be valid where the ages of the contracting parties are not less than sixteen and thirteen years, respectively, and where they do not stand in relation to each other within the prohibited degrees of consanguinity or affinity.

It has been very forcibly represented by the President and several members of the Bengal Christian Association that this provision of the law works injuriously by freeing the children of Native Christian parents from the control which all other parents can legally exercise over their sons and daughters are the latter have attained their majority.

The Bill requires the consent of the parents or guardians of Native Christian to a marriage between them, where the age of either of the parties about to contract such marriage is less than eighteen years, except in cases in which the minors have been altogether separated from their parents or natural guardians, and by reason of such separation are not properly subject to their control.

There is also some ambiguity in regard to the provisions of the law respecting the submission of returns, and the disposal of the records of the registration of marriages solemnized between Native Christians.

The Bill lays down distinctly how such marriages are to be recorded in all cases, and provides for the disposal of the record. It also substitutes for the fixed rates of fees in respect of marriages solemnized by or before Marriage Registrars, a power to the Local Government to regulate such fees and their remission; and lastly, extends the Marriage law to all places within the territories of Native Princes in alliance with Her Majesty, in respect of marriages between British subjects professing the Christian religion.

### ACT 15 OF 1872

The Indian Christian Marriage Bill having been passed by the Legislature received its assent on 18th July, 1872. It came on the Statute Book as THE INDIAN CHRISTIAN MARRIAGE ACT, 1872 (15 of 1872).

## LIST OF AMENDING ACTS AND ADAPTATION ORDERS

1. The Repealing Act, 1874 (16 of 1874).
2. The Births, Deaths and Marriages Registration Act, 1886 (6 of 1886).
3. The Indian Christian Marriage Act (1872) Amendment Act, 1891 (2 of 1891).
4. The Amending Act, 1891 (12 of 1891).
5. The Repealing and Amending Act, 1903 (1 of 1903).
6. The Indian Christian Marriage (Amendment) Act, 1911 (13 of 1911).
7. The Repealing and Amending Act, 1928 (18 of 1928).
8. The Government of India (Adaptation of Indian Laws) Order, 1937.
9. The Repealing Act, 1938 (1 of 1938).
10. The Indian Independence (Adaptation of Central Acts and Ordinances) Order, 1948.
11. The Adaptation of Laws Order, 1950.
12. The Part B States (Laws) Act, 1951 (3 of 1951).
13. The Repealing and Amending Act, 1952 (48 of 1952).
14. The Adaptation of Laws Order, 1956.
15. The Child Marriage Restraint (Amendment) Act, 1978 (2 of 1978).
16. The Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983).

## THE INDIAN CHRISTIAN MARRIAGE ACT, 1872

(15 of 1872)

[18th July, 1872]

*An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians.*

**Preamble.**—WHEREAS it is expedient to consolidate and amend the law relating to the solemnization in India of the marriages of persons professing the Christian religion; It is hereby enacted as follows:—

## PRELIMINARY

**1. Short title.**—This Act may be called the Indian Christian Marriage Act, 1872.

**Extent.**—<sup>1</sup>[It extends to the whole of India <sup>2</sup>[except <sup>3</sup>[the territories which, immediately before the 1st November, 1956, were comprised in the States] of Travancore-Cochin, Manipur and Jammu and Kashmir].<sup>4</sup>

<sup>5</sup>[\*\*\*]

**2. Enactments repealed.**—[*Rep. by the Repealing Act, 1938 (1 of 1938), Sec. 2 and Sch., Pt. I.*]

**3. Interpretation-clause.**—In this Act, unless there is something repugnant in the subject or context,—

“Church of England” and “Anglican” mean and apply to the Church of England as by law established;

“Church of Scotland” means the Church of Scotland as by law established;

“Church of Rome” and “Roman Catholic” mean and apply to the Church which regards the Pope of Rome as its spiritual head;

“Church” includes any chapel or other building generally used for public Christian Worship;

<sup>6</sup>[“India” means the <sup>7</sup>[territories] to which this Act extends;]

“minor” means a person who has not completed the age of twenty-one years and who is not a widower or a widow;

1. Subs. by the A.O. 1950, for the second paragraph as amended by the A.O. 1937 and the A.O. 1948.

**NOTE:**—The act does not extend to the State of Manipur *vide* Act 30 of 1950, sec. 3 (2A) and Sch. as amended by Act 68 of 1956, Sch 2.

The Act has been extended to and brought into force in Dadra and Nagar Haveli (w.e.f 1-7-1965) by Reg. 6 of 1963, sec. 2 and Sch. I].

2. Subs. by Act 3 of 1951, sec. 3 and Sch., for “except Part B States”.

3. Subs. by the A.O. 1956, for “the States”.

4. In its application to Pondicherry, in sec. I, the following shall be inserted at the end—“Provided that nothing contained in this Act shall apply to the Renoncants of Union territory of Pondicherry” *vide* Act 26 of 1968.

5. The commencement clause *Rep. by* Act 16 of 1874, sec. 1 and Sch. Pt. I.

6. *Ins. by* Act 3 of 1951, sec. 3 and Sch.

7. Subs. by the A.O. 1956, for “territory comprised in the States”.

<sup>1</sup>[\*\*\*]

the expression "Christian" means persons professing the Christian religion;

<sup>2</sup>[and the expression "Indian Christians" includes the Christian descendants of natives of India converted to Christianity, as well as such converts;]

✓<sup>3</sup>["Registrar General of Births, Deaths and Marriages" means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886)].

#### STATE AMENDMENT

**Karnataka:**—In section 3, the definition of "Registrar General of Births, Deaths and Marriages" shall be substituted as follows:

"Registrar General of Births, Deaths and Marriages" means the Registrar General of Births, Deaths and Marriages appointed under the Mysore Registrar General of Births, Deaths and Marriages Act, 1956." [Mysore Act 20 of 1956, sec. I read with Act 31 of 1973, sec. 5.]

#### COMMENTS

The expression Christian means persons professing the Christian religion and Indian Christian includes the Christian descendants of natives of India converted to Christianity, as well as such converts. Marriages between persons at least one of whom is Christian are governed by the Christian Marriage Act, 1872 (15 of 1872). The Act is not only an amending but a consolidating Act and provides a Code in itself. It extends to the whole of India except States of Travancore-Cochin, Manipur and Jammu and Kashmir.

#### PART I

#### THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED

4. **Marriages to be solemnized according to Act.**—Every marriage between persons, one or both of whom is [or are] a Christian, or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

✓ 5. **Persons by whom marriages may be solemnized.**—Marriages may be solemnized in <sup>5</sup>[India]—

- (1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;
- (2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland;

1. The definition of "Native State" Rep. by the A.O. 1937.
2. Subs. by the A.O. 1950, for the original definition.
3. Ins. by Act 6 of 1886, sec. 30.
4. Ins. by Act 12 of 1891, sec. 2 and Sch. II.
5. Subs. by Act 3 of 1951, sec. 3 and Sch, for "Part A States and Part C States".

(3) by any Minister of Religion licensed under this Act to solemnize marriages;

(4) by, or in the presence of, a Marriage Registrar appointed under this Act;

(5) by any person licensed under this Act to grant certificates of marriage between <sup>1</sup>[Indian] Christians.

<sup>2</sup>6. **Grant and revocation of licenses to solemnize marriages.**—The <sup>3</sup>[State] Government, so far as regards the territories under its administration, <sup>4</sup>[\*\*\*] may, by notification in the <sup>5</sup>[Official Gazette] <sup>6</sup>[\*\*\*], grant licences to Ministers of Religion to solemnize marriages within such territories <sup>7</sup>[\*\*\*] and may, by a like notification, revoke such licences.]

✓ 7. **Marriage Registrars.**—The State Government may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any district subject to its administration.

**Senior Marriage Registrar.**—Where there are more Marriage Registrars than one in any district, the State Government shall appoint one of them to be the Senior Marriage Registrar.

**Magistrate when to be Marriage Registrar.**—When there is only one Marriage Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of district shall act as, and be, Marriage Registrar thereof during such absence, illness, or temporary vacancy.

#### STATE AMENDMENT

**Karnataka:**—In section 7, for the words "Magistrate of the District", the words "District Magistrate" shall be substituted. [Mysore Act 13 of 1965, sec. 66 and Sch, read with Act 31 of 1973, sec. 5.]

8. **Marriage Registrars in Indian States.**—[Rep. by A.O. 1950].

✓ 9. **Licensing of persons to grant certificates of marriage between Indian Christians.**—The <sup>3</sup>[State Government] <sup>4</sup>[\*\*\*] may grant a license to any Christian either by name or as holding any office for the time being, authorizing him to grant certificates of marriage between <sup>1</sup>[Indian] Christians.

Any such license may be revoked by the authority by which it was granted and every such grant or revocation shall be notified in the Official Gazette.

1. Subs. by the A.O. 1950, for "Native".
2. Subs. by the Act 2 of 1891, sec. 1.
3. Subs. by the A.O. 1950, for "Provincial".
4. The words "and the Central Government so far as regards any Indian State" as amended by the A.O. 1937 for the original words, were rep. by the A.O. 1950.
5. Subs. by the A.O. 1937, for "Local Official Gazette".
6. The words "or in the Gazette of India; as the case may be" rep. by the A.O. 1937.
7. The words "and State, respectively", rep. by the A.O. 1950.