APPENDIX – IV

Indian Succession Amendment Bill 1994

The following changes have been made keeping in mind also Christians belonging to the matriarchal tribal communities,

1. There should be one law of succession for all Christians, irrespective of the regions they belong to, giving equal rights to women and men in property.

2. The Succession Act should be changed, so that the wife has full right to the property of her husband, if the husband died without making a will and without leaving issue and parents. His assets should not be shared with remote kindred of the deceased and vice-versa. (See also point 5 below)

3. In case the father is dead, the mother should have the right to approve the minor's pre-marital settlement under section 22 and vice-versa.

4. The provision in section 32, depriving a widow of a share in her husband's estate if she has made pre-marriage contract to that effect should be deleted.

5. The present position (in sections 24, 33, 41, 48) under which if there are 'kindred' surviving, the widow gets only one half, should be modified and the widow should get full property.

6. The benefit of minimum guaranteed payment to the widow (section 33A) should be extended to Christians (to whom it does not at present, apply). The amount (of Rs. 5,000) should be suitably raised and this benefit made available even if the husband has made a will.

7. Illegitimate children (section 37) should have the same rights (on intestacy), as legitimate children.

8. Where the father is alive (and there are no line descendants), the mother gets no share at present (section 42-46)-a position that needs to be reformed. The father and the mother should share equally.

9. Where the father is of unsound mind, the mother should have the rights to appoint a testamentary guardian and vice-versa (section 60).
10. The prohibition against death bed bequests for religious or charitable purposes by persons having near relatives (Section 118) should be deleted or substantially modified, as it is out of tune with current notions (The sections applies *inter alia* to Indian Christians).

11. The bar against a person establishing right as executor or legate without probate (section 213) should not apply to Indian Christians. Already section 370 Cl, allows Indian Christian to recover debts, etc. Some liberal approach should be adopted in regard to debts, etc. Some liberal approach should be adopted in regard to need for probate, etc.

**Christian Marriage and Matrimonial Causes Bill 1994**

(a) **Marriage**

The Bill is a consensus of the Christian people of India to update their laws pertaining to marriage and matrimonial causes bearing in mind the vast social changes that have taken place in the last century. As stated above, the law on the subject comprises of two major enactments. Of these, the Indian Christian Marriage Act 1872 is in need of urgent improvement on several points of substance. To mention the most important changes at this state (i) the conditions of marriage are nowhere set out conveniently in the Act in a manner that will give at a glance the position in that respect as regards all Christian. This has been taken care of; (ii) secondly, there is a bewildering variety of forms of marriage as envisaged by the 1872 Act. It is felt that while the parties should be allowed to enjoy, at their option, the facility of a religious or a secular marriage (as at present) there is scope for simplifying the law in this regards. Besides this, from the linguistic point of view, the provisions of the 1872 Act on marriage are very badly in need of revision. All these changes have been conveniently carried out. keeping in mind the objectives mentioned above, (iii) There are provisions for marriage for minors, which have been excluded, (iv) Marriages annulled by any Church has been declared null and void under this Act in order to avoid a double process of obtaining annulment under the existing State laws.
(b) Divorce

1. The topic of divorce amongst Christians was in even greater need of law reform. Both from the constitutional point of view which demands that discrimination between men and women should go, and from the social point of view, substantial expansion of the grounds of divorce was needed. This did not, of course, mean that divorce at the sweet will of one party should be granted for the mere asking. However, reasonably acceptable grounds of divorce, particularly where one party has been guilty of cruelty should at least receive serious consideration. In addition, (with certain safeguards) divorce by mutual consent of the couple should be available to Christians, as it is now available to Hindus and to persons married under the Special Marriage Act, 1994. There is a similar scope for making the law as to nullity and legitimacy more rational.

2. Several procedural aspects of the present divorce law have also proved to be inconvenient irritants in practice, and the time has come to revise the law on those points also.

3. Apart from proposing improvements in point of substance and language, the Bill seeks to collect at one place provisions at present scattered in two enactments-and that too in a very haphazard fashion.

4. For the purpose of this Bill 'divorce' means the dissolution of the civil effects of marriage.

Special Marriage Act

The Christian Marriage Bill 1994 has been drafted as close to the Special Marriage Act 1954 as possible.