

ABSTRACT

A Comparative Study of Dissolution of Marriage Under Personal Laws In India

There exists a co-relation between legal change and social change. Law is socially derivative and it depends upon the environmental conditions and human behavior at a particular time and place. If society is to live in peace and individual in happiness out matrimonial laws must show a progressive development so that their conflicting interests could be adjusted. Divorce is a large aspect of Indian personal laws of every community. No longer is marriage an indissoluble union among any community in India. Only question is how copiously it is available and how much it is availed of. Marriage being the bedrock of society and the most important institution an effort must be made for its stability. In India the variety of family laws have different, divergent and discriminatory provisions.

The institution of Marriage is undergoing a rapid change. With the advent of legislations such as the Hindu Marriage Act 1955, the Indian Divorce Act 1869, the Special Marriage Act 1954, the Parsi Marriage and Divorce Act 1936, the Dissolution of Muslim Marriage Act 1939, divorce has hit the permanency of marriage and where marriages were indissoluble union now they are dissoluble. Now even Christians and Hindus concept of Divorce is there. The marriage institution is derogating day by day. Although these legislation are there but even then they are suffering from many flaws and loopholes in them. If we would have a look at the Indian matrimonial laws we will find a strange spectacle of divorce laws.

But still our High Courts are making several brave attempts to judicially modify the procedure and provisions. The Supreme Court in *Naveen Kohli v. Neelu Kohli*⁷ held that irretrievable breakdown of marriage is ground for divorce. The Court strongly urged the Government of India to amend the Hindu Marriage Act, 1955 to make this reason as a ground for divorce.

The present study had been undertaken with the basic objective to analyse and examine the position of the remedy of divorce under different personal matrimonial laws and to make sincere efforts to critically evaluate the general statutory provisions of divorce including the judicial approach towards the comparative provisions regarding dissolution of marriage under personal laws in India. Present study is undertaken to evaluate all the legal provisions regarding dissolution of marriage, and to point out the short comings and flaws and infirmities in substantive and procedural laws.

An analytical approach is undertaken in order to make this study a scientific, unbiased and logical. An in-depth study is undertaken to evaluate all the legal provisions regarding dissolution of marriage, to point out the short comings and flaws and infirmities in substantive and procedural laws. The present study is arranged in following chapters:

1. Concept of Marriage and Divorce Under Personal Laws in India
2. A Comparative Study of Grounds available for the Dissolution of Marriage Under Personal Laws in India

3. Judicial Approach towards Dissolution of Marriage.
4. Uniform Civil Code - A Need of the Hour.
5. Conclusions and Suggestions

List of Publications

During the research work, following are the articles authored by researcher which are published as under.

1. Position of Triple Divorce under Muslim Law, *The Law and the Society*, Twenty First Century Publications, Patiala, 2013, ISBN: 978-93-80144-53-3
2. Irretrievable Breakdown of marriage as an Independent Ground for Divorce, *Sui Generis*, An International Journal of Humanities and Social Sciences, Vol.II, Issue 2, 2013, ASR Publications, Ferozepur.