## CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Declaration</td>
</tr>
<tr>
<td>Certificate</td>
</tr>
<tr>
<td>Acknowledgement</td>
</tr>
<tr>
<td>Preface</td>
</tr>
<tr>
<td>Contents</td>
</tr>
<tr>
<td>List of Cases</td>
</tr>
<tr>
<td>List of Abbreviations</td>
</tr>
</tbody>
</table>

## CHAPTER-I  INTRODUCTORY REFLECTION  1-17

| 1. Statement of problem | 1-10 |
| 2. Aim, Objective and Utility | 10-11 |
| 3. Review of existing Literature | 11-15 |
| 4. Chapter Scheme | 15-17 |

## CHAPTER – II  DIVORCE: CONCEPTUAL ANALYSIS  18-68

| 1. Introduction | 18-22 |
| 2. Hindu Law on Marriage and Divorce | 22-32 |
| 3. Muslim Law on Marriage and Divorce | 32-42 |
| 4. Christian Law on Marriage and Divorce | 42-46 |
| 5. Parsi Law on Marriage and Divorce | 46-50 |
| 6. Jews Law on Marriage and Divorce | 50-51 |
| 7. The Phases of Divorce | 51-53 |
| 8. Factors Responsible for Divorce under Various Personal Law | 53-60 |
| 9. Consequences of Divorce | 60-68 |
CHAPTER III  EVOLUTION OF DIVORCE  69-112

1. Introduction  69-70
2. Evolution of Divorce under Hindu Law  70-82
3. Evolution of Divorce under Muslim Law  82-90
5. Evolution of Divorce under Parsi Law  100-102
6. Evolution of Divorce under Jews Law  103-105
7. Evolution of Divorce by Mutual Consent  105-109
8. Evolution of the law of divorce in Independent India  109-112

CHAPTER – IV  DIFFERENT THEORIES OF DIVORCE  113-140

1. Introduction  113-115
2. Indissolubility of Marriage Theory  115
3. Divorce at Will Theory  115-116
4. Fault/guilt/offence divorce  116-124
5. Frustration of Marriage Theory  124
6. Consent Theory of Divorce  124-133
7. Breakdown Theory of Divorce  133-140

CHAPTER- V  DIVORCE UNDER VARIOUS PERSONAL LAWS: A COMPARATIVE STUDY  141-213

1. Introduction  141-143
2. Divorce under Hindu Law  143-145
3. Divorce under Special Marriage Act  145-146
4. Divorce under Muslim Law  147-148
5. Divorce under Christian Law  148-149
6. Divorce under Persian Law  149-152
7. Divorce under Jews Law  152-155
8. Common Grounds of Divorce  155-213
CHAPTER VI JURISTIC OPINION RELATING TO DIVORCE 214-290

1. Introduction 214-215
2. Customary Divorce and Judicial Recognition 215-218
3. Dissolution of Marriage and Arbitration 218
4. Statutory Law on Hindu divorce: Judicial View 218-261
   (i) Adultery 219-223
   (ii) Cruelty 223-235
   (iii) Desertion 235-242
   (iv) Conversion 242-243
   (v) Unsound Mind 243-246
   (vi) Leprosy 246-247
   (vii) Venereal Disease 247-248
   (viii) Renunciation of the world 248-249
   (ix) Unheard of for seven years or more 249-250
   (x) Wife’s Grounds of Divorce 250-254
(xi) Alternate Relief .......................... 254-256
(xii) Divorce by mutual consent .......... 256-261

5. Statutory Law on Muslim Talaq (Divorce): Judicial View 261-273
   (i) Forms of Dissolution of Marriage .... 262
   (ii) By the Death of Spouse ................. 262
   (iii) Talaq-ul-Sunnat ......................... 262
   (iv) Talaq Ahsan ............................ 262
   (v) Talaq Hasan ............................. 263-264
   (vi) Talaq-ul-Biddat ......................... 264-265
   (vii) Ila ...................................... 265
   (viii) Zihar .................................... 265
   (ix) Talaq by Wife-Talaq-Tafweez ...... 265-267
   (x) Talaq by Mutal Consent ............... 267-270
      (I) Khula .................................. 268-269
      (II) Mubarat ................................ 269-270
   (xi) Independent Right of Divorce of the wife 270-277
      (I) Li’an .................................... 270-271
      (II) Impotency .............................. 271
      (III) Insanity-Leprosy-Virulent Disease 271-272
      (IV) Cruelty, ill-treatment, desertion 272
      (V) Apostasy from Islam. .................. 273

   (i) Ground of Divorce for husband ...... 274
   (ii) Ground of Divorce for wife .......... 275-277
   (iii) Divorce by mutual consent ......... 277

7. Statutory Law on Parsi divorce: Judicial View 277-285
   (i) Willful refusal to consummate ....... 280
   (ii) Unsoundness of mind .................. 280-281
   (iii) Pregnancy .............................. 281
   (iv) Adultery, Fornication, Bigamy ...... 281-282
   (v) Cruelty .................................. 282-283
(vi) Grievous Hurt, Venereal Disease 283
(vii) Long Imprisonment 283-284
(viii) Desertion 284
(ix) Order of Maintenance 284
(x) Ceased to be Parsi 285

8. Statutory Law on Jewish divorce: Judicial View 285-290
   (i) Ground of Divorce for husband 286
   (ii) Ground of Divorce for wife 286-287
   (iii) By the Court against Wishes of the Parties 287
   (iv) Divorce by Mutual consent 287-290

CHAPTER- VII  CONFLICTUAL PROBLEM RELATING TO

LAW OF DIVORCE  291-347

1. Introduction  291-297
2. Dissolution of Marriage  297-303
3. Crisis in Indian Personal Laws  303-316
   (i) Societal Conflicts and Marital Laws  303-305
   (ii) Inter Caste Marriages: A National Interest  305-306
   (iii) Unconstitutional Extra Judicial Courts: A blow to
         Codified Laws  306-309
   (iv) Divorce: Customs, Practice and law  309
   (v) Customary Divorce and Codified Legislation  309-310
   (vi) Irretrievable Breakdown of Marriage: Is it now
        a need of hour?  310-312
   (vii) Uniform Civil Code – An Aspiration or an Illusion  312-313
   (viii) Secularism and the Uniform Civil Code  314-315
   (ix) Judicial Activism in Family Laws: A Turning Point  315-316
4. Jurisdiction of English and Indian Court  316-326
5. Choice of Law by English and Indian Court  326-328
6. English and Indian Law on Recognition of Foreign Divorces  328-347
7. When Foreign Divorces need not be recognized 338-347

CHAPTER VIII CONCLUSION AND SUGGESTIONS 348-359
BIBLIOGRAPHY 360-377