

There is a detailed index and each chapter is followed by a list of suggested readings. The book is an excellent reader on South Asian affairs, especially for anyone with a particular interest in one of the two states but with less knowledge of the other. It is also a fine résumé of developments over the first fifty years and can thus be strongly recommended as an acquisition for any South Asia collection. Comparisons, however, of the two countries have to be made and conclusions drawn by the readers themselves.

Wolfgang-Peter Zingel

WERNER F. MENSKI, *Modern Indian Family Law*. Richmond: Curzon Press, 2001. XIV, 432 pages, £ 50.00. ISBN 0-7007-1316-6

The book is primarily a collection of essays by the author published in different legal journals, mostly in the *Kerala Law Times*, during the course of his teaching of the subject for nearly a quarter of a century at the School of Oriental and African Studies, University of London. It also includes a few of the responses of other scholars to his writings. The essays have been arranged under different themes classified into six chapters, viz., marriage, divorce, polygamy, maintenance, joint family and property, and the uniform civil code. An introduction prefaces the essays and a concluding analysis is appended to them. A list of abbreviations at the beginning, a table of cases, list of statutes, bibliography and index at the end, beautiful print and binding give it the impressive look of a major treatise on the subject. It is not a treatise to the extent that it covers only the limited, albeit most important, topics and not everything on Indian family law. These topics have, however, been more thoroughly examined than would have been possible in a treatise. They contain different dimensions and insights that go into the realm of jurisprudence and socio-legal theories relevant for the understanding and development of the law.

As is widely known, India's general diversity is also represented in its laws. It has as many family laws as the major religious communities in the country. Among these communities Hindus and Muslims account for approximately 94 per cent of the population, c. 82 and 12 per cent respectively. The book deals with the law that applies to these two communities in family matters and is known as Hindu resp. Muslim law. They are also known as the personal laws of these communities. The coverage of these two laws in the book is almost in proportion to the population of these two communities, i.e., much more coverage is given to Hindu than to Muslim law. As the author started teaching and researching on the two laws at the beginning of the 1980s, the book primarily analyses the legal developments since then. Menski observes remarkable legal developments in India during the 1980s and 1990s, which are of significance not only for India but also for Indian Hindus and Muslims living in other countries such as Britain, Canada, USA and Australia. He finds a new awakening in the Indian law and legal system since the Emergency of 1975-77 which made

Indian lawmakers, lawyers and judges, particularly the latter, look at the law and the legal institutions in the light of the realities of India, shedding the colonial notions of law and its application. "The Emergency was an anti-establishment, pro-poor device to restructure the entire Indian legal system", which had a vast impact on the personal laws as well as on the Constitution. (p. 3) For the first time the judges realized that their training and skills in Anglo-Saxon law were not adequate to the legal problems of Indian society and that they urgently needed to look at law in the Indian context, relying upon the traditions and understandings of legal issues in that society.

The Indianization of the law and its support is the primary thrust of the book in every aspect covered by it. From his long study and teaching of the legal systems of different, particularly Asian and African societies, the author arrives at the firm conclusion that different societies developed their own models for dealing with their legal issues and that no one model is enough to deal with all these problems. In particular, he believes that, however advanced it may be, the European model of civil or common law, is not suitable for Indian or African situations. These societies have their own notions of law that they must develop and apply as time demands. He finds Indian judges increasingly acting on that basis since the 1980s, a development which he considers positive.

Examining the topic of marriage, he finds that in spite of the introduction of some notions of Western law by legislation such as registration of marriages, the judges have gone by the realities of life in India which render registration of all marriages impractical. Therefore, it cannot be a conclusive proof of marriage. Even though he is critical of a male bias of the judges in certain instances, he defends their indigenous approach. Similarly, on the issue of divorce, though he does not always agree with the judges, he comes to the conclusion that "The Supreme Court ... has led the Indian judiciary in developing a unique approach to Hindu divorce law, which is at the same time conservative and modern, individualistic and socially-focussed, open to arguments of total breakdown, yet seeking to preserve social cohesion." (p. 133)

On polygamy, which has been prohibited by legislation among Hindus but is still legally permissible among Muslims, he defends the tough stand taken by the courts to discourage it. He has difficulties in defending it even in Muslim law. Though the issue of maintenance, particularly of divorced women in Muslim law, has been quite controversial since the mid-1980s the author is satisfied that, from the angle of a resource-starved nation, the courts and legislatures have ensured that justice is done to the destitute women and children. He is not critical of the Muslim Women (Protection of Rights on Divorce) Act, 1986, which takes Muslim women out of the jurisdiction of general law that the courts applied to them too. As regards the Hindu joint family and its property, the author notices certain developments in law that have weakened their hold, yet he finds that Indian judges are conscious of their relevance in India's setting where people still see their place within the family.

Finally, dealing with the issue of uniform civil law for all communities in India, the author unequivocally supports the existence of multiple laws. Finding support in the Indian tradition that "has all along refused to become a monotheistic, mono-focused, monocultural, centralized system of human organization", and that "nobody was perceived as an isolated, autonomous individual" (p. 346), he is surprised how Article 44 which requires the state to secure a uniform civil law, got into the Constitution. He believes in legal pluralism and is critical of those who under some sort of Western influence advocate uniformity of laws. For him, the strength of India lies in the diversity of its laws and legal system and any move to impose artificial uniformity may break it. He is satisfied that on balance the discussions on uniform civil law have led to the realization of dangers inherent in any hasty step in that direction. In the light of his wider research findings he concludes: "Our analysis of key issues in the recent genesis of Indian family laws shows convincingly that South Asian indigenous models of legal development, rather than Western blueprints, have been a useful tool in construing a uniquely modern system of legal regulation." (p. 409)

Whether one agrees or not with everything that the author says, one surely cannot help being provoked to re-examine one's views on law and legal systems. Any work that has this effect is worth reading. It is a must for everyone interested in law.

*Mahendra P. Singh*

MARGRIT PERNAU / IMTIAZ AHMAD / HELMUT REIFELD (eds), *Family and Gender. Changing Values in Germany and India*. New Delhi, London, Thousand Oaks: Sage Publications, 2003. 360 pages, Rs. 590. ISBN 0-7619-9618-4

The book provides an interesting analysis of family as an institution of socialization where the roles and responsibilities are assigned in accordance with the values and norms prevailing in the society. There are four sections, the first covering the social history of the family; the second concentrating on images and symbolic practices; the third analyzing the interaction between family and state; and the fourth emphasizing the fault lines of the family.

The joint family as a unique feature of Indian social organisation forms the focus for Imtiaz Ahmad's analysis of gender relations in the Indian context. In spite of its hierarchical structures, the different gendered expectations of its members, the oppressive arrangement within it, the family has been looked upon as a receptacle for family values and heritage coping with modernization while retaining its original flavour. In contrast, family in Europe has been analyzed as a combination of tradition and modernity. The persisting image of the three-generation household in Europe has been that of the family as a unit, a very private sphere where relationships are based on affection. Gunilla-Friederike Budde takes the readers through the aftermath of the two world wars which saw