

## TRENDS OF DIVORCE IN INDIA

**Ms. Vidya Vasantrya Dhere\***

---

### Abstract

Divorce rates are climbing, and according to a new study, it could be because couples can finally afford to pull the plug on their marriage thanks to the rebounding economy. One reason is that divorces...are easier to make. ... With new amendments being made in the Hindu Marriage Act (HMA), seeking a divorce has become simpler. ... The latest amendment was made in 2003. It allowed a petitioner to seek divorce from the place where he/she last lived, unlike earlier when divorce had to be sought either from the place where the couple last lived together or the place where the wedding took place.

Divorce, as we know is the separation of man and woman from marital bonds. It is a common concept in modern society, particularly in urban areas. Amongst Hindus, there was no concept like divorce. As marriage was a sacrament, i.e a bond never ending not only in this life but seven life's to come. For women marriage rituals were the only ritual in her life. These rituals were performed only once in lifetime. That means even if she is separated, she cannot marry. Today, the trend has changed, law permits man and woman to divorce. A person cannot spend whole of his/her life unhappy by living with the unwanted person. To make marriage laws women-friendly, the government has approved divorce and inheritance laws Amendment Bill, the amendment now makes filing for divorce easier by removing the provision that required a couple to file a joint application after the mandatory waiting period. Now, after filing for divorce, the couple has mandatory waiting period of 6 to 18 months. After that, the couple can go to court to sanctify the divorce. If the couple does not move a joint application, then the divorce is not sanctified. The Judges now can exercise discretion in granting divorce if one of the partners does not move a second joint application for divorce with mutual consent within three years.

---

\* Assistant Professor, New Law College, Bharati Vidyapeeth Deemed University, Pune, Maharashtra, India.

In the law on inheritance, the amendment provides sufficient compensation to a woman from her husband's ancestral property in case of divorce. In cases where the ancestral property could not be divided, the woman is now entitled to get sufficient compensation by calculating her husband's share in it. A women's share will be determined by the Court of Law.<sup>120</sup>

The Legislature has also provided social and economic security to women in case of divorce. A woman can secure maintenance even before the case of divorce is filed. Indian Law provides the right to claim maintenance through the medium of Court. The objective of Law is to provide maintenance to spouse who does not have sufficient means to maintain himself or herself by the one who has capacity and means to provide maintenance. The other objective of Law is that a woman is not forced to remain in marital bond due to maintenance problem.<sup>121</sup> In number of cases, it was held that a husband is entitled to maintenance if he does not have sufficient means and the wife is working.

In all matrimonial proceedings, the most important and complex issue is that of child custody. In this case the object of law is that emotional bond between child and his father or mother as the case may be should not be snapped. Welfare of the child is the paramount consideration before the Court while adjudicating the claims of husband and wife over a child.<sup>122</sup>

An advantage of divorce is the personal growth of the person. There is psychological stability an individual can develop better quality of life particularly woman facing domestic violence can have a better life after divorce.

The increasing rate of divorce has become threat to family in India. Before 1970, divorce was relatively uncommon and difficult to get. One of the spouses was required to commit a crime or sin like adultery, abandonment, cruelty, intoxication or other reasons that made it necessary to end the marriage. In 1980's and 1990's No- fault divorce became an option. Couples no longer needed to prove that one person was at fault. Now divorce has become mutual.<sup>123</sup>

These changing trends of divorce has far more affected the rate of divorce in India as the law was changing, society is also

---

<sup>120</sup> [www.ndtv.com](http://www.ndtv.com).

<sup>121</sup> [www.divorcelawyers.co.in](http://www.divorcelawyers.co.in).

<sup>122</sup> [www.divorcelawyers.co.in/child\\_custody](http://www.divorcelawyers.co.in/child_custody).

<sup>123</sup> [www.attorneys.com/divorce](http://www.attorneys.com/divorce).

changing. Woman became and independent which allowed her to take the decision of divorce even for minor issues. Co habitation or living together before marriage is more preferred today. This has led to decrease in the rate of divorce to some extent. Couples marry when they are more mature. They procure children late, this also has contributed to a more stable marriage. Now, it is acceptable and common to stay single for a longer period or not to marry at all.

The young couples are fast becoming upwardly mobile and rich in Indian cities. But economic prosperity is taking its toll on the marital status and marriages are falling apart. Over the years the number of divorce cases filed in the family courts has doubled. The main reasons are ego, stress to professional competition.

Family counselors and lawyers say the trend may play havoc with the institution of marriage. In cities like Gurgaon over 25 matrimonial dispute cases are registered every month at the mediation and conciliation Centre, more than 10 are divorce petitions. At least 2 cases settle for divorce every month.

It is seen that most of the couples filing a divorce petition in the family courts are working professionals in the age group of 25-35 years. According to experts divorces are increasing due to frequent ego clashes and work stress.

Corporate culture demands long working hours and increases stress levels in young people. Also there is professional competition among the spouses.

The husbands file more than 70% of the total divorce cases. In the corporate world a man fails to give sufficient time to his family. This directly affects his relationship with the wife.

A progressive individual culture is also responsible for the upward trend. Spouses are no longer dependent on each other financially. Also ego plays a major role. Lawyers say that couples with irrevocable differences prefer divorce by mutual consent. There is high sense of intolerance and immaturity among young couples these days. It is the modern culture and materialistic attitude of people that has to be blamed.

Another cause of divorce is raising cases of domestic violence where wives are victims of physical abuse. According to lawyers

these cases are either of domestic violence or maintenance issues. It is the wives who usually file for the divorce.

Contested divorce takes longer around 18-24 months. Here the aggrieved party must prove cruelty, unsoundness of mind and impotency of the spouse.

Children are no longer the binding factor in marriages. Most children are badly affected by the fact that their parents are divorced or on the verge of splitting.

Experts also say that children tend to project extreme behavioral patterns such as aggressiveness or social withdrawal. They become quarrelsome or start bullying other children and suffer from psychological weakness. There is also blow to child's self esteem. What worsens the situation is when a partner tries to malign the other to gain the child's sympathy.

