A person who professes the Christian religion is a Christian.\(^1\) Christians in India constitute a minority community forming about 2.43% of the population as per the census report of 1981.\(^2\) In 1971, they constituted 2.60%. Their rate of growth is less as compared to that of other communities. Though they constitute a minority in India as a whole, in certain states like Nagaland, Meghalaya, and Mizoram, Christians constitute the majority.\(^3\)

In Kerala, Christians were the second largest community with 21.05% in 1971, but by 1981, they have been relegated

1. The term "Christian" is seen defined in various statutes and judicial decisions. See Chapter I, notes 124 to 127 and the accompanying text for details.

2. As per census report of India, 1981, the total number of Christians in India was 16,174,498. (Religion-wise break up of the data on population collected for the census report of 1991 is not yet published).

3. Christians constitute 80.21% in Nagaland, 83.81% in Mizoram and 52.61% in Meghalaya as per the census report of 1981.
to the third position with 20.56% conceding the second place to Muslims with 21.25%. Sizable Christian presence is also there in Goa, Tamil Nadu, Pondicherry and Andhra Pradesh. An analysis of the distribution of Christian population in India shows that Christianity is most widely spread in the Southern and North-Eastern regions of the country.

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4. In Kerala, the Christian population was 5,233,865 as per the census report of 1981. (An analysis of the trend of growth of population in Kerala made by Shri. T.N. Jayachandran, a former Additional Chief Secretary of Kerala, shows that Muslims have out-numbered Christians and they have become the single largest constituent of the total population of Kerala by 1994. As per this projection of growth of population there are 59.20 lakhs of Christians in Kerala by 1994. See Kerala Kaumudi (Malayalam Daily) dated 23.11.94).

5. Christians in Goa constitute 29.28% (318,249), Tamil Nadu 5.78% (2,798,048), Pondicherry 0.25% (49,914) and Andhra Pradesh 2.67% (1,433,327).

6. The census figures of 1981 shows that Christianity has made its impact felt in the South Indian States more than in the North Indian States. The percentage distribution of Christians in different states would show that Kerala accounts for 31.60% of the Christians in the country; Tamil Nadu 16.65%, Andhra Pradesh 12.82%, Karnataka 4.31%, Goa, Daman and Diu 1.92%, Pondicherry 0.29% and Maharashtra 5.04% of the total Christian population in India.
Though the percentage of Christian population in India is only 2.43, Christians are not a negligible constituent as their numerical strength is 1.61 crores. This is equivalent to the total population of Portugal and Switzerland, or Greece, New Zealand and Sweden; or Denmark, Finland and Switzerland, which are predominantly Christian countries. Yet it is a matter of regret that they have not been able to draw sufficient attention of the State to their problems in the field of family law.

Of course, certain attempts were made in the past for reforming the law of marriage and divorce of Christians. But they did not culminate into statutory reforms. Nor did they attract the attention of the general public. It was at this time that the Supreme Court handed down its decision in Mary Roy's Case. It was indeed a shot in the arm for the community which has been slow,

7. See Chapter 6.

less vociferous and less tenacious in its demands for reform while at the same time straining its every nerve to prepare the ground for change through debates and discussions. In the post-Har Gobind period the law relating to Christians came to be depicted as discriminatory to women and the media has been agog with it. Seminars and public debates have been going on at the instance of interest groups on issues relating to succession, marriage, divorce and other areas of family law relating to Christians in India. It has however been passion that prevailed over reason in such discussions. So much of heat and dust have been produced and the community and its leaders seem to be in utter confusion as to what is to be done in the matter. No attempt worth the name, has been made to analyse the issues involved in these matters in a dispassionate manner. And the result; the community is still left to be governed by laws enacted on the philosophy of a bygone century.

The Indian Divorce Act, 1869 of the Victorian vintage is thus even today applicable to the Christians
throughout India. Some of its provisions, admittedly, reflect discrimination against women. Though there are customary laws governing marriage and divorce among Christians in certain regions of India, they are ignored and the Divorce Act is imposed. The community suffers this imposition lying low. Though the need for change is felt and shared by all, so far no change has been effected.

The position is not different with reference to the law of succession. Inspite of customary laws governing the issues and the Indian Succession Act making provision for saving of such customary laws, the provisions of the Indian Succession Act— which often run counter to the customary laws— are made applicable to Christians. And some of its provisions are alleged to be discriminatory.

These pieces of legislation in relation to their application to the Christians have been crying for change. But the legislature has not been prompt in tailoring these laws to suit the needs of this minority community. 9

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9. There is general criticism that the legislature has been shutting its eyes to the sad 'state of affairs' of personal laws of the minorities— See Tahir Mahmood, "The Indian Civil Code and Islamic Law". (1976), at 11.
Courts in India have been reluctant to go into the matter even when the constitutionality of the provisions of the personal law alleging discrimination was challenged. In cases where the Court was constrained to intervene in the interest of justice it had to tread on slippery grounds focussing attention on irrelevant issues. Even the latest attempt made by a Full Bench of the Kerala High Court in Mary Sonia Zachariah, to give a liberal construction to Section 10 of the Indian Divorce Act, 1869, so as to eliminate discrimination against women, as regards the grounds of divorce, is only a feeble one. In fact this


12. Mary Sonia Zachariah and another v. Union of India and others. O.P.No.5805 of 1988 and O.P.No.4319 of 1991 (F.B). The judgment of the Full Bench of the Kerala High Court was rendered on 24.2.1995 and it is yet to be reported. It will be discussed in detail in Chapter IV.
decision has disturbed the equilibrium in the working of the Act.

The Court's inquiry into the development of certain vital areas of Christian law smacks of lack of appreciation of historical evolution of law in the politico-socio-economic milieu. It appears, the confusion felt by the community gets confounded by the frequent formulation of legal rules having no basis in the culture built up by the community through centuries. The pitfalls attendant with judicial legislation in vital areas like marriage, divorce and succession, without having regard to the cultural matrix of the community make the area darker and darker.

The reticence manifested by the Indian legal system to respond positively to the need for reform in Christian law- the legislative inertia and the Courts' avoidance of discussion of issues involving allegations of discrimination in the cultural and constitutional context- and their inadequate adhoc formulation of rules calls for a deep study into the various aspects of
Christian law. Gender discrimination alleged to be writ large on the various provisions should be obliterated. The laws have to be toned up to be in tune with the times. This exercise naturally demands appreciation of issues in the light of the evolutionary history of Christianity in India. And therefore the history of advent of Christianity in India is examined in the next chapter to act as a groundwork for the analysis of various issues in the subsequent chapters.