Fiduciary Principles in Indian Law

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Abstract and Keywords

This chapter examines fiduciary principles in Indian law. Fiduciary duties, such as those owed by corporate directors, trustees, agents, and lawyers, are commonplace in India. However, there are contexts in India where the fiduciary duties appear unusual. A particularly important example of this are the duties owed by the person (called the Karta) who manages the affairs of a Hindu Undivided Family (HUF). These duties differ from those seen in the more common types of fiduciary relationships and raise a number of interesting questions for greater exploration. This chapter first provides an overview of fiduciary duties in India that are common across many parts of the world, focusing on agency law, trust law, and corporate law. It then explains what the Karta and the HUF are, how the HUF holds property akin to a joint tenancy, how it operates, how it can be created and terminated, how it compares to the pater familias of ancient Rome, and what areas of Indian law impact its continued existence. The chapter then explores the duties owed by the Karta to people within the HUF, along with other legal rules and practical considerations that operate to police the Karta’s behavior in ways that supplement his or her limited fiduciary duties. Finally, the chapter closes with how the Karta’s duties raise some interesting questions about the growth and development of fiduciary principles that might be fruitfully explored in the future.

Keywords: Indian law, fiduciary duties, Hindu Undivided Family, Karta, agency law, trust law, corporate law, personal laws, income tax laws, property

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