

# BOOK REVIEW

*RELIGIOUS FREEDOM UNDER THE PERSONAL LAW SYSTEM, FARRAH AHMED, OXFORD UNIVERSITY PRESS, 2016. PAGES XIX + 242. PRICE: RS. 795.*

The Personal Law System ('PLS') refers to the legal arrangement through which distinct laws are applied to individuals within a single polity, keeping in view their peculiar religious identities. It co-exists with the general territorial law, and pertains to the sphere of family laws (relating to marriage, divorce, maintenance, guardianship, adoption), as well as regulation of inter-generational transfer of property (succession, inheritance, wills) and religious establishments.<sup>1</sup>

In India, the official implementation of the PLS is generally traced back to Warren Hasting's Bengal Regulation of 1772.<sup>2</sup> Since then, it has remained a permanent feature of the Indian legal system. Although the architects of the Indian Constitution had a choice to do away with the PLS, they refrained from doing so. The underlying rationale for continuing with this system was to guarantee freedom to all religious groups of the country *vis-à-vis* their religious affairs.<sup>3</sup> Moreover, it assured the minority religious groups that their identity would be protected from being assimilated into the national identity, which is generally presumed to be a reflection of the majority's identity, or from being erased altogether. In this sense, the PLS seems to be in consonance with the multicultural theories of religion, which stress on the need to recognise the distinct identity of the minority groups, and to provide them with an enhanced level of autonomy, so that members of such minority groups can maintain their distinctive collective identities and practices.<sup>4</sup>

<sup>1</sup> Marc Galanter & Jayanth Krishnan, *Personal Law System and Religious Conflicts: A Comparison of India and Israel* in RELIGION AND PERSONAL LAWS IN SECULAR INDIA: A CALL TO JUDGMENT 272-273 (G.J. Larson, 2001).

<sup>2</sup> In 1772, Warren Hastings ordered that "in all suits regarding marriage, caste, and other religious usages and institutions the law of the Koran with respect to the Mohammedans and those of the Shaster with respect to the Gentoos [Hindus] shall be invariably adhered to"; quoted in Susanne Rudolph & Lloyd Rudolph, *Living with Difference in India: Legal Pluralism and Legal Universalism in Historical Context*, in RELIGION AND PERSONAL LAWS IN SECULAR INDIA: A CALL TO JUDGMENT 39 (G. J. Lawson, 2001); *C.f.* M.P. Singh, *On Uniform Civil Code, Legal Pluralism and the Constitution of India*, 5 J. INDIAN L. & SOC'Y V (2014).

<sup>3</sup> For further discussion on continuance of the PLS within the framework of the Indian Constitution, see CONSTITUENT ASSEMBLY DEBATES, December 7, 1948, 21, available at <http://parliamentofindia.nic.in/ls/debates/vol7p20a.htm> (Last visited on March 18, 2017); See also CONSTITUENT ASSEMBLY DEBATES, November 23, 1948, 11, available at <http://parliamentofindia.nic.in/ls/debates/vol7p11.htm> (Last visited on May 12, 2017).

<sup>4</sup> The central argument in these multicultural theories pertains to assessing the justice claims of minority groups (national minorities and immigrants). Scholars supporting multiculturalism have suggested different ways to approach these claims. Some argue that the most appropriate approach towards meeting the demands of minority groups is to eliminate all State interference in their lives. See Chandran Kukathas, *Are There Any Cultural Rights?* 20 POL. THEORY 105 (1992); See also CHANDRAN KUKATHAS, *THE LIBERAL ARCHIPELAGO: A THEORY*

Owing to the striking similarity in the approach of the multicultural theories of religion and that of the PLS towards group rights – particularly, those of the minorities – the criticisms which have been levied against the former apply to the latter too. These criticisms predominantly stem from a concern for the essential human values of freedom and equality. Kukathas argues that there are no group rights but only individual rights. He asserts that since groups do not usually adhere to the liberal principles of tolerance and freedom of association, including the right to dissociate from or to exit a group, giving special rights to groups might risk undermining individual rights and the State would consequently have very little authority to interfere in such associations.<sup>5</sup> In his view, accepting such a postulation would amount to abandoning the values of autonomy and equality, which are fundamental to liberalism.<sup>6</sup> Further, owing to the fact that some of the most oppressive group practices revolve around issues of gender,<sup>7</sup> the most intense critique of multiculturalism comes from the feminist scholars who argue that extending protections to minority groups might prove oppressive for the vulnerable members of those groups, such as women and children.<sup>8</sup> Similarly, the validity of the PLS has been questioned before the Supreme Court of India in numerous cases, particularly after the adoption of the Constitution in 1950.<sup>9</sup>

In her book *Religious Freedom under the Personal Law System*, Farrah Ahmed has chosen a similar theme, so as to conduct an in-depth analysis of the PLS. She takes up the issue of ‘autonomy’ – an especially important aspect of the right to freedom from an individualistic perspective – so as to highlight the shortcomings in the PLS. Although this book builds upon the

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OF DIVERSITY AND FREEDOM (2003). Some have argued that mere toleration of group differences does not amount to equal treatment; what is required is recognition and positive accommodation of minority group practices through ‘group-differentiated rights’. See WILL KYMLICKA, *MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS* (1996). For an introductory discussion on multiculturalism, See MONICA MOOKHERJEE, *MULTICULTURALISM IN ISSUES IN POLITICAL THEORY* (2008); See also Sarah Song, *Multiculturalism* in THE STANFORD ENCYCLOPEDIA OF PHILOSOPHY, available at <https://plato.stanford.edu/entries/multiculturalism/> (Last visited on May 12, 2017).

<sup>5</sup> Kukathas, *supra* note 4.

<sup>6</sup> Song, *supra* note 4. Another objection takes into consideration the value and meaning of the principle of equality. Brian Barry, while defending the universalist ideal of equality, is critical of group-differentiated ideal of equality. He argues that religious and cultural minorities should bear the consequences of their own beliefs and practices, just as members of the dominant culture are held responsible for bearing the consequences of their beliefs. In his view, egalitarian justice is only concerned with ensuring a reasonable range of equal opportunities, not with ensuring equal access to any particular choices or outcomes. See BRIAN BARRY, *CULTURE AND EQUALITY: AN EGALITARIAN CRITIQUE OF MULTICULTURALISM* (2002).

<sup>7</sup> See SUSAN MOLLER OKIN, *IS MULTICULTURALISM BAD FOR WOMEN?* (1999).

<sup>8</sup> *Id.*; See also Leslie Green, *Internal Minorities and their Rights* in GROUP RIGHTS 101-117 (J. Baker, 1994); AVIGAIL EISENBERG & JEFF SPINNER-HALEV, *MINORITIES WITHIN MINORITIES: EQUALITY, RIGHTS AND DIVERSITY* (2005).

<sup>9</sup> See e.g. *State of Bombay v. Narasu Appa Mali*, 1951 SCC OnLine Bom 72; *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556; *Sarla Mudgal v. Union of India*, (1995) 3 SCC 635.

theoretical foundation laid down in her previous works,<sup>10</sup> it is far more detailed and intensively researched, as is apposite for capturing the breadth of the issue at hand. Thus, this book primarily attempts at highlighting the interplay of the PLS and religious freedom.

The basis of the PLS, which aims at providing autonomy to religious groups *vis-à-vis* their religious practices, is in the idea of group rights. Nevertheless, as religious groups are constituted by individuals, it becomes equally important to protect the rights of these individuals as well. Hence, the author appropriately examines the question whether the PLS stands the test of ‘individuality’, which is a significant exercise for the following reasons. *First*, the freedom of religion is a unique right as “freedom is the absence of constraint; religion is a self-imposed constraint on freedom.”<sup>11</sup> Thus, the tussle between group and individual rights becomes exceedingly complex with regard to religious freedom; for religion presupposes a group, while a group is primarily a collection of individuals. *Second*, and more importantly, if the cumulative effect of the PLS is that it enhances the religious freedom of individuals as well as groups by enhancing their autonomy, then an extremely important defence of the PLS has been missing from the entire discourse on the PLS. On the contrary, if the PLS does not enhance the religious autonomy of individuals or groups and, thereby, does not contribute to their religious freedom, then it turns out that the proponents of the PLS are advancing the argument of religious freedom on a superficial plane.<sup>12</sup>

In order to explore these dichotomies and issues in depth, I undertake a brief overview of the arguments posited by the author in Chapters 4, 5, and 6 of her book, which are titled ‘Group Life’, ‘Self-Respect’ and ‘Adequate Religious Options’ respectively. I limit myself to these chapters, because the core arguments which the book makes, concerning the impact of the PLS on religious autonomy of individuals, are contained in them. Further, I critically examine the proposals for reform of the PLS put forward by the author in Chapter 7 of her book, and posit certain recommendations which differ from hers.

The chapter on ‘Group Life’ considers the necessity of a group in order to enhance the religious personal autonomy of individuals. The author begins the chapter with two presumed defences of the PLS. *First*, a religious group/community might enhance individual religious autonomy and the PLS helps in constituting such groups. Thus, the PLS is presumed to enhance religious autonomy of the group and, thereby, of its members. After analysing this

<sup>10</sup> Farrah Ahmed, *Personal Autonomy and the Option of Religious Law*, 24(2) INT. J. LAW POLICY FAM. 222-244 (2010); Farrah Ahmed & Senwung Luk, *How Religious Arbitration Could Enhance Personal Autonomy*, 1(2) OX. J. LAW RELIGION 424-445 (2012).

<sup>11</sup> ANAT SCOLNICOV, THE RIGHT TO RELIGIOUS FREEDOM IN INTERNATIONAL LAW: BETWEEN GROUP RIGHTS AND INDIVIDUAL RIGHTS 1 (2011).

<sup>12</sup> FARRAH AHMED, RELIGIOUS FREEDOM UNDER THE PERSONAL LAW SYSTEM (2016).

presumption with the help of a hypothetical narrative,<sup>13</sup> the author concludes that a religious community can support and enhance the religious autonomy of its members only when such a community is ‘thickly’ constituted. But as religious communities created by the PLS are too ‘thin’, they are unable to enhance their religious autonomy. The system, therefore, is unable to enhance the religious autonomy of individuals by constituting religious groups.<sup>14</sup>

*Second*, since PLS is an expression of, or a contributor to, religious group autonomy, it is helpful in enhancing the religious autonomy of individuals. Dealing with this presumptive defence, the author engages with the question as to whether the PLS has a positive impact on the religious autonomy of groups. She says:

“If religious group autonomy means anything, surely it means that the group should decide the norms [...], choose its leaders [...], and decide on the boundaries of their own membership [...]. Since under the PLS the norms, leaders, and membership of religious groups are identified by the state rather than the religious groups themselves, it is difficult to argue that the system promotes, or is a form of, religious group autonomy.”<sup>15</sup>

In light of the observation, it is perfectly reasonable to argue that even if the PLS enhances the religious autonomy of the groups, it does so in a very limited way, as it does not let the religious groups decide as to which norms they shall be governed by, nor does it allow them to choose their leaders or members. Therefore, after having considered and analysed the two presumed defences of the PLS in detail, the chapter concludes that both the presumed defences of the PLS fail.

In the next chapter titled ‘Self-Respect’, the author focuses on the value of self-respect *vis-à-vis* one’s religious identity and its interplay with the PLS to engage in depth with the primary research question. In doing so, the author makes two arguments, one from inter-group perspective, and the other from intra-group perspective – *i.e. first*, she explores the possibility of the PLS having a positive impact on the self-respect of minority religious groups in India; and *second*, she highlights how the discriminatory features of the PLS harm self-respect.

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<sup>13</sup> *Id.*, 75.

<sup>14</sup> *Id.*, 79, 83. In this context, a ‘thickly’ constituted religious community refers to a community whose members share certain commonalities ranging from metaphysical beliefs to ritual observances, which are crucial to the practice of the religion; whereas in a ‘thinly’ constituted religious community, there is a marked presence of internal diversity.

<sup>15</sup> *Id.*, 94.

Dealing with the question as to whether the PLS has a positive impact on the self-respect of minority religious groups in India, she argues that though the PLS recognises and validates the identity of religious minorities, this defence of the PLS on this basis is problematic for multiple reasons. *First*, while recognising the members of any religious group, the PLS, rather than taking into consideration how people identify themselves and what their understanding of religion is, applies a single, state-endorsed religious interpretation to all those falling within a personal law group.<sup>16</sup> This is not only a denial of acceptance of diversity within any religious group constituted by the PLS, but it also constitutes what the author terms as ‘misrecognition’<sup>17</sup> of individuals within a religious group. Further, she enunciates that these misrecognised individuals are still in a relatively better position, as compared to those who are ‘non-recognised’<sup>18</sup> by the system, like atheists, agnostics, and Baha’is.<sup>19</sup> Although the author has not provided any empirical data to support these arguments, she furnishes sufficient jurisprudential and legal reasoning, which is fairly convincing. Furthermore, in this chapter, the author also contests the facet of the PLS that is often put forth as a defence of the system, and is viewed as contributing to the self-respect of minority religious groups, *i.e.* that the PLS validates different ways of life, by recognising these different ways of life. She argues:

“[...] the fact that the state enforces the norms of minority religions does not necessarily translate to state validation of these norms [...]. [T]he state could enforce the personal laws because its enforcement has good consequences such as peace, stability, and good relations between state and religious groups.”<sup>20</sup>

*Second*, the author takes on the PLS by focusing on its discriminatory nature, particularly with respect to gender.<sup>21</sup> She argues that this aspect of the PLS affects the religious autonomy of women in all groups within this system negatively, but it clearly has the most adverse impact in the case of Muslim women.<sup>22</sup> In sum, this chapter concludes that the PLS does not contribute towards enhancing the self-respect of religious groups or its members, and thereby does not help in promoting religious autonomy.

<sup>16</sup> *Id.*, 111.

<sup>17</sup> *Id.* By ‘misrecognition’, the author means failure to recognize the truth about the existence or any other aspect of an individual’s identity.

<sup>18</sup> *Id.*, 110. By ‘non-recognition’, the author means failure to recognize the very existence of a person, and treating him/her as if he/she does not exist.

<sup>19</sup> *Id.*, 112.

<sup>20</sup> *Id.*, 114-15.

<sup>21</sup> *Id.*, 116.

<sup>22</sup> *Id.*, 125. For similar views on the plight of Hindu women, See FLAVIA AGNES, *Liberating Hindu Women*, 50 ECONOMIC AND POLITICAL WEEKLY 10 (March 7, 2015).

The final arguments with respect to the adverse impacts of the PLS on individual religious autonomy are put forth by the author in the chapter titled ‘Adequate Religious Options’. The core argument which the chapter makes is that the PLS interferes with individual religious autonomy by failing to provide individuals with adequate religious options. She argues that religious autonomy not only includes the freedom of religion in the positive sense, but also includes ‘freedom from religions’. If the PLS is tested on this aspect, then it fails as switching or renouncing the PLS is difficult.<sup>23</sup> This is partially owing to problems of the system itself,<sup>24</sup> and partially because of the high social costs<sup>25</sup> associated with withdrawing or quitting from the PLS.

Thus, these detailed arguments evince that it would be reasonable to state that this book offers an excellent critique of the PLS. It accords due consideration to the fact that the PLS, which was devised as a mode to satisfy the demands of autonomy of different religious groups in India, is not in consonance with the religious norms of these groups. It does not enhance the religious autonomy of the groups, or of their members. In addition to this, the last resort for those litigating against the PLS, *i.e.* the Supreme Court, has refrained from taking into account these adverse implications of the PLS, and from interfering with it.<sup>26</sup> In fact, the doctrine of ‘essential religious practices’ propounded by the Supreme Court itself serves to limit the autonomy of the religious groups to decide which practices they consider as essential to their religion.<sup>27</sup>

Nevertheless, while the author has proffered a convincing and strong set of arguments whilst highlighting the flaws of the PLS and its adverse impact on religious autonomy, she has failed to engage as adeptly and successfully in a more controversial area, *i.e.* reforming the PLS. It must be noted that she has indeed attempted to engage with the issue in a serious manner. She suggests five ways through which such reform can be undertaken – modification

<sup>23</sup> AHMED, *supra* note 12, 136.

<sup>24</sup> See Kumkum Sangari, *Gender Lines: Personal Laws, Uniform Laws, Conversion*, 27(5) SOCIAL SCIENTIST 28 (1999) as cited in AHMED *supra* note 12, 25; See also Ramesh Yeshwant Prabhoo v. Prabhakar Kashinath Kunte, (1996) 1 SCC 130 (In this case, the Supreme Court observed that “a Hindu may embrace a non-Hindu religion without ceasing to be a Hindu”. This line of reasoning suggests that even if a Hindu renounces his religion, his personal law can still continue to apply to him).

<sup>25</sup> Renouncing one’s religion, and thereby one’s personal law community, is perceived as a sign of mistrust. Moreover, it can affect one’s marital status, the right to receive maintenance payments, guardianship status and the inheritance rights of third parties, such as children of converts. See AHMED *supra* note 12, 24. Even if an individual is willing to give up his religion and thus his personal law, irrespective of these repercussions, some aspects of personal laws may still continue to apply to him. See also Sarla Mudgal v. Union of India, (1995) 3 SCC 635.

<sup>26</sup> See Ahmedabad Women Action Group v. Union of India, (1997) 3 SCC 573. However, currently, the issue of triple *talaaq* is being heard by the Supreme Court of India. It is expected that the Supreme Court will suggest an approach which will guide the path of reformation of the PLS.

<sup>27</sup> See Ronojoy Sen, *Secularism and Religious Freedom* in THE OXFORD HANDBOOK OF THE INDIAN CONSTITUTION (Sujit Choudhry, Madhav Khosla et al., 2016).

of the PLS, replacement with the millet system, ‘internal’ reforms of each personal law, the enactment of the Uniform Civil Code (‘UCC’), and the use of religious Alternate Dispute Resolution (ADR).<sup>28</sup>

While delineating these suggestions, the author herself recognises the repercussions which might follow in employing any of the five methods. Dealing with ‘modification’ as a way of reforming the PLS, she argues that the essential features of the PLS can be retained, while tweaking some of the problematic features like misrecognition and non-recognition of certain individuals. This, in her view, can be done by liberalising the entry and exit rules for individuals of any particular personal law group with a focus on self-identification. She further argues that while such modified PLS would certainly be an improvement, it would not address the concerns relating to religious autonomy in totality, primarily because there are certain religious groups and individuals who do not fall within the groupings currently made by the PLS. She suggests that though the current groupings under the PLS can be expanded, it would be an impractical solution in light of the deeply pluralistic nature of the Indian polity.<sup>29</sup>

Next, the author considers replacement of the PLS with the millet system,<sup>30</sup> in which religious groups are governed in some matters by a religious leadership recognised by the State. While the author herself believes that the millet system would be better than the PLS and would enhance religious group autonomy, this would be subject to a number of factors such as the State’s implementation of the millet system, *i.e.* the State could itself appoint the religious leader and thus govern the religious group with the leader as its proxy.<sup>31</sup>

Another way for reforming the PLS, which the author suggests, is through the implementation of the UCC. However, in line with some other scholars,<sup>32</sup> she is critical of implementing such a code, for reasons such as the strong possibility that its implementation might facilitate the incorporation of majoritarian norms resulting into the assimilation of minority religious groups, and the consequent erasure of their identities. Moreover, she argues that a uniform code would be of no help in enhancing the religious autonomy of groups or individuals, as it might result in insistence on organising people’s lives solely in accordance with the rules made thereunder.<sup>33</sup>

<sup>28</sup> AHMED, *supra* note 12, 164.

<sup>29</sup> *Id.*, 165-66.

<sup>30</sup> For a discussion on the historical development of the millet system in Israel and how it works, see Galanter & Krishnan, *supra* note 1, 280-81.

<sup>31</sup> AHMED, *supra* note 12, 166-67.

<sup>32</sup> See Singh, *supra* note 3; See also Werner Menski, *Uniform Civil Code Debate in Indian Law: New Developments and Changing Agenda*, 9 GERMAN L.J. (2008).

<sup>33</sup> AHMED, *supra* note 12, 169-70.

According to the author, the most convincing approach to reforming the PLS is Religious Alternate Dispute Resolution ('RADR'). This is because RADR allows parties to resolve disputes based on religious norms which are very closely aligned to their beliefs. Further, RADR not only has historical roots in India, but is also being increasingly used as a mode for accommodating religious norms in family laws in numerous Western countries. She further states that RADR has the capability to ameliorate some of the criticisms of the PLS with regard to religious autonomy, and would moreover promote religious autonomy by promoting a religious citizen's access to religious expertise.<sup>34</sup> However, the author herself recognises the limits of RADR. She observes:

"Certainly there will be those for whom there is no 'correct' religious doctrine beyond their own understanding [...]. Such people do not think that anyone else qualifies as a religious expert of their religion, or that anyone is likely to come to the correct conclusion on what they ought, as a matter of religious doctrine, to do. The argument [with respect to RADR] does not apply to such religious persons".<sup>35</sup>

Besides, the author forgets to mention that there might be another set of individuals who would not benefit from RADR, such as those who are agnostics or atheists.

It is also worth highlighting that though the author mentions 'internal reforms' of the personal laws of different religious groups of the country as a way to reform the PLS, she makes a cursory attempt to engage with it.<sup>36</sup> The only hindrance in the path of internally reforming the personal law of any religious community is the presence of fundamentalist groups within that community. Usually, these fundamentalist groups view discriminatory and illiberal practices as essential and intrinsic to their religion, and thus defend them under the garb of religious freedom of groups. However, this does not imply that the existing situation cannot be remedied. Anthony Appiah suggests that "the most effective way of ending these practices involves making allies with the more orthodox."<sup>37</sup> He claims that it is these orthodox groups who can effectively convince these fundamentalist groups<sup>38</sup> that they are deviant to the true goals which religions in general propose, as both groups fall within the same broader religious group.<sup>39</sup> Doing so would not only aid the fundamental-

<sup>34</sup> *Id.*, 170-83.

<sup>35</sup> *Id.*, 183.

<sup>36</sup> *Id.*, 168-69.

<sup>37</sup> See AKEEL BILGRAMI, SECULARISM, IDENTITY, AND ENCHANTMENT 18 (2014).

<sup>38</sup> There is a minor difference between religious fundamentalism and religious orthodoxy. Nevertheless, the impact of this difference is huge. Religious orthodoxy is a belief in universal doctrines rooted in scriptures; however, fundamentalism is orthodoxy gone cultic. See EDWARD J CARNELL, THE CASE FOR ORTHODOX THEOLOGY 113-14 (2005).

<sup>39</sup> BILGRAMI, *supra* note 37.

ists in realising the truth of their religions, but also encourage them to give up the opposition of liberal practices.

Obviously, the role of the State will be crucial for reforming the PLS internally.<sup>40</sup> The State cannot effectively lead this process if it adopts a positivistic approach, and imposes its standards of human rights upon the religious communities. It is necessary for the State to appreciate the centrality of religious laws in order to support the process of internal reform. Two reasons can be put forth to justify this claim. *First*, the religious laws are directly related to the distinct identities of different religious groups. Therefore, any interference with religious laws will not only be viewed as being a threat to religious identity but will also be tantamount to denial or violation of the right to religious freedom.<sup>41</sup> *Second*, religious laws operate independently of State structures and mechanisms. Thus, the State can neither eradicate nor transform the nature and content of these laws and practices without engaging with them in an intimate manner.

Therefore, if the internal reforms of the PLS are to be successfully pursued, then the State must function in a supportive capacity. This can be done by encouraging the religious groups to engage in internal consultations about reforming their practices, and through developing programs and incentives that facilitate the process of reform.<sup>42</sup> Moreover, as the process of internal reforms requires caution, classification of religious laws as discriminatory, patriarchal and oppressive must be done by the members of the groups themselves in order to avoid rifts amongst different religious groups.<sup>43</sup>

Further, this method of reforming the PLS will have broad positive consequences. *First*, this will, besides enhancing religious autonomy of different groups in India, have a positive impact on the religious autonomy of individuals, which is one of the major concerns of this book. This is because the State will be compelled to interact with individuals as well as religious groups through this mechanism, and most importantly, with religious leaders who can help in enhancing individual religious autonomy. This argument is in consonance with that of the author wherein she focuses on the ability of religious leaders in enhancing personal religious autonomy through RADR. *Second*, and more importantly, this will help in strengthening the bond of citizenship because the State, through its supportive acts, can express its concerns for its citizens, irrespective of their religious affiliation and status.<sup>44</sup>

<sup>40</sup> See Abdullahi Ahmed An-Na'im, *State Responsibility under International Human Rights Law to Change Religious and Customary Laws* in HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 167 (Rebecca Cook, 1994).

<sup>41</sup> See WILL KYMLICKA, *CONTEMPORARY POLITICAL PHILOSOPHY: AN INTRODUCTION* (2002).

<sup>42</sup> See Andra Nahal Behrouz, *Transforming Islamic Family Law: State Responsibility and the Role of Internal Initiative*, 103 COLUM. L. REV. 1136 (2003).

<sup>43</sup> An-Na'im, *supra* note 40, 179.

<sup>44</sup> See N.W. Barber, *The Members of the State* in THE CONSTITUTIONAL STATE 36 (2010).

To sum up, it must be said that though this book magnificently analyses the defects in the PLS of India by focusing on the internationally recognised right to religious freedom, it has been largely unsuccessful in providing an appropriate mechanism to reform the PLS. The reform proposals suggested by the author are either impractical or seriously flawed. Even RADR, which the author stresses as the most appropriate method of reforming PLS, has its own limitations. Nevertheless, as several scholars suggest, including the author of this book, the PLS in India is in dire need of reform, and any superficial engagement with it is likely to fail.

The tussle between the two facets of this issue – that on one hand, the personal laws of a community are at least symbolically important and meaningful to the members of the community; while, on the other, such sectarian laws are oppressive on vulnerable individuals – renders the formulation of an appropriate solution highly complex. Thus, reforming the PLS will certainly require a co-ordinated, concerted and focused attempt by the State as well as its citizens who are the members of different religious groups. Thus, in my view, internal reform of personal laws of each religious community, coupled with the efforts of the State, is the most appropriate way through which this solution can be attained.

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